



THOMSON REUTERS

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Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: (RIN Number 3038–AE12) Review of Swap Data Recordkeeping and Reporting Requirements

Dear Ms. Jurgens:

Thomson Reuters (SEF) LLC (“*Thomson Reuters SEF*”) welcomes the opportunity to submit its comments on the Commodity Futures Trading Commission’s (the “*Commission*”) request for comment titled: *Review of Swap Data Recordkeeping and Reporting Requirements* (the “*Request for Comment*”).¹

I. Thomson Reuters SEF Background

Thomson Reuters SEF is registered with the Commission as a swap execution facility (“*SEF*”) pursuant to temporary registration, and currently facilitates trading in foreign exchange (“*FX*”) non-deliverable forwards (“*NDFs*”) and FX options. Thomson Reuters SEF enables its participants to trade NDFs and FX options through its request-for-quote (“*RFQ*”) and request-for-stream (“*RFS*”) systems and an anonymous order book. Participants benefit from Thomson Reuters SEF’s complete end-to-end workflow solution, including straight-through processing and settlement.²

¹ Review of Swap Data Recordkeeping and Reporting Requirements, 79 Fed. Reg. 16689 (March 26, 2014).

² Thomson Reuters FX markets serve thousands of institutions globally, including industrial companies, asset managers, governments, international agencies and other financial institutions. Our platforms facilitate competitive pricing, internal trading controls, risk management and a granular audit trail. We have succeeded in improving efficiency and transparency and reducing risk for an important FX market to the U.S. and the world economy. Today, a large part of the FX market is traded on electronic systems such as Thomson Reuters SEF – including less liquid or infrequently traded instruments customized by end users to meet their specific commercial requirements.

II. Comments

As a SEF, Thomson Reuters SEF is responsible for reporting creation data and has therefore been involved in many industry discussions surrounding the Commission's reporting requirements. While many aspects of the reporting regime have functioned well, there are several areas that could be improved and others that are currently unworkable. We therefore appreciate that the Commission has undertaken to amend and modify its reporting regime, and believe that industry input will be critical to ensuring that the reporting requirements are effective, efficient and provide the Commission with necessary regulatory information. Below we submit our responses to the Commission's specific questions in the Request for Comment.

1. What information should be reported to an SDR as confirmation data? Please include specific data elements and any necessary definitions of such elements.

a. For confirmations that incorporate terms by reference (e.g., ISDA Master Agreement; terms of an Emerging Markets Trade Association ("EMTA")), which of these terms should be reported to an SDR as confirmation data?

SEFs are responsible for satisfying two separate but related work-flows related to confirmations: (1) producing a written record of all of the terms of the transaction, which will serve as the confirmation of the transaction (the "*SEF Confirmation*");³ and (2) reporting "confirmation data" to a swap data repository ("*SDR*") as soon as technologically practicable after execution of the swap (the "*Confirmation Report*").⁴ We believe that a SEF Confirmation should incorporate by reference bilaterally-agreed upon terms such as EMTA terms and those contained in a bilateral ISDA Master Agreement. However, we do not believe that SEFs should be required to include such terms in their Confirmation Report.

Swap market participants commonly execute various types of master-level relationship agreements with their counterparties, which govern all of (or in some cases, specific types of) transactions entered into between the relevant counterparties.⁵ These "static" terms form a part of each individual transaction between the relevant counterparties. When combined with the "dynamic" terms agreed to on a transaction-by-transaction basis (such as the economic terms), these constitute all of the terms of a given swap transaction.

Unlike cleared swaps, it is critically important to incorporate the terms of a bilateral master agreement into swaps that are not intended to be submitted for clearing ("*Non-Cleared Swaps*") because counterparties to a Non-Cleared Swap are exposed to each other until a swap is terminated, and such documentation ("*relationship documentation*") establishes settlement

³ See 17 C.F.R. § 37.6(b).

⁴ See 17 C.F.R. § 45.3(a)(1).

⁵ For example, it is common for FX market participants to have, among other things: (i) bilateral master agreements that allow dynamic terms to be confirmed with an electronic message; (ii) EMTA currency-specific templates and definitions which address market disruption events with respect to valuation and settlement that are generally incorporated by reference as part of the confirmation (the absence of which could introduce significant economic and documentation basis risk); (iii) credit support annexes (under certain circumstances); (iv) prime brokerage give-up arrangements (under certain circumstances); and (v) clearing arrangements (under certain circumstances).

terms for each transaction between the relevant counterparties. Additionally, it is important that a SEF-produced confirmation becomes a part of the relevant relationship documentation to ensure that the SEF-executed transaction is subject to any bilateral netting provisions in the master agreement. Moreover, counterparties may wish to incorporate reference terms produced by a third party, such as EMTA terms or ISDA reference terms (“*reference documentation*”). Both relationship documentation and reference documentation are therefore important to ensure that SEF-executed Non-Cleared Swaps are enforceable and benefit from several decades of industry evolutions. Therefore, we believe it is critical that any relationship documentation and reference documentation is not superseded by non-conflicting terms in a SEF Confirmation for Non-Cleared Swaps.

However, we do not believe that SEFs should be required to report any specific terms from relationship documentation or reference documentation in the Confirmation Report for a Non-Cleared Swap. When a swap is executed on a SEF, the SEF only has access to: (i) the primary economic terms agreed to by the parties at the time of execution and (ii) the terms of the contract listed by the SEF. SEFs do not have access to relationship documentation or reference documentation, and providing SEFs with such master-level documents would impose extensive costs on swap counterparties and SEFs. We believe that these costs (which are not even quantifiable at this time) would greatly outweigh the benefits to the industry. Indeed, many SEFs and market participants believe it would be nearly impossible for counterparties to identify, categorize and transmit every master agreement they have to each SEF, and for SEFs to obtain and report any meaningful information from such agreements.

As the Commission acknowledged in its final rule regarding regulatory reporting, “[master] agreements are not readily reportable in an electronic format, as the industry has not developed electronic fields representing terms of a master agreement.”⁶ For this reason, the Commission determined not to require swap dealers (“*SDs*”) to report master agreements to satisfy their reporting obligations under Part 45.⁷ We believe it would be illogical for the Commission to relieve SDs – who already have access to their own master agreements and have staff with expertise regarding such agreements – from the requirement to report master agreement terms, but require SEFs to electronify and review such terms in order to incorporate them into a SEF confirmation or report them as part of a confirmation data report.

We therefore believe that the Commission should clarify that: (1) SEFs are only required to report the primary economic terms of a swap and the applicable terms of the contract listed by the SEF in their Confirmation Reports, and that (2) SEFs are not required to report any master-level terms, such as EMTA terms or those contained in a bilateral ISDA Master Agreement, in their Confirmation Reports.

⁶ See Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. 2136, 2154 (Jan. 13, 2012).

⁷ See *id.*

2. Should the confirmation data reported to an SDR regarding cleared swaps be different from the confirmation data reported to an SDR regarding uncleared swaps? If so, how?

As described above in our response to Question 1.a, we believe that a SEF's Confirmation Report should only contain the primary economic terms of a swap and the applicable terms of the contract listed by the SEF. We note that, under Part 45 of the Commission's rules, the primary economic terms for a cleared swap will differ in certain ways from that of a Non-Cleared Swap. For example, Part 45 requires primary economic term data to include a clearing indicator and an identifier for any derivatives clearing organization ("*DCO*").⁸ We therefore believe that confirmation data for a cleared swap should be different from confirmation data for a Non-Cleared Swap to the extent, and only to the extent, that the primary economic terms data for such swaps differs.

3. Should the confirmation data reported to an SDR regarding swaps that are subject to the trade execution requirement in CEA section 2(h)(8) be different from the confirmation data reported to an SDR regarding: (a) Swaps that are required to be cleared but not subject to the trade execution requirement; (b) swaps that are not subject to the clearing requirement but that are intended to be cleared at the time of execution; (c) swaps that are voluntarily submitted to clearing at some point after execution (e.g., backloaded trades); and (d) uncleared swaps? If so, how?

We do not believe that confirmation data for a given swap should vary in any way depending on whether or not it is subject to the trade execution requirement. As described above, we believe that a SEF's Confirmation Report should only contain the primary economic terms of a swap and the applicable terms of the contract listed by the SEF, and neither the primary economic terms nor the terms of a SEF's contract would vary depending on whether or not the swap is subject to the trade execution mandate.

4. More generally, please describe any operational, technological, or other challenges faced in reporting confirmation data to an SDR.

The Commission's rules regarding confirmations are almost identical for SEFs and SDs, but SEFs do not have the same information as SDs. As described above in our response to Question 1.a, SDs have access to their master agreements and have staff with expertise regarding such agreements, but SEFs have neither. We therefore believe that the confirmation reporting rules should be different for SEFs and SDs.

10. Can swap data reporting be enhanced so that the current state of a swap in an SDR (e.g., open, cancelled, terminated, or reached maturity) can be determined more efficiently and, if so, how?

b. Should reporting entities and/or SDRs be required to take any actions upon the termination or maturity of a swap so that the swap's status is readily ascertainable and, if so what should those requirements be?

⁸ See Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. at 2216.

Currently, Commission Rule 45.4 permits reporting counterparties to satisfy their continuation data reporting obligations by reporting either life cycle event data or state data for the swap. Life cycle reporting would require a reporting counterparty to report the termination of a swap but not maturity,⁹ and state data reporting would require neither.¹⁰

We agree with the Commission that a swap's status is not readily ascertainable under these current reporting requirements. We therefore believe that, regardless of whether a reporting counterparty decides to use life cycle or state data reporting, such reporting counterparty should be required to report a partial or full termination to an SDR. However, we believe that it would be a significant and unnecessary operational burden for each reporting counterparty to keep track of and report the maturity of each swap. Instead of spreading this burden among each reporting counterparty, we believe that SDRs could more efficiently keep track of maturity dates for all swaps since this information is reported as part of the original primary economic terms.¹¹ In this way, SDRs would operate like options exchanges, which keep track of the expiration date for each option executed on the platform.¹²

c. Should swaps that are executed on or pursuant to the rules of a DCM or SEF, but which are not accepted for clearing and are therefore void *ab initio*, continue to be reported to and identified in SDR data? Why or why not? If so, how?

We believe that it will be important for audit trail, surveillance and regulatory purposes to have information regarding swaps that fail to clear and are therefore void *ab initio*. For example, Thomson Reuters SEF's audit trail will capture information about the execution of a swap even if it is not successfully cleared. In order for a regulator to know the disposition of such swap, Thomson Reuters SEF and/or the SDR would need to have data explaining that the swap failed to clear. Additionally, for surveillance purposes, we wish to know of swaps that fail to clear in order to keep track of any trends and for general market monitoring purposes.

We therefore believe that a clearing member or the relevant DCO should send a notice to the SEF or DCM for each swap that fails to clear, which would be stored in the SEF or DCM's audit trail. We further believe that the SEF or DCM should report this information to the relevant SDR, as well as both counterparties. This would be more efficient than having the reporting counterparty report this information, because the reporting counterparty may not have information channels established with the clearing member or DCO, especially if the swap is rejected by the other counterparty's clearing member.

16. Market participants have indicated that they face challenges electronically representing all required data elements for swap transactions because those elements have not yet been

⁹ See 17 C.F.R. § 45.1 (“*Life cycle event* means any event that would result in either a change to a primary economic term of a swap or to any primary economic terms data previously reported to a swap data repository in connection with a swap. Examples of such events include, without limitation. . . , a partial or full termination of the swap. . . .”).

¹⁰ See *id.* (“*State data* means all of the data elements necessary to provide a snapshot view, on a daily basis, of all of the primary economic terms. . . . At a minimum, state data must include each of the terms included in the most recent Federal Register release by the Commission listing minimum primary economic terms. . . .”).

¹¹ See, e.g., Swap Data Recordkeeping and Reporting Requirements, 77 Fed. Reg. at 2214-16 Exhibit B.

¹² See, e.g., Options Clearing Corporation Rules, Rule 805.

incorporated into standard industry representations (e.g., FpML, FIXML). In particular, various market participants have indicated that these challenges impact reporting to SDRs. What is the most efficient methodology or process to standardize the data elements of a bespoke, exotic or complex swap, to ensure that all required creation data is electronically represented when reported to the SDR? Do these challenges vary depending on the asset class? If so, how?

We agree with the Commission and market participants that many data elements (or “tags”) for bespoke, exotic or complex swaps cannot yet be represented because there are no standard methods for doing so. As a result, SDRs and DCOs have begun creating their own tags for such swaps, which differ from one SDR or DCO to the other. This creates inefficiencies and impairs the ability to analyze data across the market.

We therefore believe that industry participants (including SEFs, DCMs, SDRs, DCOs and market participants) should collaborate to arrive at mutually agreed-upon tags for bespoke, exotic or complex swaps. Once the industry has developed a new tag, we believe that the Commission should centrally manage such information so that industry participants can easily determine whether a given data element has a standardized tag by looking on the Commission’s website.

17. Please describe any challenges associated with the reporting of allocations. How should allocation data elements (*i.e.*, indications of whether swaps will be allocated, as well as the identities of entities to which portions of executed swaps are allocated) be reported to SDRs?

Similar to tags for bespoke, exotic or complex swaps, the various SDRs have developed their own methods for reporting allocations, which creates inefficiencies and impairs the ability to analyze data across the market. Regardless of the who reports a trade, we believe that the unique swap identifier (“*USI*”) for each allocation should be linked back to the original USI for the bunched trade in the trade submission for the allocation. For pre-trade allocations, we believe that the SEF should link the allocated trades back to the bunched order by adding a suffix to the USI, such as -A1, -A2, -A3.

19. Please describe any challenges associated with the reporting of prime brokerage swap transactions (*e.g.*, challenges related to transactions executed either bilaterally or on a platform and/or involving different asset classes)?

Prime broker swaps, especially those involving NDFs and FX options, have long been executed on electronic platforms, several of which are now SEFs. However, we believe it is unclear under the Commission’s reporting rules how swaps executed on SEFs through prime brokerage arrangements should be reported, and therefore request that the Commission clarify an appropriate method.

Generally speaking, prime brokerage is a service offered by a prime broker (“*PB*”)—who is usually a swap dealer—to a customer using the PB’s services (a “*Prime Broker Client*”) that

allows the Prime Broker Client to benefit from liquidity provided by several executing dealers (“*EDs*”) even if the Prime Broker Client does not have a relationship or credit line with such *EDs*. In the typical PB transaction, the Prime Broker Client and *ED* negotiate the terms of a swap. Once they agree on the terms of such swap, one or both of them notify the PB of such terms. As a matter of custom and practice and, in many cases, as a matter of contract, the PB is required to accept the negotiated swap provided that certain pre-established conditions (*e.g.*, the Prime Broker Client has not exceeded its credit limits) are met. If the PB does accept the negotiated terms, then the *ED* and PB become party to a swap under those terms (the “*ED-PB Swap*”). The PB and Prime Broker Client are then obligated to enter into a mirror swap under the same terms (the “*PB-Prime Broker Client Swap*”).

The Commission’s reporting rules do not explicitly state whether any or all of these transactions must be reported and/or confirmed by the SEF. We believe that the *ED-PB Swap* is executed on the SEF and therefore must be reported by the SEF. However, since the PB may not be a SEF member, the *PB-Prime Broker Client Swap* also may not be executed on the SEF. Therefore, we believe that the PB should be responsible for reporting such transaction. For the same reason, we believe that the relevant SEF should generate a confirmation with respect to the *ED-PB Swap*, while the PB should generate a confirmation with respect to the *PB-Prime Broker Client Swap*.

We also note that it is unclear whether a SEF would be required to be notified and provide notice to the relevant SDR if a prime brokerage swap negotiated on its platform fails to be executed because it is rejected by the PB. We believe that a PB’s rejection of a swap occurs after execution, and is therefore a post-trade lifecycle event.¹³ Therefore, we do not believe that SEFs should necessarily be notified of such occurrences, nor should they be required to report such occurrences.

23. How should data reported to SDRs identify trading venues such as SEFs, DCMs, QMTFs, FBOTs, and any other venue?

We believe that all trading venues should be identified by their legal entity identifiers (“*LEIs*”) in data reported to SDRs.

27. Please describe how swap transactions such as strategies and packages should be represented in swap data reporting such that it enables the Commission to effectively understand timing and the economics of the strategy or package and the component swap transactions?

The Commission has most recently defined a “package transaction” as a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a swap that is made available to trade and therefore is subject to the CEA section 2(h)(8) trade execution requirement; and (4) where the execution of each component is contingent upon the execution of all other

¹³ We believe that a PB’s rejection right should be considered to be a termination event.

components.¹⁴ Therefore, once NDFs are subject to the clearing and trading mandates, we believe that a transaction combining an NDF or FX option with an FX spot, FX forward or FX swap would qualify as a package transaction.

As a preliminary matter, we believe that only swap legs of package transactions should be reported to an SDR. The Dodd-Frank Act does not require or authorize the reporting of any products other than swaps (with the exception of FX forwards and FX swaps), so the Commission should not require such products to be reported even if they are part of packages containing a swap or swaps. However, if a package transaction involves multiple swap legs (or other reportable instrument such as an FX forward), then we believe that all the swap legs should be reported together as one transaction. As we understand it, DTCC (*i.e.*, the SDR used by Thomson Reuters SEF) requires all legs of a package transaction to be reported together in this way.

We note, however, that all legs of a package transaction are typically priced as a whole, so it is difficult or impossible to identify the price specifically attributed to the swap leg(s). Therefore, reporting all legs of a package transaction together would result in pricing information being reported for the transaction as a whole rather than each swap component or even just the swap components. We therefore believe that package transactions should be reported to SDRs in a manner that identifies them as package transactions, such as by adding a special tag to the report. This would notify market participants and the Commission that the price should be considered to be an outlier.

Alternatively, the Commission could require each swap leg of a package transaction to be reported separately. However, this would also cause certain practical complications. For example, each leg of a package transaction is typically priced favorably because it is contingent upon all other legs being executed. Therefore, the price for a given swap leg of a package transaction may not be indicative of the market price for such swap by itself. We believe that the same solution—*i.e.*, adding a special tag that would identify relevant swaps as part of a package—would be sufficient to notify the market and the Commission that the reported pricing information should be considered to be an outlier.

28. Please describe any challenges (including technological, logistical or operational) associated with the reporting of required data fields.

Thomson Reuters SEF has faced several challenges with reporting specific data fields, which are identified below.

Collateralization Data

As described above in response to Question 1.a, SEFs generally have access to the economic terms of a transaction that are agreed to on the platform, but not the terms agreed to between two parties that apply at a relationship level. Whether or not, and to what extent, a swap is collateralized is typically agreed to in master level relationship documentation, so SEFs do not

¹⁴ CFTC No-Action Letter 14-62 (May 1, 2014).

generally have access to this information. We therefore do not believe that SEFs should be required to report this information.

Notional Value

Part 45 requires reporting entities to report the notional amount for FX transactions, but it is not clear what currency should be used for this report. This lack of clarity makes it impossible for SDRs and SEFs to publish volume data in a consistent manner. We believe that the Commission should clarify a methodology to SEFs and reporting entities as to how they should determine which currency to report the notional amount in. For example, the Commission could require that all notional amounts are published in USD, or in the base currency of a currency pair.

Options and Delta Hedging

A “delta hedge” is generally similar to an FX spot transaction, but is done as part of a strategy for trading FX options. A trader would use delta hedging by entering into an FX option and simultaneously entering into an FX spot transaction. The latter transaction removes one of the factors that affect the option premium price: the spot rate.

Thomson Reuters SEF participants occasionally execute a delta hedge along with an FX option, and it is unclear whether this delta hedge qualifies as a part of the swap such that it should be reported. We have found that some SDRs require delta hedging to be reported, while others do not because it merely involves a spot transaction. We therefore respectfully request that the Commission clarify that a delta hedge (*i.e.*, spot trade) is not required to be reported along with an FX option. See also our answer to Question 27 above.

Effective Date

Part 43 requires reporting entities to report the effective date or start date of a swap. FX Forwards and NDFs do not have an effective date other than the date of execution, so we request that the Commission clarify that the effective date for a FX Forward or NDF can always be the execution date.

29. What additional data elements beyond the enumerated fields in Appendix 1 of part 45, if any, are needed to ensure full, complete, and accurate representation of swaps (both cleared and uncleared)? For example, other fields could include additional timestamps (for each lifecycle event, including clearing-related timestamps); clearing-related information (identity of futures commission merchant, clearing member, house vs. customer origin indication, mandatory clearing indicator, or indication of exception or exemption from clearing); and/or execution-specific terms (order type or executing broker). Responses should consider the full range of oversight functions performed by the Commission, including, but not limited to, financial surveillance; market surveillance; risk monitoring; and trade practice surveillance.

We believe it would be helpful for trade reconstruction and surveillance purposes to require a timestamp when the swap is accepted for clearing. We also believe it would be helpful for reports to include the identity of the futures commission merchant (if applicable) and the order type. However, we note that SEFs should not be required to report life-cycle events like clearing-related timestamps, and should only be required to report information to which they have access. For example, the Commission asked whether it should require a reporting entity to indicate whether one of the counterparties is a special entity. This information is not relevant to any mapping activities that SEFs undertake, and therefore SEFs do not generally know whether the counterparties are special entities. We therefore do not believe SEFs should be required to report this information.

33. Part 45 requires the reporting of all swaps to SDRs. The Commission requests comment on how cleared swaps should be reported. Specifically:

a. For swaps that are subject to the trade execution requirement in CEA section 2(h)(8), and ipso facto the clearing requirement, do commenters believe that the part 45 reporting requirements with respect to original swaps (alpha) should be modified or waived, given that the two new resulting swaps (beta and gamma) will also be reported?

We do not believe that the reporting requirements for an alpha swap should be waived because this information is necessary for surveillance and audit trail purposes. For example, we believe that it would be helpful for the Commission to see all three swaps when analyzing its regulatory data. If only the beta and gamma swaps are reported, then the Commission would not easily see where the swap was originally executed.

b. For swaps that are subject to the clearing requirement, but not the trade execution requirement, do commenters believe that the part 45 reporting requirements with respect to alpha swaps should be modified or waived, given that the beta and gamma swaps will also be reported?

See our answer to Question 33.a, above. We do not believe that the reporting requirements for an alpha swap should be waived because this information is necessary for surveillance and audit trail purposes.

c. For swaps that are not subject to the clearing requirement, but are intended for clearing at the time of execution, do commenters believe that the part 45 reporting requirements with respect to alpha swaps should be modified or waived, given that the beta and gamma swaps will also be reported?

See our answer to Question 33.a, above. We do not believe that the reporting requirements for an alpha swap should be waived because this information is necessary for surveillance and audit trail purposes.

d. Please discuss whether in each of the circumstances described above there actually is an alpha swap.

Under all of the circumstances described above, we believe that the alpha swap actually exists because clearing is a process of novation. If the alpha swap did not exist, then there would be no swap to novate.

35. Can the existing rules be improved to more clearly represent how the clearing process impacts reporting obligations with respect to both the original swap (alpha) and the two new resulting swaps (beta and gamma)? If so, please explain.

a. Responses should address:

...

iv. The reporting of the linkage of alpha, beta, and gamma swaps;

We believe that the alpha, beta and gamma swaps should be linked in the analogous manner by which allocated swaps are linked pursuant to Commission Rule 45.3(e). Under that rule, the initial bunched order and each allocated swap receive their own USI, and the SDR is responsible for mapping them together. Similarly, for cleared swaps, we believe that the DCO should be responsible for mapping together the alpha, beta and gamma swaps.

36. What steps should reporting entities and/or SDRs undertake to verify the absence of duplicate records across multiple SDRs for a single cleared swap transaction?

As stated in our response to Question 35.a.iv, we believe that the SDR should map the alpha, beta and gamma swaps together to ensure that data regarding such swaps is linked together. If data is reported to different SDRs (*e.g.*, the SEF reports data regarding the alpha swap to one SDR and the DCO reports data regarding the beta and gamma swaps to a different SDR), then we believe that it should be the responsibility of the two SDRs to coordinate in linking this information.

53. Please explain your experiences and any challenges associated with obtaining and maintaining an LEI.

While there is only one accepted system for generating LEIs in the United States,¹⁵ there are several different systems used in other jurisdictions for creating entity identifiers because there is yet to be established a Global Legal Entity Identifier System.¹⁶ This multitude of systems makes it very difficult for Thomson Reuters SEF to check the entity identifiers that are provided to us, especially when provided by non-U.S. persons. We therefore urge the Commission to work hastily with international regulators to establish the Global Legal Entity Identifier System as soon as possible in order to establish one system for entity identifiers.

¹⁵ The system used in the United States is the Global Markets Entity utility (GMEI), which is run by the DTCC and SWIFT. *See* GMEI Utility, available at <https://www.gmeiutility.org/>.

¹⁶ For example, the Legal Entity Identifier Regulatory Oversight Committee of the Global Legal Entity Identifier System has a list of endorsed systems used for creating entity identifiers, available at http://www.leiroc.org/publications/gls/lou_20131003_2.pdf.

Additionally, we have noted that LEIs have been issued for some entities that are not actually legal entities, such as divisions within an entity, or multiple LEIs have been issued to the same legal entity. We urge the Commission to work with the utility providers to ensure that LEIs are subject to the best quality control possible.

55. Please explain your experiences and any challenges associated with the creation, transmission and reporting of USIs.

Commission Rule 45.5 requires the USI for a swap to consist of, among other things, the “unique alphanumeric code” assigned to the SEF or DCM (for swaps executed on a SEF or DCM), SD or MSP (for swaps not executed on a SEF or DCM where the reporting counterparty is an SD or MSP) or the SDR (for swaps not executed on a SEF or DCM where the reporting counterparty is not an SD or MSP).¹⁷ These unique alphanumeric codes are referred to as “Namespaces.”

Using Namespaces to create a USI is problematic for transactions like FX forwards and FX swaps that are executed on non-SEF, non-DCM electronic platforms – like Thomson Reuters SEF’s affiliate FXall. These contracts are exempt from the definition of a swap, but must be reported under Part 45.¹⁸ Because they are not executed on SEFs or DCMs, however, the USI for such contract must be created using the Namespace of either the SD, MSP or SDR, as applicable. We believe that it creates inefficiencies for FXall, and other electronic platforms, to obtain the SD, MSP or SDR’s Namespace in order to report these transactions. Moreover, we believe that it impedes trade reconstruction if FX forwards and FX swaps are reported without any information about the electronic venue upon which they were executed. We therefore believe that either: (i) the Commission should give a Namespace to all electronic platforms facilitating the execution of reportable transactions, or (ii) the Commission should require the USI for a reportable transaction executed on an electronic trading platform to be made up of the LEI of the platform (since all trading platforms can have an LEI) rather than the Namespace that is only given to registered entities.

64. The Commission seeks input from market participants regarding the ownership of the transactional data resulting from a swap transaction. Is the swap transaction data from a particular swap transaction owned by the counterparties to the transaction?

Commission Rule 37.7 prohibits SEFs from using “for business or marketing purposes any proprietary data or personal information it collects or receives, from or on behalf of any person, for the purpose of fulfilling its regulatory obligations.”¹⁹ SDRs are subject to a similar regulation.²⁰ We believe that the Commission should clarify that, pursuant to these rules, the counterparties to a swap own the transaction-specific data related to that swap, but that SEFs and SDRs own any aggregate data compiled by such SEF or SDR from such data.

¹⁷ See 17 C.F.R. §§ 45.5(a)-(d).

¹⁸ See Determination of Foreign Exchange Swaps and Foreign Exchange Forwards Under the Commodity Exchange Act, 77 Fed. Reg. 69694 (Nov. 20, 2012).

¹⁹ 17 C.F.R. § 37.7.

²⁰ See 17 C.F.R. § 49.17(g).

66. Does the regulatory reporting of a swap transaction to an SDR implicitly or explicitly provide “consent” to further distribution or use of swap transaction data for commercial purpose by the SDR?

We do not believe that counterparties should be deemed to consent to further distribution or commercialization of data simply by reporting such data to an SDR. First, Commission Rule 49.17(g)(2)(B) clearly prohibits SDRs from requiring their participants to consent to their use of swap transaction data for commercial purposes,²¹ so participants should not be required by regulation to provide such consent, either. Second, counterparties are required by law to report data to SDRs. By analogy, individuals are not deemed to consent to the IRS’s use of their financial information for commercial purposes when they file their taxes, nor are they deemed to consent to the DMV’s use of personal information for commercial purposes when they obtain a driver’s license.

III. Conclusion

Thomson Reuters SEF appreciates the opportunity to provide the Commission with its perspective on several of the questions posed in the Request for Comment. If you have any questions regarding our comments, please contact the undersigned at (202) 572-0198.

Respectfully submitted,



Wayne Pestone
Chief Compliance Officer
Thomson Reuters (SEF) LLC

²¹ See 17 C.F.R. § 49.17(g) (“Swap data repositories shall not as a condition of the reporting of swap transaction data require a reporting party to consent to the use of any reported data for commercial or business purposes.”).