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May 27, 2014

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Submitted via www.cftc.gov

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

Dear Sir/Madam:

Markit[1] is pleased to submit the following comments to the Commodity Futures Trading Commission (the "**CFTC**" or the "**Commission**") in relation to its request for comment "Review of Swap Data Recordkeeping and Reporting Requirements" (the "**Request for Comment**" or "**RFC**").[2]

Introduction

Markit is a provider of financial information services to the global financial markets, offering independent data, valuations, risk analytics, and processing services across regions, asset classes and financial instruments. Our products and services, which are grouped into the business lines "Information," "Processing," and "Solutions," are used by a large number of market participants to reduce risk, increase transparency, and improve the operational efficiency in their financial markets activities.

Markit's derivatives processing services offer confirmation, connectivity, and reporting functionality to the global OTC derivatives markets, making it easier for participants in these markets to interact with each other. Specifically, the MarkitSERV platforms provide trade processing, confirmation, and matching services for OTC derivatives across regions and asset classes, as well as universal middleware connectivity for downstream processing such as clearing and reporting. Such services, which are offered also by various other providers, are widely used by participants in these markets today and are

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[1] Markit is a financial information services company with over 3,000 employees in North America, Europe, and Asia Pacific. The company provides independent data and valuations for financial products across all asset classes in order to reduce risk and improve operational efficiency. Please see www.markit.com for additional information.
[2] "Review of Swap Data Recordkeeping and Reporting Requirements." 79 Fed. Reg. 16689 (March 26, 2014).

recognized as tools to increase efficiency, reduce cost, and secure legal certainty. With globally over 1,500 firms using the various MarkitSERV platforms that process, on average, 80,000 OTC derivative transaction processing events every day, our legal, operational, and technological infrastructure plays an important role in supporting the OTC derivatives markets in North America, Europe, and the Asia-Pacific region.

Markit has been actively and constructively engaged in the discussion related to regulatory reform of the financial markets. We regularly provide regulatory authorities with our insights on current market practice, for example in relation to valuation methodologies, liquidity measurement, the use of reliable and secure means to provide daily marks, or to performing pre-trade credit checks to achieve clearing certainty. We have also advised regulatory bodies on potential approaches to enable the timely and cost-effective implementation of newly established requirements, for example through the use of multi-layered phase-in or by providing participants with a choice of means for satisfying their regulatory obligations. Over the last several years, we have submitted over 100 comment letters to regulatory authorities around the world and participated in numerous stakeholder meetings.

General comments

We welcome the publication of the Commission's Request for Comment and we appreciate the opportunity to provide you with our comments. Through its derivatives processing services, Markit has gathered ample experience in reporting OTC derivatives transactions to Trade Repositories for a large number of market participants across regions and asset classes and according to a variety of relevant regulatory frameworks.[3] We welcome the Commission's initiative to gather feedback on the effectiveness of the current swap data repository ("*SDR*") reporting regime and to identify areas that could be improved.

We agree with the Commission that, in some areas of the SDR reporting requirements, improvements and/or clarification would be beneficial. However, based on our experience we urge the Commission to consider the following key factors when drawing any conclusions from the responses it receives to this RFC:

- Over the last several years, thousands of market participants, registered entities and their service providers have invested very substantial resources to establish the necessary infrastructures and procedures to comply with the Commission's reporting requirements. The Commission should therefore avoid making any major changes to the regime that would require a fundamental rebuild.[4] Instead, when considering

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[3] For example, for the reporting of derivatives transactions to Trade Repositories, the MarkitSERV platforms are now live in the United States, Japan, Hong Kong, Australia, Singapore and Europe.
[4] Examples of such "major" changes include, but are not limited to, the RCP approach to determining reporting responsibilities, trade linkages, the use of the snapshot vs the lifecycle approach, UPI taxonomy, etc.

potential changes, the Commission should focus on making gradual improvements *within* the current, established framework to avoid imposing unnecessary additional costs on the marketplace.

- We understand that the Commission has been motivated to issue this RFC in part, due to concerns about the consistency and quality of the data captured in SDRs.[5] However, the Commission should recognize that, particularly in cases where middleware providers are used for the reporting, the data that is reported to SDRs is generally both consistent and of high quality. This is because such middleware providers have established the necessary process and data standardization to allow for consistent SDR reporting between multiple market participants, including strong parent-child trade linkages that are maintained throughout the entire trade lifecycle. In contrast, such standardization and linkages are notably absent in asset classes where middleware providers do not operate or do not have any significant market share, such as foreign exchange and commodities. We therefore recommend that, when identifying necessary changes to and clarification of some of the SDR reporting requirements, the Commission focus on the asset classes of foreign exchange and commodities.

- As a general matter, we believe that if the Commission wishes to receive consistent and standardized data from SDRs, it is unlikely to effectively address this problem by providing the numerous reporting counterparties ("**RCPs**") with a prescriptive list of data fields to be reported to SDRs, particularly given that such data will then still be processed, stored and provided by individual SDRs in different formats. We believe it will more effective for the Commission to require the data output from SDRs to be in a standardized format. This approach would minimize the disruption to the large number of market participants already reporting data to various SDRs and would be a more cost-effective solution while allowing for flexibility of input formats to foster competition between SDRs and enable the creation of efficient solutions. Such approach would also be more likely to allow the Commission to aggregate data across SDRs and, on that basis, to perform risk analytics enabling the Commission to meet its oversight goals.

- Several questions in the RFC relate to the reporting of confirmation data. Given the huge variety of swaps, we believe that the most pragmatic approach to reporting confirmation data would be for the Commission to follow a two-pronged approach. For standardized swaps, where the confirmation is performed electronically using a standardized data format such as FpML, all confirmed data fields should be reported,

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[5] *See* Commissioner Scott O'Malia, CFTC's Implementation of Dodd-Frank — Grading Agency Transparency, Mar. 19, 2013, *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opaomalia-22.

rather than a prescribed list of fields. In contrast, for non-standardized swaps, including those that are confirmed on paper, the Commission should require only the reporting of a limited set of data fields that are broadly consistent across products and asset classes.

- Our experience has shown that some sections of the SDR reporting rules are contradictory or vague and would benefit from clarification. We recommend that the Commission generally aim to design any clarifications as such that they would not result in a major disruption in current trade reporting processes. Specifically, we recommend that the Commission:

  o Provide further guidance and clarification in relation to the reporting of cleared swaps and the choice of SDR in this context. Specifically, the Commission should empower RCPs to select the SDR that will receive continuation data, regardless of how a swap is executed and whether or not it is cleared. Also, we believe that beta and gamma transactions should be required to be reported to the same SDR.[6] This would provide a clear and straightforward approach, and would also greatly increase the utility of SDR data for the CFTC and for market participants. Finally, we believe that this approach would create a level-playing field between SDRs, allowing them to compete based on the quality of their services.[7]
  o Clarify the reporting of bunched orders.

Markit's comments

A. Confirmation Data

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

We believe that, for the reporting of confirmation data to SDRs, a two-pronged approach will be most pragmatic and likely to achieve the Commission's objectives in relation to data quality and consistency:

- For standardized swaps where the confirmation is performed electronically using a standardized data format such as FpML, we believe that it will be easiest and most

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[6] We note that the reporting rules talk of the DCO reporting update to the alpha transaction with internal trade identifiers, whereas the Commission's clearing rules talk of replacement swaps. This is contradictory, and market practice is to report beta and gamma swaps as separate trades with a link to the alpha swap via the alpha swap's USI.
[7] See our answer to Question 35 for additional detail.

pragmatic to simply require the reporting of "all confirmed fields".[8] This is because, even for standardized swaps, the confirmable data fields vary significantly between products and asset classes.[9] Any attempt to explicitly define the specific data fields that are relevant for each of the wide variety of standardized swaps would hence be very complex and time consuming both initially and on an ongoing basis, for little benefit.

- For exotic and low liquidity swaps, we recommend limiting the reporting of confirmation data to a clearly defined and limited set of data fields that would be broadly consistent across the various categories of exotic swaps. This is because, for these swaps, it is very difficult and expensive to electronically confirm or report all confirmation fields. Exotic swaps cannot fit into a standard template and, given their bespoke nature and low volumes, a standardized form of master documentation is unlikely to be developed for them. Similarly, the Commission should not require the submission of scanned paper documents for these transactions because, by definition, such documents' utility for the Commission would be minimal while requiring the submission of these documents would be unduly expensive for market participants, as discussed in further detail in our answer to Question 4.

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?

We believe that there is little value for the Commission in gathering the Master Agreement date or Master Agreement version. Moreover, market participants would find it onerous to collect this information as they typically hold such information outside of their systems in paper form and are not generally able to source and transmit it electronically.[10] We therefore recommend that the Commission not require the reporting of this information to SDRs.[11]

However, information about the relevant Master Agreement type, for example whether a swap is governed by an ISDA Master, a French Master, or a Deutscher Rahmenvertrag,

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[8] *See* MarkitSERV response to the CFTC regarding "(1) Proposed Rule on Swap Data Repositories; and (2) Proposed Rule on Real-Time Public Reporting of Swap Transaction Data," (February 7, 2011) ("We believe the use of confirmed swaps data should be the preferred approach for all reporting in order to help promote accuracy and consistency in reporting.").

[9] We would be happy to further discuss current confirmation standards with the Commission and provide it with input on confirmable fields for certain standard swaps.

[10] Also, if they were to report this information, reconciliation between counterparties would be necessary.

[11] We note that the CFTC can request master agreements pursuant to Parts 18, 20, 45, and 46 recordkeeping rules if it sought to obtain them. *See, e.g.*, 17 C.F.R. § 45.2(h) (stating that all market participants' records required to be kept by Part 45 must be open to inspection by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission).

might be at least somewhat relevant. This will also be easier to source than Master Agreement dates and versions, and generally does not change over time.

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?

The definition of confirmation data does not currently include any specific information regarding the fields to be reported.[12] It is not entirely clear whether the Commission refers to the alpha or the beta/gamma trades in this question,[13] and whether this includes swaps that are intended for clearing at the time of execution and which would never result in a bilateral contract between the two executing parties. We recommend that the Commission distinguish between swaps that are: (1) intended to be cleared at the time of execution (either voluntary or mandatory cleared) and which do not result in a bilateral contract ("intended-to-clear swaps"), and (2) swaps that either remain uncleared or are later cleared on a voluntary basis and which result in a bilateral contract temporarily or for the life of the swap between the executing parties ("bilateral swaps").

For an intended-to-be-cleared swap, the terms of the confirmation will generally be very similar to the cleared transaction, and would exclude bilaterally specific information such as master agreement type and transaction-specific credit terms. Swaps priced to clear may be traded under an execution agreement rather than under a master agreement, as bilateral swaps are.

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 the Commission should differentiate between confirmation data to be reported depending on whether or not a swap transaction is subject to the trade execution requirement. We believe that such an approach might often lead to missed fields in the

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[12] *See* 17 C.F.R. § 45.1 ("*Confirmation data* means all of the terms of a swap matched and agreed upon by the counterparties in confirming the swap. For cleared swaps, confirmation data also includes the internal identifiers assigned by the automated systems of the derivatives clearing organization to the two transactions resulting from novation to the clearing house.").

[13] Transactions that are ultimately cleared will typically originate from an uncleared transaction between the two counterparties (the so-called "alpha trade") which is then replaced (through novation) with two cleared transactions where these counterparties are facing the CCP (the so-called "beta" and "gamma" trades).

reporting of transactions because some market participants would likely struggle to implement the new templates for reporting and segregate their population correctly into the various buckets of transactions. Further, because counterparties will need all of the fields for risk management purposes, they will need to communicate and agree upon all of the relevant economic fields among counterparties in any case.

The Commission should note that the confirmation data required for appropriate legal confirmation purposes will be determined mainly by whether a swap is bilateral or intended to be cleared rather than the manner of execution (*e.g.*, on a SEF or not). In our experience, there is little difference between the confirmation for an uncleared (bilateral) swap, even if it was later cleared on a voluntary basis, which is executed on a SEF or bilaterally arranged.

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

Many swap dealers and other market participants that are RCPs have delegated their reporting obligations under Parts 43, 45 and 46 to middleware providers such as MarkitSERV. Our experience as a middleware provider for SDR reporting of swaps in the interest rates, credit and equities asset classes has not shown any major challenges in relation to the reporting of confirmation data for the large number of more standardized and liquid swaps that are electronically confirmed.

However, challenges exist in relation to the reporting of confirmation data for exotic swaps that are confirmed on paper (and are likely to continue to be confirmed on paper). We believe that the Commission should not require the reporting of a scanned paper copy of the confirmation for these swaps[14] because such requirement creates a significant workload for market participants and is unlikely to present any real value to the Commission because such information will not be available to the Commission in a machine-readable format. The Commission should therefore require only the electronic reporting of a limited set of confirmation data fields for exotic swaps that are confirmed on paper. We suggest that the Commission create a working group with the relevant industry participants to agree the fields for such exotic swaps. Such confirmation data and related continuation data would enable the Commission to determine current exposures created by such exotic swap positions. For firms with large or potentially problematic exotic positions (*e.g.*, because the exotic swaps underlier is of interest to the CFTC), the Commission could request, on an as-needed basis, additional information through the CFTC's considerable authority to inspect market participants' records.[15]

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[14] "Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants," 77 Fed. Reg. 55904 (Sept. 11, 2012).

[15] Under Commission Rule 45.2(h), all market participants' records required to be kept by Part 45 must be open to inspection by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. *See* 17 C.F.R. § 45.2(h).

B. Continuation Data

5. What processes and tools should reporting entities implement to ensure that required swap continuation data remains current and accurate?

Most market participants that are subject to the Commission's Part 45 reporting requirements have embraced the use of middleware providers as the most effective way of reporting their swap transaction data to SDRs. On that basis, we do not believe that the reporting of continuation data presents any fundamental or general issues.

However, the Commission should be aware of some specific, product-related challenges in the context of updating swaps data in SDRs. For example, there is no established process for updating the mark-to-market ("**MTM**") value of cross-currency swaps and of variable notional swaps. For the former, updated variable notional values are not reported, while for the latter the original notional as well as the schedule for changes in notional over time is reported to the SDR but not used any further.

We do not believe that RCPs should be required to report updated notional amounts for cross-currency swaps and variable notional swaps. Updates to the variable notional amount for MTM cross-currency swaps are unnecessary because the size of the trade is already known due to the constant notional amount being accurately captured, typically in USD. For variable notional swaps, the full amortizing, accreting or rollercoaster schedules are reported to the SDR at the start of the trade. Given that all of the relevant information for these instruments is already captured in SDRs, the most efficient approach would be for the Commission to require SDRs to perform the necessary updates/calculations.

6. Swaps should be linked when new swaps result from the assignment, netting, compression, clearing, novation, allocation, or option exercise of existing swaps (or other events wherein new swaps result from existing swaps).

a. What is the most effective and efficient method for achieving this link (including information regarding the time of the relevant event)?

b. How should reporting entities identify the reason why two swaps are linked (e.g., identify that swap A is linked to swaps B and C in an SDR or across multiple SDRs because swaps B and C arose from the clearing and novation of swap A)?

We believe that the most effective method for establishing a link between the "old" and the "new" swap in case of activities such as clearing, assignments or compression is to store the USI of the original swap as a prior USI on the new swap.

For bulk activities such as netting or compression that are processed by middleware providers, a link between "old" and "new" swaps will be established by marking all trades involved in the event with a bulk processing event ID. We will also link the USIs that are assigned to the resulting transactions to the USIs of the original transactions and assign a new execution time that equals the event time when processing such event.[16] For swap transactions that are centrally cleared, we have adopted a new "cleared USI" field to allow for a distinction between the alpha USI and the cleared USI.

Further complexity might exist in relation to compression runs where a residual trade from a compression might be netted against a new portfolio. MarkitSERV is implementing fields for "related" IDs for these scenarios.[17]

c. Aside from those events set forth in part 45, are there other events that require linkage between related swap transactions?

Linkages are also needed in the Prime Brokerage context, for example for transactions between Executing Broker and Prime Broker as well as between Prime Broker and client.

d. How should related swaps reported to different SDRs be linked?

See our answer to Question 6.b, above.

i. Snapshot/State/Lifecycle Methods

7. What are the benefits and/or disadvantages of reporting continuation data using: (i) the lifecycle reporting method; and (ii) the snapshot reporting method?

The Commission should note that most larger market participants currently use both the lifecycle and the snapshot method to report to SDRs. The choice between the two will mostly be made depending on the asset class.

Generally, the life cycle approach to reporting has the advantage of maximizing both the quality and the richness of the information that is reported to the SDR. However, we believe that it would be neither realistic nor affordable from a cost perspective to require lifecycle type reporting across asset classes and products, particularly in interest rate derivatives where the snapshot approach is most commonly used today.

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[16] Sometimes, however, the original execution time might be changed to the new event time. In this case, the original execution time will be lost. We do not believe that this should be permitted, and therefore recommend that the Commission require the use of an additional data field that would allow to maintain both the original execution time and the event time.

[17] However, it might sometimes be challenging to follow the trail in the SDR of trades that have been created from multiple compressions.

a. Are there events or information that can be represented more effectively using one of the reporting methods rather than the other?

Our experience has shown that the life cycle approach to continuation data reporting can sometimes create misleading reporting. For example, a swaption exercise that is reported based on the life cycle approach will be classified as "termination."[18]

b. Should all SDRs be required to accept both the snapshot and lifecycle methods for reporting continuation data?

We strongly believe that, to facilitate the timely, accurate and complete reporting of swaps data to SDRs across the whole variety of asset classes and products, the choice of reporting method should be with the user.

Currently, both methods of reporting are widely used in the marketplace. The Commission should therefore require SDRs to be in a position to accept both the snapshot and the lifecycle methods for reporting of swaps data to them. On this basis, RCPs will be provided with the necessary flexibility to report in the manner that is most suitable for them, both for the specific product and also according to their individual circumstances.

ii.   Valuation Data Reporting and NALs

8. How can valuation data most effectively be reported to SDRs to facilitate Commission oversight? How can valuation data most effectively be reported to SDRs (including specific data elements), and how can it be made available to the Commission by SDRs?

Generating valuations for swaps is largely a subjective exercise because there simply is no single price or valuation for a swap.[19] This is true even for cleared swaps, where various CCPs that clear a specific swap will generate different valuations because of variations in inputs and methodologies used. Most sophisticated market participants in the swaps markets therefore perform their own valuation work to determine the appropriate valuation for all of their swaps, whether they are uncleared or cleared. The Commission might

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[18] The Commission should note that under EMIR reporting in Europe this issue has been addressed by requiring the reporting of a snapshot that is coupled with a life cycle indicator. We believe that this might be a sensible approach when RCPs choose to report using the life cycle approach.

[19] Valuation data is defined in Part 45 as "all of the data elements necessary to fully describe the daily mark of the transaction, pursuant to CEA section 4s(h)(3)(B)(iii), and to §23.431 of this chapter if applicable." 17 C.F.R. § 45.1. Commission Rule 23.431 requires swap dealers to provide their counterparties with a daily mark, which may not necessarily be the value of the swap that is marked on the books of the swap dealer. *See* 17 C.F.R. § 23.431(d). Commission Rule 23.500 also defines "valuation" as "the current market value or net present value of a swap." 17 C.F.R. § 23.500(m).

therefore receive valuable information from valuations that are reported to SDRs by RCPs. However, given the subjectivity of swap valuations, we also recommend that the Commission consider sourcing an independent valuation for all of the swap positions held in SDRs. Such independent valuation will often be based on a multitude of inputs that are sourced from the marketplace and can therefore put an individual valuation provided by a party to the transaction in perspective.

In terms of the actual reporting of swaps valuations, we note that market participants typically source valuations from different systems compared to the reporting of transaction data. Any ability to delegate the reporting of valuation data to a third party should therefore be made expressly available to RCPs independently of and separately from the ability to delegate the reporting of other swaps data.

a. Should SDs and MSPs continue to be required by the swap data reporting rules to provide their own valuation data for cleared swaps to SDRs? If so, what are the benefits and challenges associated with this valuation reporting?

As explained above, we believe that it might be valuable for the Commission to receive valuations for swaps from the counterparties to the transactions, whether the swaps are uncleared or cleared. Such counterparty valuations will represent important data points for the Commission, both when performing a firm-specific risk analysis or when forming a view on the most appropriate valuation for a specific swap.

b. What challenges and benefits are associated with unregistered swap counterparties (both financial entities and non-financial entities) reporting valuation data for uncleared swaps to SDRs on a quarterly basis?

We believe that unregistered counterparties should, in principle, also be in a position to value their swap positions from time to time and report the resulting valuation data to SDRs. However, we believe that this should only be required at less regular intervals. The Commission should note that such entities will often be able to rely on the valuations that they receive from their counterparties or on independent valuations that they have received from specialized third party providers.

iii. Events in the Life of a Swap

9. Please: (i) identify and (ii) describe the complete range of events that can occur in the life of a swap. Please also address whether, and if so how, reporting entities should report each such event.

a. How should events in the life of a swap be represented in SDR data? For example, should an "event type" identifier, as well as a description of the specific event, be required?

Some of the SDRs, including DTCC, have developed specific event matrices in order to capture and classify the various types of events that are relevant for swaps transactions. We recommend that the Commission makes use of these established matrices.

In relation to the different reporting methods for continuation data, the Commission should note that for snapshot reporting, only an end-of-day report would be allowed. Therefore, these individual events may not be evident using the snapshot approach, so it would not be clear what event should be used.

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?

There are a number of different activities that can lead to the termination of a swap, e.g. exit and terminated, novated, cleared, compressed or booked-out. These can often be identified from the datasets that are reported to SDRs, *e.g.*, the bulk event IDs.

a. What role should SDRs play in auditing swaps data to help identify the current state of a swap?

We believe that SDRs could perform a useful role in auditing swap data that they hold to ensure that they indeed capture the current state of the swap. We believe that sample checks would be appropriate to achieve this objective.[20]

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?

As the most pragmatic and least costly solution, it should be up to SDRs to flag the maturity of a swap given that they already capture all of the relevant information. As a matter of fact, SDRs will generally auto exit trades at expiry / maturity.

In contrast, it should be up to the RCP to notify the SDR in case of an early termination or an extension of the term of a swap by updating the swap data reported to the SDR accordingly.

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?

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[20] Counterparties are required to ensure that their swap data is both current and accurate by providing continuation data reporting. *See* 17 C.F.R. § 45.4. They are also required to reconcile their data with one another pursuant to Commission Rule 23.502.

i. Should the swap data reporting rules be enhanced or further clarified to address void ab initio swaps?

Given the timeliness requirements for Part 45 reporting, it is likely that a swap, at the point in time where it is declared void ab initio ("*VAI*"), will have already been reported to an SDR.[21] The general approach should hence be to report the swap and cancel it once it has been determined to be VAI, and also flag it as VAI to the SDR.

We note that there has been some confusion about the reporting of VAI swaps in the marketplace. Any failed trade would have been reported under Parts 43 and 45 before or concurrent with the attempt to clear it, so it is imperative to remove such VAI swap from the SDR. As a general matter, we believe it would be easiest to manage the operational and trading risk if counterparties were allowed to try to clear the swap again rather than require that the swap be considered VAI. We therefore recommend that the Commission revise the SDR reporting rules to allow counterparties to resolve the clearing failure in a more practical manner by expanding the "new trade, old terms" procedure permitted under CFTC No-Action Letter 13-66.[22] However, if the Commission did decide to not revise its rules in this manner, it should require a special event type or state to mark trades as "VAI" to be created and reported to SDRs.

11. Should the Commission require periodic reconciliation between the data sets held by SDRs and those held by reporting entities?

By requiring counterparties to "report accurately" any changes to swaps, *i.e.,* continuation data, we believe that the Commission has already implicitly established a requirement for some kind of periodic reconciliation. As long as RCPs provide the full file for the snapshot approach to SDRs, SDRs will be in a position to reconcile the reported data and should probably also be required to do so. In any case though, we urge the Commission to clarify that any reconciliation would only be expected for live trades. Also, the Commission should note that data reported by middleware platforms will generally be accurate and therefore needs less frequent reconciliation, *e.g.*, quarterly. This is because the counterparties have already explicitly agreed on all of the terms of the confirmation before the data is reported, and such data is reported according to one established standard.

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[21] For example, real-time and creation data reporting for a swap executed on a SEF or DCM must be reported as soon as technologically practicable after execution, *see* 17 C.F.R. §§ 43.3(a), 45.3(a), and the same swaps that are intended to be cleared must be accepted or rejected for clearing within 10 seconds after submission to the DCO. *See* Staff Guidance on Straight-Through Processing (Sept. 26, 2013). SEFs and DCMs are likely to send data to SDRs and DCOs at approximately the same time, so the SEF or DCM would not receive notice that a swap failed to clear until approximately 10 seconds after it had reported such swap to an SDR.
[22] *See* CFTC No-Action Letter 13-66 (Oct. 25, 2013).

iv. Change in Status of Reporting Counterparty

12. Commission regulation 45.8 establishes a process for determining which counterparty to a swap shall be the reporting counterparty. Taking into account statutory requirements, including the reporting hierarchy in CEA section 4r(a)(3),[29] what challenges arise upon the occurrence of a change in a reporting counterparty's status, such as a change in the counterparty's registration status? In such circumstances, what regulatory approach best promotes uninterrupted and accurate reporting to an SDR?

Commission Rule 45.8 sets forth a hierarchy to determine which counterparty shall be the RCP.[23] Under this regulation, the RCP will be kept constant for the life of the swap unless the RCP ceases to be a counterparty due to assignment or novation.[24] This, however, is not the case for prime brokerage trades where the RCP will change as they are processed.

We believe that the most pragmatic approach to addressing any change in regulatory status of the RCP in the course of business would be to re-assess the RCP determination at the time of the next price-forming event, for example a partial termination. In contrast, requiring such re-assessment on an ongoing, real-time basis would be neither practical nor useful. To perform this process in an orderly manner, we hence propose keeping the original RCP for the life of the trade, but allowing RCPs to change at the next price-forming event if both parties agree to it.

C. Transaction Types, Entities, and Workflows

13. Please describe all data transmission processes arising from the execution, confirmation, clearing, and termination of a swap, both cleared and uncleared. Please include in your response any processes arising from all relevant platforms and methods of execution.

Given the multitude of different processes used depending on product and counterparty types, there is no easy way of providing a comprehensive description of all possible data transmission processes in this response. We would be happy to discuss with the Commission directly in further detail if the Commission so desired.

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[23] *See* 17 C.F.R. § 45.8.
[24] *See* 17 C.F.R. § 45.8(g).

14. Please identify any Commission rules outside of part 45 that impact swap data reporting pursuant to part 45. How do such other rules impact part 45 reporting?

Part 43

Reporting of swap transaction data under Part 43 is relevant in the context of the Part 45 requirements. We agree with the Commission that the rules should be designed to allow counterparties to satisfy both of these reporting requirements in the most effective manner, and potentially in just one reporting stream.[25] However, we note that the Commission decided to ultimately keep these two rules separate which does create some challenges to satisfying both requirements in one reporting stream.

One measure that might help reducing such challenges would be for the Commission to require for the RCP to be the same for both Part 43 and Part 45 reporting. Currently, the real-time and regulatory reporting rules result in a different counterparty serving as the RCP for certain cross-border swaps. Specifically, under Part 45, if both counterparties to a swap are non-SD/MSP counterparties and only one counterparty is a U.S. person, that counterparty will be the reporting counterparty,[26] whilst under Part 43 the same parties would have to decide which counterparty should be the RCP because the U.S. person status of the counterparties is not relevant.[27] We urge the Commission to synchronize these two hierarchies in order to streamline the process for identifying the RCP.

Clearing rules

Commission Rule 45.3(e) sets forth several rules for reporting allocated swaps,[28] but these rules do not specify how allocations should be reported for bunched orders that will be cleared.

We believe that the determination of which parties are required to report which transactions that exist in this context will depend on the stage at which the allocation is performed. Specifically, if a bunched order is allocated pre execution, the alpha block (bank vs asset manager), the alpha splits (bank vs fund), and the beta and gamma splits (fund vs DCO) should be reported. In contrast, for bunched orders that are allocated post clearing, the alpha block (bank vs asset manager) and the beta and gamma splits (fund vs DCO) should be reported. The alpha block as well as alpha splits would generally be reported by the SEF or DCM where the transaction was executed, while beta and gamma blocks as well as splits should be reported by the DCO that clears the transactions.

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[25]   *See* "Real-Time Reporting of Swap Transaction Data," 77 Fed. Reg. 1182, 1226 (Jan. 9, 2012) ("The Commission believes that reporting parties, SEFs and DCMs may report the data elements for real-time reporting and regulatory reporting in the same data stream.").
[26] *See* 17 C.F.R. § 45.8(e).
[27] *See* 17 C.F.R. § 43.3(a)(3).
[28] *See* 17 C.F.R. § 45.3(e).

SEF rules

As we have previously stated,[29] we believe that to achieve the timely and accurate reporting of all swaps transactions to SDRs, it would be most pragmatic to follow the RCP-based reporting by counterparties for all transactions, including those swaps that are executed on SEFs or DCMs. However, the Commission's rules stipulate that the SEF must provide confirmation for all of the terms of the trade and must report real-time data, PET data, and confirmation data to an SDR.

The Commission should note that this requirement introduces significant legal and operational risks for counterparties and SEFs alike. Counterparties will have to build links to all SEFs for the exchange of messages in relation to the confirmation of transactions and SDR reporting, which is costly. Using middleware for the reporting messaging will eliminate the need to build to multiple SEFs, and it can also eliminate the legal and operational risk.

15. What are the challenges presented to reporting entities and other submitters of data when transmitting large data submissions to an SDR? Please include the submission methods utilized and the technological and timing challenges presented.

For the regular reporting of swaps to SDRs, many counterparties submit an end-of-day full file to the SDR, thereby effectively loading bulk snapshots. Based on our experience, there are no major challenges related to these large end-of-day data submissions. However, in case this was more suitable to them, counterparties can also use a straight-through real-time event-based workflow where data is submitted on a transaction basis, *i.e.*, in smaller "packages." This is also the method that is supported by middleware platforms.

In the context of large data submissions the Commission should note that reporting of "historical swaps" under Part 46 certainly presented a significant challenge. However, as this reporting has been completed by now, analyzing the related challenges might not have any further relevance to the Commission.

   i.   **Bespoke transactions (NAL 13-35, 12-39)**

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 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

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[29] We have discussed the benefits of a reporting counterparty approach for the reporting to Trade Repositories in our comment letters to a number of global regulators, including, but not limited to the Ontario Securities Commission, the Swiss Federal Council, the Securities Commission of Malaysia, Bank Negara Malaysia, Perbadanan Insurance Deposit Malaysia, ASIC, and the Australian Treasury.

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?

Markit has gathered many years of experience in facilitating the electronic confirmation of OTC derivatives transactions across asset classes and regions. Whilst the number of the types of swaps that can be electronically confirmed has grown over time, we do not believe that it will ever be possible to electronically represent all data fields of the less liquid and non-standard swaps.

Standardized and liquid swaps are typically electronically confirmable and where this is done in a standard data format such as FpML the Commission can expect the reporting of all data fields of the confirmation to SDRs. In contrast, for bespoke, exotic and complex swaps, the Commission should only rely on a reduced data set that can easily be represented electronically. From a cost benefit perspective, we believe that this is the only practical solution.

ii.   **Allocations and Compression (NAL 13-01, 12-50)**

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?

Commission Rule 45.3(e) sets forth several rules for the reporting of allocated swaps.[30] As our MarkitWire and MTM processing platforms fully support the allocation workflow for swaps, we have not experienced any issues or challenges in relation to the electronic delivery of allocations and reporting with linkages for swaps that are processed on these platforms. For swaps that are confirmed via our other platforms or on paper, the linkages between the original block and the individual allocations will need to be entered by the counterparties. That said, the Commission should note that the challenges in relation to allocations become more pronounced in relation to package transactions.

In the cross-border context, an ultimate counterparty may have no reporting obligations for a given swap, which has created some uncertainty. For example, if an asset manager is a US person and trades with a non-US person, and the fund is a non-US person, the bunched order will be reported but the allocated swap may not need to be. The Commission should note that this will therefore result in situations where the sum of allocations does not equal the block notional.

18. How should swaps resulting from compression exercises and risk mitigation services be reported to, and identified in, an SDR so that the Commission is able to effectively review these exercises and determine what swaps result from a specific exercise?

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[30] *See* 17 C.F.R. § 45.3(e).

As described above,[31] the MarkitSERV platforms typically assign a bulk processing ID to identify those swaps that have been created or modified as part of a compression exercise. However, we note that the reporting of residual trades from compression runs has not really been addressed in the Commission's rules. In cases where the residual trade is later compressed against a different portfolio, the linkage to the original portfolio will be dropped.

a. Please describe any technological, operational, or logistical challenges associated with reporting of such swap transactions.

Certain challenges arise with regard to reporting transactions that result from compression exercises and risk mitigation services. For example, linkages are generally challenging to handle for transactions that are confirmed on paper. While we do not believe it is possible to electronically represent all data fields for such swaps when they are bespoke or illiquid (as described above), we note that the MarkitWire platform is able to link transactions that result from compression exercises and risk mitigation services, even when they are confirmed on paper.

iii.   Prime Brokerage (NAL 12-53)

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)?

Our experience has shown that the reporting of swap transactions can often be challenging if the transaction involves a client, a prime broker ("*PB*"), and an executing broker ("*EB*").

In a typical prime broker situation, an EB negotiates a swap with a PB client, before the EB and PB client communicate the terms of that swap to the PB. There is no legally binding contract until the PB determines that the trade is within the credit limits and other parameters permitted for the PB client. At that point, the PB enters into a swap with the EB, and another equal and opposite swap with the PB client.

The Commission's reporting rules do not explicitly state whether any or all of these transactions must be reported and/or confirmed, and by whom. We believe that the Commission should provide clarity for these situations, including when a PB trade is negotiated on a SEF.

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[31] See our response to Question 6 b.

21. Are there instances in which requirements of CFTC regulations or reliance on exemptive or staff no-action relief result in more than one party reporting data to an SDR regarding a particular swap? If so, how should such duplicative reporting be addressed? What should be the role of the reporting entities, as well as other submitters of data, and SDRs in identifying and deleting duplicative reports? What solutions should be implemented to prevent such duplicative reporting?

We are not aware of any situations where the Commission regulations would require more than one party to report a particular swap transaction to an SDR. However, complications might arise in the context of execution on qualified multilateral trading facilities ("*QMTFs*"). We recognize that CFTC No-Action Letter 14-46 is intended to prevent double reporting for swaps executed on QMTFs. However, counterparties may not know exactly whether the MTF is approved as a QMTF, and therefore has the obligation to report. Therefore, a counterparty to a QMTF trade might still believe that it has to report to the SDR. Complications can arise in particular if one party to a swap transaction uses our platforms for the processing of the swap but the other one does not.

Importantly, where SEFs or QMTFs report a swap to the SDR, the USI can play an important role in resolving issues arising from any duplicate reports. Specifically, any confusion would be reduced as long as the USIs are consistent.

22. In addition to those entities enumerated in Commission regulation 45.5, should other entities involved in swap transactions also be permitted to create unique swap identifiers ("USIs")? If so, please describe those situations and the particular rationale for any such expansion of the USI-creation authority.

Commission Rule 45.5 utilizes a "first touch" approach to creating USIs, whereby the first regulated entity involved in a swap creates the USI.[32] We generally agree that the "first touch" approach is the most consistent approach to choosing the entity that shall generate the USI. On that basis, and reflecting current market practice, we urge the Commission to allow also other entities to assign USIs. This permission should apply at least to QMTFs and to providers of middleware services. The latter would need to generate a USI, for example, in situations where two buyside clients face each other in a swap transaction.

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

We believe that, as part of the swap data reported to the SDR, the trading venue where the swap transaction was executed should be identified by its LEI. This way, the report for swaps executed on a non-SEF platform, including MTFs, FBOTs and platforms facilitating

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[32] *See* 17 C.F.R. § 45.5.

the execution of exempt foreign exchange products, will identify those platforms. The Commission should note that, for the swap transactions that MarkitSERV currently reports to SDRs, we also typically include a specific execution venue type (*e.g.*, "SEF", "off-facility", "DCM" and soon "QMTF").

iv. Inter-Affiliate Swaps (NAL 13-09)

24. In order to understand affiliate relationships and the combined positions of an affiliated group of companies, should reporting counterparties report and identify (and SDRs maintain) information regarding inter-affiliate relationships? Should that reporting be separate from, or in addition to, Level 2 reference data set forth in Commission regulation 45.6? If so, how?

This question pre-supposes that the level two reference data does not provide sufficient corporate hierarchy information to the CFTC. We note, however, that Commission Rule 45.6 defines Level 2 information as "information concerning the corporate affiliations or company hierarchy," and states that Level 2 information includes the disclosure of parent companies with a greater than 25% ownership interest in a subsidiary.[33]

We believe that, if anything, this may be overly broad. We therefore do not believe that the Commission should require any further information regarding inter-affiliate relationships to be reported. The Commission should note that the relevant static data is already reported.

v. Reliance on NAR in General

25. To the extent that a reporting entity is, in reliance on effective no-action relief issued by Commission staff, reporting to an SDR in a time and/or manner that does not fully comply with the swap data reporting rules (e.g., outside reporting rules' timeframe, required data elements missing), how can the reporting entity most effectively indicate its reliance upon such no-action relief for each affected data element?

a. Are there any other challenges associated with the reliance on staff no-action relief with respect to compliance with part 45? If so, please describe them and explain how the swap data reporting rules should address those challenges.

We do not believe that it would be practicable or possible to report whether and on which NAR a party is relying upon. This data cannot be standardized and will be constantly changing.

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[33] *See* 17 C.F.R. § 45.6(a).

vi.   Post-Priced Swaps

26. Under the swap data reporting rules, are there any challenges presented by swaps for which the price, size, and/or other characteristics of the swap are determined by a hedging or agreed upon market observation period that may occur after the swap counterparties have agreed to the PET terms for a swap (including the pricing methodology)? If so, please describe those challenges.

While the release accompanying Part 43 addresses how to report swaps when certain information is not known,[34] we do not believe that this guidance addresses many instances where information is determined after execution, and we do not believe that Part 45 addresses these situations at all.

Our experience has shown that the occurrence of post-priced swaps is most common in the equity asset class. To address this issue, the Commission will have to choose whether the RCP reports: (a) an incomplete dataset in a timely manner and add the missing data later, or (b) waits with the reporting until the dataset is complete. We believe that the former approach might be more appropriate as it can ensure timely reporting and is also easier to handle from a reporting perspective.

vii.   Complex Swap Transactions (14-12)

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?

In principle, one possible approach to identifying swaps strategies and packages would be to report them to the SDR as separate components but link them via a "package" or "strategy" ID. However, even if such reporting was performed, the Commission would face several issues which will largely prevent it from actually identifying strategies and packages in such manner:

- A combination of transactions that represents a package or a strategy for one of the counterparties to a transaction might not be a package for its counterparty (or counterparties).
- Many strategies or packages are combinations of swaps and other (non-swap) products and would therefore not be visible as packages in the SDR.

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[34] *See* Real-Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. at 1194 (discussing the reporting of certain structured transactions, and stating that execution for such transactions may not occur until the documents are signed and/or a deal is closed).

- Often such trading strategies cannot actually be implemented simultaneously and would therefore be executed and reported as separate transactions.

Therefore, we believe that based on a cost/benefit analysis, the Commission would not be able to justify the introduction of a requirement to report "package/strategy" flags.

D. PET Data and Appendix 1

28. Please describe any challenges (including technological, logistical or operational) associated with the reporting of required data fields, including, but not limited to:

a. Cleared status; b. Collateralization; c. Execution timestamp; d. Notional value; e. U.S. person status; and f. Registration status or categorization under the CEA (e.g., SD, MSP, financial entity).

a) Cleared status

The Commission should note that there are a number of clearing-related status, including required-to-clear, priced-to-clear, intended-to-clear and actually cleared. Currently, an intent-to-clear is reported prior to clearing.

b) Collateralization

Given the nature of collateralization in the OTC derivatives markets, any reporting of collateralization can only be expected on a portfolio level (not on a transactional level).[35] We also note that, as described below, we do not believe that guarantees of a swap should be reported.

c) Execution timestamp

We understand that the Commission has asked market participants for the Part 43 dataset to always contain the latest Execution Time, whereas it expects the original execution time stamp to be maintained for Part 45. We believe that market participants would benefit from clarity in relation to the Commission's expectations for these requirements and recommend that the Commission update its rules in this respect with suitable phase-in.

d) Notional Value

As mentioned above, the process for reporting the notional value of cross currency and forward starting swaps is uncertain given that the variable notional amount is unknown and will only be determined closer to the actual payment date. We believe that the Commission should only require the constant notional on MTM cross-currency swaps to be reported, or

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[35] Unless, of course, there only exists a single swap between the two counterparties.

for such information to be reported on an SDR level where the SDR would be in a position to calculate the current value of the variable notional amount if needed.

e) US person status

Appropriate mechanisms have been established by middleware providers to gather the relevant information in relation to determining the status of the counterparty as a US or non-US person and making such determination available to their counterparties. However, it is worth noting that, for this exercise, the parties will have to rely on the information that was supplied by the other party which might, at times, be outdated or inaccurate.

f) Registration status

See our response to sub-question (e), immediately above. However, we note that, in any case, the legal names of registered SDs and MSPs can be found on the Commission's and the NFA's website.

b. What, if any, additional fields would assist the Commission in obtaining a more complete picture of swaps executed on SEFs or DCMs (e.g., order entry time; request for quote ("RFQ"), or central limit order book ("CLOB"), or order book; request for cross, blocks, and other execution method indicators or broker identification)?

We do not have any views on specific fields that the Commission might want to require for swaps executed on SEFs or DCMs. However, if the Commission was to require the reporting of any additional fields, it should provide sufficient time to allow both trading venues and middleware providers to properly prepare for such changes.

d. Should the fact that a swap is guaranteed be a required data element for SDR reporting? If so, what information regarding the guarantee should be reported to the SDR? What will be the challenges presented to the reporting party in capturing this information?

While reporting of swaps data happens on a transaction level, information about cross-entity guarantees will be captured in the relevant static information on an entity level (based on information that is reported by parties given its impact on reportability). While we occasionally might experience issues with the accuracy of this information, we do not believe that reporting of guarantees on a transaction level would add value or should be required.

30. Have reporting entities been unable to report to an SDR terms or products that they believe are required under part 45 or related provisions? If so, please generally describe the data elements and/or products involved.

For exotic swaps, reporting entities often find it challenging to electronically report all of the required data fields to SDRs. As described above,[36] we urge the Commission to address

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[36] See our response to Question 16.

this issue by explicitly accepting the reporting of a standardized, reduced data set for these swaps going forward.

31. Could the part 45 reporting requirements be modified to render a fuller and more complete schedule of the underlying exchange of payment flows reflected in a swap as agreed upon at the time of execution? If so, how could the requirements be modified to capture such a schedule?

For most swaps, the actual cash flows will not be known until close to the time of their actual exchange. Therefore, at the time of the reporting of the swap transaction data to an SDR, only a parametric representation of the transaction is needed. On that basis SDRs should generally be in a position to generate more specific information about actual cash flows over time if the Commission desires to receive this information.

E. Reporting of Cleared Swaps

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?

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?

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?

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

As we have stated in our previous comments regarding reporting of cleared swaps,[37] we believe that:

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[37] *See* MarkitSERV response to the CFTC proposed rule "Requirements for Processing, Clearing, and Transfer of Customer Positions" (April 11, 2011).

a-c) The reporting requirements in relation to the alpha swap should not be modified or waived. This is because it will often be essential for the Commission to know the exact origin of a cleared swap transaction, in particular for market surveillance purposes.

d) Based on our experience, an alpha swap will exist in most situations where a swap is cleared. Specifically, in relation to cases a) to c), we estimate that an alpha swap with a related USI will exist in 98%, in 99% and in 100% of the situations respectively.

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: i. The reporting obligations applicable to alpha swaps; ii. The reporting obligations applicable to beta and gamma swaps; iii. Who holds the reporting obligation(s) for each swap; iv. The reporting of the linkage of alpha, beta, and gamma swaps; and v. Who has the legal right to determine the SDR to which data is reported?

The Commission's rules require the reporting of beta and gamma swaps (*i.e.*, the swaps resulting from clearing) to be performed by the DCO.[38] As we have expressed in previous comment letters to the Commission,[39] we believe that the reporting regime would work most effectively if the Commission empowered RCPs to select the SDR, regardless of how a swap is executed and whether or not it is cleared. This approach would be simple compared to assigning various reporting obligations to various parties depending on the nature and status of the specific swap transaction. Moreover, it is likely to greatly increase the utility of SDR data, both for the CFTC and for market participants. An RCP-focused approach to data reporting would also enable SDRs to compete with one another on the basis of the quality of the services they provide. Finally, with alpha transactions being reported by one of the original counterparties (the RCP), this party will also best placed to perform the reporting of the beta and gamma transactions. The Commission should note that such approach will ensure continuity and would greatly reduce the potential for data inaccuracies and duplication.

We therefore encourage the Commission to create more clarity around the reporting of cleared transactions to SDRs. Specifically, the Commission should permit the RCP of the initial trade to determine which SDR the alpha, beta and gamma swaps shall be reported to as this should have a positive impact on the quality and consistency of the reported data.

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[38] *See* Frequently Asked Questions (FAQ) on the Reporting of Cleared Swaps.
[39] *See* MarkitSERV response to the CFTC regarding the "CFTC and SEC Staff Public Roundtable on International Issues relating to Dodd Frank Title VII" (Sept. 19, 2011) ("We believe that the reporting party should be able to choose which SDR to report to, while being allowed to delegate the actual reporting to qualified third parties where it sees fit…We believe that both of these standards should apply regardless of whether the transaction is executed on a SEF and/or whether it is centrally cleared or whether this transaction is purely OTC.").

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 described above in our response to Question 35, we believe that the Commission should permit the RCP to determine the SDR that will receive the swap data for the alpha, beta and gamma trades. This would eliminate any duplicate records across SDRs, because all records would be held by the same SDR.

However, if the Commission does not adopt this change, it must address the issue of potential duplicative reporting of cleared swaps to different SDRs. Specifically, we believe that the Commission should require DCOs that report swaps to a different SDR than the SDR that received the alpha trade data to notify the original SDR that the swap transaction has now been cleared. It is worth noting that sometimes the SEF and RCP may report the same cleared transaction to different SDRs, if the RCP reported in error. Also, for a non-SEF transaction, both parties might report to the SDR rather than just the RCP, and each of them might report to a different SDR. This risk of duplicative reporting is much reduced if the reporting to SDRs has been delegated to a middleware provider who typically performs the RCP determination.

37. How should cleared swap data be represented in the SDR to facilitate the Commission's oversight of compliance with clearing-related rules, including the clearing requirement (Commission regulations 50.2 and 50.4) and straight-through processing requirements (Commission regulations 1.74, 23.506, 37.702(b), 38.601, and 39.12(b)(7))?

The Commission's clearing and reporting rules do not address how cleared swaps should be linked to the alpha trade. However, we believe that establishing this linkage would allow the Commission to monitor market participants' compliance with the clearing and straight through processing mandates. We believe that the Commission should endorse the current market practice of reporting the alpha trade to the SDR with its USI, and requiring the report for the beta and gamma trades to reference the alpha trade as the "prior USI."

38. What reporting technique, term, or flag is recommended to identify a cleared swap?

We believe that, prior to the clearing of a swap, an "intention to clear" or "ITC" flag should be reported, while after clearing a "cleared" flag should be used. We will use an ITC flag on our platforms and will then report the beta and gamma transactions once the swap has been

cleared.[40] This approach has the benefit of creating certainty about the current status of the swap.[41]

39. Swaps created by operation of a DCO's rules related to determining the end-of-day settlement prices for cleared credit default swaps ("CDS") are also known as "firm trades" or "clearing-related swaps" (see NAL 13-86). How should these swaps be reported pursuant to the swap data reporting rules?

We believe that swap transactions that are created as part of the DCO's determination of daily settlement prices should be reported to the SDR under Part 45, but they should not be publicly reported under Part 43. When such transactions are reported to the SDR, it might be useful for them to carry an event flag for "clearing related swaps".

i. DCO Reporting, Netting Processes, and Positions (§§ 45.3 and 45.4)

41. As described above, DCOs provide position data to the Commission pursuant to part 39 and report transactions to SDRs pursuant to part 45. The Commission is aware of potential overlap in these data sets. With respect to such overlap, how can reporting of swaps data be made more efficient, while ensuring that the Commission continues to receive all data necessary to fulfill its regulatory responsibilities?

Based on our experience, we believe that the reporting of individual terminations (netting) and replacement trades that were executed by DCOs rather than just nightly positions provides relevant information. We therefore recommend for such reporting to be required from DCOs under Parts 39 and 45.

42. For cleared swaps, how can the netting and compression of swaps and positions by DCOs be most effectively represented?

a. Please provide recommendations regarding the reporting of netting and compression, and describe any relevant differences in reporting of netting and of compression.

b. Are netting and compression different concepts in the uncleared swaps markets versus the cleared swap market? If so, how?

See our response to Question 41, above. The Commission should note that cleared compression and uncleared compression are analogous. In contrast, netting does not occur for uncleared swaps, just compression.

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[40] Under EMIR reporting, European market participants update the alpha transaction to mark cleared prior to exit, but this would create additional work for the Commission.
[41] However, it should also be obvious which swaps are cleared because a DCO will be a counterparty to such swaps.

F. Other SDR and Counterparty Obligations

43. The Commission requests comment that addresses whether reporting entities face challenges with respect to complete and accurate swap data reporting.

Reporting counterparties will be best positioned to comment on the Commission's questions related to challenges with complete and accurate reporting. However, based on our experience, many market participants continue to find it challenging to generate certain pieces of the information that they need for SDR reporting, particularly where their reporting is not supported by a middleware platform. For example, we understand that market participants that are not using a middleware platform have difficulty reporting counterparty-specific data such as their US person status, current guarantees, or their nature as financial counterparty.

That said, we are confident that, over time, many of these issues will be resolved by the parties. We would therefore recommend for the Commission to not take any specific action at the moment.

44. The Commission also requests comment regarding whether clarifications or enhancements to swap data reporting requirements, including requirements relating to the reporting of errors and omissions and requirements for data reconciliation across reporting entities, could facilitate accurate and complete reporting of data to the SDRs, as well as data maintained in the SDRs.

Commission Rule 45.14 requires reporting counterparties to report errors and omissions in swap data that was previously reported.[42] If an RCP is using the snapshot method for continuation data reporting, it may satisfy this obligation simply by correcting this dataset in the next day's report.[43]

We believe that, in case of errors, for position data that is reported under Part 45 the RCP should continue current practice and report an update once an error has been identified. For reporting under Part 43, in principle a correction should be publicly reported. However, if some to-be-defined amount of time has already passed since the first public reporting, the benefit of publicly reporting will be limited, or even negative, compared to the cost of such reporting.

We further suggest that the Commission include a rule/procedure for the reporting of swap data for swaps that were not reported at all. This is because the rules currently only address errors and omissions in swap data that actually was reported.

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[42] *See* 17 C.F.R. § 45.14(a).
[43] *See id.*

45. Should third-party service providers that report part 45 data to SDRs on behalf of reporting entities be required to register with the Commission?

To ensure the accuracy and timeliness of data that is captured in SDRs, it is of crucial importance that any third-party service providers that RCPs delegate the Part 43 and Part 45 reporting to are sufficiently qualified to perform this reporting. The Commission should note that RCPs therefore will, and are often explicitly required by their regulators to, ensure via their due diligence and contractual arrangements that this is indeed the case.

We believe that the Commission should model its approach to third-party service providers off the CPSS-IOSCO Principles for systemically important service providers.[44] Specifically, CPSS-IOSCO recommends that regulators ensure that critical service providers adhere to certain expectations established by CPSS-IOSCO by, among other things, communicating the standards to financial market infrastructure entities ("**FMIs**"), and requiring such FMIs to obtain assurances from critical service providers that they comply with such standards.[45] However, we also believe that the Commission should be open to entering into a direct dialogue with third-party service providers in relation to issues that are of broader relevance to the Commission's oversight interests.

However, if the Commission decided to establish explicit expectations for third-party service providers, these standards should apply to all third-party service providers that assist regulated entities to comply with the various Commissions regulations, not just those providers that facilitate reporting to SDRs. On that basis, the Commission could ensure a level playing field between competing providers of such services.

> **i.   Confirmation of Data Accuracy and Errors and Omissions (§ 45.14)**

46. Commission regulation 49.11(b) requires SDRs to verify with both counterparties the accuracy of swaps data reported to an SDR pursuant to part 45. What specific, affirmative steps should SDRs take to verify the accuracy of data submitted? Please include in your response steps that SDRs should take regarding data submitted by reporting counterparties on behalf of non-reporting counterparties who are not participants or users of the SDR.

We believe it is crucial that the swaps data that is captured, stored and maintained in SDRs is both complete and accurate. The best way of achieving this objective is to ensure that the records received by the SDR from the RCP have been verified by both counterparties to the transaction. Typically, the use of middleware providers and confirmation platforms will facilitate such agreement.

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[44] CPSS IOSCO Consultative Report "Principles for financial market infrastructures: Assessment methodology for the oversight expectations applicable to critical service providers" (Dec. 2013).
[45] *See id.*

As we have highlighted in previous comment letters,[46] SDRs should be exempted from the requirement to verify the accuracy of the swaps data when reporting is performed by an Independent Verification Service ("*IVS*") such as MarkitSERV.[47] This is because, when using such providers of middleware services, both parties to the transaction will have already agreed on a single legal record of the trade and that record has been used by the IVS to conduct the reporting. Any further requirement to verify the transaction details therefore seems superfluous.

47. In what situations should an SDR reject part 45 data from entities due to errors or omissions in the data? How should the Commission balance legal requirements for reporting as soon as technologically practicable and the need for complete and accurate data?

Any initial swap data report containing PET data should be submitted to the SDR as soon as technologically practicable (*i.e.*, after execution but prior to confirmation). After a confirmation is produced, a full confirmation report should be submitted to the SDR including a full confirmation record.

We believe that any requirement for SDRs to validate the reported data should be somewhat less demanding for PET data because, at this point in time, not all of the confirmation data will be available yet. Once the confirmation data is available as has been confirmed by both counterparties, the SDR should be subject to more demanding verification requirements.

48. All data in an SDR must be current and accurate, and the Commission expects SDRs, counterparties, and registered entities to take proactive steps to ensure data accuracy. Are there challenges that a reporting entity faces in confirming data accuracy? If so, how can those challenges most effectively be addressed?

We believe that third-party service providers play an important role not only in reporting swaps transaction data to SDRs, but also in verifying the data that is captured in SDRs. However, we are concerned that SDRs might not always want to provide third-party service providers with sufficient access to the data. We therefore recommend that the Commission establish a requirement on SDRs to provide third-party services providers that were involved in the reporting process with access for this purpose.

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[46] *See, e.g.,* MarkitSERV response to the CFTC regarding the "CFTC and SEC Staff Public Roundtable on International Issues relating to Dodd Frank Title VII" (Sept. 19, 2011).

[47] IVS to be defined as "entities that act independently from and on behalf of both counterparties of a transaction to facilitate the agreement of a verified record of the complete transaction details that is used for subsequent processing."

49. If an error or omission is discovered in the data reported to an SDR, what remedies and systems should be in place to correct the data? Within what time frame should a reporting entity be required to identify an error in previously reported data and submit corrected information to an SDR?

Our experience has shown that an error in the swaps data that is reported to the SDR can occur and be discovered at any point in time. We therefore believe it will be difficult to set a specific timeline for discovering an error. However, once discovered, an error should be fixed as soon as reasonably feasible.

In this context, the Commission should recognize that, from a technological perspective, some types of errors will take more time to fix than others. For example, an error that requires a code change to be made, tested and implemented is likely to take longer to be corrected than the simple correction of a single data item. We therefore do not believe that the Commission should establish any defined deadlines in relation to the correction of errors.

ii.   SDR Required Data Standards (§ 45.13)

50. In addition to data harmonization, how can reporting entities and SDRs improve data quality and standardization across all data elements and asset classes within an SDR? Please provide examples of how the presentation of data may be standardized, utilizing specific data elements.

If no specific naming conventions have been agreed to, it is likely that reporting entities will end up using a variety of different terms for the same item, with a significant negative impact on data quality. For example, firms might use names such as "usd-libor", "libor", "usd-libor-3m" or "usd-libor-6m" rather than the ISDA defined term "USD-LIBOR-BBA". We believe that, from the perspective of data quality and standards, it would be beneficial to establish best practices for submission behavior and also treat comparable methods as identical. Additionally, the use of "blank" vs. "none" should be clarified.

The use of standardized naming conventions has already been established by middleware platforms. The MarkitSERV platforms, for example, generally use ISDA defined terms and the FpML schema valid values. Because we perform legal confirmation, we also have industry-accepted formatting for certain data fields. However, as not all swap transactions are processed and reported by middleware providers, the relevant SDRs should be required to agree on such standards, communicate them to users, and allow only for one way of reporting. We are confident that such approach will result in harmonizing the data input into SDRs and hence improve also the quality of the data output to the Commission.

52. Are there additional existing swaps data standards (other than the legal entity identifier ("LEI"), unique product identifier ("UPI") and USI) that the Commission should consider requiring as part of any effort to harmonize SDR data with both domestic and foreign regulators?

We generally believe that regulatory requirements should, as closely as possible, make use of established market practice for all identifiers. We therefore encourage the Commission to embrace the ISDA taxonomy for identifying products instead of the UPI on a permanent basis. We further believe that the Commission should consider requiring the use of the global UTI standard while dropping the CFTC specific USI requirements.

iii.   Identifiers (§§ 45.5, 45.6 and 45.7)

54. What principles should the Commission consider when designating a UPI and product classification system pursuant to § 45.7?

a. Are there any commonly used taxonomies that the Commission should consider in connection with the designation process? Please respond by asset class.

As explained above, we recommend that the Commission adopt the ISDA taxonomy on a permanent basis.

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

MarkitSERV plays an important role in generating and transmitting USIs to all of the parties to the transaction in several asset classes. As described above, we will also link transactions with prior USIs, for example post clearing. Based on our experience, we believe that linkages generally work well for the more standardized, electronically processed swaps. While challenges with linkages can reside in the workflows for transactions that are confirmed on paper, they can largely be addressed by confirming these transactions on middleware platforms.

In relation to the reporting of swaps that are executed on QMTFs, we strongly encourage the Commission to ensure that the acknowledgment IDs that are used as a USI namespace conform to the same standards as for the SEF, SD, MSP, or DCO namespace. This is because such approach will avoid unnecessary and costly rebuild across market participants.

G. SD/MSP Registration and Compliance

56. Should the Commission require an SDR to aggregate the number of transactions by an entity, and the aggregate notional value of those transactions, to reflect the entity's total swap position and its total swap activity during a given period (e.g., for purposes of monitoring the SD de minimis calculation)?

We believe that it will be most important for the Commission to: (a) receive high-quality transaction/position data from the various SDRs in a standardized format and (b) have access to the relevant analytical tools to analyze the data according to its objectives. On that basis, we believe the Commission should not impose any static requirement on SDRs to provide specific outputs other than transaction-level data. We believe that data that could be generated out of such a requirement would never be flexible enough to produce the results that the Commission would be looking for to satisfy its various policy objectives in specific circumstances, while it would certainly create significant cost for SDRs though.

Instead, the Commission should ensure that, assuming it is able to aggregate transaction-level data from the various SDRs, that it develop or obtain access to the appropriate analytical tools that would enable it to analyze SDR data to meet its market and risk oversight goals. We therefore encourage the Commission to discuss with SDRs and the relevant providers of analytical services what kind of outputs it would want to produce to help it achieve its different policy objectives and use cases, be it market supervision, firm-specific analysis, or the monitoring of systemic risk.

The Commission should note that analytical tools are available to perform in-depth analysis of SDR data. For example, products have been developed that would provide the Commission with the ability to aggregate transactions into positions for a specific firm, to analyze positions in certain products across the market, to stress test certain positions for firms or market wide, and to identify all transactions that occurred in a certain product over a certain time horizon.

57. Should data elements be reported to the SDR to reflect whether a swap is a dealing or non-dealing swap? If so, how should this information be reflected in the SDR?

We do not believe that whether a swap is a "dealing or non-dealing swap" should be reported to the SDR. This information is not readily available in reporting systems of the counterparties, and a requirement to report such information would require a costly rebuild by market participants and their service providers.

We understand that the Commission may want to be able to verify whether an entity has registered as a swap dealer when the notional value exceeds a *de minimis* threshold. However, we believe that this objective could be achieved most cost effectively by simply

aggregating the notional value of swaps by an enterprise and, if such a notional value exceeds the *de minimis* level, then inquiring as to the extent to which such swaps were dealing swaps. Such an approach would allocate the regulatory burden solely onto those with large swap notional values. In contrast, requiring the disclosure of dealing vs. non-dealing swaps for all market participants would impose an unnecessary burden the entire swaps market.

58. Where transactions are executed in non-U.S. dollar ("USD") denominations, should the SDR data reflect USD conversion information for the notional values, as calculated by the counterparty at the time of the transaction (rather than the conversion taking place at the SDR)?

a. If so, how should the SDR data reflect this information?

b. Would this answer be different depending on the registration status of the reporting counterparty (e.g., SD/MSP)?

We do not believe that counterparties should be required to convert foreign currency notional amounts of swaps into USD when reporting these swaps to SDRs. Our view is based on the fact that different parties would use different conversion rates for the reporting, thereby creating inconsistency. We also believe that such requirement would create an unnecessary burden on the reporting parties, including those end-users that are RCPs, with little apparent value.

However, if the Commission decides that it needs comparable USD notional amounts across the various currencies of swaps in an SDR, we believe that it should require SDRs to perform these conversions. The Commission could adopt the approach it took in Commission regulation 43.6(h)(4) which provides, in the block trade context, that "when the appropriate minimum block size or cap size for a publicly reportable swap transaction is denominated in a currency other than U.S. dollars, parties to a swap and registered entities may use a currency exchange rate that is widely published within the preceding two business days from the date of execution of the swap transaction in order to determine such qualification."[48] This approach would ensure the use of a broadly consistent FX conversion standard across CFTC rules.

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[48] 17 C.F.R. § 43.6(h)(4).

H. Risk

59. Should the Commission require SDRs to calculate market participants' positions in cleared and uncleared swaps?

a. Given the definition of "position" in part 49 of the Commission's regulations, and the transactional nature of swap data reporting, how should an SDR calculate the positions of market participants whose swaps are reported to it?

i. Please explain whether these calculations should differ by underlying instrument, index or reference entity, counterparty, asset class, long risk of underlying instrument, index, or reference entity, or short risk of the underlying instrument, index or reference entity, or any other attribute.

b. How should SDR positions or position calculation methods relate, if at all, to positions calculated by DCOs and DCOs' position calculation methods?

As stated above in our response to Question 56, we believe that the Commission should derive the relevant position outputs based on transaction-level SDR data.

60. Are there data elements that should be reported on a transaction basis to identify the linkage between a swap transaction and a reporting counterparty's other positions in products regulated by the Commission?

As stated above, in our role as middleware provider, we will routinely link child trades to parent trades for Prime Brokerage transactions or novations, for example. We will also link trades that are compressed or subject to an event using an event ID. However, we do not believe that reported data should be required to link a particular swap to a related position such as a position that is being hedged.

61. How can swap data reporting be enhanced to facilitate the calculation of positions within SDRs?

a. How should position information within an individual SDR be aggregated across multiple SDRs so that the Commission has a complete view of a market participant's risk profile for swaps reportable under Dodd-Frank?

b. How can the Commission efficiently aggregate information by product and by market participant in order to understand positions across cleared and uncleared markets?

In order to enable the Commission to effectively aggregate information by product and participant, we believe that the Commission should require SDRs to establish and enforce effective data standards, quality and accuracy. The Commission could ensure that this data is accurate by requiring (and enforcing rules that require) SDRs to establish rules that ensure effective swap data standards, quality, and accuracy. If SDRs do so, then there is no

reason why transaction-level SDR data could not be used by the CFTC to calculate positions. Aggregation of data across SDRs could be ensured through common transaction-level SDR data outputs provided by each SDR to the CFTC.

62. How can the Commission best aggregate data across multiple trade repositories (including registered SDRs)?

We believe that, to be in a position to aggregate and to perform analytics across the data generated by SDRs, the Commission should require a consistent output format from all SDRs.

We are not suggesting that all market participants should be required to use a consistent swap *reporting* format (or input format), because we believe that this is largely in place already in most of the asset classes and product categories, and would be very costly to address in others. Rather, as a cost-effective and pragmatic measure to achieve the Commission's objectives, we suggest that the Commission ensure the generation of usable data by prescribing a consistent output format for SDRs.

63. What international regulatory coordination would be necessary to facilitate such data aggregation?

The Commission should coordinate with regulators from various jurisdictions to ensure that data in all such jurisdictions is provided in consistent format so it can be aggregated and analyzed. Several jurisdictions have implemented individual regulatory requirements to report derivatives transactions to Trade Repositories, and many cross-border derivative transactions are reported multiple times in different jurisdictions due to overlapping regulations. Specifically, reporting might occur to multiple trade repositories, with differing identifiers, containing differing data fields and at different levels:

- Regulatory regimes globally utilize different Trade Repositories, and some regulatory regimes have approved multiple Trade Repositories, each with its own rulebook and required formats.

- Different trade identifiers are used across the various global regulatory regimes (*e.g.*, Dodd Frank USI, bilaterally agreed UTI, internal trade reference).

- Each regime requires a different data set. For example the CFTC requires "all the terms of the trade," while ESMA follows the CPSS-IOSCO guidelines for data fields to be reported.

- There are different levels of reporting required by the various regimes. For example, CFTC, ASIC, MAS, and HKMA require entity level reporting. ESMA and JFSA require branch level reporting, although they are using different branch identifiers.

I. Ownership of Swap Data and Transfer of Data across SDRs

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?

a. If cleared, should a DCO have preferential ownership or intellectual property rights to the data?

b. Should ownership or intellectual property rights change based on whether the particular swap transaction is executed on a SEF or DCM?

c. What would be the basis for property rights in the data for each of these scenarios?

d. What ownership interests, if any, are held by third-party service providers?

e. What are the ownership interests of non-users/non-participants of an SDR whose information is reported to the SDR by a reporting counterparty or other reporting entity?

We do not believe that the Commission should prescribe ownership rights to the data that is stored in SDRs. Instead, it should be a contractual matter between entities that pass data between themselves and to the SDR to decide where the data ownership resides. For example, DCOs should not be able to assert data ownership through reference to a Commission rule, but an individual DCO might assert ownership and another DCO might not. In this way, parties who are clearing trades could factor this element into their decision as to whether to use DCO "A" or DCO "B" to clear trades. However, the Commission should also consider that, sometimes, only a single DCO with critical mass might exist in an asset class, and RCPs/SEFs would therefore have no ability to select an alternative DCO with more reasonable terms.

65. Is commercialization of swap transaction data consistent with the regulatory objective of transparency?

a. In what circumstances should an SDR be permitted to commercialize the data required to be reported to it?

b. Does commercialization of swap data increase potential data fragmentation?

c. Is commercialization of swap data reported to an SDR, DCM or SEF necessary for any such entity to be economically viable? If so, what restraints or controls should be imposed on such commercialization?

Commission Rule 49.17 currently prohibits SDRs from using for commercial or business purposes any swap data accepted and maintained by the swap data repository or any of its affiliated entities.[49] SDRs have been created with the objective to collect swaps data to create transparency for regulators and the public. At the same time, we believe that the Commission should allow the relevant parties to agree on a commercial use of their data if they so desire. Such commercial opportunities should be seen as complementary to the transparency mandated by the Dodd-Frank Act. We therefore suggest removing the rule prohibiting the commercialization of data.

At the same time, the Commission should prevent SDRs and DCOs from bundling their services, because this might have the effect of deterring competition. To prevent such effects, the Commission should explicitly require SDRs and DCOs to provide open, non-discriminatory access to third-party service providers and others that could aggregate data for the Commission, and also to provide access to firm data with permission by the individual firm.

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 reporting of swaps transaction data to an SDR should be seen as providing any implicit consent to the commercial use of the data and further dissemination, especially where the SEF or initial RCP was not able to use the SDR of their choice. However, we do believe that the Commission should allow parties to agree on commercial use of the data where they see fit, and that SDRs should be permitted to distribute aggregate-level data and use such data for commercial purposes.

67. Even though swap data reported to an SDR must be available for public real-time reporting, should any use of such real-time data or commercialization of such data occur only with the specific consent of the counterparties to the swap?

Data that is publicly reported is public data. As specified in the Commission's rules, it should be easily accessible and anyone should be able to use it.

68. An ancillary issue relating to commercialization of data and legal property rights relates to the "portability" of SDR data. This issue relates to the operation of Commission regulation 45.10 (Reporting to a single SDR), which requires that all swap data for a given swap must be reported to a single SDR, specifically, the SDR to

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[49] 17 C.F.R. § 49.17(g).

which creation data is first reported. The Commission did not, however, directly address whether the data in one SDR may be moved, transferred or "ported" to another SDR. The Commission seeks comment on whether § 45.10 should be re-evaluated and whether a viable alternative exists. Should portability of data be permitted? If so, should there be agreement by the counterparties to a swap prior to the data being ported?

As stated above in response to Questions 56, 61 and 62, we believe that the Commission and the marketplace would be better served if the Commission required standard transaction-level output from SDRs that would enable the Commission to aggregate data among SDRs. We believe that this requirement would also have the ancillary effect of facilitating portability of SDR data.

J. Additional comment

69. To the extent not addressed by any of the questions above, please identify any challenges regarding: (i) the accurate reporting of swap transaction data; (ii) efficient access to swap transaction data; and (iii) effective analysis of swap transaction data. Please address each issue and challenge as it pertains to reporting entities, SDRs, and others. Please also discuss how such challenges can be resolved.

a. What challenges do Commission registrants (SDs, MSPs, SEFs, DCMs, and DCOs) face as reporting entities and reporting counterparties under the swap data reporting rules? What enhancements or clarifications to the Commission's rules, if any, would help address these challenges?

b. What challenges do financial entities face as reporting counterparties and non-reporting counterparties under the swap data reporting rules? What enhancements or clarifications to the Commission's rules, if any, would help address these challenges?

c. What challenges do non-financial entities, including natural persons, face as reporting counterparties and non-reporting counterparties under the swap data reporting rules? What enhancements or clarifications to the Commission's rules, if any, would help address these challenges?

One issue that creates challenges for reporting is the involvement of natural persons, trusts and divisions of a legal entity. As these entities cannot receive an LEI we suggest allowing the use of other identifiers where a party is not eligible to acquire an LEI.

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Markit appreciates the opportunity to comment on the Commission's request for comment. We would be happy to elaborate or further discuss any of the points addressed above. In the event you may have any questions, please do not hesitate to contact the undersigned or Salman Banaei at salman.banaei@markit.com.

Yours sincerely,

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