



Melissa D. Jurgens  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

29 May 2014

Dear Ms. Jurgens:

**Re: RIN 3038-AE12, Review of Swap Data Recordkeeping and Reporting Requirements**

LCH.Clearnet Group Limited (“LCH.Clearnet” or “The Group”) is pleased to respond to the request for comment on the Commodity Futures Trading Commission’s (“the CFTC” or “Commission”) Review of Swap Data Recordkeeping and Reporting Requirements (“request for comment”).<sup>1</sup>

The Commission is requesting comment on the Commission’s Part 45 swap data reporting and recordkeeping rules to help determine how such rules are being applied and to determine whether clarifications or enhancements of these rules or guidance on them may be appropriate. Reporting of cleared and uncleared swap transactions is a key requirement of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act and one of the pillars of the G-20 commitments on derivatives. The data reported to the Commission forms the basis of the Commission’s ability to oversee the swaps marketplace. As a result, it is crucial that the Commission’s rules on reporting facilitate the submission of complete, timely and accurate data on all swaps. LCH.Clearnet commends the Commission for seeking public comment on the swap data reporting rules and on ways that they could be improved both to increase the utility to the Commission of the data that is reported and to lessen reporting burdens on market participants.

LCH.Clearnet’s letter consists of a summary of key suggestions on improving the Commission’s swap data reporting regime and an Appendix that provides answers to the specific questions posed in the Commission’s request for comment that are relevant to LCH.Clearnet.

[LCH.Clearnet Overview](#)

The LCH.Clearnet Group is the leading multi-asset class and multi-national clearinghouse, serving major international exchanges and platforms as well as a range of OTC markets. It clears a broad range of asset classes including securities, exchange-traded derivatives, commodities, energy, freight, foreign exchange derivatives, interest rate swaps, credit default swaps, and euro and sterling

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<sup>1</sup> 79 FR 16689 (March 26, 2014).

denominated bonds and repos. LCH.Clearnet works closely with market participants and exchanges to continually identify and develop innovative clearing services for new asset classes.<sup>2</sup>

LCH.Clearnet Group Limited is majority owned by the London Stock Exchange Group (LSEG), a diversified international exchange group that sits at the heart of the world's financial community.<sup>3</sup>

### **General Observations on the Commission's Swap Data Reporting Rules**

LCH.Clearnet is, or will be, subject to swap data reporting regimes that exist, or are under consideration, in a number of the G-20 countries because the Group's three DCOs are authorized to clear swaps in multiple G-20 jurisdictions for a wide array of clearing members and customers. LCH.Clearnet's vantage point in the global swaps market gives it excellent visibility into the challenges that regulators are confronting as they work to implement swap data reporting regimes that meet their supervisory imperatives, and that market participants face as they try to build systems that are flexible enough to comply with multiple swap data reporting regimes that cover similar information in different ways. The costs of building to swap data reporting requirements in multiple jurisdictions are substantial. Once those initial costs are absorbed, there is a reluctance to suggest

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<sup>2</sup> The Group consists of three operating subsidiaries: LCH.Clearnet Limited, LCH.Clearnet SA, and LCH.Clearnet LLC.

LCH.Clearnet Limited is registered with the Commission as a derivative clearing organization (DCO), supervised as a Recognised Clearing House by the Bank of England, licensed in Ontario and Australia, and has submitted a license application in Quebec.

LCH.Clearnet SA is registered with the CFTC as a DCO, regulated as a credit institution by a regulatory college of the market regulators and central banks of France, the Netherlands, Belgium and Portugal, and is supervised as a Recognised Overseas Clearing House by the Bank of England.

LCH.Clearnet Limited and LCH.Clearnet SA are subject to the European Markets Infrastructure Regulation ("EMIR"). LCH.Clearnet SA was authorized on May 23, 2014. LCH.Clearnet Limited expects to be authorized in the first half of 2014.

LCH.Clearnet LLC is registered with the CFTC as a DCO, operates under an exemption in Ontario, and has submitted an application for recognition under EMIR.

<sup>3</sup> LSEG is headquartered in London, United Kingdom with significant operations in Europe, North America and Asia, and operates a broad range of international equity, fixed income and derivatives markets, including: London Stock Exchange; Borsa Italiana; MTS, and Turquoise; post trade and risk management, including CC&G, the Rome headquartered CCP and Monte Titoli, the European settlement business; and is majority owner of the leading multi-asset global CCP, LCH.Clearnet Group. LSEG operates the EMIR authorised trade repository, UnaVista, and offers an extensive range of real-time and reference data products, including Sedol, Proquote and RNS, as well as access to over 200,000 international equity, bond and alternative asset class indices, through the world leading index provider, FTSE International. LSEG is also a leading developer of high performance trading platforms and capital markets software. In addition to the LSEG's own markets, over 30 other organisations and exchanges around the world use the LSEG's MillenniumIT trading, surveillance and post trade technology.

changes to reporting requirements even if they improve the data reported because making the changes would involve additional costs. Incurring these costs may be justified if the changes lead to substantially greater harmonization of reporting requirements across the G-20. For this reason, LCH.Clearnet urges the Commission to coordinate with its counterparts in the G-20 prior to proposing changes to Part 45.

Several themes run through LCH.Clearnet's answers to the Commission's specific questions.

- Duplication of reporting. The data provided by a DCO to a swap data repository (SDR) duplicate, to a very great extent, the data provided directly to the Commission under CFTC Rule 39.19. LCH.Clearnet believes that both the Commission and DCOs would benefit if this duplication were removed. Reporting to a single standard would enable all parties to focus on ensuring the quality of a single dataset.
- Cross Border differences. The differences among jurisdictions in requirements for trade repository reporting forces regulators to create complex solutions to aggregate data globally in order to understand global risks and impose unnecessary costs on global players. Harmonization among global regulators is urgently required.
- Data Ownership. The counterparties to a trade own the trade data. Reporting to an SDR should not change these ownership rights.
- Continuation Data. Given the significant number of lifecycle events and change of flows within the industry, there are significant challenges to understanding the relationships between transactions over the full trade lifecycle. The industry should be tasked with developing event type identifiers and classifications to improve transparency to regulators.

Finally, LCH.Clearnet believes that the Commission's review of swap data reporting provides an opportunity for the Commission to address an important issue raised in LCH.Clearnet's comment letter on the closely related Part 43 rules. LCH.Clearnet submitted a comment letter on the proposed Part 43 rules requesting, among other things, that the final rules provide that information on a swap transaction entered into in connection with a clearing member default did not have to be publicly disseminated.<sup>4</sup> In the preamble to the final rules, the Commission acknowledged LCH.Clearnet's concern regarding the reporting of swaps in connection with a DCO's default management process, but did not accept the recommendation to automatically suspend reporting requirements upon the occurrence of a default.<sup>5</sup> LCH.Clearnet remains concerned that public dissemination of information related to swaps entered by a DCO to hedge or auction a defaulting member's portfolio could undermine the default management process, and that any price information disseminated on these swaps could be misleading to the market. LCH.Clearnet acknowledges that any swaps executed by a DCO to hedge or auction a defaulting member's portfolio must be reported to the SDR for

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<sup>4</sup> See Proposed Rule, Real Time Public Reporting of Swap Transaction Data, 75 Fed. Reg. 76139 (Dec. 7, 2010); see also, Comment Letter from LCH.Clearnet Group Limited (Comment No. 27552) dated Feb. 7 2011.

<sup>5</sup> Real Time Public Reporting of Swap Transaction Data, 77 Fed. Reg. 1182 at 1189 (Jan. 9, 2012).



recordkeeping and visibility by regulators. LCH.Clearnet urges the Commission to amend the Part 43 rules to provide that real-time public dissemination of this very limited type of swap is not required.

Comments on Specific Proposed Rules

LCH.Clearnet's answers to the specific questions posed by the Commission that are relevant to LCH.Clearnet are contained in the attached Appendix.

Conclusion

LCH.Clearnet appreciates the opportunity to share our views on the Commission's swap data reporting rules. Please do not hesitate to contact me at 202-349-4047 regarding any questions raised by this letter or to discuss these comments in greater detail.

Yours sincerely

A handwritten signature in black ink that reads 'Susan Milligan' followed by a horizontal line.

Susan Milligan  
Head of US Public Affairs

Attachment

## Appendix

### LCH.Clearnet Answers to Specific Questions<sup>6</sup>

#### 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.*

*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?*

ISDA Master Agreements are not applicable to the cleared transaction between the DCO and clearing members.

*b. 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?*

Yes. Clearing involves the novation of the trade to the CCP creating two new trades. There is no explicit confirmation step as a part of clearing. Cleared transactions may not have identical attributes to bilateral transactions e.g., break clauses. Break clauses are not supported for cleared transactions.

*c. 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?*

If a swap is required to be cleared or intended to be cleared confirmation data on the bilateral execution should not be necessary as there is no intention by the counterparties for a bilateral swap to exist.

In the event that a trade that is not subject to the clearing requirement but is intended to be cleared at the time of execution fails to clear, reporting of the bilateral confirmation details should be required.

#### Continuation Data

*5. What processes and tools should reporting entities implement to ensure that required swap*

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<sup>6</sup> LCH.Clearnet has not provided answers for all of the questions posed by the Commission. Questions that are not answered are not copied into the Appendix.

*continuation data remains current and accurate?*

Reporting entities should perform reconciliation or implement other appropriate controls between their own internal trade data repositories and the SDR to validate that continuation data has been correctly reported.

*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).*

LCH.Clearnet agrees that linkage is essential if the intended purpose of the SDR data is to be able to analyze trading and post-trade activity. Cleared trades link back to the bilateral trade submitted to clearing. Post-clearing lifecycle events are linked together through the use of Event IDs. These Event IDs link trades that have been included in a single post clearing lifecycle event, e.g. compression, to the original cleared trades.

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

Linkage should be visible via a linking reference together with supplementary data that makes the reason for the linkage transparent to the SDR.

Currently, DTCC Data Repository (US) LLC (“DDR”) supports linkage in the form of reporting the “prior USI.” This links the cleared swap to the original bilateral swap transaction. A clearing event can be identified from the LEI of the DCO as the counterparty and the reporting party. Event IDs are provided to link lifecycle events that include multiple swaps, e.g. those included in a compression exercise. Trades terminated as a result of the compression exercise and any new trades created would all be reported with a common Event ID that would provide linkage among the relevant trades. DDR currently supports Event IDs. Event IDs can be assigned at different levels of granularity. For example, each scheduled compression run has its own Event ID as does each individual package of linked trades within a specific compression exercise.

*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)?*

An event type field could be used to specify the type of linkage or event that has occurred. Such fields are included under other reporting regimes e.g., the EMIR reporting regime includes action types such as N=New, C=Cancellation, O=Other. The type of events that would be captured should be determined through consultation with industry working groups and consistent across all SDRs so that each field has a consistent taxonomy and usage.

Additional information regarding a group of trades could also be provided to help clarify the number of trades in each group. This would assist in reconciliation within and between SDRs to ensure that the Commission has all relevant records.

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

LCH.Clearnet recommends that the Commission require linkage between the following types of related swap transactions: packages including strategies and compactions; different types of risk-free netting offered by DCOs; position transfers; position splits; allocations; and, both bilateral and multilateral compression.

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

If the Commission decides to require that related swaps reported to different SDRs be linked, this obligation should be mandatory across all SDRs in order to be effective.

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

Lifecycle event reporting has the advantage of minimizing the amount of data being transmitted. This advantage is especially relevant for those markets, such as IRS, where there are significant numbers of swap transactions that are outstanding for long periods of time without any lifecycle events occurring. Reporting counterparties should continue to have flexibility in the approach that they use for reporting such events.

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

Yes. In order to ensure consistency, all SDRs should be required to support both methods.

### **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?*

LCH.Clearnet recommends that the Commission differentiate contract intrinsic events from lifecycle events that occur after the swap is executed or cleared. Contract intrinsic events should not be reported as they can be derived from the Primary Economic Terms (PETs). Post-transaction or post-clearing events fall under continuation data obligations and are currently reported. As noted in response to Question 6, the addition of a classification of events would be beneficial. Relevant post-clearing events are listed in the response to Question 6c.

*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?*

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

The current status of a swap transaction should be clearly identified by the SDR using the PET data and continuation data. Additional reporting should not be necessary to identify the current state of a swap transaction correctly.

*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?*

Reporting entities should already report terminations under the obligation to report continuation data. Maturity does not typically have to be reported, as this is intrinsic to the information within the PETs. SDRs should be able to apply relevant processes internally to mark matured swaps as Matured.

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

In order to demonstrate compliance with the obligations of Part 45, reporting entities would typically implement controls or reconciliations to validate the data submitted. As a result, there should not be a need for a formal requirement to perform a market wide reconciliation. Such an exercise also would introduce unnecessary complexity and cost.

### **Allocations and Compressions**

*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?*

LCH.Clearnet understands from discussions with market participants that there will be a number of different methods through which allocations will be generated and submitted to the DCO. As a result, there may not be a consistent view of the following information: the total number of allocations being made for the block and the linkage between the allocation and the original block USI (i.e., the entity generating the allocations may not be informed of the Block USI at the time the allocations are generated). For clarity, allocations should include a reference to the Block transactions (i.e., the Block USI). Providing this information would allow regulators to link allocations back to the original block. An obligation to provide this would ensure consistent operational flows are implemented within the industry.

*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?*

As a DCO, LCH.Clearnet already supplies an Event ID that will link together the trades (both new and terminated) within a compression exercise. As noted in the responses to Questions 6 and 9, an Event ID would enable the Commission to identify the specific events that are being performed.



## **PET Data and Appendix 1**

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

Prior to the compliance date for Part 45, DDR worked closely with the industry to define an exhaustive set of attributes for PET data. LCH.Clearnet believes that all SDRs should be required to support industry best practice definitions of PET and confirmation data where these are determined through open, inclusive forums.

*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?*

Reporting of cashflows is not necessary where the PETs are fully defined. In this case, cashflows can be calculated from the core messaging. Reporting of such contract intrinsic data would create a significant overhead both in terms of the initial reporting and in terms of continuation reporting regarding those contract intrinsic events.

*32. Taking into account the European Union's reporting rules and Commission regulation 39.19, should the Commission require additional reporting of collateral information? If so, how should collateral be represented and reported? Should there be any differences between how collateral is reported for cleared and uncleared swaps?*

As a global CCP, LCH.Clearnet is subject to trade reporting obligations within multiple jurisdictions. The diverse approaches adopted by different global regulators create significant complexity in the reporting of cleared swaps to multiple repositories. As highlighted in the recent Financial Stability Board consultation on aggregation of data across trade repositories,<sup>7</sup> different standards and obligations create significant aggregation challenges for regulators seeking to build a global view of risk within the OTC markets. Consequently, LCH.Clearnet strongly supports efforts to harmonize reporting rules, methods and standards across jurisdictions and within jurisdictions. Reporting of collateral would naturally fall within the scope of such harmonization. The result of cross-border harmonization would provide an understanding of how the risk of positions was being covered. The

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<sup>7</sup> Financial Stability Board, Feasibility Study on Approaches to Aggregate OTC Derivatives (Feb 4, 2014) available at [http://www.financialstabilityboard.org/publications/r\\_140204.pdf](http://www.financialstabilityboard.org/publications/r_140204.pdf).

Commission should undertake its own harmonization effort to address the duplicative nature of CFTC Rule 39.19 reporting and Part 45 reporting for DCOs. The Commission, other regulators, and DCOs will all benefit if the superset of required data on a swap is reported once in a common format to an aggregator. This approach would facilitate the provision of the reporting information that the Commission needs to achieve its regulatory oversight objectives.

In summary, LCH.Clearnet recommends that the Commission expand the Part 45 rules to include collateral data currently only reported under CFTC Rule 39.19. Once this step has been achieved, the Commission should no longer require DCOs to report swaps data CFTC Rule 39.19.

### **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?*

Part 45 reporting is not necessary to the extent that the information required by the Commission regarding the execution event is already captured directly from the execution venue or the execution counterparties under Part 43 or other relevant rules. It would not be appropriate to oblige the DCO to enhance Part 45 reporting in order to source information regarding the original execution that should be provided directly by the execution venue or execution counterparties.

*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?*

Consistent with LCH.Clearnet's answer to Question 33a, Part 45 reporting is not necessary to the extent that the information required by the Commission regarding the execution event is already captured directly from the execution venue or execution counterparties under Part 43 or other relevant rules. It would not be appropriate to oblige the DCO to enhance Part 45 reporting in order to source information regarding the original execution that should be provided directly by the execution venue or execution counterparties.

*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?*

If the swap clears, reporting should occur in the manner discussed in LCH.Clearnet's answers to Questions 33a and 33b. If the swap fails to clear and remains bilateral, reporting should occur as currently required by Part 45.

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

For LCH.Clearnet Limited's EnClear service, there is no alpha trade because trades are executed on an anonymous basis subject to clearing. There is no trade unless the trade clears. As a result, it is not possible to report an EnClear trade between the buyer and seller only the cleared legs.

*34. In addressing the questions posed in items 33 (a)–(d), commenters are also requested to address how any modifications to the reporting of cleared swaps would be consistent with the swap reporting requirement in CEA section 2(a)(13)(G) and the restrictions on CFTC exemptive authority in CEA section 4(c)(1)(A)(i)(I).*

Any modifications to the reporting requirements for cleared swaps proposed by the Commission should not impact the real-time reporting obligations of section 2(a)(13)(G) of the Commodity Exchange Act. Proposed modifications should be limited to ending the requirement to report PET confirmation data for trades that are executed with the intention to clear.

*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:*

*ii. The reporting obligations applicable to beta and gamma swaps;*

Part 45 could be improved by providing more specific guidance on the representation of customer cleared swaps. This guidance would be helpful in determining how customer trades cleared under the FCM model and under the principal model for non-US customers should be reported. LCH.Clearnet's current understanding is that customer trades under both of these models should be reported via a single record reported to the SDR including the identity of the CCP, customer (if known) and clearing member.

*iii. Who holds the reporting obligation(s) for each swap;*

Part 45 makes this explicit for cleared swaps.

*v. Who has the legal right to determine the SDR to which data is reported?*

LCH.Clearnet does not have a view on who has the legal right to determine the SDR to which data is reported. However, the Commission should provide guidance on this question so that there is clarity on whether it is the Reporting Counterparty, SEF or DCO's choice of which SDR to use.

*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?*

Ideally, the Commission's reporting rules should be structured to prevent duplicate records. Any explicit responsibility to verify the absence of duplicate records should be imposed on SDRs.

*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 best way for the Commission to achieve this goal is to require that a cleared swap be linked back to the original execution in a variety of circumstances. As discussed in LCH.Clearnet's response to Question 6, packages, allocations and other events can create a significant amount of noise within the SDR making the link back to the original execution difficult to identify. A clear method to link swaps through a variety of events is the only way to minimize or eliminate this noise.

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

LCH.Clearnet suggests the introduction of an 'Is Cleared' flag or, consistent with reporting under EMIR, a Cleared? Yes/No question.

### **CDS-Clearing Related Swaps and Open Offer**

*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?*

"Firm trades" are created under certain circumstances pursuant to the DCO's rules and provide a means to maintain the integrity of the price contribution process. The goal of this process is to ensure the availability of prices in potentially illiquid products and to protect the integrity of the DCO's risk management policy.

Ideally, these trades would be created directly as cleared trades in the books of the DCO, allowing the relevant counterparties to remain anonymous. Anonymity is important in this situation to prevent any possibility of information about a counterparty's market stance becoming available where the position only exists as a consequence of compliance with the DCO's rules. To preserve anonymity, there should not be an alpha trade for "firm trades." The first report made for "firm trades" should be the confirmation report for the beta and gamma trades.

LCH.Clearnet believes that such trades should be exempted from Part 43 reporting obligations. If the "firm trade" is on a liquid product, the execution report will be on a trade that is small enough to be irrelevant in the price series. If the "firm trade" is on an illiquid product, the execution report may provide a false signal to the market as by definition it was executed at a price away from the general consensus for the product whilst being one of very few available execution reports.

## **DCO Reporting, Netting Processes and Positions**

*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?*

LCH.Clearnet is pleased that the Commission is open to addressing the overlap between the position data provided by DCOs under CFTC Rule 39.19 and the information reported to the SDR.

LCH.Clearnet's recommendation is to amend Part 45 to include collateral reporting. Doing so would promote consistency with trade repository reporting in other regimes and recognize that SDRs are the global infrastructure for regulatory reporting. It would also allow the Commission to phase out the reporting of swaps under Rule 39.19 knowing that it would continue to receive all data necessary to fulfill its regulatory responsibilities.

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

Netting and compression events that are achieved through DCO netting and compression services can be represented using the Event ID and Event type model described in LCH.Clearnet's response to Question 6.

Events that occur outside of the DCO e.g., compaction, will not be specifically identifiable within the DCO unless appropriate enrichment of the messaging provided to the DCO occurs.

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

Netting involves the offsetting of multiple trades with an identical economic profile to create a single position (or no position if the trades precisely offset). Netting does not change the DCO or clearing member's cashflow.

Compression involves the termination of a large set of trades in parallel with the creation of a smaller set of replacement trades that have a similar risk profile. Typically, an outside party will propose the trades to be terminated and the new replacement trades. The risk profile of a member may change as a result of this process. The DCO will not have any economic exposure.

Both events result in the termination of a larger set of trades and the creation of a smaller set of trades (or no trades). As a result, the operational outcomes of netting and compression will look similar when they are reported to an SDR.

## **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.*

The disparities between different global regimes create significant duplication in reconciliation and control processes. This creates a significant overhead in terms of ongoing maintenance, which could be minimized with harmonization of reporting obligations.

*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.*

While appealing in concept, mandatory reconciliation should be treated with caution, as the reconciliation approach needs to be correct in order to yield valuable results. Such an approach is best viewed within the context of aggregation of data across trade repositories, as this will yield the greatest benefit globally.

*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.*

An effective and efficient way to create incentives for reporting counterparties to submit accurate data is for the Commission to encourage SDRs to create a rule-based penalty system for inaccurate data as well as a requirement that a reporting counterparty reconcile with the SDR on a regular schedule. These steps should encourage reporting counterparties to work with non-reporting counterparties to ensure that they provide accurate data. Following this approach would sharpen market discipline and should increase the confidence of the Commission in the accuracy of the data reported to SDRs.

*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?*

SDRs should apply logical validation rules to address errors and omissions in data that is being submitted. Such rules are already being applied by SDRs.

*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?*

The capabilities of SDRs need to be sufficiently robust to ensure the accuracy of their reporting in order to support validation of accuracy of data reported to them.

*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?*

Reporting counterparties should have the ability to correct or regenerate submissions within a reasonable period of time upon discovery of an error. SDR rules need to specify the time period within which errors can be corrected and be explicit on the requirements of data correction. For example, SDR rules should clearly address whether a single incorrect field of data can be amended or the entire transaction must be resubmitted. In general, LCH.Clearnet thinks that it is incumbent on SDRs to be more prescriptive on the data correction process.

### **Identifiers**

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

Based on experiences with LEIs of clearing members and customers, LCH.Clearnet thinks that it is important for the CFTC to encourage clarity on how the current system for obtaining and renewing LEIs works on a global basis across LEI issuers.

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

A key consideration is the level of granularity that is needed to address the Commission's regulatory needs. The required level of granularity will be determined by the objective of the UPI. Is the goal to have the UPI completely describe the all of the economic details of an OTC transaction or is it to act as taxonomy, i.e. a classification to generally describe the transaction? If the objective were the former, this would create the need to detail all the economic attributes of a swap, which is a significant challenge. A general taxonomy is helpful in terms of aggregation and high level analysis but ultimately will not simplify reporting obligations.

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

LCH.Clearnet has not faced any challenges with the creation, transmission and reporting of USIs.

### **How Can Part 45 Better Facilitate Risk Monitoring and Surveillance?**

*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?*

The experience of other regulatory regimes suggests that SDRs are not best placed to correctly calculate and manage positions. For accurate reporting of positions, the reporting counterparty would be the more reliable source. This could be achieved through an obligation to report end of day positions.

*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.*

From a DCO perspective, for interest rate swap transactions all trades are individual positions unless they are netted into a single “position.” For FX, each trade is a position. For CDS, all trades are positions unless they are netted into a single “position” or split into multiple “positions.”

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

In order for regulators to have a global view of positions, calculations need to be consistent across cleared and uncleared transactions.

*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?*

LCH.Clearnet cautions that creating a linkage between cleared and uncleared positions would be onerous to maintain and is unlikely to be reliable. Such a linkage should not be necessary if the risk of a reporting party’s transactions is analyzed since any offsets between positions will become obvious through this method of analysis.

*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?*

The recent FSB study on aggregation highlights the significant issues that regulators face in aggregating data across trade repositories in multiple jurisdictions. The CFTC faces this same issue domestically so the principles and approaches described and discussed in the FSB study are relevant to the CFTC.

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

See answer to Question 61.

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

See answer to Question 61.

### **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?*

LCH.Clearnet believes that the transactional data resulting from a swap transaction is owned by the counterparties to the trade (including the DCO, if the transaction is cleared). Other participants in the trade chain also may have a basis to assert ownership, e.g., based on contractual arrangements.

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

A DCO, as a party to a cleared trade, owns that data. However, there may be other parties that have an equal right to the data, e.g. the clearing member on the other side of the trade.

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

The basis for property rights is the fact that one is a party to the trade. However, parties may separately contract to provide for varying rights in the relevant data.

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

With regard to cleared trades, LCH.Clearnet believes third-party service providers do not have an ownership interests in transaction details.

*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?*

As a counterparty to a trade, non-users/non-participants of an SDR own their trade data. Their ownership interest is not exclusive. The trade will also be owned by the other counterparty including a DCO, if the trade is cleared.

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

Commercialization of swap transaction data is consistent with transparency. In fact, commercialization of swap transaction data and competition will facilitate transparency by providing incentives to find ways to make complex swap transaction data easier to consume and analyze. Additionally, data only has commercial value when it is completely accurate. The existence of the opportunity to sell data will increase the focus of data owners, SDR's, and others looking to commercialize data, on ensuring its accuracy.

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

All market participants, not just SDRs, should be able to commercialize swap transaction data. Of course, the data owner needs to consent to the commercialization of the data.

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

In LCH.Clearnet's view, the potential benefits in the form of increased data accuracy and transparency that will occur as the result of competition and commercialization will outweigh any negatives that may result through 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?*

LCH.Clearnet does not think that commercialization of swap data is necessary for the provider of a regulated service to be economically viable. Any commercialization that is permitted of data held by SDRs, DCMs or SEFs should ensure open and equal access to all participants e.g., the affiliated DCO of an SDR should not be able to access SDR data on terms unavailable to other DCOs.

*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?*

In LCH.Clearnet's view, regulatory reporting to a SDR does not provide implicit or explicit consent to use 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?*

Yes. Commercialization should require the explicit consent by the parties to the relevant trade, including a DCO, if the trade is cleared.

*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 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?*

LCH.Clearnet is supportive of porting in principle, but believes that it should require the consent of both counterparties.

### **Additional Comment**

*69.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?*

As discussed above, the most significant challenges that LCH.Clearnet faces are

- Cross border considerations. The differences among jurisdictions in requirements for trade repository reporting forces regulators to create complex solutions to aggregate data globally in order to understand global risks and impose unnecessary costs on global players. Harmonization among global regulators is urgently required.
- Massive duplication of reporting. The data provided by a DCO to an SDR duplicate, to a great extent, the data provided under CFTC Rule 39.19. LCH.Clearnet believes that both the Commission and DCOs would benefit if this duplication were removed. Reporting to a single standard would enable all parties to focus on ensuring the quality of a single dataset.
- Need for improved clarity on reporting of cleared customer transactions. Part 45 could be improved by providing more specific guidance on the representation of customer cleared swaps. This guidance would be helpful in determining how customer trades cleared under the FCM model and under the principal model for non-US customers should be reported. LCH.Clearnet's current understanding is that customer trades under both of these models should be reported via a single record reported to the SDR including the identity of the CCP, Customer (if known) and Clearing member.