



**INSTITUTE FOR
AGRICULTURE AND TRADE POLICY**

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Secretary to the Commission
Commodity Futures Trading Commission (CFTC) (Commission)
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Comment on the Proposed Margin Requirements for Uncleared Swaps for Swaps Dealers and Major Swaps Participants—Cross Border Application of Margin Requirements: RIN 3039—AC97¹

Dear Mr. Kirkpatrick,

The Institute for Agriculture and Trade Policy (IATP)² appreciates this opportunity to comment on the Commission's above captioned Proposed Rule. We have not commented on the Commission's past proposed rules for margining cross-border swaps, a very regrettable oversight, given the crucial role that such swaps played in 2007-2009 default cascades among Systemically Important Financial Institutions (SIFIs) that triggered the global economic recession.

IATP's primary constituency affected by the Proposed Rule are the commercial end users of derivatives, specifically agricultural commodity derivative end users and the energy commodity end users whose energy inputs to agricultural production, e.g. diesel fuel and fertilizer, comprise an important part of agricultural cost of production. Historically losses by commercial end users have not endangered the safety and soundness of SIFIs and other large financial institutions.

However, if commercial hedgers take on excessive risk in aggregate, their derivatives losses could threaten the financial capacity of agribusiness counterparties to manage price risks and thus would endanger their commercial viability. Weak margin rules, e.g. not requiring commercial hedgers to post margin, might be an incentive for commercial hedgers to take on excessive risk. Therefore, IATP, a member of Americans for Financial Reform, supports the Commission's proposal to "require swaps dealers to measure and monitor total aggregate risk related to end user swaps (e.g. 23.154(a)(6) and 23.155(a)(3) of the Proposed Rule)." We further support the AFR proposal to have the Commission "quantify and make public an analysis of the volume of financial entity swaps that could qualify for the commercial end user exemption."³ Few commercial hedgers are likely to have the resources to compete with exempted financial entities for liquidity in highly stressed markets.

General Comment

In June, the Bank for International Settlements (BIS) asked “Is the unthinkable becoming the routine?”⁴ What has become routine is continued central bank explicit and implicit credit support for SIFIs and other large financial institutions at extraordinarily low interest rates, because the unthinkable—another crisis among the SIFIs, and another round of central bank bailouts of the recidivist SIFIs, still is plausible. Despite this massive support, the BIS identified a “broad economic malaise” that “reflects to a considerable extent the failure to come to grips with financial booms and busts that leave deep and enduring economic scars. In the long term, this [failure] runs the risk of entrenching instability and chronic weakness.”⁵

A crucial factor driving the “financial booms and busts” is the investor panic and credit freeze that results when the counterparty exposures of swaps dealers and major swaps participants (collectively Covered Swaps Entities or CSEs) are “uncleared,” i.e. not subject to the credit and business practice checks of centralized clearing, and when swaps trade data are unreported to regulators. Overleveraged and under-capitalized SIFIs and other CSEs are unable to cover losses in their exposures, whose assets cannot be accurately evaluated by market participants or regulators in the opaque Over the Counter Derivatives markets. The panic extended to the highest reaches of the U.S. government. For example, in March 2009, President Obama believed the \$600 billion in “toxic” (untradeable at any price) swaps held by Citigroup among its \$1.6 trillion in assets made it the next candidate for bankruptcy resolution after the failure of Lehman Brothers. Only the refusal by Chief of Staff Rahm Emanuel and Secretary of Treasury Tim Geithner prevented plans for resolving Citigroup from advancing.⁶

The Federal Reserve Bank provided at least \$29 trillion of emergency loans to make SIFIs and, indirectly, major swaps participants, whole from 2007 to 2010⁷. Nearly half of these emergency loans were provided to bailout foreign headquartered SIFIs with a large U.S. counterparty exposures or to foreign central banks (\$8 trillion to the European Central Bank alone) to bailout other foreign CSEs with large U.S. exposures. Accordingly, the “Dodd Frank Wall Street Reform and Consumer Financial Protection Act of 2010” (DFA) requires the Commission to apply rules the foreign affiliates and subsidiaries of U.S. CSEs whose swaps trading could have a significant effect on the U.S. economy.

The Proposed Rule

The Proposed Rule concerns the margining of swaps, a necessary tool for risk mitigation in derivatives trading and, more specifically the application of margin rules to CSEs whose uncleared swaps activities are transacted outside the United States. The Commission acknowledges that its July 2013 cross-border Guidance, allowing swaps not guaranteed by the U.S. parent of foreign CSEs to be exempt from the Guidance, lead to the trade execution on foreign venues of swaps structured and marketed by U.S. parents. As noted in the proposed rule, “The Commission is aware that some non-U.S. CSEs [Covered Swaps Entities] removed guarantees in order to fall outside the scope of certain Dodd-Frank requirements” (Federal Register Vol. 80:134, July 14, 2015, p. 41385). The so-called “de-guaranteeing” by the non-U.S. CSEs of U.S. parents to avoid the DFA authorized rules has resulted in tens of billions of dollars of migrated swaps trades, mostly to London markets.⁸ The risks and losses from those swaps could flow back to the U.S. and economy, if only because of the reputational risk that a U.S. swap dealer would suffer if it failed to cover the losses, even those declared by legal artifice to be “de-guaranteed,” of its foreign affiliates and subsidiaries.

With this Proposed Rule, IATP believes the Commission has taken a critical step to ensure that swaps transactions that have been “de-guaranteed” will not continue to elude effective regulation. The Commission’s decision to go beyond the Guidance’s cross border transaction level requirements to include cross-border entity level requirements, while maintaining consistency with the Prudential Regulators approach to cross-border (FR, 41379), will enable the regulation of swaps, no matter where they are executed. We are persuaded that monitoring and requiring the reporting to the Commission of the swaps trades of the non- U.S. CSEs, even if they are not formally guaranteed by a U.S. person, will improve the capacity of the Commission to carry out its DFA cross border obligations.

The cross border swaps reporting to the Commission by Foreign Consolidated Subsidiaries will put the per entity swaps trading data of the non-U.S.CSEs on the consolidated financial statements of the U.S. parents, subject to U.S. Generally Accepted Accounting Principles. Counterparties will better be able to evaluate the risks of trading both with U.S. and non-U.S. CSEs by reading those consolidated financial statements. IATP strongly agrees with the Commission’s view that “the fact that an entity is included in the consolidated financial statement of another is an indication of potential risk to the other entity that offers a clear and objective standard for the application of margin requirements” (FR, 41385). That clear and objective standard will enable swaps counterparties to do accurate modeling of how much posting and collecting of margin they should do at both the transaction and entity level.

The Commission knows better than anyone that majorities on Wall Street and in Congress aim to cripple the Commission’s authority and budget.⁹ Accordingly, the practical exercise of the CFTC’s authority over swaps is best carried out in strategic alliances with other financial regulators. As Commissioner Mark Wetjen stated, “The CFTC is currently understaffed. Meeting the challenge to monitor compliance with the complex and technical requirements of the Margin Rule as it applies to U.S. Foreign Affiliate Dealers today would be difficult. A cross-border approach that is substantively similar to the Prudential Regulators’ Approach may facilitate the Commission in meeting its supervisory challenge” (FR 41405). Commission Wetjen has good cause to be concerned about the capacity of Commission staff to monitor compliance with the margin rule. However, the staff will be aided in its monitoring duties by the Financial Stability Board’s cross border trade data aggregation mechanism, if and when the FSB member governments agree on the terms and operationalization of the mechanism.¹⁰

IATP urges the CFTC to seek the help of the Prudential Regulators, particularly those at the Federal Reserve Bank, to rebut the swaps dealers’ arguments that the proposed margin and capital reserve requirements for cross-border swaps will put U.S. parent firms at a competitive “disadvantage” with foreign CSEs, very often the foreign affiliates and subsidiaries of the U.S. parents, rather than Truly Foreign Dealers.

Specific comments and responses to questions posed by the Commission

The Proposed Rule: Overview

IATP’s strongly supports the Commission’s decision to apply the margin requirement rule on a firm-wide basis “irrespective of the domicile of the counterparties or where the trade is executed” (FR, 41381). IATP believes that the Commission’s proposed hybrid of entity and transaction level application of margin requirements provides the greatest opportunity for effective risk mitigation

against swaps counterparty default. Assuming that a Unique Transaction Identifier is agreed under the auspices of the Financial Stability Board, as was the Legal Entity Identifier, comprehensive cross-border monitoring and position aggregation of all data elements in transactions, including margin requirements for cleared and uncleared swaps, will be technologically and legally feasible.¹¹

IATP agrees with the Commission that the possibility of substituted compliance for margining requirements and the methodology for calculating margin should be made available to non-U.S. CSEs in jurisdictions where the Commission has determined that the outcomes of margining requirements and calculation methodologies provide risk mitigation outcomes similar to those under the Proposed Rule. (FR, 41382). Our agreement is in principle, in concession to principles of international comity. IATP believes that the criteria for a comparability determination between jurisdictions is better specified in the Proposed Rule (FR, 41393) than in the Guidance. We nevertheless believe that the Final Rule on margin for uncleared swaps would benefit by an appendix that would illustrate comparable and quantitative outcomes of swaps margining in other jurisdictions with those under Commission authority, once margining requirements and margin calculation methodology are agreed in those jurisdictions.

Key Definitions

“U.S. Person.” IATP agrees with the seven proposed criteria for the definition of “U.S. person” (FR, 41382). IATP agrees with the Commission that majority ownership is not a probative criterion for whether or not a CSE is a “U.S. person” to which the margining rule for uncleared swaps applies. (Responding to question 2, FR p. 41384) Ownership can be complex and variable over the life of a fund invested in cross-border swaps, so determining ownership at the transaction level could prove difficult and resource consuming. But our agreement with the Commission is not due to a belief that determination of ownership might require “overly burdensome due diligence” (FR, 41383). It is no doubt possible to disguise ownership of a CSE and whether a swaps counterparty is a “U.S. person” subject to the Commission’s authority, and thereby frustrated the due diligence of prospective investors. However, if reporting to and surveillance by the Commission of the swaps transactions of U.S. and non-U.S. CSEs is comprehensive and standardized, the consolidated financial statements of the U.S. parents and Foreign Consolidated Subsidiaries will enable counterparties to determine whether they wish to unwind current positions and/or do future transactions with the U.S. parents and/or their non-U.S. CSEs. At that practical point, the majority ownership criterion of “U.S. person” becomes superfluous to the application of “U.S. person” in surveillance and possible enforcement activities.

IATP does not believe that the Commission’s definition of “U.S. Person” should be identical to the Securities and Exchange Commission’s definition and thereby “exclude certain designated (and any similar) international organizations, their agencies and pension plans” (FR, 41384, question 4a). An argument based on principles of international comity can and will be made for excluding “international organizations” from the definition of “U.S. person” to which DFA authorized rules and cross-border Guidance applies. The pension funds, endowments and other funds of “international organizations” may be traded by the non-U.S. CSEs of U.S. parents. However, principles of international comity apply to governments and intergovernmental organizations, not to all international organizations.¹²

Hence, the Commission should not adopt the broadly defined SEC exclusion. Intergovernmental organizations that may invest in swaps, such as the International Monetary Fund, the World Bank Group and the United Nations Secretariat, are counterparties, who, though domiciled in the

United States, cannot be subject to Commission authority as “U.S. persons.” However, such intergovernmental organization domiciled in the United States should be informed that if they are counterparties to swaps traded by non-U.S. CSEs of U.S. parents, their swaps trading will appear on the consolidated financial reporting of the U.S. parents. The Commission should advise such intergovernmental organizations that while it cannot require them to comply with margining and other cross-border requirements, they should voluntarily practice those requirements to realize the objectives of the intergovernmental investment charters.

“Guarantee” The non-U.S. CSE legal stratagem of “de-guaranteeing” to evade DFA swaps requirements has invalidated the legal and financial purpose of a guarantee, exposing the U.S. economy, as well as the counterparties, to uncovered risks. Therefore, IATP believes that the Commission is prudent to propose that “the terms of the guarantee need not necessarily be included within the swap documentation (so long as legally enforceable rights are created under the laws of the relevant jurisdiction), provided that a swap counterparty has a legally enforceable right . . . to collect from the U.S. person in connection with the non-U.S. person’s obligations under the swap” (FR, 41384). In effect, the Commission is proposing that the definition of “guarantee” not be confined to the definition of “guarantee” in a swaps Master Agreement, such as that of the International Swaps and Derivatives Association (ISDA).

IATP supports this proposed definition of “guarantee,” rather than the broader definition in the Guidance, because the proposed definition would allow both the Commission and counterparties to a swap to pursue legal recourse in the event of a non-U.S. CSE default due to the misrepresentation of the guarantee, whether in a Master Agreement or not. (Responding to question 1, FR 41385). We agree with the Commission’s assumption that a non-U.S. CSE is likely to meet the definition of a Foreign Consolidated Subsidiary whose financial arrangements with the U.S. parent will constitute a guarantee, whether explicit or implicit (Responding to question 2, FR 41385).

Because the proposed definition is an implicit challenge to the authority of the ISDA Master Agreement, we would not be surprised if the ISDA and other financial industry organizations sue to prevent the finalization of the Proposed Rule and particularly this change in the definition of “guarantee.” Therefore, the Commission should consider including in the Final Rule a chapeau applied to the definitions according to which the abuse of Commission’s definitions and other rule components by U.S. and non-U.S. CSEs will be considered part of a CSE’s regulatory evasion strategy, subject to discipline under the regulatory evasion provisions of the Commodity Exchange Act.

Foreign Consolidate Subsidiaries. The Commission proposes to include under the Foreign Consolidated Subsidiaries (FCS) definition those non-U.S. CSEs whose uncleared swaps are not guaranteed by a U.S. person and whose counterparty default may have “negative impact on their U.S. parent and the U.S. financial system” (FR 41385). The CFTC must work with all Prudential Regulators to ensure that the financial reporting of U.S. parent swaps dealers, including reporting of swaps activities by their Foreign Consolidated Subsidiaries, be consolidated under U.S. general accepted accounting principles (U.S. GAAP), as proposed in the Commission’s margin rule (FR 41385). The proving ground of the bright line test as to whether the uncleared swaps trading of a non-U.S. CSE come under the FCS definition is the consolidated financial statement of the U.S. parent and the non-U.S. CSEs that it controls.

IATP believes that the proposed consolidation test should be used “in lieu of the control test proposed by the Prudential Regulators” (in response to question 2, FR, 41386). The consolidation test enables the Commission to have a more comprehensive and specified understanding of the total swaps activity of the U.S. parent and its non-U.S. CSEs, and enables the Commission to determine whether the initial and variation margin of the FCS is adequate to the transaction and entity level risks posed by their uncleared swaps.

However, uncleared swaps are sometimes used to move a counterparty’s debt off the balance sheet, so whether the evolution of US GAAP will be adequate to capture the off-balance sheet swaps of FCSs cannot be assumed with certainty.¹³ Given the post-Enron accounting scandals associated with the use and abuse of off-balance sheet accounting¹⁴, the definition of how the FSC’s consolidated finance reporting is to include a comprehensive and current accounting of off-balance sheet assets and debts should be reflected in the FCS definition. Furthermore, the professional backgrounds and allegiances of the members of the U.S. Federal Accounting Standards Board that determines changes to US GAAP is a predictor of changes to those standards.¹⁵ The Commission may wish to consider whether the definition of “Foreign Consolidated Subsidiary” should include an option for the consolidated financial reporting of the FSC to be carried out according to International Financial Reporting Standards¹⁶, in the event that these are agreed with US FASB participation and those standards capture off-balance sheet swaps better than the U.S. GAAP.

IATP claims no expertise in accounting standards, but since the quality of U.S. GAAP is a critical factor in achieving the DFA purposes of consolidating cross-border swaps with those of the U.S. parent, the Commission should avail itself of expertise to ensure that the U.S. GAAP is adequate to capturing off-balance sheet accounting the consolidated financial reporting of the U.S. CSE parent and its non-U.S. CSEs. Since the Proposed Rule would make substituted compliance for FCSs “broadly available . . . to the same extent as other non-U.S. CSEs whose obligations under the relevant swap are not guaranteed by a U.S. person,” (FR 41385) the Commission may find it necessary to review the use of International Financial Reporting Standards in foreign jurisdictions that are seeking substitute compliance for their swaps reporting standards.

IATP believes that the FSC definition should include non-U.S. CSEs whose U.S. parent is not required to prepare a consolidated financial statement (in response to question 4, FR 41386). While it is not likely that U.S. SIFIs and other large financial institutions that are publicly held companies would revert to a private partnership model of ownership to avoid inclusion under the FSC requirements, it is not inconceivable that a U.S. SIFI or other large financial institution might spin off its swaps trading entities as private partnerships. Such spun-off entities could elude a securities law requirement to file consolidated financial statements that would include the swaps activities of all of the non-U.S. CSEs of the U.S. parent entity. The purpose of the FCS designation and requirements would be partially vitiated if a private partnership CSE were able to maintain consolidated financial reports that were beyond the scope of the Commission’s regulatory authority.

Finally, inclusion of immediate and intermediate parent entities of the non-U.S. CSEs of the U.S. ultimate parent filing a consolidated financial report under the FSC definition may enable the Commission to determine if errors in the consolidated financial report originated with immediate or intermediate parents of the non-U.S. CSEs. While the ultimate U.S. parent would retain legal responsibility for the consolidated financial statement under the FCS definition, inclusion of the immediate and intermediate U.S. parents might enable the Commission to inform the U.S. ultimate parent in staff letters where the financial reporting of the immediate and intermediate U.S. parents did not include the non-U.S. CSE data. (responding to question 5, FR 41386).

Applicability of Margin Requirements to Cross-Border Uncleared Swaps

IATP agrees with the Commission that substituted compliance should not be available for the collection of margin by a U.S. CSE from the non-U.S. CSE counterparty for swaps guaranteed by the U.S. parent. The Commission's oversight of the safety and soundness of the U.S. parent requires that non-U.S. CSEs of the U.S. parents comply with the collection of margin, just as the U.S. CSEs of the U.S. parent are required to do. There must be no different treatment of non-U.S. CSEs in this respect (responding to question 1, FR 41387).

The Proposed Rule would provide for "limited substituted compliance for margin posted to (but not collected from) any non-U.S. counterparty (including a non-U.S. CSE) whose obligations under the uncleared swap are not guaranteed by a U.S. person" (FR 41387). IATP does not understand under what conditions and why substitute compliance could be available for the posting of margin. If, for example, the posting of margin in a non-U.S. jurisdiction allows for the re-hypothecation of non-cash collateral (e.g. junk bonds) for initial or variation margin, how would the Commission determine that the posting of non-cash collateral by a non-U.S. CSE would still ensure the safety and soundness of the U.S. parent, taking into account the reputation risk and loss of business suffered by a U.S. parent that does not cover the losses of its non-U.S. CSEs, whether guaranteed or not? IATP would like the Commission to provide an illustrative example of a case in which substitute compliance might be granted to a non-U.S. swap counterparty.

IATP understands that the supervisory interest of a foreign regulator may be greater than that of the Commission when the uncleared swaps of a non-U.S. CSE are not guaranteed by a U.S. parent, since losses from such swaps might have a negative impact on the economy of the foreign regulator's jurisdiction. Hence, the Commission proposes to make substitute compliance with the Commission's margin requirements "more broadly available to a Foreign Consolidated Subsidiary whose obligations under the relevant swap are not guaranteed by a U.S. person." (FR 41387). Such FCSs should not be treated the same, regarding compliance with the Commission's margin requirements, as those non-U.S. CSEs whose relevant swaps are guaranteed by U.S. parents. (in response to question 2.1, FR 41387).

Cost benefit considerations

IATP agrees with the Commission that "given that foreign jurisdictions do not yet have in place their margin rules, it is not possible to fully evaluate the costs and benefits associated with the Proposed Rule" (FR, 41394). Nevertheless, for the Commission's future estimates of cost benefit considerations, we support the Commission's proposal to use as its baseline for cost benefit estimates, "the swaps market as it would operate on the Proposed Margin Rules were fully implemented" (FR, 41393). The Commodity Exchange Act does not require cost benefit analysis before the implementation of a Final Rule. Ex ante cost benefit estimates prior to implementation tend to be econometric projections that overstate costs to CSEs and vastly underestimate the benefits of safety and soundness to the SIFIs, CSEs and to the financial system as a whole.¹⁷ In sum, at this stage of foreign jurisdiction rulemaking about IATP believes that the "Commission's assumptions about the costs and benefits of the Proposed Rule [are] accurate" (FR, 41400).

The Commission's question "Is swap market fragmentation detrimental to various market participants when there is post-trade transparency of swaps?" (question 4, FR 41400) anticipates a comment made by CSEs and even foreign regulators in response to the cross-border Guidance and

other Commission rulemaking: rulemaking itself (and not regulatory arbitrage) for swap market fragmentation. In our view, making swaps transactions, recording and reporting standardized, comprehensive, in near real time and transparent—i.e. on par with futures and options—will reduce the opportunity for regulatory arbitrage that is mischaracterized as market fragmentation. If “fragmentation” results in more and better regulated markets that compete for trades on the basis of their integrity and transparency for futures, options and swaps, so be it.

Conclusion

The Proposed Rule has more components and raises more questions than we are capable of commenting on. IATP hopes that the forgoing comments aid the Commission and its staff to finalize within the coming year a margin rule that will help facilitate cross border swaps trading without imperiling the safety and soundness of U.S. parents and CSEs and the economic viability of commercial hedgers that use uncleared swaps. The application of the Proposed Rule outlined in Table A gives both CSEs and foreign regulators is specified and explicit, and offers a sound basis for cross-border comparability determinations.

IATP is aware that the cross-border negotiations with the European Commission continue to be difficult, because of the many interlocking rules of a cross border regime.¹⁸ The Commission has granted European CSEs a long delay to September 2016 to resolve differences over where the Commission will require compliance by European Union member state CSEs and where substitute compliance may be available. Negotiations over margin calculation methodology are among the most important to ensure that both initial and variation margin is adequate in quantity and quality to serve, along with adequate capital reserve requirements, as a guarantor of the safety and soundness of the U.S. parents. IATP encourages the Commission to continue to insist on a gross margin calculation methodology, rather than the net margin methodology proposed by the European Commission’s Directorate of Financial Markets.¹⁹

¹ <http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2015-16718a.pdf>

² IATP is a U.S. nonprofit, 501(c)(3) nongovernmental organization, headquartered in Minneapolis, Minn., with an office in Washington, D.C. Our mission states, “The Institute for Agriculture and Trade Policy works locally and globally at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems.” To carry out this mission, as regards commodity market regulation, IATP has participated in the Commodity Markets Oversight Coalition (CMOC) since 2009, and the Derivatives Task Force of Americans for Financial Reform since 2010. IATP has submitted several comments on U.S. Commodity Futures Trading Commission rulemaking, and on consultation papers of the International Organization of Securities Commissions, Financial Stability Board, the European Securities and Markets Authority, and the European Commission’s Directorate General for Internal Markets.

³ Americans for Financial Reform, Comment letter on “Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants”, RIN 3038-AC97,” December 2, 2014, at 10. <http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=60072&SearchText=Americans%20for%20Financial%20Reform>

⁴ Bank for International Settlements, *85th Annual Report* (1 April 2014- 31 March 2015), June 28, 2015, 2. <http://www.bis.org/publ/arpdf/ar2015e.pdf>

⁵ Ibid.

⁶ Ron Suskind, *The Confidence Men: Wall Street, Washington and the Education of a President*, (New York: Harper Collins), 2025-220.

⁷ James Andrew Felkerson, ““\$29,000,000,000,000: A Detailed Look at the Fed’s Bailout by Funding Facility and Recipient,” Levy Economics Institute, Working Paper 698, December 2011. http://www.levyinstitute.org/pubs/wp_698.pdf

⁸ Charles Levinson, “U.S. banks moved billions of trades beyond Washington’s reach,” Reuters, August 21, 2015. <http://www.reuters.com/investigates/special-report/usa-swaps/>

⁹ Peter Schroeder, “House Ag Chairman: No CFTC funding without reauthorization,” *The Hill*, July 29, 2015. <http://thehill.com/policy/finance/249614-house-ag-chairman-no-cftc-funding-without-reauthorization>

¹⁰ http://www.financialstabilityboard.org/2014/09/pr_140919/

¹¹ “Feasibility study on approaches to aggregate OTC trade repository data,” Financial Stability Board, February 4, 2014, at 8-9. http://www.financialstabilityboard.org/wp-content/uploads/r_140204.pdf

¹² https://www.law.cornell.edu/wex/comity_of_nations

¹³ Marie Leon, “The Next Accounting Controversy,” *CFO*, April 30, 2009. <http://ww2.cfo.com/accounting-tax/2009/04/the-next-accounting-controversy/>

¹⁴ For a popularized summary of major off-balance sheet accounting scandals, see <http://www.accounting-degree.org/scandals/> For recommendation on disciplining the use of off-balance sheet accounting, see Frank Partnoy and Lynne E. Turner, “Bringing transparency to off-balance sheet accounting,” in *Make Markets Be Markets*, Roosevelt Institute, 2010. http://makemarketsbemarkets.org/modals/report_off.php

¹⁵ Karthik Ramanna, “Why ‘Fair Value’ Is the Rule,” *Harvard Business Review*, March 2013. <https://hbr.org/2013/03/why-fair-value-is-the-rule>

¹⁶ Ashley Harper et al, “The Impact of Switching to International Financial Reporting Standards on U.S. Businesses,” *Journal of International Education Research*, Vol. 8:4 (2012). http://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1018&context=busi_fac_pubs

¹⁷ E.g. Dennis Kelleher, Stephen Hall and Katelynn Bradley, “Setting the Record Straight on Cost-Benefit Analysis and Financial Reform at the SEC,” *Better Markets*, July 31, 2012. <http://www.bettermarkets.com/sites/default/files/documents/Setting%20The%20Record%20Straight.pdf>

¹⁸ E.g. Neil Roland, “US-EU talks slow to advance on clearinghouse recognition, says Massad,” *MLex Market Insight*, September 11, 2015.

¹⁹ <http://www.automatedtrader.net/news/at/153813/remarks-of-chairman-timothy-massad-before-the-eu-parliament---committee-on-economics--brussels>