



February 9, 2016

Transmittal Via <http://comments.cftc.gov>

Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st St., N.W. Washington, DC 20581

Copied To:

Ward P. Griffin
Designated Federal Officer
CFTC Technology Advisory Committee
Commodity Futures Trading Commission

Re: Request for Extension of Time to Comment on Staff Request Regarding Draft Technical Specifications for Certain Swap Data Elements, Part 45

Dear Mr. Kirkpatrick,

The Electric Power Supply Association (“EPSA”),¹ Edison Electric Institute (“EEI”),² and the American Gas Association³ (collectively, “Joint Associations”) request that the Commodity Futures Trading Commission (“CFTC” or “Commission”) extend the comment period for its Staff Request regarding Draft Technical Specifications for Certain Swap Data Elements,⁴ from the current deadline of February 22, 2016, to at least thirty days following the date of the next CFTC Technology Advisory Committee (“TAC”) Meeting. Joint Associations request that the CFTC issue a notice granting the extension as early as possible prior to the TAC meeting, and no later than Wednesday, February 17, 2016. A minimum 30-day extension will provide the public a reasonable opportunity to develop responses to the 120 data element/reporting changes staff proposes, along with the 80 questions for which staff seeks responses. The extension will also provide the public an opportunity to attend the TAC meeting and obtain

¹ EPSA is the national trade association representing leading competitive power suppliers, including generators and marketers. Competitive suppliers, which, collectively, account for 40 percent of the installed generating capacity in the United States, provide reliable and competitively priced electricity from environmentally responsible facilities. EPSA seeks to bring the benefits of competition to all power customers. The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

² EEI is the association of U.S. shareholder-owned electric companies. EEI’s members own and operate electric generation, transmission and distribution facilities. EEI members serve 95 percent of the ultimate customers in the shareholder-owned segment of the U.S. electricity industry, and represent approximately 70 percent of the U.S. electric power industry.

³ The AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 72 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent – just under 69 million customers – receive their gas from AGA members. AGA is an advocate for local natural gas utility companies and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international gas companies and industry associates.

⁴ Request for Comment, Draft Technical Specifications for Certain Swap Data Elements (Dec. 22, 2015) at <http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/specificationsswapdata122215.pdf> [hereinafter, “Staff Request”].

more information about the CFTC data standardization and harmonization effort, prior to submitting comments.

Joint Associations represent non-financial, commercial end-users that use swaps to hedge and mitigate commercial risk and as such are subject to the reporting and recordkeeping obligations under the Commission's rules and regulations. Joint Associations offer several compelling reasons to extend the comment deadline.

First, without the extension, comments on the Staff Request will be due one day *before* the TAC Meeting (rescheduled for February 23) instead of nearly thirty days afterwards, as would have happened if the TAC meeting were held as originally scheduled on January 26.⁵ Given that Swap Data Standardization and Harmonization is a key agenda item for the TAC meeting⁶ and a priority for the Commission at large,⁷ market participants, Commissioners, and staff will lose the opportunity they originally had to engage in an informative dialogue about the Staff Request if the comment record closes before the TAC convenes.

Second, holding the TAC meeting first, and following it with an adequate period of time for the public to develop comments, is the more substantively beneficial, resource-efficient, and constructive approach for market participants and the Commission to engage on this issue. Further, the TAC meeting notice does not provide for a comment opportunity after the event (only for statements prior to the event). Thus, the comment period for the Staff Request is the only opportunity for the public to address in the staff record any new insights or information gleaned from the TAC discussions.

Third, though the Staff Request seems to anticipate that only CFTC Registrants would be concerned with the proposed changes, this issuance is of significant concern to the broad variety of medium and small end-user companies within Joint Associations' membership—including non-reporting end-users. These entities need more time to understand the impact of the draft technical changes on their own compliance obligations and costs. Joint Associations' members have thus far provided the following feedback expressing concern on the breadth of the proposed changes to data elements, the TAC meeting's timing, and the comment deadline:

- The Staff Request may understate the actual impact of the proposed technical data element changes on energy industry end-users, who mainly comply with Part 45 as to reporting of OTC energy commodity swaps and options. The Staff Request states that “the reportable data elements for which draft technical specifications have been presented herein for comment [...] focus primarily on the interest rate, credit and foreign exchange swap asset classes—although several of the data elements are not asset class specific, such that any standardization of their format and content swap data standardization and harmonization may enhance clarity and utility across all asset classes.”⁸ However, several draft specifications could impact all asset classes and yet do not promise clarity and utility specifically as to energy commodity swaps reporting.
- End-users responsible for reporting, and those non-reporting end-users preparing information for their reporting counterparties, do not have sophisticated IT teams at the ready to respond

⁵ See *CFTC Cancels TAC Meeting Scheduled for January 26, 2016* (released Jan. 25, 2016) at <http://www.cftc.gov/PressRoom/PressReleases/pr7314-16>.

⁶ See Technology Advisory Committee, Notice of Meeting, 81 Fed. Reg. 6509 (February 8, 2016) at <http://www.cftc.gov/idc/groups/public/@lrfederalregister/documents/file/2016-02375a.pdf>.

⁷ See Statement of Chairman Timothy Massad (December 22, 2015) at <http://www.cftc.gov/PressRoom/SpeechesTestimony/massadstatement12215a>; see also Speech of Commissioner Sharon Y. Bowen, *George Washington Law* (February 4, 2016), at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opabowen-8>.

⁸ Staff Request, *supra* n.3, at pp. 6 – 7.

to complex technical issuances on a turnaround of a few weeks. Rather, these companies are allocating multiple Dodd-Frank compliance responsibilities across the same regulatory compliance and IT staff who also address day-to-day business operations and commercial concerns. End-users hope to receive some clarity from the TAC meeting as to which draft specifications would impact all swaps asset classes including their businesses, whether now or in the future. In turn, takeaways from the TAC meeting could help end-users more efficiently use their limited resources to respond to the Staff Request in relevant areas of the proposal.

- A comment process that allows all parties sufficient time and opportunities to understand and respond to this request is particularly warranted as it entails review of 120 data elements and 80 related questions which staff have themselves developed over a time period of several months.

A comment deadline extension will benefit the Commission's and the public's understanding of the Staff Request's implications, and lead to a more constructive, resource-efficient, and robust dialogue about data harmonization. Accordingly, Joint Associations request that the deadline for comments be extended to at least thirty days following the date of the next CFTC TAC Meeting. Joint Associations also request that the CFTC issue a notice granting the extension as early as possible prior to the upcoming TAC meeting, and no later than Wednesday, February 17, 2016.

Please contact the undersigned if we can provide any further assistance or information about this request. Thank you for your time and attention to this matter.

Sincerely,

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