

August 21, 2017

Mr. Christopher Kirkpatrick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request for Comments from the Division of Market Oversight of the U.S. Commodity Futures Trading Commission Regarding Staff's Comprehensive Review of the Commission's Swaps Reporting Rules and Staff's Roadmap to Achieve High Quality Swaps Data

Dear Mr. Kirkpatrick:

The International Swaps and Derivatives Association, Inc. (“ISDA”)¹ and the Securities Industry and Financial Markets Association (“SIFMA”)² (collectively, “the Associations”) greatly appreciate the opportunity to provide comments to the Division of Market Oversight (“Division”) of the U.S. Commodity Futures Trading Commission (“CFTC” or “Commission”) in response to the Division’s *Roadmap to Achieve High Quality Swaps Data* (“Roadmap”).³ The Roadmap was prepared in connection with the Division’s comprehensive review of the CFTC’s swap data reporting rules in Parts 43, 45, and 49 of the CFTC’s regulations (“Swap Reporting Rules”).⁴ The Associations strongly support the Commission’s initiative to review its Swap Reporting Rules with a view towards streamlining reporting requirements, right-sizing the number of data elements that are necessary to fulfill the Commission’s regulatory oversight function, and improving the

¹ Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 875 member institutions from 68 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association’s web site: www.isda.org.

² SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$18.5 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

³ “DMO Roadmap to Complete Review” diagram of *Roadmap to Achieve High Quality Swaps Data*, July 10, 2017, http://www.cftc.gov/idx/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf.

⁴ 17 C.F.R. Parts 43, 45, and 49 (2017).

overall quality of swap data that is reported to registered swap data repositories (“**SDRs**”). In addition, we applaud the Division’s efforts to examine whether the CFTC’s Swap Reporting Rules are meeting the standards established at the Pittsburgh G-20 Summit⁵ and codified in the Dodd-Frank Wall Street Reform and Consumer Protection Act (“**Dodd-Frank Act**”).⁶ The Associations have consistently supported the intent of the G-20 and the Dodd-Frank Act to improve transparency in derivatives markets and to ensure that the CFTC has the necessary information to effectively monitor systemic risk. However, we also agree with Chairman J. Christopher Giancarlo that any proposed changes to the Swap Reporting Rules should seek to collect quality swap data in the most effective and efficient manner based on the collective experiences of all swap data reporting stakeholders.⁷

With these objectives in mind, we have organized our comments to the Roadmap into two parts. The first part of our comment letter provides specific recommendations with respect to the Roadmap’s proposed timeline and implementation. The second part of our letter provides our initial views regarding the specific approaches proposed by Division staff in the Roadmap.

I. COMMENTS RELATED TO THE ROADMAP’S PROPOSED TIMELINE AND IMPLEMENTATION

The Associations are generally supportive of the Roadmap’s proposed timeline, which correctly identifies the key milestones that must be met in order to successfully achieve full industry implementation of any amendments to the Commission’s Swap Reporting Rules. In particular, the Roadmap envisions that the Commission will amend its Swap Reporting Rules through various public consultations and by leveraging the international data harmonization initiatives organized by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commission (“**CPMI-IOSCO**”) and the Financial Stability Board (“**FSB**”).⁸ The Roadmap also contemplates that the Commission’s adoption of any amendments to its Swap Reporting Rules will provide market participants and SDRs with an appropriate amount of time to design and test such required system changes. We agree that any proposed rulemakings in this area

⁵ Organization for Economic Co-operation and Development, Leaders’ Statement: The Pittsburgh Summit, G-20 (September 24-25, 2009).

⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act, 124 Stat. 1376, Pub. Law 111–203 (July 21, 2010), as amended.

⁷ Speech by Commissioner J. Christopher Giancarlo, *Making Market Reform Work for America* (Jan. 18, 2017), available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-19> (“The CFTC has faced many challenges in optimizing swaps data ranging from data field standardization and data validation to analysis automation and cross-border data aggregation and sharing. Market participants vary significantly in how they report the same data field to SDRs. Those same SDRs vary in how they report the data to the CFTC”).

⁸ In 2014, the FSB asked the CPMI and IOSCO to develop global guidance on the harmonization of data elements reported to trade repositories and important for the aggregation of data by authorities. In 2017, the board of IOSCO issued its latest in a series of consultative reports titled *Harmonisation of critical OTC derivatives data elements (other than unique transaction identifiers and unique product identifiers) – Third Batch* (June 2017) available at <http://www.bis.org/cpmi/publ/d160.pdf>.

should leverage, and be fully-inclusive of, all information learned as a result of international initiatives related to derivatives reporting. We also agree that the proposed implementation of any amendments must consider the appropriate amount of time it will take for full industry adoption.

Although the Roadmap has correctly identified the critical milestones and implementation considerations, we believe that the Roadmap's proposed timeline and implementation can be improved in several ways to ensure that the Division's efforts achieve their intended results. Specifically, we recommend that the Commission: (1) align the project timeframes for SDR operations review ("**Tranche 1**") and reporting workflow review ("**Tranche 2**"); (2) publish the proposed changes to Tranche 1 and Tranche 2 following the publication of the CPMI-IOSCO Harmonisation Group Technical Guidance; (3) ensure that any proposed changes to the Swap Reporting Rules do not require retroactive reporting; and (4) harmonize any amendments to the Swap Reporting Rules by consulting and coordinating with international regulators and the U.S. Securities and Exchange Commission ("**SEC**"). We have provided more detail on each of these recommendations below.

1. Align Anticipated Timeframes for SDR Operations Review and Reporting Workflow Review Projects

The Associations are concerned that the Roadmap's anticipated timeframes for finalizing each project are misaligned, which could frustrate the Division's ultimate goals. The Roadmap provides that as part of Tranche 1, the Commission will publish a notice of proposed rulemaking regarding SDR operations sometime in the fourth quarter of 2017, and will finalize the rulemaking by the second quarter of 2018. The Roadmap also provides that as part of Tranche 2, the Commission will publish a notice of proposed rulemaking regarding counterparties' reporting workflows sometime in the first or second quarter of 2018, and will finalize the rulemaking by the fourth quarter of 2018. Given the interconnection between SDR functions and the counterparties' reporting workflows, we believe that any proposed rule amendments and final rules associated with Tranche 1 and Tranche 2 should be issued at the same time, and any finalized amendments to the Swap Reporting Rules should have the same compliance dates.⁹ Moreover, finalizing Tranche 1 while Tranche 2 is still in a proposed stage could result in additional and unnecessary compliance costs as SDRs and market participants will need to build interim solutions to comply with just one set of rules, pending finalization of the related ruleset. We believe that a better approach would be for the Division to first identify the specific data that counterparties must report to SDRs and then to provide guidance on the allowable values and format in which counterparties must provide such data (including SDR data validations).

Alternatively, should the Commission decide to publish the proposed rule amendments to the SDR rules first in Tranche 1, then we recommend that the public comment period for this release remain open for at least 90 days following publication of the proposed rule amendments to the reporting

⁹ 17 C.F.R. Parts 43, 45, and 49.

workflow rules in Tranche 2.¹⁰ This extended comment period would provide market participants with a comprehensive and holistic understanding of whether the two proposals achieve the desired policy outcomes and account for operational costs and possible additional builds to comply with a modified reporting regime.

2. **Publish Proposed Changes to the SDR Operations and Reporting Workflows Following Publication of CPMI-IOSCO Harmonisation Group Technical Guidance and FSB Working Group**

We support the Commission's efforts to leverage the international data harmonization processes to avoid contradictory outcomes and/or duplicative regulatory obligations. We applaud the Commission's work on the CPMI-IOSCO Harmonisation Group ("**Harmonisation Group**"),¹¹ as well as the FSB Working Group on Unique Transaction Identifier ("**UTI**") and Unique Product Identifier ("**UPI**") Governance.¹² We, however, would note that the independent recommendations of the Harmonisation Group and the FSB Working Group have the potential to conflict with the Commission's efforts to improve data quality. For example, we note that the Harmonisation Group is expected to issue Critical Data Elements ("**CDE**") before the end of this year. We are concerned that the Roadmap's anticipated timeframe does not allow sufficient time for both the Division and market participants to review the final recommendations and for the Commission to harmonize applicable data elements. We would also caution that the Harmonisation Group's recommendations contain numerous data fields that, in our view, should not be included in the forthcoming CFTC proposals as they do not enhance data quality. Consequently, we would request that the Commission utilize such recommendations as a tool in improving data requirements for the data elements needed for its regulatory obligations, not as a mandate to propose additional data fields. Finally, we recommend that any changes to the Swap Reporting Rules should incorporate the FSB Working Group's recommendations for the UPI and the UTI to further ensure a consistent data reporting language approach across the globe.

¹⁰ 17 C.F.R. Parts 43 and 45.

¹¹ Over the last several years, the Harmonisation Group has issued the following consultative reports: *Harmonisation of key OTC derivatives data elements (other than UTI and UPI) - First Batch* (Sept. 2015); *Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) - Second Batch* (Oct. 2016); *Harmonisation of the Unique Transaction Identifier* (Aug. 2015); *Harmonisation of the Unique Product Identifier – first consultative report* (Dec. 2015); *Harmonisation of the Unique Product Identifier – second consultative report* (Aug. 2016); *Final technical guidance on UTI* (Feb. 2017); and *Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) – Third Batch* (June 2017). More information on the Harmonisation Group's efforts is available at <http://www.bis.org/cpmi/publ/d160.htm>.

¹² The FSB recommended the creation of the UTI in its 2014 publication Feasibility study on approaches to aggregate OTC derivatives data, which is available at http://www.fsb.org/2014/02/r_140204/. Since then, the FSB has issued consultations and held roundtable discussions regarding UTI governance. More information on the FSB's efforts is available at http://www.fsb.org/publications/consultation-documents/?policy_area%5B%5D=17.

3. The Forthcoming Changes to the Reporting Rules Should Not Require Retroactive Reporting

Although the Roadmap does not expressly discuss how any proposed amendments to the Swap Reporting Rules will impact historic or legacy swap data that was previously reported to SDRs, we believe that the forthcoming changes should not require reporting counterparties to backload any new or revised reporting data elements or to retroactively meet other new or modified requirements with respect to such data. Indeed, requirements to enrich historic and legacy swap data would be costly and burdensome to both SDRs and market participants. This issue is further complicated by the fact that in many cases counterparties to historical and legacy trades reported those trades to different SDRs. For those reasons, the Associations believe that any changes to the Commission's Swap Reporting Rules should only apply to swaps and events occurring on or after the compliance date of the amended rules.

4. Harmonize with Global Regulators and the SEC

The Associations strongly encourage regulatory harmonization among the CFTC, global regulators, and SEC, including aligning reporting requirements on key economic and real-time data fields and values to the maximum extent possible. Inconsistencies in the global reporting requirements create significant operational complexity for counterparties, which may be required to report a swap to multiple jurisdictions. In order to meet the G-20 commitments related to derivatives reporting, various elements of trade reporting need to be considered in the context of what works best from an international perspective. Similarly, harmonized reporting requirements within the domestic framework will also contribute to producing higher quality data for use by global regulators while reducing the cost of compliance for market participants. Thus, domestic and international regulatory consultation and cooperation are equally essential to understanding systemic risks in the global swaps market and to solving legal and operational issues affecting trade reporting globally, such as concerning data privacy and confidentiality.

II. PRELIMINARY VIEWS ON SPECIFIC ITEMS IN THE PROPOSED TRANCHES

We generally support the Division's decision to review the items identified under Tranche 1 and Tranche 2. For the Division's convenience, we have organized our preliminary views on specific (but not all) items listed under each tranche in the manner in which those items are presented in the Roadmap. In addition, we have provided suggested alternative measures for the Division's consideration, which would further the Roadmap's stated objectives.

1. Tranche 1: SDR Validations

- Leverage Existing SDR Validation Processes. The Associations believe that an amendment to the Swap Reporting Rules should eliminate the ability for SDRs to request additional data not required under the Commission's regulations.

- Work with SDRs to Establish Processes for Data Report Rejections. The Associations believe that, when soliciting input from the industry, the Division should ensure reporting counterparties have the ability to provide their feedback with respect to such processes. SDR processes to reject data reports for missing or invalid data may vary by data field. Thus, the Division should propose these processes only once the amended reporting requirements for reporting counterparties have been established.
- Identify an Initial Set of Minimum Validations. It is our view that the Commission should ensure that data field collection and validations are consistently implemented across SDRs. The Commission should further resolve any uncertainty about what a reporting counterparty is obligated to report when a data field may not apply and/or data may not be available at the time of reporting. Finally, as part of this initiative, the Division should explore the possibility of utilizing data validation tables similar to those used under the European Market Infrastructure Regulation.¹³

2. **Tranche 1: Ensure Counterparties Confirm Accuracy of SDR Data**

- Consider Which Counterparty(ies) Must Perform Reconciliations. The Associations generally believe that the responsibility to perform reconciliations should be borne by the entity that is most effectively and efficiently situated to undertake that obligation. In particular, we believe that the Division should exempt counterparties that use existing third-party reconciliation services from performing its own reconciliations to the extent that such services already flag data discrepancies in SDR reported data. In addition, we believe that counterparties that execute swaps on swap execution facilities, which are either (i) required to or intended to be cleared, (ii) or affirmed through an affirmation, matching, and/or confirmation services, should not be required to perform reconciliations. Lastly, we believe that the Division should not require non-reporting counterparties, end-users, and smaller firms to perform reconciliations because these entities generally do not have the resources to effectively validate their swap transactions.
- Consider Whether to Require Reconciliation of Position Data or Full Audit Trail of Each Swap. The Associations believe that the Commission should take into consideration the high costs of the additional technological builds that would be needed to perform full audit trails and reconciliation.

¹³ ESMA, Final Report - Review of the Regulatory and Implementing Technical Standards on reporting under Article 9 of EMIR, RTS 2015/1645, Nov. 13, 2015, available at [https://www.esma.europa.eu/sites/default/files/library/2015/11/2015-esma-1645 - final_report_emir_article_9_rts_its.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/2015-esma-1645_-_final_report_emir_article_9_rts_its.pdf).

3. **Tranche 2: Streamline Workflows**

- Explore Whether to Combine PET and Confirmation Data into Single Set of Data Elements. The Associations preliminarily believe that it would be more efficient for any final rulemaking amending the Swap Reporting Rules to combine primary economic terms (“PET”) data and confirmation data into a single stream of data elements. Moreover, we believe that, as part of its comprehensive review, the Division should ensure that such data stream only represents the key economic data necessary to achieve the Commission’s regulatory oversight function.
- Remove Uncertainty Around What Must Be Reported and How. We believe that the Commission should codify the substance of the various staff no-action letters and interpretive guidance related to the Swap Reporting Rules, where appropriate, in such a way that promotes efficiency and market certainty, while maintaining the integrity of reported swap data. We also recommend that the Commission consider, for purposes of Part 43 and Part 45 reporting, clarifying the appropriate manner in which a number of unique swap transactions and situations must be reported. In particular, we recommend that any final rulemaking amending the Swap Reporting Rules must address: (i) the impact of a change in the registration status of a reporting counterparty on the counterparty’s reporting obligations, including limitation of data reportable under Part 46 for new registrants; (ii) packages, bespoke, and complex trades; (iii) novation flows, including novation fees; (iv) block trades and allocations; (v) mixed swaps; (vi) cross-border transactions between U.S. and non-U.S. counterparties; (vii) the transfer of portfolios (also known as “portfolio take-downs”); (viii) prime brokerage transactions; (ix) the definitions of SDR message types, such as amend, new, and modify, and clarification of execution time reporting for continuation data lifecycle events; (x) trade corrections for Part 43 public dissemination and back reporting; (xi) reporting based on different clearing models; and (xii) Part 45 amendments as applicable in order to sunset the Part 20 Large Trader Reporting Rules.
- Eliminate Multiple Reporting Streams and Unnecessary Messages. The Associations believe that the Division should consider whether to eliminate data fields that cannot be aggregated for regulatory analysis purposes (e.g., “Any Other Terms” fields). The Division should also consider whether to eliminate reporting obligations for *void ab initio* swaps and other data fields that are not necessary for the Commission to achieve its regulatory oversight function.

4. **Tranche 2: Focus on Key Data Fields**

- *Harmonize Data Fields with Foreign Regulators (Building on CPMI-IOSCO Process and December 2015 CFTC Request for Comment)*. The Associations preliminarily believe that in instances where the identical data fields are required to be reported across multiple global reporting regimes, the definitions, formats, and allowable values should be harmonized. In addition, we believe that the Commission’s December 2015 Request for Comment—which introduced additional data elements that are not contained in its current Swap Reporting Rules—would unnecessarily increase costs without any associated regulatory benefits.¹⁴ Instead, we believe that the Division should focus on balancing the appropriate volume of data elements that are required under its Swap Reporting Rules against the economic value and burdens of reporting such data.
- *Look to Reduce the Number of Fields Currently Reported*. The Associations preliminarily believe that the Division should remove “catch-all” data fields (e.g., “Any Other Terms”). In addition, and as noted above, we believe that the Division should reexamine Part 43 and Part 45 data fields and keep only those data elements necessary for price discovery and the Commission’s regulatory oversight function, respectively. Lastly, we believe that SDR data field specifications should be reduced commensurately with any reductions in the number of data fields.
- *Potential Expand to Cover Margin Movements and Discrete Data Points (Consistency with European Securities and Markets Authority’s Rules)*. The Associations believe that the Division should consider looking for alternative means to collect data (e.g., from margin). We also believe that the Division should maintain the set of values that are currently used in regulatory reporting requirements for collateralization, but collaborate with global and foreign regulators to harmonize the definitions.
- *Continue Recordkeeping Requirements for All Swap Terms*. The Associations believe that swap dealers should be able to rely on the SDRs to fulfill certain recordkeeping requirements. In addition, we recommend that the Commission revise the timing in which reporting counterparties must retrieve Part 45 data. Longer data retrieval times would be helpful in cases when the requested data volume is significant, the swap data is older, the Commission requests swap data or information in a specific format, or the swap data is located in a foreign jurisdiction.

¹⁴ CFTC DMO Staff, Draft Technical Specifications for Certain Swap Data Elements, Dec. 22, 2015, available at <http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/specificationsswapdata122215.pdf>.

5. Tranche 2: Technical Specifications

- Propose Detailed Technical Specifications Once CPMI-IOSCO Harmonization Efforts Have Sufficiently Progressed. As noted above in Section I of this letter, we believe that the Division should consider providing more time for analyzing CPMI-IOSCO recommendations and harmonizing, where appropriate, with the Swap Reporting Rules. In addition, the original CFTC technical specifications for the Unique Swap Identifier (“USI”) should be aligned with the CPMI-IOSCO recommendations for the UTI.
- Include Definitions, Form, and Manner Specifications, Mapping to Existing Data Languages and Allowable Values Where Appropriate. The Associations believe that the Division should review FpML and FIX against any technical specifications that it considers. We further believe that, in any final rulemaking amending the Swap Reporting Rules, the Commission should eliminate items that are not necessary and would not promote the Roadmap’s stated objectives of streamlining reporting requirements. Lastly, we believe that the Commission should clarify that reporting counterparties are not obligated to map any new or modified technical specifications to existing messaging languages.

6. Tranche 2: Re-evaluate Reporting Deadlines under Part 45

- Explore Alignment of CFTC Reporting Deadlines with SEC and ESMA. The Associations support the Division’s proposed evaluation of a “no-later than” T+1 deadline for swap data reporting under Part 45. While this item under Tranche 2 calls for the Division to consider changing reporting deadlines under Part 45, we also respectfully urge the Division to consider aligning Part 43 public dissemination timelines with the SEC and ESMA.

7. Tranche 2: Increase the Utility of the Real-Time Public Tape

- Evaluate Real-Time Reporting Regulations in Light of Goals of Liquidity, Transparency, and Price Discovery in the Swaps Market. The Associations generally support the Commission’s efforts to review public dissemination requirements in light of product liquidity. We believe that the Division should consider whether there should be increased time delays for public reporting of block trades and reduced public dissemination caps for large off-facility transactions. Additionally, we believe that for certain large transactions, the Commission should enable reporting counterparties to request that SDRs do not publicly disseminate data that would reveal the counterparty’s identity. We also believe that reporting counterparties should be able to send one data-stream reporting message that includes real-time, PET, and confirmation data. Division staff should consider making Part 43 data a subset of Part 45 data, instead of requiring reporting counterparties to submit three separate messages.

- Address Ongoing Special Reporting Issues (e.g., Packages, Prime Brokerage, Allocations, Etc.). The Associations recommend that the Division consider how to clarify the definition of “execution” and how modifications or other lifecycle events should be publicly disseminated under Part 43 of the Commission’s regulations. The Division should also consider how to ensure that the timing obligations under the “embargo rule” of Part 43 of the Commission’s regulations do not conflict with post-trade price transparency requirements in foreign jurisdictions.¹⁵ The Division should further consider how to clarify reporting obligations under Part 43 for portfolio take-downs and for post-priced swaps, which should be reportable only when all the final PET data details are determined.

III. CONCLUSION

The Associations appreciate the opportunity to submit our comments on the Roadmap. We commend the Division for its efforts to improve data quality and streamline the reporting requirements. We look forward to continuing our engagement with the Division and the Commission as the Commission moves forward with proposing changes to the Swap Reporting Rules. We are committed to working closely with the Commission to ensure that it has access to complete, accurate, and high-quality data and hope that Division staff will consider our comments, as they reflect the extensive knowledge and experience of market professionals within our memberships.

Please feel free to contact the undersigned should you have any questions.



Steven Kennedy
Global Head of Public Policy
ISDA



Kyle Brandon
Managing Director, Head of Derivatives
SIFMA

¹⁵ For example, CFTC regulation 43.3(b) effectively prohibits the disclosure of swap transaction and pricing data relating to publicly reportable swap transactions prior to the public dissemination of such data by a SDR. Under MiFIDII/MiFIR (effective January 3, 2018), however, investment firms are required to make public, through Approved Publication Arrangements (“APA”), post-trade information in relation to financial instruments traded on a trading venue. The timing requirement for such post-trade transparency obligations may result in a counterparty subject to both MiFIDII/MiFIR and the CFTC’s Swap Reporting Rules to publicly report swap data to the APA prior to publically disseminating such data to an SDR, possibly resulting in a violation of CFTC regulation 43.3(b).