Chatham Financial
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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: Comments in Response to the Division of Market Oversight's Review of the U.S. Commodity Futures Trading Commission's Swap Reporting Rules in Parts 43, 45 and 49 of Commission Regulations

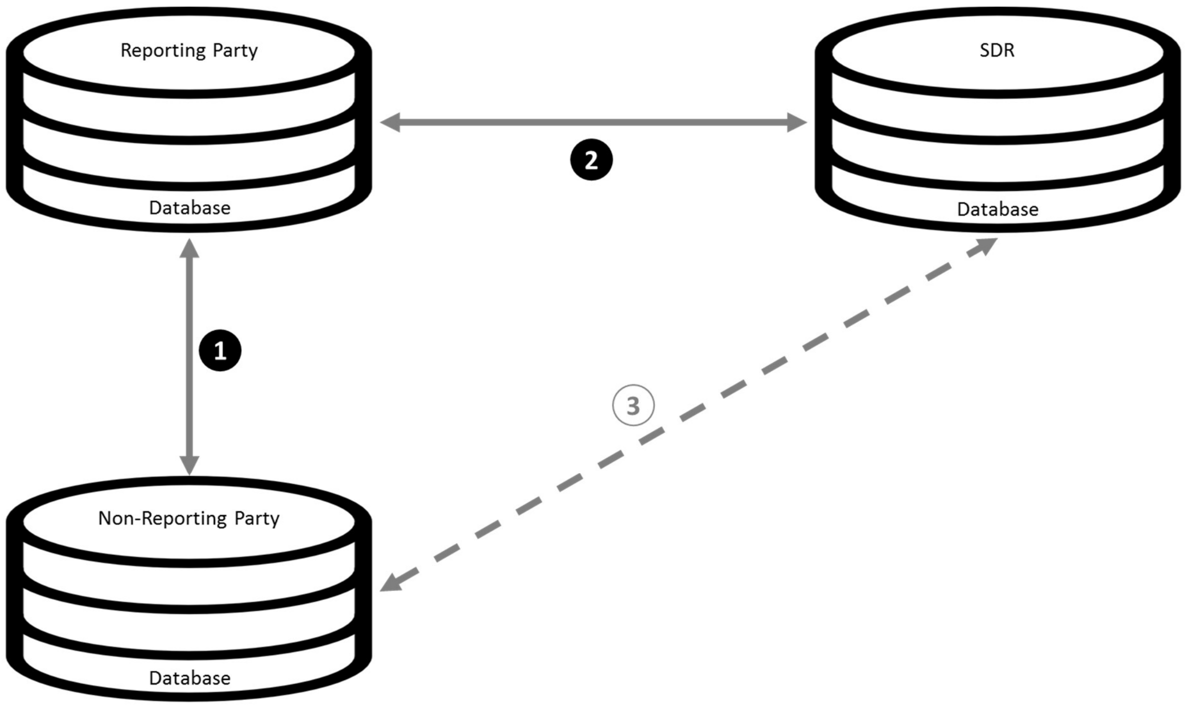
Dear Mr. Kirkpatrick,

Chatham Financial ("Chatham") is pleased to provide comments to the Division of Market Oversight ("Division") of the U.S. Commodity Futures Trading Commission (the "CFTC") in response to the Division's Roadmap to Achieve High Quality Swaps Data (the "Roadmap"). We welcome the Division's comprehensive review of swap data reporting regulations found in Parts 43, 45, and 49 of the CFTC's Regulations. We support the goals of the review, including improving data quality and streamlining the processes by which data is reported. We believe efforts undertaken in support of these goals will be consequential in achieving key reform objectives underpinning Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") – in particular, increasing transparency in the OTC derivatives market and mitigating systemic risk.

Chatham is the largest independent adviser and technology provider to derivatives end users, advising and providing services to more than 1,800 clients annually on interest rate, currency and commodity hedging. We are a global firm with operations in the United States, Europe, Australia, and Asia. Chatham is the largest third party reporter of OTC derivatives to DTCC globally. In addition to reporting transactions on behalf of our clients, we also assist globally active swap dealers in assessing and improving their compliance with swaps data reporting requirements. Our comments reflect our global experience supporting both buy and sell sides with their swap data reporting obligations.

Chatham's comments on the Roadmap are best understood through reference to the following schema (Figure 1) identifying key points where data can be exchanged and validated. These points where data is exchanged are potential critical control points for ensuring the accuracy of submitted data through assessing potential hazards for data corruption and implementing appropriate control measures.

Figure 1: Swaps Reporting Schema



Based on this schema, several points where data corruption can occur during information exchange are evident. We consider key issues with respect to each of the three points in turn as numbered above.

1. **Data quality between Reporting Parties & Non-Reporting Parties**

   In the event a dealer inaccurately captures a position in its systems (e.g., payment amounts, termination values, etc.), the non-reporting party (often an end user) can face significant commercial and regulatory consequences. As a result, a non-reporting party must still go to considerable lengths at significant expense to ensure a dealer accurately captures transaction terms in transaction documents and in their systems. The process of ensuring accuracy typically occurs through multiple means.

   a. On *bilateral transactions*, prior to consummating a transaction, term sheets or bid packages are drafted and exchanged to ensure each party understands and agrees to transaction terms. These terms are the basis for pricing the transaction. They are typically reiterated on a recorded phone line prior to executing a transaction. Once the trade is executed, parties carefully review transaction confirmation documentation to ensure transaction details agree with pre-trade agreements (e.g., term sheets). In the absence of such a process, market participants would be subject to potential disagreement on payment amounts due. Such a consequence motivates market participants to ensure there are no disagreements. In the event there are disagreements, there are established processes for resolving and correcting them.
   b. Similarly for *cleared transactions*, clients typically use trade affirmation platforms to confirm agreement of the trade details before the trade is submitted to a clearinghouse.
   c. Such processes for bilateral and cleared transactions are useful in assuring that the data in the reporting parties' (e.g., swap dealers') systems accurately captures the agreed transaction terms. Thus, when a reporting party submits transaction data to an SDR, it is reasonable to expect that the data contained in its report accurately captures the agreed terms of the trade.
   d. These processes track the Division's proposal in *Tranche 2: Reporting Workflows/Re-evaluate Reporting Deadlines under Part 45* to "Find ways to leverage existing confirmation processes to aid

in reporting, where appropriate." When these processes are utilized, the CFTC's efforts to improve data quality can be appropriately focused on reporting parties, particularly in relation to the reconciliation of data discussed in *Tranche 1: SDR Operations Review/Ensure Counterparties Confirm Accuracy of SDR Data*.

Additionally, CFTC regulations presently require certain market participants to periodically reconcile their derivatives portfolios[1]. European regulators similarly require portfolio reconciliation at periodic intervals. Under these required reconciliation processes, the parties agree in transaction documentation how the parties will exchange data and who will be responsible for reviewing it. Chatham facilitates these documentation and review processes on behalf of a number of our clients. The strength of these processes is demonstrated by the fact that, despite our experience participating in the reconciliation of thousands of positions, we have rarely identified disagreements in transaction terms. This is because of the significant resources and attention committed to confirming the accuracy of trade details at inception of a transaction by the involved parties. Consequently, it is unlikely that inaccuracies in transaction data reported to Swap Data Repositories are due to errors or inaccuracies resulting from actions by the non-reporting party to a trade.

2. Data quality between Reporting Parties & SDRs

We believe there are three key elements to ensuring data quality within Swap Data Repositories ("SDRs"): (a) data validations, (b) data reconciliation, and (c) audit trails. We discuss each as follows:

a. **Data validations**: The best opportunity to ensure the quality of data within SDRs occurs at the time data is submitted thereto. Data quality clearly suffers when parties submit data for fields in formats that do not comply with prescribed standards for those fields. Similarly, if there is no prescribed standard for a particular field, each party must use its best judgment to determine the appropriate data format for that field. These determinations inevitably lead to data submissions that are inconsistent, resulting in poor data quality. Lastly, if firms are able to leave required fields blank, this also compromises regulators' ability to obtain useful data. We therefore strongly support the Division's proposed approach in *Tranche 1: SDR Operations Review/SDR Validations* of requiring SDR's to reject swap data that is missing or invalid. We note further that European regulators have adopted data validations, and we have found them to be effective without unnecessarily burdening market participants. In particular, the CFTC should examine the approach of the European Securities and Markets Authority (ESMA) to adopt predefined acceptable values for fields, where appropriate, and reject reports that contain invalid entries.

b. **Data reconciliation**: The data reconciliation requirements as identified in *Tranche 1: SDR Operations Review/Ensure Counterparties Confirm Accuracy of SDR Data* are useful in allowing the CFTC to gain comfort that data maintained by an SDR is consistent, on an ongoing basis, with the books and records of the reporting party. Reconciliation may improve data quality for a number of reasons. For example, reporting parties may submit data to an SDR, but that data may be rejected

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[1] We note that not all transactions regulated by the CFTC are subject to portfolio reconciliation requirements, reflecting the CFTC's priority for limiting burdens on market participants whose transaction activity does not meaningfully contribute to systemic risk. However, the CFTC's regulations encompass the vast majority of transaction activity, including transactions between swap dealers. Moreover, our experience assisting clients in drafting term sheets and reviewing transaction documents to ensure transaction documentation accurately reflects pre-trade agreements reveals that the vast majority of disagreements between reporting and non-reporting parties is on terms that are of limited consequence, not terms that materially affect transaction values. For example, discrepancies may affect issues like business day conventions, but do not typically affect issues such as price, notional amount, and maturity date. Thus, we believe the absence of portfolio reconciliation requirements for some market participants is not inconsistent with a view that the controls underlying agreement in data between reporting and non-reporting are generally robust.

for various reasons such as empty or invalid fields. If a reporting party does not adequately remediate the rejection, reconciliation, conducted appropriately, should bring that discrepancy to light so that it can be addressed. Additional circumstances that give rise to the possibility of discrepancies include transaction modifications and terminations. Reconciliation requirements are a mechanism for identifying and addressing such discrepancies.

c. **Audit trails**: Audit trails that are sufficient to reconstruct reporting events are key for ensuring data quality. Such audit trails can be used by market participants and by regulators to confirm that a reporting party has done everything it is supposed to have done. Such audit trails generally also reflect the timing of key actions, including when reports related to that transaction were submitted. Additionally, audit trails contribute to a party's ability to identify and remediate problems (e.g., submission failures) that might contribute to data discrepancies.

3. Data quality between Non-Reporting Parties & SDRs

We believe that the robust procedures enumerated above (i.e., robust confirmation procedures between non-reporting parties and reporting parties, validation/reconciliation/audit trail between reporting parties and SDRs) render reconciliations between non-reporting parties and SDRs wholly unnecessary. Specifically, we note that the Roadmap, in *Tranche 1: SDR Operations Review/Ensure Counterparties Confirm Accuracy of SDR Data,* suggests that consideration should be given to which counterparty(ies) must perform reconciliation. It further considers the frequency of reconciliation and the subset of data that should be reconciled – whether position data or a full audit trail of each swap. Chatham strongly believes that the CFTC should focus its efforts on improving data quality on the second point of exchange/validation shown in the Swaps Reporting Schema. If suitable data validation, data reconciliation, and audit trails are applied in this second point of exchange/validation, the additional value from requiring non-reporting parties to conduct reconciliation seems minimal in comparison to the substantial burden it places on them. We believe, therefore, that responsibility for the accuracy of submitted data should rest solely with the reporting party to a trade – typically a regulated entity that is well positioned to be held accountable for the accuracy of its submissions.

The global experience with reconciliation of data submitted to Trade Repositories ("TRs") in Europe further supports this. In particular, Europe has adopted a dual-sided reporting regime that requires both parties to a trade to either report data to a TR or to delegate authority to banks or third parties. Many end users, where possible, opt to delegate reporting responsibility; however, doing so does not relieve them of the burden of ensuring reported data is accurate and complete. While all entities must ensure the accuracy of their own books and records, for an end-user to ensure the accuracy of a swap dealer's submissions requires a burdensome and typically manual process that is itself subject to errors because it is manual. End users must parse through data that is not provided in a readily understandable, plain language format, making the task difficult and the results somewhat unreliable. We would note that the European Commission has proposed to eliminate this dual sided reporting approach in Europe for end users. As part of their proposal, they are eliminating the current legal obligation of end users to assure the accuracy of data submitted by financial counterparties. We believe this approach appropriately acknowledges the considerable burden when such requirements are placed on end users and other market participants that are not reporting parties. We urge the CFTC to carefully weigh this European experience when considering which party to a trade should be responsible for assuring data accuracy.

We believe the above elements of the Roadmap will be the most effective in driving objectives of the Roadmap, and more broadly of the reporting goals of Dodd-Frank. Additionally, we offer several broader comments on the Roadmap.

- **Coordinated Implementation**: We commend the CFTC's efforts to streamline reporting workflows and the leadership it has shown both domestically and internationally to promote a globally consistent approach. We note that DTCC is presently undertaking its own improvement efforts. For example, DTCC has enacted a system re-architecture initiative that involves simplifying submission templates and cleaning up internal data. Among the changes that will result from this effort is a harmonized message template that eliminates separate PET and confirmation data – in line with the Division's proposal under *Tranche 2: Reporting Workflows/Streamline Workflows*. While we believe such initiatives are consistent with broadly supported goals of improving data quality and streamlining workflows, we believe it useful to minimize the frequency by which market participants must update their systems and processes. Close coordination of government- and SDR-initiated changes will serve to mitigate the burden such changes may create for market participants. Such collaboration could help align implementation dates, where practicable, so that market participants can group systems and process changes, thus minimizing the burden of implementation by concentrating disparate change efforts into a single work stream.

- **Other Roadmap Elements**: Chatham commends and broadly supports other elements of the Roadmap. Additionally, we believe the CFTC's ongoing involvement in efforts to coordinate across regulatory agencies, jurisdictions, and industry remains essential for ensuring high quality swaps market data by removing ambiguity that creates the possibility of differing interpretations. Such coordination should ultimately lead to clear direction from the CFTC as to what data to report and in what format. We believe the following key elements of the Roadmap will usefully contribute to such an outcome:
    a. Tranche 2: Reporting Workflows/Streamline Workflows:
        i. streamlining PET and Confirmation data into a single, clearly defined and electronically reportable set of data elements;
        ii. removing uncertainty as to what to report and how;
        iii. eliminating multiple reporting streams and unnecessary messages;
    b. Tranche 2: Reporting Workflows/Focus on Key Data Fields:
        i. working to harmonize data fields with foreign regulators;
        ii. reducing the number of fields reported;
        iii. increasing consistency with ESMA rules, particularly related to margin movements, risk and positions;
    c. Tranche 2: Reporting Workflows/Technical Specifications
        i. standardizing in line with the ultimate CPMI-IOSCO recommendations, once complete;
    d. Tranche 2: Reporting Workflows/Re-evaluate Reporting Deadlines under Part 45
        i. exploring alignment of CFTC with SEC and ESMA, including potential move to T+1 reporting;
        ii. finding ways to leverage existing confirmation processes to aid in reporting where appropriate; and,
    e. Tranche 2: Reporting Workflows/Increase the Utility of the Real-Time Public Tape
        i. evaluating real-time reporting regulations in light of liquidity, transparency and price discovery goals

- **Timing and Sequencing**:
    a. **Timing**: We appreciate that the CFTC has laid out a multi-year timeframe for identifying, proposing, finalizing and requiring compliance with changes to reporting requirements. Whether the time allowed for compliance is sufficient will largely depend on the scale of proposed changes and the time by which changes are finalized. In determining the compliance timeline, we urge the CFTC to avoid artificial deadlines that prove inadequate given the scale of ultimately determined changes.
    b. **Sequencing**: We appreciate the careful consideration the Division has given to the timing and sequencing of the various components of the Roadmap. In general, and as noted above under "Coordinated Implementation," we believe market participants are best served by minimizing the frequency with which they need to implement changes to their reporting processes and

technology. We understand from the proposed Roadmap timeframes – especially the aligned compliance dates of December 2019 for each of Tranche 1 and 2 – that the CFTC is sensitive to the impact on market participants and appears to be endeavoring to align implementation dates for the changes it will require. We also appreciate the CFTC's indication that it will "Consider compliance schedule for implementing both tranches that balances efficiency, timeliness, burden, and improved reporting." We consider that there may be benefits to establishing multiple compliance deadlines that would allow for certain requirements to be fully implemented and stabilized, before layering on other requirements. For example, we believe data validations should be fully implemented and stabilized before reconciliation and audit trail requirements are applied. We believe a staggered approach to implementation would both lead to effective outcomes and minimize burdens for market participants. That said, we believe a staged approach need not be strictly divided between Tranches 1 and 2. For example, certain elements within Tranche 2 (e.g., reducing and eliminating certain fields) might more reasonably be combined with data validations in a first phase implementation, while certain elements of Tranche 1 (e.g., reconciliation procedures) might more reasonably be situated within a second phase implementation.

We thank you for considering these recommendations and are available to answer any questions you may have. Please contact Luke Zubrod (610.925.3136; lzubrod@chathamfinancial.com) or Eric Juzenas (484.731.0061; ejuzenas@chathamfinancial.com) with any questions.

Sincerely,

Luke Zubrod