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April 11, 2024

VIA E-MAIL AND ONLINE SUBMISSION

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20581

**Re: Proposed Rule: Real-Time Public Reporting and Swap Data Recordkeeping and Reporting; RIN Number 3038-AF26**

Dear Mr. Kirkpatrick:

Chicago Mercantile Exchange Inc. ("CME")<sup>1</sup> appreciates the opportunity to comment on the U.S. Commodity Futures Trading Commission's ("CFTC" or "Commission") notice of proposed rulemaking to amend Parts 43 and 45 of the CFTC regulations ("NPRM") in order to adopt the unique product identifier ("UPI") and product classification system for swap reporting in the other commodity asset, advance international harmonization and support the Commission's surveillance and analysis activities.<sup>2</sup> The proposed amendments would primarily impact CME's swap data repository ("SDR") and derivatives clearing organization ("DCO").

CME supports many of the Commission's proposed amendments and expects that their adoption would reduce the number of proprietary fields that SDRs must maintain to meet their regulatory obligations. CME further believes that the proposed revisions would decrease the number and scope of changes to the CFTC's Part 43/45 Technical Specification ("Technical Specifications")<sup>3</sup> that will be needed when the Commission adopts an International Organization for Standardization ("ISO") schema in the future. Additional fields that enable SDRs to harden their validations would improve the accuracy of data reported to, and maintained by, SDRs.

We commend the Commission and staff for their ongoing engagement with SDRs and the industry to facilitate a dialogue about operational challenges with implementing swap data reporting regulations. CME believes that such coordination is critical to achieving a pragmatic

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<sup>1</sup> CME is registered with the CFTC as a derivatives clearing organization and is one of the largest central counterparty clearing services in the world. CME operates a CFTC-registered swap data repository that provides centralized recordkeeping for swaps and the public dissemination of swap transaction and pricing data in the interest rates, credit, foreign exchange, equity and other commodity asset classes. CME's Canadian Trade Repository is a designated trade repository under Section 21.2.2(1) of the Securities Act (Ontario) and serves all thirteen Canadian provinces.

<sup>2</sup> *Notice of Proposed Rulemaking: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements* [hereafter *NPRM*], 88 FR 90046 (Dec. 28, 2023), available at <https://www.cftc.gov/sites/default/files/2023/12/2023-28350a.pdf>.

<sup>3</sup> Available at <https://www.cftc.gov/PressRoom/PressReleases/8673-23>.

reporting framework that advances the Commission's goals. In that spirit, CME, on behalf of its SDR and DCO functions, offers the following comments to the NPRM.

### **CFTC Regulation 43.4(c)(5) - Unique Product Identifiers and Product Classification System.**

Where the Commission has designated a UPI and product classification system pursuant to Regulation 45.7, proposed CFTC Regulation 43.4(c)(5)(i) would require reporting entities to provide, and SDRs to disseminate, swap data that includes such information.

Proposed Regulation 43.4(c)(5)(ii) provides that once a UPI and product classification system have been designated, an SDR's disseminated reports will limit or mask certain geographic detail for relevant swaps<sup>4</sup> by disseminating a UPI, provided by the reporting entity, in accordance with the requirements of Appendix E to the CFTC's Part 43 regulations ("Appendix E"). This change formally shifts the responsibility to limit geographic information that is publicly disseminated for certain swaps in the other commodity asset class from SDRs to the reporting entities, thereby codifying the current SDR practice of requesting such information on submissions. CME supports this change because reporting entities are best positioned to determine which UPI correctly maps to a specific delivery point or pricing point pursuant to Appendix E; SDRs do not independently have access to the information required to make such a determination. To the extent these proposed amendments codify existing practices among SDRs, CME expects minimal burden or cost to reporting entities from their adoption.

### **Data Element Appendices: Appendix A to Part 43 and Appendix 1 to Part 45**

CME is supportive of the Commission's proposal to require the following six (6) data elements as they will allow an SDR to meet its regulatory obligations, as discussed further below: (1) **Counterparty 1 Designation** (Data Element 28), (2) **Counterparty 2 Designation** (Data Element 29), (3) **Large notional off-facility swap election indicator** (Data Element 140), (4) **SEF or DCM indicator** (Data Element 146), (5) **Mandatory Clearing Indicator** (Data Element 14), and (6) **SEF or DCM anonymous execution indicator** (Data Element 147).

#### 1) Application of Time Delays to Publicly Reportable Swap Transactions

CME believes that adding the Counterparty 1 Designation (**Data Element 28**) and Counterparty 2 Designation (**Data Element 29**) fields is critical for SDRs to meet their obligations to apply time delays in accordance with CFTC Regulation 43.5 (e), (f), (g) and (h)<sup>5</sup> and Tables C2, C3, C4, C5 and C6 of Appendix C to Part 43 of the Commission's regulations ("Appendix C").<sup>6</sup>

The Commission's time delays are based on certain criteria, including but not limited to whether the transaction involves "...at least one Swap Dealer or Major Swap Participant counterparty". SDRs require information on the Swap Dealer ("SD") or Major Swap Participant ("MSP") status of the counterparties to accurately apply time delays. Where a field to capture the SD/MSP status of the counterparties to the swap is not included on the SDR submission, the potential that an SDR misapplies a time delay is increased. Misapplication of time delays could have adverse market impacts: adverse impacts to participants' ability to effectively hedge exposures in the case of premature dissemination of transaction details, and reduced transparency and price

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<sup>4</sup> See 17 CFR § 43.5 (c)(4)(iii).

<sup>5</sup> 17 CFR § 43.5(e), (f), (g) and (h).

<sup>6</sup> 17 CFR Part 43.

discovery in the case of delayed dissemination. While CME generally supports the reporting of these fields, we would suggest modifications to the proposed data elements to limit the information collected exclusively to an indication of SD/MSP status for the reasons detailed in Exhibit A to this letter.

As the Commission recognizes in the NPRM, adding the **Large notional off-facility swap election indicator** and **SEF or DCM indicator** fields is intended to facilitate an SDR's ability to meet its regulatory obligations under Parts 43 and 49 of the Commission's regulations.<sup>7</sup> These proposed fields are relevant to the application of reporting time delays driven by whether a transaction is (i) a block trade executed on or pursuant to the rules of a swap execution facility ("SEF") or a designated contract market ("DCM"),<sup>8</sup> or (ii) a Large Notional Off-Facility Swap ("LNOFS"). An SDR must know whether a transaction is a block trade executed on or subject to the rules of a SEF or a DCM, or a LNOFS, in order to apply the correct time delay. The current Technical Specification contains a **Block trade election indicator** field (data element 93) that identifies transactions as block trades; however, there is not a comparable field to indicate whether a transaction is an LNOFS. Absent such an indicator an SDR cannot know for certain if a publicly reportable swap transaction qualifies for a particular time delay.<sup>9</sup> This uncertainty increases the potential for an SDR to misapply the required time delay.

The NPRM proposes to add a **Mandatory Clearing Indicator** (Data Element 14) field to Appendix 1 to the CFTC's Part 45 regulations ("Appendix 1"), which would likewise facilitate dissemination only after the appropriate time delay. Although the Commission sets out the classes of swaps required to be cleared elsewhere in its regulations,<sup>10</sup> that information alone is not sufficient for an SDR to easily and accurately determine whether a given transaction is subject to mandatory clearing. Absent designation of a transaction as subject to mandatory clearing, SDRs would have to make a determination based upon some combination of the following fields: **<Notional Currency>** (Data Element 44), **<Effective Date>** (Data Element 141), **<Expiration Date>** (Data Element 142), **<Asset Class>** (UPI), **<Instrument Type>** (UPI), **<Underlier ID>** (UPI or Data Element 126), **<Underlier ID Source>** (UPI or Data Element 127), **<Embedded Option Type>** (Data Element 122) and **<Product>** (UPI). Given the imprecise nature of this method, an SDR risks misapplying the appropriate time delay. Accordingly, CME recommends that reporting entities be required to indicate whether each transaction is subject to mandatory clearing. CME is agnostic as to whether such a field should be publicly disseminated, as is proposed in the NPRM.

## 2) Creation and Transmission of Unique Transaction Identifiers for Certain Prescribed Entities

As noted above, CME SDR is supportive of adding the Counterparty 1 Designation (**Data Element 28**) and Counterparty 2 Designation (**Data Element 29**) fields to Appendix 1. In addition to providing SDRs with the information needed to apply an appropriate time delay to its public dissemination, this information enables SDRs to meet their obligations under CFTC Regulation 45.5(c)<sup>11</sup> for the creation and transmission of Unique Transaction Identifiers ("UTIs") for certain prescribed entities.

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<sup>7</sup> See NPRM, *supra* note 2 at 90056.

<sup>8</sup> CFTC Regulation 43.5(d) requires a 15-minute time delay from execution before block trades executed on or pursuant to the rules of a SEF or DCM are publicly disseminated.

<sup>9</sup> CME SDR utilizes a proprietary field to collect this information. As previously noted, when the Commission adopts an ISO schema CME assumes it may be required to remove most if not all proprietary fields.

<sup>10</sup> See 17 CFR § 50.4.

<sup>11</sup> 17 CFR § 45.5(c).

CFTC Regulation 45.5(c) requires the SDR to which required swap creation data is reported, upon request by a non-SD/MSP/DCO reporting counterparty that is not a financial entity (“FE”), to create a UTI meeting the required format and transmit it to the swap counterparties and any relevant DCO. Because this service is limited to reporting entities that are not SDs, MSPs, DCOs or FEs who have entered into an off-facility swap, an SDR must validate that the requestor is one of the categories of persons enumerated in Regulation 45.5(c). CME SDR currently uses a proprietary field to capture information regarding a reporting counterparty’s status as an SD or MSP. While this proprietary field addresses the need for this information in the near-term, we expect that an SDR’s ability to continue using proprietary fields may be curtailed or eliminated once the CFTC moves to an ISO schema. Accordingly, CME supports the addition of a field to capture the reporting entity’s status as an SD or MSP before the implementation of an ISO schema.

3) Masking Certain Identity Related Information for Swaps Executed Anonymously on a SEF or DCM and Cleared

CFTC Regulation 49.17(f)(2)<sup>12</sup> requires an SDR to restrict access to the identity and the legal entity identifier (“LEI”) of the other counterparty to a swap, as well as the identity of the other counterparty’s clearing member and such clearing member’s LEI for swaps executed anonymously on a SEF or DCM and cleared in accordance with the CFTC’s “straight-through processing” requirements. While the current CFTC’s Technical Specification contains the critical data element (“CDE”) field **Platform Identifier** (data element 98), valid values for the field are limited to ISO 10383 Market Identifier Code (MIC), XOFF, XXXX or BILT. A MIC identifies securities trading exchanges, regulated markets and non-regulated trading markets but it does not indicate whether the exchange/market is a SEF or a DCM. CME’s view is that an indicator field identifying whether a swap was executed on a SEF or DCM is necessary to ensure that an SDR can fulfill its obligations pursuant to CFTC Regulation 49.17(f)(2).

As the CFTC indicates in the NPRM, an SDR will also require a means to identify whether a swap executed on a SEF or DCM was done so anonymously.<sup>13</sup> Currently there is no CFTC field or systematic means for an SDR to determine whether a swap was executed anonymously on a SEF or DCM.<sup>14</sup> Proposed data element **SEF or DCM anonymous execution indicator** (Data Element 147) will provide an SDR with information that is necessary to satisfy the requirements of § 49.17(f)(2), while protecting counterparty anonymity.

### **Suggested Revisions to Regulation Governing the Application of Time Delay by SDRs**

In addition to the proposed revisions in the NPRM, CME takes this opportunity to suggest additional revisions and clean-up edits to the text of Regulation 43.5 and Appendix C to Part 43, as described below. CME does not expect these changes will require reporting entities to modify their systems – the impact would be limited to SDRs. CME views the impact of such changes on SDRs as adding certainty to regulatory requirements, streamlining implementation and reducing SDRs’ ongoing maintenance costs.

CME SDR recommends removing the word “business” from Regulation 43.5(h)(3) and Table C6 to Appendix C. The existing time delays for LNOFs (in all asset classes) not subject to

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<sup>12</sup> 17 CFR § 49.17(f)(2).

<sup>13</sup> See NPRM, *supra* note 2 at 90056.

<sup>14</sup> CME SDR has implemented a proprietary field to capture this information.

mandatory clearing for which neither counterparty is an SD/MSP is "24 **business hours immediately after the execution of such swap.**"<sup>15</sup> CFTC Regulation 43.2 defines the term "business hours" to mean "...consecutive hours of one or more consecutive business days" and the term "business days" to mean "the twenty-four hour day, on all days except Saturdays, Sundays and legal holidays, in the location of the reporting party or registered entity reporting data for the swap."<sup>16</sup>

SDRs must know the "location of the reporting party or registered entity reporting data for the swap" as well as the legal holidays in that location to accurately implement the relevant LNOF time delay. This information is not included in the Part 43 submission (nor for that matter in the Part 45 submission). Thus, for an SDR to be able to apply this delay it must collect the relevant data outside of its submission channels (i.e., as part of its onboarding process) and then transfer this information to its system(s) responsible for applying time delays. Further, since all timestamps submitted to an SDR are in coordinated universal time ("UTC") format, an SDR must convert the execution timestamp from UTC to the applicable time zone for the party at the time of onboarding to utilize the information regarding location and legal holidays. This process is complicated and costly to maintain, and it relies on a manual component that is prone to error. CME also notes that the number of trades to which the "24 business hours" standard applies<sup>17</sup> is very small.<sup>18</sup> CME's view is that the benefit of utilizing "24 business hours" rather than "24 hours" standard is limited, while the costs and operational complexity are significant. For these reasons, CME's view is that the cost and operational complexity that arises from maintaining the current "24 business hours" standard in Regulation 43.5(h)(3) is not worth the benefit derived. CME respectfully requests removal of the word "business" so the time delays in this category are standardized to 24 hours immediately after the execution of such swap.

In addition, CME respectfully suggests that the Commission consider harmonizing certain references contained in Regulation 43.5(e)(2) - (h) and Tables C2 - C6 in Appendix C. Specifically, the terms "excepted" and "exempted" appear to be used interchangeably.<sup>19</sup> Neither term is defined in Part 43, nor does the adopting release for the Part 43 regulations indicate that the terms have different meanings. Unless these terms do in fact have different meanings, we suggest replacing all instances of "exempted" with "excepted" for clarity and consistency in the statute.<sup>20</sup>

### **Additional Requests for Clarification**

In addition, CME requests verification that the reference to "...*off-facility swaps that are excepted from the mandatory clearing requirement pursuant to Section 2(h)(7) of the Act and Commission regulations*"<sup>21</sup> should be read to refer to all currently available exemptions from mandatory clearing (e.g., CFTC Regulations 50.50, 50.51, 50.52, 50.53 and CFTC No-Action

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<sup>15</sup> 17 CFR § 43.5(h)(3) (emphasis added).

<sup>16</sup> See 17 CFR § 43.2.

<sup>17</sup> Specifically, LNOFs (as defined in Regulation 43.2) that are not subject to mandatory clearing and for which neither counterparty is an SD or MSP.

<sup>18</sup> As of February 15, 2024, the total number of publicly reportable swap transactions submitted to CME SDR for which the parties elected to have the swap treated as LNOFs and for which neither party is an SD or MSP in products that are not subject to mandatory clearing is 111.

<sup>19</sup> In fact, in certain places the text of the regulation itself uses one term and the table pertaining to that same section of the regulation uses the other term (e.g., Regulation 43.5(f) uses the term "excepted", Table C4 uses the term "exempt", Regulation 43.5(g) uses the term "exempt" and Table C5 uses the term "excepted").

<sup>20</sup> Section 2(h)(7) of the Commodity Exchange Act uses the term "exceptions", thus our recommendation is to use that term.

<sup>21</sup> 17 CFR § 43.5(e)(1) and Tables C2 - C6 in Appendix C to Part 43.

Letter No. 13-22), as well as any future exceptions the Commission enacts or for which relief is provided.

Lastly, we request confirmation of our understanding that an off-facility swap that is required to be cleared under Section 2(h)(2) of the Act and is not cleared (for example, because no DCO offers clearing, an error, etc.), and provided the swap otherwise meets the criteria set forth in §43.5(e)(2),<sup>22</sup> (e)(3)<sup>23</sup> and Tables C2 and C3 in Appendix C, is **excluded** from such time delays. The result of such an exclusion is that the swaps should be subject to the applicable time delays set forth in §43.5(f), (g) or (h) and Table C4, C5 or C6 in Appendix C.<sup>24</sup>

### **Cost Estimates: Implementation of Additional Data Elements**

As noted above, CME is generally supportive of the proposed amendments. However, based on our experience with implementing the rewritten Part 43, 45, 46 & 49 regulations in 2020 - 2022 (the "Rewrite Amendments"),<sup>25</sup> we believe the Commission significantly underestimates the anticipated costs to implement the proposed changes.

The Commission requested comments on the estimated cost burdens to comply with the proposed amendments, as well as data or other information that the Commission should consider when quantifying the associated costs and benefits. In response to these prompts, CME is providing its estimate of the anticipated cost burden measured in manhours.

CME's approach to estimating the manhours needed to implement the new data fields in the NPRM is based on benchmarking against the manhours needed to implement the Rewrite Amendments (excluding changes unrelated to data elements and validations).<sup>26</sup> To obtain the total manhour estimate, CME estimated the number of information technology ("IT") resources assigned to the Rewrite Amendments project and multiplied it by the number of business days/hours they were allocated to the project. This calculation resulted in a total effort of roughly 12,000 manhours. CME then estimated that approximately 80% of the changes associated with the Rewrite Amendments directly or indirectly related to fields/validations. Thus, CME arrived at 9600 manhours (.80 x 12,000) as the benchmark for implementing and validating the data fields pursuant to the Rewrite Amendments.

The Rewrite Amendments covered 128 data fields.<sup>27</sup> The NPRM includes a total of 49 data elements, or 38% as many as the Rewrite Amendments. Multiplying the benchmark number of manhours for the data field and validation components of the Rewrite Amendments (i.e., 9600)

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<sup>22</sup> 17 CFR § 43.5(e)(2) ("Any large notional off-facility swap that is subject to the mandatory clearing requirement described in section 2(h)(1) of the Act and 17 CFR chapter I, in which **at least one party** is a swap dealer or major swap participant...") (emphasis added).

<sup>23</sup> 17 CFR § 43.5(e)(3) ("Any large notional off-facility swap that is subject to the mandatory clearing requirement described in section 2(h)(1) of the Act and 17 CFR chapter I, in which **neither party** is a swap dealer or major swap participant...") (emphasis added).

<sup>24</sup> Tables C4, C5 and C6 in Appendix C to the Part 43 regulations do not list "...swaps that are required to be cleared under Section 2(h)(2) of the Act and Commission regulations but are not cleared...." as swaps that should be **included**. We do not believe this was the intent since the result of not including them would mean these swaps would never be disseminated. This appears to be an oversight in the regulatory text of §43.5(f), (g) and (h) that was subsequently carried over into tabular form.

<sup>25</sup> See *Final Rule: Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 75503 (Nov. 25, 2020); *Final Rule, Real-Time Public Reporting Requirements*, 85 Fed. Reg. 75422 (Nov. 25, 2020); and *Final Rule: Certain Swap Data Repository and Data Reporting Regulations*, 85 Fed. Reg. 75601 (Nov. 25, 2020) (together the "Rewrite Amendments").

<sup>26</sup> For example, the creation of separate parts 43 and 45 message workflow.

<sup>27</sup> See, e.g., Technical Specifications *supra*, note 3.

by 38% (i.e., 0.38) yields a result of roughly 3600 IT manhours to implement the changes proposed in the NPRM.<sup>28</sup> CME believes this figure is more realistic, and it is significantly larger than the total 500 - 1000 manhours estimated by the Commission to implement the required data elements.<sup>29</sup>

## Compliance Date

The compliance date proposed by the Commission is 365 days following publication of the final rules in the Federal Register. While CME does not generally object to one calendar year as a reasonable timeframe for implementation, we believe that the trigger for the commencement of the 365 days should be the later of the publication of the final Technical Specifications or Guidebook, rather than publication of the final rules in the Federal Register. In addition, we respectfully ask the Commission to consider global implementation timelines when establishing its compliance date for the rule changes in the NPRM, to allow sufficient time between deliverables.

Due to the highly technical nature of changes to the Technical Specifications and the interdependence of data elements, a change in one data element can require a change in other data elements. Such changes may not be apparent until the SDRs analyze the Technical Specifications. Accordingly, there have been periods of collaboration between the Commission, SDRs and other market participants following publication of the revised Technical Specifications to determine if further amendments to the published Technical Specification and the Guidebook are needed before development efforts can commence. We believe this collaboration is a necessary and important part of the process as it mitigates potential implementation issues and unintended consequences.<sup>30</sup> However, this process does reduce the amount of time that SDRs and reporting entities have for their development and testing. The implementation window is further reduced due to the sequential nature of implementing the Technical Specifications, whereby each step must be completed before the next one can begin.<sup>31</sup>

We encourage the Commission to adopt a compliance date that provides CFTC staff with adequate time to finalize key documents while also providing SDRs and reporting entities with adequate time to implement the changes following finalization of all such documents. This can be accomplished by beginning the 365-day period on the later of the publication of the final Technical Specifications or the finalization of the updated Guidebook instead of upon publication of the final rules in the Federal Register.

Not factoring in adequate time to finalize key documents when establishing the compliance date increases execution risk for SDRs and reporting entities alike by further compressing their implementation timeline. A compressed timeline that doesn't allow adequate time to test or remediate, or which requires a reallocation of resources from other projects or other BAU activities, can introduce risks to other projects or systems from which those resources are allocated. To date, such execution risk has primarily been addressed through regulatory relief, which is time- and resource-intensive for both market participants and the Commission. CME's

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<sup>28</sup> This estimate does not include manhours contributed by its Compliance and Legal Departments or business-as-usual IT resources as they are not project-based resources and are difficult to isolate. The actual figure would of course be even higher if those resources were included.

<sup>29</sup> See *NPRM*, *supra* note 2, at fn. 137, 140.

<sup>30</sup> For example, reporting entities being unable to submit valid swaps due to conflicting or mandatory validations.

<sup>31</sup> For example, SDRs cannot begin their development work until the CFTC has finalized the Technical Specifications and the Guidebook and reporting entities cannot commence their development efforts until the SDRs have finalized their Technical Specifications.

view is that such risks can be fully mitigated by providing SDRs a full year to come into compliance after the Technical Specifications and Guidebook have been finalized.<sup>32</sup>

Further, we respectfully ask the Commission to remain cognizant of international regulatory changes and the potential for competing demands when establishing the compliance date. By way of example, the Canadian authorities have proposed amendments to local trade reporting rules.<sup>33</sup> Based on our information, the anticipated compliance date for the changes is currently Q2 2025. All four US-registered SDRs are authorized in Canada. Based on the most likely compliance dates for the US and Canadian rule changes, the four SDRs and any entities reporting in the US and Canada may have to implement both sets of changes in quick succession. Other global regulators are proposing changes as well. As the Commission is aware, implementing field-level changes to swap data reporting entails a high degree of complexity and requires a unique skill set. CME's estimates indicate that both projects will utilize a significant number of dedicated resources<sup>34</sup> and there are a limited number of resources globally that possess such skills. Delivery of both projects in close proximity presents a significant resource burden and may introduce execution risk and/or reduce the quality of the delivery. Other SDRs and market participants could face similar resourcing and timing constraints. Accordingly, we ask that the Commission establish a compliance date which provides SDRs and reporting entities with adequate time between global compliance deadlines.<sup>35</sup>

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CME thanks the Commission for the opportunity to comment on this matter. We would be happy to discuss any of these issues with the Commission. If you have any comments or questions, please feel free to contact me at 312 930 2324 or via email at [jonathan.marcus@cmegroup.com](mailto:jonathan.marcus@cmegroup.com).

Sincerely,

Jonathan Marcus  
Senior Managing Director, General Counsel

cc: Owen J. Kopon, Division of Market Oversight  
Kate Mitchel, Division of Data

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<sup>32</sup> Establishing the Compliance Date as 365 days from the later of: (1) publication of the final CFTC Technical Specification or (2) finalization of the amendments to the Guidebook.

<sup>33</sup> See, e.g., OSC and MSC Rule 91-507 Trade Repositories and Derivatives Data Reporting; OSC and MSC Companion Policy 91-507CP and OSC; MSC Companion Policy 91-506CP and MSC Staff Notice 91-507. AMF Regulation 91-507 Trade Repositories and Derivatives Data Reporting; Policy Statement to Regulation 91-507 respecting Trade Repositories and Derivatives Data Reporting; and Policy Statement to Regulation 91-506 respecting Derivatives Determination. CSA Multilateral Notice and Request for Comment – Proposed Amendments to Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting and Proposed Changes to Companion Policy 96-101 Trade Repositories and Derivatives Data Reporting.

<sup>34</sup> Implementation of the Canadian rules will entail a significant technology rewrite of CME's systems, similar in breadth and scope as the Rewrite Amendments. CME estimates this project will take roughly 11,000 manhours to complete.

<sup>35</sup> For example, if the deadline for compliance in Canada is April 2025, we suggest the earliest Commission compliance date to be six months later, or October 2025.



**EXHIBIT A**  
**COMMENTS on CFTC TECHNICAL SPECIFICATIONS/DATA ELEMENTS**

Topic/Data Element Number	Data Element Name	Comments
Addition of Guidance to the CFTC Tech Specifications <sup>36</sup> on how to report leg level fields	All Leg level fields (e.g., Notional Quantity, Quantity Frequency, etc.)	<p>The CFTC’s proposed Technical Specification includes guidance that would allow for association of leg level fields reported on submissions with the UPI product legs. We believe that guidance aligns with the normalization standard set by DSB specifically for interest rate swaps but it may not apply directly to swaps in other asset classes (e.g., FX, CO) that have multi-leg product templates and asset class-specific normalization criteria. We further note that the guidance does not fully account for scenarios where one or both the underliers are ‘Baskets’ rather than a single underlier.</p> <p>CME recommends that the proposed guidance be adopted and extended to account for FX, CO products and Basket-based products. We further recommend that this guidance be provided exclusively for use by reporting entities. CME does not believe it is appropriate to require SDRs to have rules in place to validate the application of the guidance. This is because in most cases, SDRs would have no means to confirm the application of the guidance.</p>
Reporting to an SDR for the Commodities asset class <sup>37</sup>	Not Applicable	<p>CME asks the Commission to confirm that upon its designation of a UPI pursuant to §45.7, a UPI, separate from and in addition to the UPI required for part 45, would be made available to reporting entities for those swaps in the other Commodity asset class for which limiting the geographic details is required.<sup>38</sup> If our understanding on that point is inaccurate it would impact our comments on § 43.4(c)(5)(ii) as well as several of the data elements contained in the CFTC’s Technical Specification.</p> <p>Additionally, we ask the CFTC to confirm that an SDR is not expected to verify or validate that the reporting entity has provided the appropriate UPI on the part 43 submissions.</p>

<sup>36</sup> Section 1.3.3. “Repeating data elements or leg-based products.”

<sup>37</sup> Section 1.4.2 “Reporting to an SDR for the Commodities asset class” and Appendix H – Part 43 and 45 Reporting Workflow of the CFTC Technical Specifications.

<sup>38</sup> Specifically, those swaps described in § 43.4(c)(4)(iii) and proposed § 43.4(c)(5)(ii).

Additional field to Facilitate Increased Data Accuracy	Clearing Member Identifier Source ( <b>Data Element 5</b> )	CME SDR is supportive of adding the Clearing Member Identifier Source and Counterparty 1 Identifier Source fields. As noted in the NPRM, this information is necessary for an SDR to be able to apply the listed validations to the data populated in the Clearing Member ( <b>Data Element 4</b> ) and Counterparty 1 (reporting counterparty) ( <b>Data Element 15</b> ) fields, respectively, and thereby increases data accuracy.
Extension of Existing Part 45 Data Elements to Appendix A to Part 43	Clearing exceptions and exemptions – Counterparty 1 ( <b>Data Element 12</b> )  Clearing exceptions and exemptions – Counterparty 2 ( <b>Data Element 13</b> )	CME believes that these fields need to be included as Part 43 fields in order for an SDR to be able to properly apply time delay as set forth in 43.5(e)(1) - (h) and Tables C2 - C6 in Appendix C to Part 43. An SDR requires Part 43 submissions to include information on whether a clearing exception/exemption was elected because that factor determines whether a longer time delay should be applied to a LNOFS. <sup>39</sup> Our understanding is that this is the sole purpose for which the fields are included on a Part 43 message. CME does not believe public dissemination of this information is necessary. Thus, CME recommends that the Commission include a note in the Technical Specification, in the “Part 43 SDR Validation and Dissemination Rules” column, stating “Do not disseminate” .
Counterparty-Related Data Elements	Counterparty 1 designation ( <b>Data Element 28</b> )  Counterparty 2 designation ( <b>Data Element 29</b> )	A subset of the data required to be populated in these new fields is required in SDR submissions today. Specifically, two separate proprietary indicator fields have been implemented by each SDR to capture whether the counterparty is an SD or MSP via a Boolean value (‘True’/‘False’). <sup>40</sup> If the CFTC adopts these fields as proposed, thereby extending the existing field to collect information on a counterparty’s status as a DCO and non-SD/MSP/DCO using enumerated rather than a Boolean value, it will require all SDRs and reporting entities to modify their field implementation. A change to the field will also require CME SDR (and potentially other SDRs) to modify its rules for determining, if requested, whether it is required to generate a UTI pursuant to Regulation 45.5(c). Lastly, adoption of the fields as proposed will also require CME SDR (and potentially other SDRs) to modify the rules it uses to meet its obligation related to the application of time delays under §43.5(e), (f), (g) and (h) and Tables C2, C3, C4, C5 and C6 of Appendix C to Part 43.

<sup>39</sup> CFTC Regulation 43.5(e)(1) require an SDR to **exclude** “.....large notional off-facility swaps that are **excepted** from the mandatory clearing requirement pursuant to Section 2(h)(7) of the Act and 17 CFR chapter I.....”. CFTC Regulation 43.5(f), (g) and (h) require and SDRs to **include** “...large notional off-facility swap that.....is **excepted** from such mandatory clearing requirement....” Thus, for an SDR to be able to determine whether to exclude or include LNOFS meeting this criterion it needs to know whether an exception from mandatory clearing was elected. This information is populated in the Clearing exceptions and exemptions – Counterparty 1 and Clearing exceptions and exemptions – Counterparty 2 fields.

<sup>40</sup> Currently the SDRs collect information on whether counterparty 1 and/or counterparty 2 are a Swap Dealer or a Major Swap Participant using the following fields: (i) SD MSP indicator – Counterparty 1 (Guidebook Field Number TR 202) and (ii) SD MSP indicator – Counterparty 2” (Guidebook Field Number TR 203). The valid values for these fields are “True” and “False”.

		CME does not believe that explicitly capturing the counterparty's designation as a DCO or a non-SD/MSP/DCO is necessary. The information as to whether counterparty 1 is a DCO can be derived from a combination of the Cleared field ( <b>Data Element 1</b> ) and the Central Counterparty field ( <b>Data Element 2</b> ) <sup>41</sup> . The designation as a non-SD/MSP/DCO can be derived from the existing SD MSP indicator – Counterparty 1/ SD MSP indicator – Counterparty 2 fields. <sup>42</sup> Thus, given that the new enumerated values can be derived from existing fields, we would ask that the field be adopted as an indicator field unless there are benefits from implementation of the field in this manner that outweigh the costs of SDRS and reporting entities having to modify their current implementation.
Revised Validations: Not Required for Cleared Swaps	Counterparty 2 Special Entity ( <b>Data Element 30</b> ).	As proposed, this field will be mandatory for all Part 45 reports. The NPRM indicates that this field is being added to assist the Commission in understanding how or if the <u>reporting counterparty</u> has met its regulatory obligations. Since a DCO (the reporting counterparty for cleared swaps) does not have any independent regulatory obligations related to Special Entities, requiring this field to be populated for swaps which have been cleared would provide no value to the Commission but would impose a cost on and add complexity to a DCO's processes. In light of these considerations, CME suggests this field be conditionally required for swaps that are not centrally cleared or are intended to be cleared (e.g., C if [Cleared] = 'N' or 'I'; NR if [Cleared] = 'Y').
Addition of a Footnote to Handle Specified Scenario	Custom Basket Code ( <b>Data Element 32</b> )	The definition for this data element states it "...is not applicable if...no unique code has been assigned to it." The listed validations state the field must be populated if the [Custom Basket Indicator] = 'True'; however; it does not account for scenarios where no unique code has been assigned. To resolve this gap, CME suggests a footnote be added indicating that "NOTAVAILBLE" should be populated if no unique code has been assigned.
Request for Guidance on an SDR's Validation Obligations	Basket Constituent Identifier ( <b>Data Element 33</b> )	According to the definition for this data element this field should be populated with "An identifier that represents a constituent of an underlying custom basket, in line with the Underlier ID within the ISO 4914 UPI reference data elements...". CME asks the Commission to confirm that SDRs are not expected to validate that the identifier provided conforms with the Underlier ID within the ISO 4914 UPI reference data elements.

<sup>41</sup> Cleared field is populated with "Y" and the Central Counterparty with a valid LEI it can be concluded that Counterparty 1 is a DCO.

<sup>42</sup> Counterparty 1 designation as a non-SD/MSP/DCO would be confirmed if the SD MSP indicator – Counterparty 1 field = false and the Cleared field is populated with "N" or "I". Counterparty 2 designation as a non-SD/MSP/DCO would be confirmed if the SD MSP indicator – Counterparty 1 field = false.

Request for Guidance on Expected Action Type for Incorrectly Expired Transactions	Action Type ( <b>Data Element 37</b> )	The definition of “Revive” has been expanded to include a transaction that was “...expired due to an incorrectly reported Expiration date.” CME does not believe that SDRs currently restrict any actions on an expired trade. Thus, a reporting entity can modify/correct the expiration date at any point in time when they realize it was reported erroneously, even if the trade is denoted as expired. Any trade which has been modified/corrected to reflect an accurate expiration date will be included in the Open Swap report without further action; provided that, the expiration date is greater than or equal to the report date. Accordingly, CME asks the Commission to advise whether it expects SDRs to implement restrictions regarding the actions that could be taken on expired trades. Further CME requests guidance on whether reporting entities are required to revive a trade for which an incorrect expiration date was reported before correcting the expiration date (i.e., REVI followed by CORR), or if reporting entities may simply correct the expiration date (i.e., CORR). If it is the latter, CME recommends that the additional language proposed for Action Type “Revive” not be adopted.
Request for Guidance on an SDR’s Validation Obligations	Event Timestamp ( <b>Data Element 41</b> )	Footnote 45 states that “In the case of collateral update (Action type = ‘MARU’), time portion should be reported as “00:00:00”.” We request guidance as to whether SDRs are expected to apply a validation to ensure the Event Timestamp for all MARU submissions adheres to this requirement.
Modification of Allowable Values	USD equivalent regulatory notional amount ( <b>Data Element 42</b> )	Since the ‘Notional Amount’ ( <b>Data Element 43</b> ) field allows negative notionals to be submitted for commodity transaction, the allowable values for the ‘USD equivalent regulatory notional amount’ should be modified from “Any value greater than or equal to zero” to “Any value (Negative values are only allowed for commodity derivatives when applicable, e.g., to account for the cost of storage).” CME also recommends adding a footnote that mirrors footnote 50 indicating that the default value “99999999999999999999.99999” should be used when the amount is not available at the time of reporting. <sup>43</sup>
Modification of Allowable Values	Call Amount ( <b>Data Element 48</b> ) Put Amount ( <b>Data Element 50</b> )	Since the ‘Notional Amount’ ( <b>Data Element 43</b> ) field allows for ‘0’, the allowable values the ‘Call Amount’ and ‘Put amount’ fields should be modified from “Any value greater than zero” to “Any value.”
Implementation and Dissemination of Price Schedule Fields	Price schedule - unadjusted effective date of the price ( <b>Data Element 97</b> )	As the Commission is aware, schedules present unique challenges to implementation and dissemination as there is no limit to their number. CME requests that the price schedule fields be implemented in a manner similar to the notional schedule fields ( <b>Data Element 45, 46 and 47</b> ). More specifically, CME proposes that data submitted in each respective field (e.g., Price schedule - unadjusted effective date of the price, etc.) should

<sup>43</sup> “99999999999999999999.99999” is accepted when the value is not available at the time of reporting. 25 numerical characters including decimals.

	<p>Price schedule – unadjusted end date of the price; (<b>Data Element 98</b>)</p> <p>Price schedule – price (<b>Data Element 99</b>)</p> <p>Strike price schedule – Unadjusted effective date of the strike price (<b>Data Element 106</b>)</p> <p>Strike price schedule – Unadjusted end date of the strike price (<b>Data Element 107</b>)</p> <p>Strike price schedule - strike price (<b>Data Element 108</b>)</p>	<p>be submitted under a single field with a predefined separator for repeating values. Further the max number of schedules for each field should be 10, with a character limit of 500. Lastly CME asks that the Commission add a note to the “Part 43 SDR Validation and Dissemination Rules that states “Disseminate only the first 10 reported values of the schedule”.</p>
<p>Request for Guidance on an SDR’s Validation Obligations &amp; Expected Value</p>	<p>Swap Pricing Method (<b>Data Element 116</b>)</p> <p>Pricing Date Schedule of the Swap (<b>Data Element 117</b>)</p> <p>Start and end time of the settlement window for the floating leg(s) (<b>Data Element 118</b>)</p>	<p>The definition of the ‘Swap Pricing Method’ and related fields specify that the fields are applicable for the floating leg of a swap. CME’s view is that the current validation (‘UPI.[Product] ≠ ‘Fixed - Fixed’) will not be sufficient for the following reasons:</p> <ul style="list-style-type: none"> <li>▪ Fixed-Fixed value for product is only specific to the Interest Rate asset class but the field is marked as conditional (‘C’) for all asset classes.</li> <li>▪ For the Interest Rate asset class ‘Fixed-Float’ fields would be applicable for the floating leg. However, as noted above, there is no means for an SDR to identify which leg is the floating leg and thus would be unable to apply the proposed validation.</li> </ul> <p>We request guidance regarding how SDRs need to apply these validations. If this cannot be done we would request the field to be marked as an optional field (‘O’).</p> <p>With regards to “Start and end time of the settlement window for the floating leg(s)” we ask the Commission to clarify what it means by the term “settlement window”. An example as to which date and time are expected to be populated in the field would be helpful.</p>

Proposed Validation Cannot be Enforced by SDRs	Underlier ID (Other) ( <b>Data Element 126</b> )	As proposed, this field is a leg level field that is only applicable when UPI.[Underlier ID] = 'Other'. CME notes that where a UPI has multiple associated identifiers (e.g., Basis Swap) only one of which was populated as 'Other', an SDR would have no way of determining which leg must be populated with the underlier value. In that instance the SDR would not have the ability to enforce the validation even when the condition is met.
Data Element not Required if Rules Governing Geographic Masking Implemented as Proposed	Physical Commodity Contract Indicator ( <b>Data Element 131</b> )	<p>SDRs requested this field as it is currently necessary for an SDR to determine whether the delivery or pricing point associated with the underlying asset(s) in the other Commodity asset class needs to be publicly disseminated as submitted or as indicated in Appendix E to part 43. However, if the regulations and related CFTC Technical Specification are adopted as proposed, SDRs will no longer be required to apply masking to swaps which fall under §43.4(c)(4)(iii) since information on the geographic regions will be included as part of the UPI. Thus, if adopted as proposed this data element will no longer be needed.</p> <p>If the final rules no longer require reporting entities to provide UPIs that mask the geographic regions, this field should be added as proposed. However, we do not believe the field should be implemented as a leg level field. CME's view derives from the fact that the regulation requiring geographic mapping references the publicly reportable swap transaction itself, not its individual components. Moreover, CME does not believe that masking one leg and not the other will enhance transparency and price discovery. Rather, we expect that outcome will more likely create confusion. For the sake of clarity CME suggests that the definition be amended to make clear this data element is only required to be provided for off-facility swaps.<sup>44</sup></p>
Recommend Data Element should be Adopted as a Single Field	Maturity Date of the Underlier ( <b>Data Element 133</b> )	As proposed this field is at a leg level. We are not aware of any scenarios where the maturity date of the underlier would be different by legs. Thus, we recommend this field be implemented as a single field and not at the leg level.
Additional Field to Distinguish Positions from Trades	Level	Certain swap products which clear at CME, particularly in the Commodity asset class, are netted to a Position at the end of each trading day. Currently in the US, there is no way to explicitly denote a submission as a Position, distinct from a Trade, as allowed for in certain other reporting jurisdictions (e.g., ESMA). Adding CDE data element 2.112

<sup>44</sup> We believe the text of the definition should be "Indicates whether or not the off-facility swap being submitted (1) references one of the contracts described in appendix B to part 43; or (2) is economically related to one of the contracts described in appendix B to part 43".

		'Level' to the CFTC's Technical Specifications as well as a new Action Type "POSC" <sup>45</sup> , at least for the Commodity asset class, would allow for increased data accuracy.
Entity Identifier Addition and Removal	Counterparty 1 Federal Entity Indicator ( <b>Data Element 26</b> )  Counterparty 2 Federal Entity Indicator ( <b>Data Element 27</b> )  Counterparty 2 Special Entity Indicator ( <b>Data Element 30</b> )	As proposed this field is a mandatory for all Part 45 reports. Based on the commentary in the adopting release in which these fields were introduced, <sup>46</sup> this field is to assist the Commission in understanding how or if the <u>reporting counterparty</u> has met its varying regulatory obligations. A DCO (the reporting counterparty for cleared swaps) does not have independent regulatory obligations related to Special Entities that require this field to be populated for swaps upon clearing. CME's view is that requiring a DCO to provide this field would add complexity and costs to the DCO's process without providing value to the Commission. Given this we suggest this field be conditionally required for swaps that are not centrally cleared or are intended to be cleared (e.g., C if [Cleared] = 'N' or 'I'; NR if [Cleared] = 'Y')
Modification of Allowable Values	Event Type ( <b>Data Element 38</b> )  Appendix F ( <b>Valid Action type and Event Type combinations for Part 43 and Part 45 reporting</b> )	As currently specified, when Action Type of "CORR" is used, Event Type must always be null. However, when a correction is necessary, the information that was erroneous may sometimes include the Event Type that was appropriate for the life cycle event originally being reported. For instance, a new trade might be misreported with Event Type of "TRAD" when a different Event Type such as "COMP" or "NOVA" would have been more accurate. In the example scenario, while other related fields may be corrected in a subsequent "CORR" submission, there is no way to correct the Event Type for a given UTI after the "NEWT" report has been accepted by the repository. We request that rather than being null, any Event Type be allowed when Action Type is CORR.

<sup>45</sup> To indicate that the submission is the result of an end of day netting process and not a Trade that has been executed.

<sup>46</sup> See *Final Rule: Swap Data Recordkeeping and Reporting Requirements*, 85 FR 75503, 75541 (Nov. 25, 2020).