

# HEARING TO REVIEW THE G20 SWAP DATA REPORTING GOALS

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## HEARING BEFORE THE SUBCOMMITTEE ON COMMODITY EXCHANGES, ENERGY, AND CREDIT OF THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS

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## **HEARING TO REVIEW THE G20 SWAP DATA REPORTING GOALS**

**THURSDAY, FEBRUARY 25, 2016**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON COMMODITY EXCHANGES, ENERGY, AND  
CREDIT,  
COMMITTEE ON AGRICULTURE,  
*Washington, D.C.*

The Subcommittee met, pursuant to call, at 10:03 a.m., in Room 1300 of the Longworth Building, Hon. Austin Scott of Georgia [Chairman of the Subcommittee] presiding.

Members present: Representatives Austin Scott of Georgia, Lucas, Neugebauer, LaMalfa, Davis, Kelly, David Scott of Georgia, and Aguilar.

Staff present: Kevin Webb, Paul Balzano, Stephanie Addison, Matthew MacKenzie, Nicole Scott, and Carly Reedholm.

### **OPENING STATEMENT OF HON. AUSTIN SCOTT, A REPRESENTATIVE IN CONGRESS FROM GEORGIA**

The CHAIRMAN. Good morning. I want to start today by thanking you for joining the Commodity Exchanges, Energy, and Credit Subcommittee for our first meeting of 2016.

As many of you may remember, the full House Committee on Agriculture held a hearing last July on the implementation of Dodd-Frank over the 5 years since it was passed. That hearing highlighted some of the remaining challenges that regulators must still tackle to complete the derivatives market reforms envisioned by world leaders in the aftermath of the 2008 global financial crisis. The purpose of today's hearing is to dive deeper on one issue in particular and that is the status of swap data reporting goals and to better understand what work remains to be completed.

In response to the crisis, a crucial goal of the G20 financial reform commitments was to bring about greater regulatory transparency in the over-the-counter derivatives marketplace.

With that focus, the United States imposed broad data collection requirements for OTC derivatives and established swap data repositories to collect and maintain swap data under the Dodd-Frank Act. The 5 years since the enactment of Dodd-Frank have seen some significant progress in the reporting of the OTC derivatives trades and several clear victories in the quest for market transparency.

However, this progress remains uneven, and major gaps remain in translating that progress in data reporting to meaningful market oversight. Data collection alone is not sufficient to achieve the goal

of increased regulatory transparency. Real insight into global systemic risk requires that regulators be able to aggregate data accurately from different SDRs here in the United States and across global jurisdictions.

Market participants have raised serious concerns about the status of regulatory transparency efforts. This Committee has heard testimony about the lack of common data standards and common reporting standards. This lack of standardization unfortunately falls at many points on the reporting spectrum, from inconsistency among global regulators on trade reporting requirements to undefined data collection requirements from the CFTC. Even something as simple as a defined way to record a date hasn't been established. Imagining the variety of possible variations for that one simple data point, do you start with the month or do you start with the year, helps illustrate the larger issue at hand.

I think we all agree that there is little regulatory value in non-standardized, non-aggregatable data. The question at hand then is how to continue moving the ball forward to achieve needed market transparency and, importantly, how to do so without forcing artificial standardization and a one-size-fits-all approach unto a highly customized market, especially in regard to the non-financial commodity swaps relied upon by end-users for risk management.

We hope to leave this hearing with a better understanding of the progress made towards meeting the reporting and transparency goals set forth by the G20, as well as market participants' and the CFTC's role in that process. In the end, the success or failure of our financial reform efforts cannot be judged by the list of rules finalized by the CFTC. Real reform requires coordination between global regulators to create a coherent system of regulation that fosters market access and promotes market integrity.

We are fortunate to be joined by a panel of distinguished witnesses here to share their views from both the regulatory and market participant perspectives. Thank you to each of you for appearing before us today. We look forward to hearing your perspective on these issues and appreciate the time and effort you've put forward to be here.

[The prepared statement of Mr. Austin Scott follows:]

PREPARED STATEMENT OF HON. AUSTIN SCOTT, A REPRESENTATIVE IN CONGRESS  
FROM GEORGIA

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In response to the crisis, a crucial goal of the G20 financial reform commitments was to bring about greater regulatory transparency in the over-the-counter (OTC) derivatives marketplace.

With that focus, the United States imposed broad data collection requirements for OTC derivatives and established swap data repositories (SDRs) to collect and maintain swap data under the Dodd-Frank Act. The 5 years since the enactment of Dodd-Frank have seen some significant progress in the reporting of OTC derivatives trades and several clear victories in the quest for market transparency.

However, this progress remains uneven, and major gaps remain in translating that progress in data reporting to meaningful market oversight. Data collection alone is not sufficient to achieve the goal of increased regulatory transparency. Real insight into global systemic risk requires that regulators be able to aggregate data accurately from different SDRs here in the United States and across global jurisdictions.

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This lack of standardization unfortunately falls at many points on the reporting spectrum, from inconsistency among global regulators on trade reporting requirements to undefined data collection requirements from the CFTC. Even something as simple as a defined way to record a date hasn't been established. Imagining the variety of possible variations for that one simple data point—do you start with the month or do you start with the year—helps illustrate the larger issue at hand.

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With that, I'll recognize our Ranking Member, Mr. Scott, for any remarks he'd like to make.

The CHAIRMAN. With that, I will recognize our Ranking Member, Mr. Scott, for any remarks he would like to make.

**OPENING STATEMENT OF HON. DAVID SCOTT, A  
REPRESENTATIVE IN CONGRESS FROM GEORGIA**

Mr. DAVID SCOTT of Georgia. Thank you, Chairman Scott. Getting data on swaps is one of the three main goals of Dodd-Frank. The lack of data to form an overall picture of what is happening in the markets was a major contributor to our financial crisis. This hearing is an excellent follow-up to the Dodd-Frank at 5 years hearing we had in July where we aimed to make inroads to completing the G20's vision of implementing clearing, margining, electronic execution, data reporting, and capital standards.

Here before us now today is the challenge of getting aggregate data from many repositories in many different jurisdictions. I agree with the Office for Financial Research who noted that good data are essential for good policy decisions, and data gaps and lack of data access hinder policymakers, hinder supervisors, and hinders regulators from understanding and addressing the vulnerabilities in individual institutions and markets across our financial system.

The CFTC has an important mission and will be unable to complete it without a data system that works for those reporting as well as the CFTC using the data. I am happy today to see every part of this industry represented here with the panel from every part of the data collection process. And I am confident that with

input from everyone involved, we will be able to put together a system that works.

So I would like to thank you, Mr. Rogers, you, Ms. Kruse, Ms. Collazo, and Mr. Gil for being here today, and I look forward to hearing your testimony. Thank you, Mr. Chairman.

The CHAIRMAN. The chair would request that other Members submit their opening statements for the record so the witnesses may begin their testimony and to assure that there is ample time for questions.

The chair would like to remind Members that they will be recognized for questioning in order of seniority for Members who were present at the start of the hearing. After that, Members will be recognized in order of their arrival. I appreciate Members' understanding.

Witnesses are reminded to limit their oral presentation to 5 minutes. All written statements will be included in the record. You should have a timer in front of you that is pretty accurate.

Now I would like to introduce the witnesses. Mr. John Rogers, Chief Information Officer, Commodity Futures Trading Commission, Washington, D.C.; Ms. Tara Kruse, Co-Head of Data Reporting for FpML, ISDA, New York, New York; Ms. Marisol Collazo, Managing Director and CEO of DTCC Data Repository, Depository Trust and Clearing Corporation, New York, New York; and Mr. Andrés Gil, Director, Center for Capital Markets Competitiveness and Representative, Coalition for Derivatives End-Users, Washington, D.C.

Mr. Rogers, please begin when you are ready.

**STATEMENT OF JOHN L. ROGERS, CHIEF INFORMATION OFFICER, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.**

Mr. ROGERS. Thank you Chairman Scott, Ranking Member Scott, and Members of this Subcommittee. I am pleased to update you on the CFTC's progress in achieving the G20's swap data reporting goals.

I am the Director of the CFTC's Office of Data and Technology and serve in the role of Chief Information Officer. In this capacity, I oversee the technology and data functions of the Commission.

As you know, increased data reporting was a key objective of the G20 agreement and Dodd-Frank.

The CFTC has made significant progress since 2008 where there was virtually no reporting of swaps positions or transactions. During the crisis, a lack of data made it difficult for regulators and market participants to assess the exposures and interconnectedness of major institutions.

Today, all swaps, whether cleared or uncleared, are reported to swaps data repositories. Public websites are providing price and volume information for individual swaps transactions in real-time. This facilitates efficient price discovery for all market participants, including end-users such as farmers, ranchers and commercial businesses of all types.

As a regulator, the CFTC's ability to oversee the swaps market has dramatically improved. But building this system is complicated and an ongoing task. It is time and resource intensive requiring

constant updates and refinements as we understand the data better.

As a result, the Commission is working to ensure the data it receives is clean, consistent, accurate, and timely. It is collaborating with market participants to analyze exactly what data should be reported, how it should be reported, by whom, and when. And the agency is working with industry and other nations to harmonize and standardize our efforts.

One of the issues the CFTC is taking action to address is the variation in how the same data from different counterparties is reported. This causes problems when it comes to aggregating and analyzing this information. To address this issue, CFTC staff recently requested public comment on technical specifications for the reporting of 120 priority data elements. This followed months of work to identify areas where standardization or clarification is needed. From this feedback, the Commission will develop proposals that specify the form, manner, and allowable values that each data element may have. In fact, just this week the Commission held a public hearing of the CFTC's Technology Advisory Committee to discuss this issue among others.

The Commission is also working towards obtaining complete data. Some required fields are not reported by participants, and SDRs do not believe they have the authority to reject data if it is incomplete. CFTC Chairman Massad recently underscored his belief that the CFTC should change its rules so that SDRs have a greater ability to improve the quality of data before it arrives at the CFTC. Staff is looking closely at this possibility.

Further, the CFTC is working to develop a uniform, effective means to identify swaps and swap activity by participant, transaction, and product type throughout the swap lifecycle. And we are at the forefront to addressing all these issues internationally.

I am pleased to co-chair the international task force that is leading global harmonization efforts.

Finally, the Commission continues to fine tune its rules to clarify which entities have an obligation to report data and what data must be reported. It is paying particular attention to the needs of commercial market participants, ultimately working to eliminate reporting obligations that are not necessary.

Thank you, Mr. Chairman, and Members of this Committee. Let me conclude by reiterating that this swap data reporting effort is a significant, global undertaking. Completing it properly will take time. But I believe the agency has made significant progress in just a few short years. Thank you again for inviting me. I welcome your thoughts and questions.

[The prepared statement of Mr. Rogers follows:]

PREPARED STATEMENT OF JOHN L. ROGERS, CHIEF INFORMATION OFFICER,  
COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Thank you Chairman Scott, Ranking Member Scott, and Members of this Subcommittee. I am pleased to be here today to update you on the Commodity Futures Trading Commission's (CFTC) progress in achieving the G20's swap data reporting goals.

The CFTC oversees the futures, options, and swaps markets. As you know, these markets are vital to our economy, affecting the prices we all pay for food, energy,

and other goods and services. They do this by providing farmers, ranchers and businesses of all types with the ability to manage costs and hedge commercial risk.

I am the Director of the CFTC's Office of Data and Technology and serve in the role of Chief Information Officer (CIO). In this capacity, I oversee the technology and data functions of the Commission. I am responsible for strategic planning, data management, systems development, infrastructure operations, information technology (IT) security and technology planning.

In 2010, the role of the CIO changed significantly. As you know, swap data reporting was one of the key goals of G20 agreement, and was later codified in the Dodd-Frank Act. As a result, the CFTC's responsibilities in this area were expanded following Dodd-Frank's enactment.

### **Background**

Since the passage of the Dodd Frank, the Commission has adopted rules for data reporting that have fundamentally changed how we view the markets. For example, in the fall of 2008, there was effectively no reporting of swap transactions or positions. During the crisis, this lack of information made it difficult for regulators and market participants to assess the exposures of major institutions, or the interconnectedness of those exposures. In fact, the opaque nature of this market may have contributed to excessive risk-taking in the first place.

Today, we see a different landscape. Increased data reporting has provided greater transparency to market participants. Regulators have a greater ability to assess systemic risk in the market.

For example, currently all swaps, whether cleared or uncleared, must be reported to swap data repositories (SDRs). There are four SDRs operating in the United States, and there are two dozen internationally. The Commission has requirements for which market participants must report, what and when they must report, and how they operate.

Increased transparency and access to information on swaps has benefited the public. For example, SDRs' public websites provide price and volume information for individual swap transactions in real-time. This facilitates efficient price discovery for all market participants, including end-users such as farmers, ranchers and commercial businesses. In addition, the CFTC provides a Weekly Swaps Report that gives an aggregate snapshot of the market, sliced and diced in various ways. Users of swaps also have access to data through swap execution facility (SEF) platforms and other vendors that facilitate price discovery.

This transparency has also fostered private sector innovation that is further promoting the public good. For example, some companies are analyzing swap execution facility (SEF) data and packaging it in a way that provides a more comprehensive picture of what's happening on SEFs at any given time. Other companies are enhancing public data by aggregating information from SDRs in real-time.

As a regulator, the CFTC reaps the benefits of this data as well. Our ability to oversee the swaps market has dramatically improved. As with futures and options data, swaps data is critical in helping the CFTC fulfill its core mission.

Over the years, the Commission has built a sophisticated surveillance system for futures that relies on inputs from clearinghouses, clearing members and large traders. Examples of this data include clearing member positions by house and customer account, as well as by individual customer; large trader reporting; the amounts of both initial margin held, and variation margin paid and received; as well as the financial resources of firms. These and other inputs allow staff to look at market risk, liquidity risk, credit risk and concentration risk on a daily basis—all at the clearinghouse, clearing member, and trader level. For example, this helps the Commission to stress test exposures and back test the adequacy of margin coverage, all of which is important to oversight of the markets.

The CFTC is now building swaps into these risk surveillance systems, to identify and monitor swaps activities and exposures. This allows the CFTC to stress test those exposures, compare them to available margin, and look at potential systemic issues. The Commission looks at activity and risk at the clearinghouse, clearing member, swap dealer and large customer level. With uncleared exposures, the CFTC focuses on activity between counterparties, the interconnectedness of large institutions, and other areas.

In addition to risk surveillance, the agency uses swaps data for enforcement, economic analysis of market trends, and evaluation of new products.

In all of these areas, swaps data has helped the agency do more to create an efficient and accurate reporting system. It is a significant undertaking. Futures reporting relies on a relatively small number of reporting entities. Moreover, contracts are highly standardized. Therefore, our reporting rules for futures are considerably less complex. In contrast, swaps make up thousands of entities reporting on an infinite

variety of transactions. Because swaps can be traded on a variety of platforms or bilaterally, the Commission has worked to design a system that can analyze and aggregate swaps data from across all these execution and clearing venues. It is important to have a reporting system that recognizes this variation, but still enables us to aggregate where appropriate. In addition, swaps can go through many stages and changes, making it critical to track that swap through its lifecycle.

Building this system is complicated and time consuming. It requires constant updates and refinements, as we understand the data better. The Commission is collaborating with market participants and other nations in this work, to harmonize and standardize our efforts. Indeed, this is not something the CFTC can do on its own. The Commission requires data that is clean, consistent, accurate and timely. And we are continuing to work with market participants to analyze exactly what data should be reported, how it should be reported, by whom and when. Above all, we are working to achieve an efficient and effective process to help us achieve these goals.

### **Improving Data Reporting**

The Commission is taking on a number of initiatives to improve the accuracy, efficiency and timeliness of data reporting. They include the following:

***Making Sure the Data is Consistent and High Quality.*** The Commission is working to ensure the data it receives is more consistent and high-quality than today. Today, there can be variation in how the same information from different counterparties is reported to the SDRs, and in how the SDRs themselves transmit the same information to us. And this occurs even with relatively simple pieces of information.

For example, a simple foreign exchange benchmark or a credit default swap index may be reported seven or eight different ways by market participants. This causes problems when it comes to aggregating and analyzing this information.

To address the issue, in December, CFTC staff requested public comment on technical specifications for the reporting of 120 priority data elements. Our request for public input marks the culmination of months of work to identify priority areas where standardization or clarification is needed. This included feedback from a 2014 concept release on this issue as well as constructive input from our Technology Advisory Committee.

The priority fields include a number of swap data reporting topics, such as counterparties, price, clearing, product, periodic reporting, orders, options, notional amount and many others. The Commission will use public comments to develop proposals that specify the form, manner and allowable values that each data element can have.

***Making Sure the Data is Complete.*** The Commission also is working towards obtaining complete data. There are a number of challenges here. Some required fields are not reported by participants, and SDRs don't believe they have the authority to reject data if it is incomplete. Though we have seen an improvement across a number of data fields, there is additional work to do. In the past, CFTC Chairman Massad has underscored his belief that the CFTC should change its rules so that SDRs have a greater ability to improve the quality of data before it arrives at the CFTC. Staff is looking closely at this possibility.

***Refining Swap Identifiers.*** The CFTC is working to develop a uniform, effective means to identify swaps and swap activity by participant, transaction and product type throughout the swap lifecycle. These include the Legal Entity Identifier (LEI) as well as the Unique Transaction Identifier (UTI) and Unique Product Identifier (UPI). The LEI is the most advanced. It is a critical way to identify a specific entity and its activities. There are more than 400,000 LEIs today.

Our goal is to expand the usefulness of the LEI so that it can be used to identify related entities—and aggregate positions or transactions among them, something that cannot be done efficiently today.

Aggregation is particularly important given that many market participants have a number of affiliates. The Commission currently can aggregate entities manually by name, but that is time consuming and not always accurate. The CFTC is working closely with the LEI Regulatory Oversight Committee (ROC) and other regulators to develop solutions that will address this challenge. The LEI ROC is a group of more than 70 public authorities from more than 40 countries. Its mission is to coordinate and oversee the development of a worldwide framework for LEIs, known as the Global LEI System.

***International Efforts.*** The Commission is also a leader in addressing these issues internationally. The CFTC co-chairs an international task force that is leading the effort to harmonize data reporting standards. This has been formed under the auspices of Committee on Payments and Market Infrastructures (CPMI) and the

International Organization of Securities Commissions (IOSCO), and it involves many representatives from regulators in the G20 nations. I am pleased to co-chair this task force.

One of the task force's projects is to standardize the reporting of data fields by proposing definitions and formats for each field. The task force recently published an initial consultative document containing a batch of data fields. The CFTC is coordinating its in-house standardization efforts with this international work.

In addition, that same international task force on data is developing a standardized unique transaction identifier, which is similar to our unique swap identifier. This will enable regulators to track a particular swap through its lifecycle.

This international forum is also developing a standardized unique product identifier, which will enable regulators to classify swaps by product type. They expect to issue guidance on both the UTI and UPI this year. This work will enable us to track swaps and aggregate data much more effectively.

**Clarifying Reporting Obligations and Eliminating Unnecessary Reporting Obligations.** The Commission has also endeavored to clarify who has the obligation to report data and what data must be reported. It is also working to eliminate reporting obligations that are not necessary.

For example, CFTC staff made it clear that SEFs do not have an obligation to report confirmation data they do not possess—such as confirmation data that is incorporated from an underlying Master Agreement. Commission staff have made clear that SEFs only need to report the primary economic terms and such other confirmation data to which they already have access. This relieves SEFs of any obligation to obtain an underlying Master Agreement or similar documentation.

The Commission has also proposed modifications to the rules governing record-keeping and reporting of cleared swaps. Under the current regime, if a swap is transacted on a SEF, it is reported to an SDR. If that “alpha” swap is then cleared, the so-called “beta” and “gamma” swaps that are created as a result are also reported. But those two new swaps might be reported to a different SDR than the one to which the original alpha swap was reported, and there might not be any record of the termination of the alpha swap. This creates confusion.

Recently, the Commission proposed to fix these issues by creating a simple, consistent process for the reporting of cleared swaps. That means clarifying the reporting obligations of the clearinghouse where the swap is cleared. If adopted by the Commission, this clarification will help ensure that there are not multiple records of a swap that can lead to erroneous double counting, and that accurate valuations of swaps are provided on an ongoing basis. It will eliminate unnecessary reporting requirements. It will help to reduce reporting costs and improve the quality of swap data. And it will improve the Commission's ability to trace swaps from execution through clearing.

The CFTC is taking other actions to eliminate reporting certain obligations when unnecessary. For example, the Commission has proposed eliminating the obligation of commercial participants to report trade options to SDRs, as to ensure the benefits outweigh the costs.

Further, CFTC staff has eliminated the Index Investment Data report, which we produce monthly. This is a survey of index-related holdings of certain traders and dealers. The report was started before our current swap reporting rules were implemented.

**Enforcing Reporting Obligations.** Equally important to our data efforts is the need to enforce reporting obligations. For those industry participants who do not make timely, complete and accurate reporting, the Commission has carried out enforcement actions. Recently, the Commission fined a major global bank \$2.5 million for repeated failures to comply with swap reporting obligations, including failing to report swaps and failing to correct errors in its reporting. And since the beginning of 2014, the CFTC has brought actions against six other institutions, including other major banks and an exchange, for various types of reporting violations. Promoting compliance in record-keeping and reporting, and holding those who are not in compliance accountable, remains an important priority.

## Conclusion

Thank you, Mr. Chairman and Members of this Committee. Let me conclude by reiterating that this swap data reporting effort is a significant, global undertaking. As with any such effort, completing it properly will take time.

However, there should be no doubt that this is a priority and the Commission has made substantial progress. During the crisis, regulators and market participants were unaware of what the swaps market truly looked like. Today, we have much greater transparency into those markets, which benefits regulators, lawmakers and market participants alike. As the CFTC refines the data and reporting system over

time, we will further enhance that transparency and thereby, the resiliency of our financial system.

Thank you for again for inviting me. I welcome your thoughts and questions.

The CHAIRMAN. Ms. Kruse? Ms. Kruse?

**STATEMENT OF TARA KRUSE, CO-HEAD OF DATA REPORTING AND FpML, INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION, NEW YORK, NY**

Ms. KRUSE. Chairman Scott, Ranking Member Scott, and Members of the Committee, thank you for the opportunity to testify today. My name is Tara Kruse, and I am Co-Head of Data Reporting and FpML at the International Swaps and Derivatives Association.

A central component of the G20 commitments in Pittsburgh was the reporting of derivatives to trade repositories in order to increase transparency and enable regulators to spot risk concentrations. Recognizing derivative markets are global, the G20 committed to use consistent standards in order to avoid fragmentation and regulatory arbitrage.

Substantial efforts have been made toward realizing these commitments. Today, derivatives trades in the United States are reported to trade repositories. An increasing number of transactions are reported globally.

Despite these advancements, U.S. regulators have struggled to fully understand and optimize the data being reported and are not in a position to have a complete picture of either domestic or global risk exposures. This visibility is impeded by the failure to use globally consistent standards that facilitate efficient, accurate data reporting that is suitable for aggregation and systemic risk analysis.

Contributing to the challenge is the fact that each regulator has developed a unique set of reporting requirements and devised its own list of reportable data fields. This not only makes reporting complex and more costly for derivatives users, but it means the data cannot be aggregated to obtain a clear view of global derivatives trading activity.

Let me illustrate this important point with a very simple analogy. Imagine if every car dealership in the United States and around the world was required to report basic facts about each and every car that it sold, including the car's size. Due to differences in regulatory oversight of these dealerships, some dealers reported size as the car's weight. Others as the number of passengers it held, yet others as its length or its horsepower.

The solution is for regulators to work together and with the industry to agree on a core list of systemically important data fields that are reported in a consistent manner based on existing data and messaging standards. ISDA stands ready to help in this regard. We have worked to develop standard taxonomies and standard messaging language, and we are currently leading an industry initiative to develop standard product identifiers.

ISDA and its members would suggest several concrete steps that could be taken to improve data reporting and systemic risk monitoring, while at the same time reducing the cost and complexity for market participants.

First, CPMI–IOSCO should lead global data harmonization. Agreement on common data standards should be achieved in coordination with the efforts of the Harmonization Group of global regulators established by CPMI and IOSCO. This group has issued consultations on standard transaction and product identifiers, as well as reportable data elements. Consistency on these standards is key to achieving greater harmonization. It is important the CFTC and SEC are aligned with this global initiative and do not engage in further overlapping and potentially contradictory data proposals.

Second, data fields should be specified and based on existing market standards. Regulators should work with industry to ensure regulatory requirements closely align with prevailing industry-defined terms and practices. All data elements required by regulators to meet their objectives should be explicitly specified in the regulations. Existing derivatives messaging standards, such as Financial Products Markup Language, or FpML, should be leveraged where possible.

Third, domestic regulators should align on data rules. Given that both the CFTC and the SEC developed reporting rules in response to the same piece of legislation, the rationale for issuing different requirements is difficult to comprehend. The split between swaps and security-based swaps undermines the ability of the Commissions to aggregate their data and provide Congress with a holistic view of risk in the U.S. derivatives market.

Finally, reporting requirements should be rationalized and streamlined. Regulators should determine what data they need to monitor systemic risk and simplify reporting requirements accordingly. Certain data fields are currently required to be reported or proposed to be required that offer little insight into risk. This increases the volume of data that needs to be analyzed, to little benefit, and increases the cost and complexity of reporting which in turn undermines data quality. Regulators should agree on a meaningful set of globally consistent data fields that enables them to meet their regulatory objectives. Regulators should also assign the sole responsibility for both the reporting of data and the accuracy of the data for a transaction to a single party which is best situated to do so, thereby reducing the cost and burden to end-users.

Thank you for inviting me to speak today on this important topic. ISDA is a strong proponent of improving the accuracy, consistency, and efficiency of transaction reporting while mitigating its costs and burdens. We stand ready to help. Thank you.

[The prepared statement of Ms. Kruse follows:]

PREPARED STATEMENT OF TARA KRUSE, CO-HEAD OF DATA REPORTING AND FpML,  
INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION,<sup>1</sup> NEW YORK, NY

Chairman Scott, Ranking Member Scott, and Members of the Subcommittee, thank you for the opportunity to testify today.

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<sup>1</sup>Today, ISDA has over 850 member institutions from 67 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, clearing houses and repositories.

It's now more than 6 years since the Group of 20 (G20) nations gathered in Pittsburgh and agreed to a set of commitments to reform the over-the-counter derivatives market. A central component of those commitments was the reporting of derivatives to trade repositories in order to increase transparency and enable regulators to spot risk concentrations. Recognizing derivatives markets are global, the G20 committed to implement consistent standards on a global basis in order to avoid fragmentation and regulatory arbitrage.

Over the past few years, substantial efforts have been made toward realizing this commitment. Today, virtually all derivatives trades in the U.S. are reported to a trade repository. An increasing number of jurisdictions around the world have also imposed such a requirement.

However, while the letter of the commitment is being realized, the spirit of this sound public policy goal is not.

U.S. regulators have struggled to fully understand and optimize the data being reported. Also, they are not in a position today to receive a complete picture of global risk exposure. This comprehension is impeded by a lack of regulatory endorsed, globally consistent standards that facilitate efficient, accurate data reporting that is suitable for aggregation and systemic risk analysis.

Contributing to the challenge is the fact that each regulator has developed a unique set of reporting requirements and devised its own list of reportable fields. This not only makes reporting complex and costly for derivatives users, but it means the data cannot be aggregated to obtain a clear view of global derivatives trading activity.

This is not just a case of divergent reporting rules between different countries. There are also differences in reporting requirements within the same jurisdiction. For instance, the CFTC and SEC require different data to be reported and have set different parameters to determine which trades should be subject to reporting. These differences are unnecessary and prevent regulators from meeting the G20 objective of monitoring and mitigating systemic risk. They also run counter to regulators' commitment to implement consistent global standards.

Let me illustrate this important problem with a simple analogy. Imagine if every car dealership in the U.S. and around the world was required to report basic facts about each and every car sold, including the car's size. Due to differences in regulatory oversight of all of these dealerships, some dealers reported size as the car's weight. Others as the number of passengers it held. Yet, others as its length or its horsepower.

As the example makes clear, the answer here is not to require more data to be reported. Instead, regulators should work together and with the industry to agree on globally consistent reporting requirements, as well as data and messaging standards. ISDA stands ready to help in this regard. We've worked to develop standard taxonomies and a standard messaging language, and we are currently leading an industry initiative to develop standard product identifiers.

ISDA and its members would suggest several concrete steps that could be taken to improve data reporting and systemic risk monitoring, while at the same time reducing cost and complexity for reporting parties.

- **CPMI-IOSCO Should Lead Global Data Harmonization**

Agreement on common standards should be achieved in coordination with the Committee on Payments and Market Infrastructure (CPMI) and International Organization of Securities Commissions (IOSCO) which have established a Harmonization Group comprised of global regulators. CPMI-IOSCO has issued consultations on standard transaction and product identifiers, as well as other data elements. Consistency on these standards is paramount to achieving greater harmonization. It's important the CFTC and SEC are aligned with this global initiative and do not engage in further overlapping and potentially contradictory data proposals.

- **Data Fields Should be Specified and Based on Existing Market Standards**

Regulators should work with industry initiatives, such as ISDA's Symbology project,<sup>2</sup> to ensure regulatory requirements closely align with prevailing industry defined terms and practices. All data elements required by regulators to meet their objectives should be explicitly defined in the regulations. Existing de-

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<sup>2</sup><http://www2.isda.org/functional-areas/symbology/>.

derivatives messaging standards, such as Financial products Markup Language<sup>3</sup> (FpML), should be leveraged where possible.

- **Domestic Regulators Should Align on Data Rules**

The CFTC and SEC rules should be aligned. Given both agencies developed reporting rules in response to the same piece of legislation, the rationale for issuing different requirements is difficult to comprehend. The split between swaps and security-based swaps is a creation of the U.S. regulatory system which undermines the ability of the CFTC and SEC to aggregate their data and provide Congress with a holistic view of risk in the U.S. derivatives market.

- **Reporting Requirements Should be Rationalized and Streamlined**

Regulators should determine what data they need to monitor systemic risk and simplify reporting requirements accordingly. Certain data fields are currently required to be reported or proposed to be required that offer little insight into risk. This increases the volume of data that needs to be analyzed, to little benefit, and increases the cost and complexity of reporting which undermines data quality. Regulators should agree on a meaningful set of globally consistent data fields that enables them to meet their regulatory objectives. Further, regulators should assign the sole responsibility for the reporting of accurate data for a transaction to a single party which is best situated to provide timely, complete data.

\* \* \* \* \*

I'd like to address these issues in more detail. Before I do, I would like to stress that ISDA supports the intent of the G20 and the Dodd-Frank Act to improve transparency in derivatives markets and to ensure regulators have the information they need to monitor systemic risk. ISDA has worked with its members to drive implementation of this objective, for example, in its work to develop common taxonomies and messaging standards. ISDA's work to drive implementation is also exemplified by the recent establishment of the ISDA Symbology project to develop a common product identifier for regulatory and reference data purposes. This initiative will incorporate the recommendations made by CPMI-IOSCO.

This is consistent with our mission statement: ISDA fosters safe and efficient derivatives markets to facilitate effective risk management for all users of derivative products. In fact, our strategy statement was recently modified to emphasize the importance of a safe, efficient market infrastructure for derivatives trading, clearing and reporting.

Since ISDA's inception 30 years ago, the Association has worked to reduce credit and legal risks in the derivatives market and to promote sound risk management practices and processes. This includes the development of the ISDA Master Agreement, the standard legal agreement for derivatives, and related collateral documentation as well as our work to ensure the enforceability of netting.

### **1. CPMI-IOSCO Should Lead Global Data Harmonization**

The implementation of trade reporting was intended to improve transparency in the derivatives markets and mitigate systemic risk. G20 leaders also committed to take action at the national and international level to raise standards together to implement global standards consistently in a way that ensures a level playing field and avoids fragmentation of markets, protectionism and regulatory arbitrage. Progress has been made on the former objective, but full realization of this goal cannot be achieved without significant advancement on the latter.

Under the CFTC's Parts 43, 45 and 46 regulations reporting to trade repositories has been live in part since December 31, 2012 and reporting across asset classes and by all U.S. participants to swaps has been in place since April of 2013. Data regarding swaps that were live on or after the enactment of the Dodd-Frank Act or which have been transacted since have been and continue to be reported to trade repositories. Despite the availability of swap data to the public and to the CFTC, questions remain regarding whether the CFTC is collecting the most useful data set and whether such data is consistent and accurate enough to monitor market risk.

The successful implementation and oversight of the Legal Entity Identifier to uniquely identify parties to a transaction is proof that global regulatory collaboration can result in standards that are extremely valuable to market risk analysis. With the LEI as precedent, ISDA strongly supports the ongoing efforts of the CPMI-IOSCO Harmonization Group to develop recommendations for global standards for trade identifiers (UTI), product identifiers (UPI) and other reportable data elements. ISDA worked with its members to develop industry standards for trade

<sup>3</sup><http://www.fpml.org/>.

identifiers and product identifiers in the absence of global regulatory standards and developed best practices to improve the consistency of reporting. Although these have been used successfully by a majority of market participants for reporting across the globe, comprehensive use can only be achieved through regulatory endorsement and mandates.

ISDA has provided substantive feedback to the first three derivatives data consultations issued by CPMI-IOSCO, including one on an initial batch of other data elements (the “ODE Consultation”),<sup>4</sup> such as notional and clearing status. The CFTC is currently taking comments on a Draft Technical Specifications for Certain Swap Data Elements (“Technical Specifications”). While we commend the CFTC for addressing the acknowledged and necessary corrections in its data rules, it is not being done in concert with other regulatory reforms. Despite the CFTC’s role as co-chair of the Harmonisation Group and the active participation of CFTC staff in its sub-groups, for many of the data elements which were also part of the ODE Consultation, the Technical Specifications asks different questions and makes different proposals for the naming of data elements as well as their descriptions and allowable values.

ISDA believes the CFTC has missed an important opportunity to focus its resources on inputting to global harmonization goals and instead has replicated or repurposed those efforts. Any further consultation or proposed rulemaking by the CFTC with respect to its reporting regulations should align with and be fully-inclusive of all information from the efforts of the Harmonisation Group with the goal of a single industry-wide transition to the globally recommended data standards of CPMI-IOSCO determined in accordance with its responsibilities as assigned by the Financial Stability Board.<sup>5</sup>

## **2. Data Fields Should Be Specified and Based on Existing Market Standards**

Limitations on the usefulness of the collected data to analyze systemic risk is not attributable to missing data as much as it is about the quality and consistency of the data that is collected. Each relevant national regulator has issued its own version of reporting requirements and its own list of reportable data fields that are not always based on existing industry standard terms, definitions and messaging standards for derivatives. In some cases, the trade terms required to be reported are not explicitly specified in the regulations but instead left to SDRs and market participants to determine. These approaches complicate the task of reporting and undermine data quality since parties are required to interpret the data desired by the regulator or transform the data in a way that may not align with how the economics of the trade were agreed between the parties and represented in the legal confirmation for the transaction.

Regulators would make significant headway in improving the rules if they follow three principles:

1. Use of industry standards where possible.
2. Provide appropriate oversight and commitment to market participants so they can develop industry-based solutions.
3. Be specific when developing data requirements.

### *Regulators Should Use Industry Standards Where Possible*

The market can’t trade without certain convention and standards, just like our interstate system can’t function without consistent and specific traffic rules. The marketplace has already developed data and trading conventions that can be readily applied on a global basis to support the data harmonization efforts. The following standards already exist for (i) the name, definition and values of the key economic terms of derivatives transactions and (ii) messaging representation of these data elements for reporting. Global standards for trade reporting should be aligned with, and benefit from, these existing industry standards.

### **Product Definitions**

ISDA product definitions are incorporated by reference into confirmations for derivations transactions. The terms they define are the market standard references, providing legal certainty to counterparties on the economic terms of their transactions. The CFTC, SEC and other global regulators should align with these terms and definitions for the sake of specificity, accuracy, and efficiency. There is no value in re-

<sup>4</sup>[http://www2.isda.org/attachment/NzkzNA==/CPMI-IOSCO%20Response\\_ODE\\_9%20Oct%202015\\_FINAL.pdf](http://www2.isda.org/attachment/NzkzNA==/CPMI-IOSCO%20Response_ODE_9%20Oct%202015_FINAL.pdf).

<sup>5</sup>[http://www.fsb.org/wp-content/uploads/pr\\_140919.pdf](http://www.fsb.org/wp-content/uploads/pr_140919.pdf).

fining the framework for legal agreement of derivatives transactions for the purposes of reported data. Rather, the reported data should seek to mirror the terms and values as they are agreed and confirmed between the parties to the transactions to ensure harmonization between the execution confirmation and reporting processes.

Using alternative terms, definitions and values for reported transactional data requires parties to transform their trade data to represent it in an inconsistent manner solely for the purposes of reporting. This greatly increases the challenge of reconciling SDR data back to a reporting counterparty's source systems or the confirmation, and inhibits bilateral reconciliation since a non-reporting counterparty will not have transformed their data in accordance with the relevant reporting regulations. These challenges are further exacerbated when the parties are required to represent the data for the same trade differently when reporting to multiple jurisdictions. It is not practical for parties to create, report and maintain several different data representations of the same trade without impinging on the clarity and certainty of the transactions terms. Aligning reporting regulations with the applicable established product definitions is the more accurate and appropriate baseline for representing reported data.

#### Messaging Standards

The other key to leveraging existing trade representation is through the use of established reporting standards that are designed from, and align with, the ISDA product definitions. FpML is the predominant messaging standard for OTC derivatives, facilitating both the electronic confirmation and electronic reporting of transactions. Significant enhancements have been made to FpML to support both global and jurisdictional reporting regulations. Although there are obvious benefits to doing so, reported data does not have to be submitted electronically via FpML for the reporting regulations to benefit from the standards it has established for uniformly identifying certain trade terms and values. For instance, FpML developed the only industry standard values for "Business Days" which are the geographical and non-geographical calendars by which payment dates and settlement dates are adjusted (*e.g.*, NYSE Business Day). The CFTC recognized this, referring to FpML for these values in its Technical Specifications for its redefined "Holiday Calendars", but does not fully embrace the standard by aligning with the FpML data elements and scheme for all supported data fields.

Rather than inventing its own methods, the Commission and global regulators should align with both the ISDA product definitions and FpML. There is simply no need or value to reinvent the terminology, definitions or representations of swap data. Instead, efforts to develop new standards will reduce rather than improve the quality of the data available to meet the regulatory mandates which require the collection of derivatives data. The CFTC and global regulators should use these existing standards to their benefit, allowing them to increase the clarity, accuracy and usefulness of the collected data.

#### *Regulators Should Provide Appropriate Oversight and Commitment to Market Participants So They Can Develop Industry-Based Solutions*

ISDA continues its efforts to drive data standardization, including through its Symbology project<sup>6</sup> to create an open source standard for derivatives product identification that works for pre-trade, trading and post-trade workflows. We encourage the participation of regulators in industry initiatives and feel strongly that an open and regular dialogue between regulators, industry associations like ISDA, and market participants will expedite the development and implementation of global data standards.

#### *Regulators Must Be Specific When Developing Data Standards*

Contrary to the approach of all other global regulators, both the CFTC and SEC include requirements in their trade reporting rules to provide data for which the Commissions have not explicitly specified the trade terms required to be reported. Since data cannot be reported electronically to a trade repository if the set of data fields are not supported, these catch-all buckets leave trade repositories and the industry to assess what data must be reported to comply with a requirement for, for instance, "any other term(s) of the trade matched or affirmed by the counterparties in verifying the trade"<sup>7</sup> or "any other data elements . . . that are necessary for a person to determine the market value of the transaction."<sup>8</sup>

<sup>6</sup><http://www2.isda.org/functional-areas/symbology/> .]

<sup>7</sup> Appendix 1 to CFTC Part 45 regulation.

<sup>8</sup> § 242.901(d)(5) of SEC's Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information.

Some derivatives products are highly standardized and it may be possible to determine a uniform set of data fields that could apply in these cases, but some derivatives are customized and a finite list of potential data elements and values cannot be determined. Either way, any differences in interpretations between trade repositories and reporting entities regarding these unspecified requirements will reduce the quality of the data. ISDA has consistently urged the Commissions to explicitly define their data requirements as determined by the way in which they intend to assess the data, rather than allocate such decisions to trade repositories and market participants.

### **3. Domestic Regulators Should Align on Data Rules**

The reporting regulations of the CFTC and SEC are different, including the data this is reportable and the parameters to determine which trades are subject to reporting. Considering that the Commissions have issued these rules in response to their obligations under the same piece of legislation, the Dodd-Frank Act, the rationale for the divergence in their rules is difficult to comprehend.

For instance, it is illogical that each Commission should have a different definition for who is a U.S. Person, and as a result, a divergent position as to which transactions pose risk to U.S. markets and, thus, are subject to reporting. Based on their divergent definitions, it is possible that a particular counterparty may only be required to report either its swaps or its security-based swaps. The Commissions should be expected to agree on a single definition for U.S. Person and a uniform approach to their requirements for reporting of cross-border swaps and security-based swaps, which carefully considers whether the derivatives transactions of parties that are not domiciled in the U.S. pose a genuine risk to the U.S. markets that cannot be mitigated by the oversight of the relevant foreign regulator(s).

The artificial line between swaps and security-based swaps is unique to the U.S. and undermines the ability of the CFTC and SEC to aggregate their data and provide Congress with a holistic view of the risk in the U.S. derivatives market. Other regimes look at the derivatives market holistically and within the same jurisdiction have not issued different trade reporting regulations and different data fields for segments of the derivatives market (aside from those that are appropriate to a particular asset class). For example, in Canada, there are 13 securities regulators, each with its own securities legislation and independent oversight of the trading activity in its province or territory. Despite having separate trade reporting regulations, these authorities managed to agree to a defined, uniform list of data fields.

In contrast, the SEC and CFTC recently issued concurrent but separate consultations on data standards for their respective reporting regulations. They took entirely different approaches to addressing the matter. In accordance with long-standing suggestions from ISDA and the industry, the SEC has proposed a rule requiring security-based swap data repositories to provide data to them using existing data standards such as FpML, which is the open source XML standard for electronic dealing and processing of OTC derivatives. Meanwhile, the CFTC has created its own trade terminology, definitions and allowable values which are not fully harmonized with either existing industry standards or the proposal of the SEC.

### **4. Reporting Requirements Should Be Rationalized and Streamlined**

#### *More Data Is Not Better Data*

There is a regulatory misconception that collecting more data will better inform an understanding of market risk. However, requiring dozens of data fields for a single transaction significantly complicates the ability to analyze trade data and meaningfully assess market risk by overloading databases with transaction terms that are not pertinent to a distinction of risk. For instance, whether payments are calculated taking into account New York business days vs. London business days or knowing which version of an ISDA Master Agreement was executed between the parties will not lead to any opportunities to mitigate risk. Rather, reporting of non-essential data fields, many of which are not agreed as part of the swap execution, makes it harder for regulators to focus on the key economics of the transactions that are relevant to price transparency or an understanding of the risk of the transaction. Instead of collecting vast amounts of data for which the value and application of each field toward systemic risk analysis is undetermined, the regulators should look at their desired end-state and work backward to ensure the right data is collected that meets a well-considered approach to global risk analysis.

In order to focus on meeting their primary objective to mitigate market risk, the Commissions should focus on obtaining a restrained, defined set of globally consistent core economic data fields that allow them to analyze the concentration of risk in certain products, against certain underliers or by certain market participants.

*Placing Reporting Burden on End-Users*

The U.S. was the first to implement a single-sided reporting model under which one party is responsible for reporting the data to a swap, and rightfully placing the bulk of the cost, burden and liability for reporting on more sophisticated market participants. However, despite the obvious benefits, the U.S. is not a truly single-sided reporting regime. Rather, due to the requirement placed on SDRs by the Dodd-Frank Act to confirm the accuracy of reported data *with both counterparties*, SDRs are required to build functionality for non-reporting parties and to supplement or verify the reported data.

This requirement in the Dodd-Frank Act replicates the bilateral confirmation process and places an indirect obligation on all parties to reportable derivatives transactions in the U.S. to onboard to all SDRs used by their counterparties and build the associated functionality required by each SDR. This is dual-sided reporting in disguise, placing an enormous and costly burden on end-users to build functionality that does not actually improve the quality of the data. Dual-sided reporting in the European Union has not resulted in better data quality and these variations of duplicative reporting obligations in the U.S. will not either. Instead, the reporting party should be solely accountable for the accuracy of the data it reports to an SDR.

**Summary**

The goal of improved regulatory transparency in the derivatives market is an important one, and it is one that ISDA fully supports.

In order to improve the quality of the data available to the regulators to meet their G20 commitments for transparency and risk mitigation, the industry needs global regulators to:

- Improve data quality by adopting a defined set of core economic data fields that:
  - are relevant to the primary objectives of trade reporting;
  - are domestically and globally harmonized in accordance with the recommendations of CPMI–IOSCO;
  - align with existing industry defined terminology (*i.e.*, product definitions published by ISDA); and
  - leverage existing derivatives messaging standards, like FpML.
- Allow a single reporting counterparty to be solely responsible for the accuracy of the reported data.

Rather than issuing their own proposals for changes and the expansion of their data reporting regulations, the Commissions should focus on improving data under their existing regulations by providing the clarity and improvements requested and suggested by the industry. Significant changes to the data fields should only be implemented in accordance with the recommendations of the CPMI–IOSCO Data Harmonisation Group. The recommendations of that forum are expected to be completed in 2017; U.S. regulators should contribute to the expedition of those efforts and not engage in further overlapping and potentially contradictory data proposals.

The CHAIRMAN. Ms. Collazo?

**STATEMENT OF MARISOL COLLAZO, J.D., MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER OF DTCC DATA REPOSITORY, DEPOSITORY TRUST AND CLEARING CORPORATION, NEW YORK, NY**

Ms. COLLAZO. Thank you, Chairman Scott, Ranking Member Scott, and Members of the Subcommittee. I am Marisol Collazo, Managing Director at DTCC and Chief Executive Officer of the DTCC's Swap Data Repository. I appreciate the opportunity to share my perspective on the current status of swaps data reporting.

In 2009, G20 leaders, committed to making the global OTC derivatives market safer and more transparent. This transparency will assist regulators globally to monitor systemic risk forming in the swaps market. Swap data repositories, or SDRs, emerged as a way to achieve this goal.

Since then, progress has been made and trade reporting regimes are in place across all major jurisdictions. Today, authorities have access to more data than ever before. In the United States, we process 80 million messages a week or more than four billion messages a year.

In order to assess the effectiveness of trade reporting, we must refer back to the two goals of the G20 mandate: First, to provide transparency into opaque markets; and second, for regulators to utilize such transparency to identify and anticipate potential systemic risk.

There are aspects of the data being reported today that are useful to both the CFTC and the public at large. For example, public price transparency is now reported on a real-time basis. This provides a window into a market that was previously opaque. From this data, the CFTC can see volumes and the number of transactions executed daily. Further, the CFTC has an even deeper view of reported data that can be used for surveillance and other regulatory purposes.

Now let's turn to the challenges that remain. Given that the swaps market is inherently cross-border, in order to fully maximize the usefulness of the data reported to SDRs, a globally consistent framework for standardization and governance are needed. Today, unfortunately, inconsistent reporting requirements amongst various jurisdictions are hindering this ability. Global data harmonization and regulatory access to data remain a challenge. DTCC applauds Congress for removing the Dodd-Frank's indemnification provision. However, more work remains. These challenges must be resolved before regulators can effectively aggregate data and determine the systemic risk profile of a global swap dealer.

Based on DTCC's experience, supporting regulatory reporting across nine jurisdictions, we have seen divergent requirements even within the same data elements. This variance has negatively impacted data quality and increased complexity. Instead, we recommend that regulators agree to a standard approach for reporting the core terms of the swap across jurisdictions. Such global consistency will facilitate efforts by regulators to share and aggregate data, allowing for a more complete and harmonized view of the OTC derivatives market.

The CFTC recently issued a request for comment on technical specifications for the reporting of certain data elements. DTCC strongly encourages the CFTC to recognize existing market convention in its effort to improve currently reported data. The CFTC should carefully consider if any proposed changes significantly add value or if they inject unintended complexity into the current reporting system.

We also encourage the CFTC to align with policy-making efforts underway globally such as those spearheaded by CPMI-IOSCO to establish consistent data standards. For example, much progress has been made on establishing a recommended standard for product and transaction identifiers. We look forward to the remaining work that CPMI-IOSCO will take on for other key data elements.

Another important step is the establishment of a governance framework to facilitate management of this global data set and reg-

ulatory access to data. This framework will help ensure that standards are maintained and updated as markets evolve.

In conclusion, the priorities I have outlined will assist in realizing the G20 goals of market transparency and systemic risk oversight. We believe that Congress must ensure regulators remain focused on implementing such framework as I have described. Thank you, Mr. Chairman, for the opportunity to present and participate in today's hearing, and I look forward to your questions.

[The prepared statement of Ms. Collazo follows:]

PREPARED STATEMENT OF MARISOL COLLAZO, J.D., MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER OF DTCC DATA REPOSITORY, DEPOSITORY TRUST AND CLEARING CORPORATION, NEW YORK, NY

Chairman Scott, Ranking Member Scott, and Members of the Subcommittee, thank you for holding today's hearing to discuss the Group of 20 ("G20") swap data reporting goals.

I am Marisol Collazo, Managing Director at The Depository Trust & Clearing Corporation ("DTCC") and Chief Executive Officer of the DTCC Data Repository (U.S.) LLC, ("DDR"). I appreciate the opportunity to share DTCC's perspective on the current status of data reporting of swaps around the globe, and equally appreciate the Committee's continued attention to the topic.

At its core, DTCC develops and harnesses technology to provide a variety of risk management and data services to the financial services industry. More than 40 years ago the firm was born largely out of the need to leverage technology and automation in order to ensure securities transactions were more efficiently settled, thereby reducing risk of loss in the event of a counterparty default. In this respect, DTCC presently is among the more established financial technology or "fintech" companies.

Today, DTCC continues to deploy evolving and improving technology in service to its mission as the primary financial market infrastructure for the securities industry.<sup>1</sup> DTCC simplifies the complexities of clearing, settlement, asset servicing, data management and information services across multiple asset classes. In 2014, DTCC's subsidiaries processed securities transactions valued at approximately U.S.\$1.6 quadrillion.<sup>2</sup>

#### **DTCC's Global Trade Repository**

DTCC provides services for a significant portion of the global over-the-counter ("OTC") derivatives market and has extensive experience operating repositories to support derivatives trade reporting and enhance market transparency.

DTCC's Global Trade Repository ("GTR") service supports reporting across all five major derivatives asset classes—credit, interest rate, equity, foreign exchange and commodity—and exchange traded derivatives in nine jurisdictions across 33 countries. Despite differences in local reporting requirements across regions, DTCC has built a robust and flexible infrastructure with three fully replicated data centers. This global reporting service was created in response to the G20 commitment regarding swap data reporting, explained in more detail later in this testimony.

DDR received provisional registration from the Commodity Futures Trading Commission ("CFTC") to operate a multi-asset class swap data repository for OTC credit, equity, interest rate, foreign exchange and commodity derivatives in the U.S. DDR is the only repository to offer reporting across all asset classes—a significant milestone in meeting regulatory calls for robust trade reporting and risk mitigation in the global OTC derivatives market. DTCC, through its Trade Information Warehouse ("TIW") service, has provided public aggregate information for the credit de-

<sup>1</sup>DTCC provides critical infrastructure to serve all participants in the financial industry, including investors, commercial end-users, broker-dealers, banks, insurance carriers, and mutual funds, and continually considers and examines new technologies to perform these services. See, for example, DTCC White Paper, "Embracing Disruption—Tapping the Potential of Distributed Ledgers to Improve the Post-Trade Landscape" (January 2016), available at <http://dtcc.com/news/2016/january/25/blockchain-white-paper>.

<sup>2</sup>DTCC's U.S. clearing and depository subsidiaries were designated as Systemically Important Financial Market Utilities ("SIFMUs") in 2012 by the Financial Stability Oversight Council ("FSOC") pursuant to Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").

fault swap (“CDS”) market on a weekly basis since January 2009. This information is available, free of charge, on [www.dtcc.com](http://www.dtcc.com).

While domestic authorities were developing mandatory reporting frameworks, in 2010, DTCC implemented a voluntary reporting framework under OTC Derivatives Regulators Forum (“ODRF”) data access guidelines. This framework leveraged TIW, which contains the vast majority of credit derivative trades transacted globally. A portal was established to provide detailed data on voluntarily-reported transactions to more than 40 supervisors globally. The portal allows for regulators to access data within their mandate and information provided is consistent with ODRF data-sharing guidelines. The portal assists regulators in their supervisory capacities in scenarios such as sovereign debt crises, corporate failures, credit downgrades and significant losses by financial institutions.

The 2008 financial crisis highlighted the ability of TIW to provide an unprecedented degree of transparency into an opaque market. In the aftermath of the Lehman bankruptcy, rumors circulated that potential liabilities for CDS trades on outstanding Lehman obligations could top \$400 billion based on estimates of the outstanding notionals (or value) of the trades. Regulators worked closely with DTCC to analyze data from TIW to obtain a better understanding of market exposures to the Lehman bankruptcy. This data revealed that the actual net liabilities would be approximately \$6 billion, far less than the market anticipated, which helped calm the market.

#### **Progress Made on Regulatory and Public Reporting of Swaps-Transaction Data**

In 2009, G20 leaders committed to making the global OTC derivatives markets safer and more transparent, and to create tools for the supervision of global market participants.<sup>3</sup> In particular, trade repositories—also known as swap data repositories (“SDRs”) under Dodd-Frank—emerged as a means to provide transparency into this previously opaque marketplace through the collection and maintenance of OTC derivatives data.

Since 2009, regulators and the industry have made significant strides in addressing the data gap that existed during the financial crisis. Trade reporting regimes are now in place across jurisdictions globally that host major derivative markets and authorities within those jurisdictions have access to more data than ever before, which is critical to market surveillance and the identification of counterparty risk.<sup>4</sup> According to the Financial Stability Board’s (“FSB”) *Tenth Progress Report on Implementation of OTC Derivatives Market Reforms*, there are currently 20 authorized trade repositories operating across 12 jurisdictions, while government authorities or other trade repository-like entities are collecting OTC derivatives transaction reports in an additional six jurisdictions.

Notwithstanding the fact that trade repositories are now receiving and reporting data to authorities as well as the public, there remain two key questions: (1) how useful that information is; and (2) whether the regulatory reporting of that data by trade repositories is achieving the G20 mandate.

Regarding the first question, there is a significant amount of post-trade data collected by trade repositories and reported to regulators and the public in real time. For example, DDR currently holds approximately ten million CFTC-reported open derivatives trades. DDR began publishing trade data to the CFTC on October 12, 2012, the first day that mandated trade reporting began under Dodd-Frank and on December 31, 2012, DDR began publishing real-time price information. Reports are publicly available through slice files, RSS feeds and Internet access to a ticker page, Excel and search functions on DDR’s website, <https://rtdata.dtcc.com/gtr/dashboard.do>.

Through information provided by DDR, the CFTC currently is able to see volume in the OTC derivatives marketplace and can identify the number of transactions executed every day.

Additionally, all positions and activity are visible, which creates an end-of-day inventory of the market. For regulators, real time access to trade data provides a deeper view into derivatives pricing, and in raw form, allows for analysis that could be used for surveillance and other purposes. As transactions are being executed, reg-

<sup>3</sup>See G20 Leaders’ Statement at the Pittsburgh Summit (Sept. 2009), available at [http://www.treasury.gov/resource-center/international/g7-20/Documents/pittsburgh\\_summit\\_leaders\\_statement\\_250909.pdf](http://www.treasury.gov/resource-center/international/g7-20/Documents/pittsburgh_summit_leaders_statement_250909.pdf).

<sup>4</sup>For example, CFTC Chairman Timothy Massad stated that swaps data is improving the Commission’s ability to oversee the marketplace. See CFTC Chairman Timothy Massad, Keynote Remarks before the Futures Industry Association Futures and Options Expo (Nov. 4, 2015), available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opamassad-33>.

ulators and the public can now see derivatives contracts pricing levels that previously had not been visible.

From a U.S. point of view, the ability of a domestic supervisor to assess the systemic risk of a firm managing swap-book risk through the data reported by an SDR should be significant, for the foregoing reasons. Equally relevant is the fact that the vast majority of interest rate swaps and CDS are either cleared by a clearinghouse and/or otherwise confirmed through an automated system. These processes provide for a substantial level of standardization of the terms of the swaps contracts, allowing for and facilitating more complete, valid and accurate regulatory reporting by an SDR. However, a large percentage of swaps outside these asset classes are not cleared or confirmed through automation.

When a swap is neither cleared nor confirmed through automation, the completeness, validity and accuracy of reporting tends to erode due to the fact that the swap is likely bespoke in nature (thus containing a number of unique characteristics and attendant data fields for reporting).

Bespoke swaps are less suitable to harmonization for purposes of data reporting, and as a result, data on those swaps is often more difficult to analyze efficiently. The nature of such bilateral swaps, which often are hedge instruments, means there will always be a percentage of trades that will not be cleared or confirmed.

#### **Remaining Challenges to Realizing Vision of G20 and Dodd-Frank**

The answer to the second key question—whether the goals of the G20 mandate are being realized—is less clear, as discussed below. True systemic-risk monitoring and analysis by a U.S. supervisor, through use of SDR-reported data, becomes more challenging when it requires reliance on data of a large institution’s swap exposure outside the U.S.

The marketplace for swaps is global and dealers (and others) who make markets in swaps for their customers usually have a global footprint through a variety of branches, affiliates and subsidiaries located around the world. Each global swap dealer is structured differently, but the swaps positions entered into by one branch, affiliate or subsidiary of a global financial institution oftentimes will be transferred or aggregated on the books of one, or perhaps several, legal entities within the corporate and legal structure of that global swap dealer.

This context is important to understanding why global data harmonization is critical for purposes of monitoring the systemic risk profile of market participants by any one regulatory supervisor. To understand the risk profile of a systemically important institution, a regulator needs to see and understand the risk exposure of that institution based on swap positions it has entered into around the globe. If, for instance, the CFTC, which supervises a registered U.S. swap dealer, only sees the swap positions on the books of that legal entity but not the positions on the books of affiliated, non-U.S. entities outside the jurisdictional scope of the CFTC, it will not fully understand the level and breadth of risk that the swap dealer might be exposed to.

Ideally, the CFTC or Securities and Exchange Commission (“SEC”) would be able to access not only U.S. SDR data but data from non-U.S. trade repositories as well in order to understand the risk that entities affiliated with a registered U.S. swap dealer are managing. This would afford a regulator the ability to aggregate and transform data from multiple trade repositories into meaningful analytical information.

#### *Inconsistent Reporting Requirements and Data Quality*

In November 2015, the FSB published its *Thematic Review on OTC Derivatives Trade Reporting*, which noted that although the majority of FSB member jurisdictions have introduced trade reporting obligations, the usefulness of this data is being limited by data quality issues, including the formatting, completeness and accuracy of the data.

Despite the G20’s common commitment to trade reporting, the derivative reporting regimes that emerged following the financial crisis differed along national lines, creating inconsistent sets of reporting requirements globally. This makes it more challenging to standardize, access, share and aggregate data on a global scale.

Even within the U.S. domestic market, there are disparities in the reporting regimes established by the CFTC and SEC. For example, SEC requirements for security-based SDRs include the reporting of new identifiers and collection of data from non-reporting sides, both of which are not required by the CFTC. Requiring information not relevant to understanding the key economic characteristics of the reported trade introduces complexities in data aggregation, creates additional opportunities for reporting errors and unnecessarily increases the costs of reporting by both reporting parties and trade repositories. In addition, requiring the same information,

but in different formats, causes inefficiencies interpreting data due to the inherent need to reconcile data reported in differing ways.

#### *Obstacles to Data Access*

The FSB also identified barriers to domestic and foreign authorities' access to data held in trade repositories as a key finding, specifically identifying the indemnification provisions of the Dodd-Frank Act.

DTCC appreciates the efforts of Congress, the CFTC and the SEC to address and resolve issues concerning data reporting. DTCC has long been a vocal advocate of legislation to repeal the Dodd-Frank indemnification provisions and applauds Congress and the Administration for its passage of Public Law 114-94 (<http://api.fdsys.gov/link?collection=plaw&congress=114&lawtype=public&lawnum=94&link-type=html>), the *Surface Transportation Reauthorization and Reform Act of 2015*, which, among other things, eliminated the indemnification requirement.

Removal of these provisions is an important step to achieving the transparency goals established by the G20, but additional work is needed to further provide global and domestic regulators with appropriate access to high-quality standardized data critical to market surveillance and systemic risk oversight.

#### **Necessary Next Steps to Achieving G20's Goals**

There are several continuing steps policymakers must take to fully realize the G20 goal of enhanced transparency into the OTC derivatives market:

1. Accelerate data standardization and aggregation;
2. Establish a global data access and governance framework; and
3. Drive global adoption and consistent implementation of the above efforts.

#### *1. Accelerating Data Harmonization To Improve Data Quality*

Data quality consists of three components: completeness, validity and accuracy. Completeness refers to the presence or absence of data in a field. Validity refers to a data element being submitted in accordance with the validation rules of an SDR, which have been developed according to relevant regulation in a jurisdiction. Accuracy refers to whether the SDR data accurately reflects the swap transaction terms.

Data completeness is a precondition to determining whether the submitted data is valid and accurate. Data validation, which may be controlled by establishing a set of basic quality checks such as proper type of data, helps to facilitate meaningful reconciliation, which is the key mechanism to confirm the accuracy of the SDR data.

Without harmonized regulatory reporting requirements—both domestically and internationally—each one of the components above is more likely to be impaired in the following ways.

First, requiring more data elements than necessary to understand the key economic characteristics of a swap creates greater odds that the quality of the data will be reduced and potentially cause misinterpretation of the data. Based on DTCC's experience supporting regulatory reporting across nine jurisdictions, we have seen firsthand how regulators have implemented varying reporting regimes with different requirements, fields and definitions. For example, due to the current wide range of reporting fields required by regulators globally, DTCC supports reporting for a total of nearly 3,000 data elements globally. Global regulators should coalesce around a common core set of necessary data elements.

Second, requiring different data elements among different jurisdictions increases the likelihood of error by reporting entities. Instead, global regulators should agree to and only require reporting of harmonized core terms of the swap, and require the data elements used to reflect those terms to be the same across jurisdictions.

These actions would have the effect of facilitating efforts by regulators to share and aggregate data, thus providing the requisite jurisdictional as well as global view of the OTC derivatives market. Addressing the remaining legal barriers to data sharing—some of which predate derivatives reform such as blocking statutes, state secrecy laws and bank secrecy laws—requires international regulatory cooperation.

#### **Domestic Efforts**

The CFTC has taken steps to improve data quality, including its recent request for comment on draft technical specifications for certain swap data elements. Rather than introduce new data elements as the CFTC proposes, DTCC encourages the CFTC to: (1) focus on improving the quality of existing key elements and adhere to current market conventions; (2) work towards global consistency by aligning its efforts with international policymaking efforts underway, such as those spearheaded by the Committee on Payments and Market Infrastructures ("CPMI") and the International Organization of Securities Commissions ("IOSCO"); and (3) carefully con-

sider whether the proposed changes inject operational and functional complexity into the current reporting system.

Notwithstanding the steps taken by the CFTC and the SEC to improve swap data reporting, additional coordination is needed to address challenges that have emerged from divergent regulations. For example, the SEC proposed requiring the reporting of trade and desk identifiers whereas the CFTC does not require those elements to be reported. In addition, there is a lack of consistency among the CFTC and SEC as to the reporting of product identifiers.

#### Global Efforts

The harmonization of OTC derivatives reporting must take place at the global level as well. Currently, significant disparities exist between reporting requirements in various jurisdictions. For example, in the European Union, the European Securities and Markets Authority (“ESMA”) mandates that a reporting field include a Unique Trade Identifier, or “UTI.” The CFTC, on the other hand, mandates the use of the Unique Swap Identifier, or “USI,” as a data standard for reporting by registered SDRs. These unique fields attempt to address the same issue of identifying a swap transaction, but essentially are using two different standards to do so.

DTCC is encouraged by recent international efforts to establish consistent standards. CPMI–IOSCO has been charged with spearheading global data harmonization efforts, and recent efforts to standardize identifiers such as the unique product identifier (“UPI”) and UTI are significant steps.

In June 2015, DTCC provided recommendations to the CPMI–IOSCO Harmonization Working Group, detailing a proposed path towards global data harmonization with credit derivatives identified as the first step.<sup>5</sup> The approach involves harmonizing approximately 30 data fields across global trade repository providers, essentially creating a global data dictionary. These fields are viewed as critical to financial stability and systemic risk analysis. DTCC also provided comments in response to recent consultative reports regarding harmonization of key data elements, including the UTI and CPMI–IOSCO’s consultation on harmonization of the UPI as well.

While recent efforts are steps in the right direction, increased and consistent active dialogue is critical to resolve jurisdictional differences. This will require ongoing global coordination and collaboration in addition to a dedicated commitment by regulators and the industry.

#### Global Markets Entity Identifier Utility

A key element in enhancing transparency is the global adoption of identifiers and consistent standards to provide for effective data aggregation. To this end, DTCC is actively engaged in the global effort regarding legal entity identifiers (“LEI”), which allow for the unique identification of legally distinct entities that are counterparties on financial transactions. As noted by U.S. and regulators globally, the FSB, and industry trade associations, global LEI adoption will enable improved systemic risk analysis.

DTCC’s Global Markets Entity Identifier (GMEI)—a utility operated in collaboration with SWIFT—has assigned LEIs to more than 200,000 legal entities to date across more than 140 jurisdictions, representing approximately 50 percent of all global LEIs that have been assigned.<sup>6</sup>

Domestic and international regulators have considered the benefits of adopting a global system for legal entity identification and recognize the importance of such a system to various financial stability objectives. In fact, several regulatory authorities have promulgated record-keeping and reporting rules with respect to OTC derivatives transactions that require counterparties to be identified by LEIs.<sup>7</sup> DTCC strongly supports industry and regulatory efforts to mandate the use of the LEI in relevant rulemakings.

While many jurisdictions accept LEIs, not all have mandated their use and some permit the masking of a financial institution’s identity due to legal concerns regard-

<sup>5</sup> See Press Release, *DTCC Proposal to CPMI–IOSCO on Global Data Harmonization* (June 18, 2015), available at <http://www.dtcc.com/news/2015/june/18/dtcc-proposal-to-harmonization-working-group.aspx>.

<sup>6</sup> Through a competitive process, DTCC was chosen to build and operate an LEI utility for the industry and was designated by the CFTC to provide LEIs to swap market participants as required by CFTC record-keeping and reporting rules. This utility, which DTCC operates with SWIFT, is the GMEI utility and has been globally endorsed by the Regulatory Oversight Committee (ROC), which oversees the Global LEI System (GLEIS).

<sup>7</sup> The CFTC, SEC, ESMA, the Monetary Authority of Singapore (“MAS”), the Hong Kong Monetary Authority (“HKMA”), the Australian Securities and Investment Commission (“ASIC”), and the Ontario Securities Commission (“OSC”) each mandate use of LEI. ESMA recently included an LEI requirement in their technical standards for compliance with MiFIR/MiFID II.

ing privacy laws. DTCC believes that the LEI standard should be extended across jurisdictions. Extension of LEIs to support branch location and the parentage information to enable aggregation by grouping all legal entities to one parent has begun and should continue under the auspices of the Global Legal Entity Foundation, a foundation created by global regulators to operate the LEI system.

## 2. *Establishing a Global Data Access & Governance Framework*

A data access and governance framework is urgently needed to truly effectuate the goal of global data harmonization. This will help ensure that data standards are maintained and updated as markets and regulatory requirement evolve, while also providing a formal structure for the appropriate sharing of and access to data across jurisdictions for systemic risk oversight.

Financial data standards are not static. As such, guidance is needed to restrict how and when the global data set and its associated data dictionary can be changed. A consistent and predictable approach to changing the composition of the data elements in the global data set and the timing of such changes must also be adopted. In doing so, certainty will be provided to the industry, trade repositories and regulators that there is consistency across regulatory regimes from ingestion of the data to its reporting to regulators.

For example, currently there is no predictable cycle to the review and revision of regulatory reporting requirements which makes planning for changes by both reporting parties and trade repositories virtually impossible. Likewise, the need for a sufficient amount of lead time prior to implementation of any changes to reporting must be recognized; at present the lead time to implementation varies from jurisdiction to jurisdiction.

Implementation efforts are rarely synchronized, causing redundant development on one side when there are serial changes and resource conflicts on the other when implementations overlap. A coordinated approach to implementation would alleviate those problems, improving regulatory and legal certainty, boosting market efficiency and lessening the cost of compliance for market participants and infrastructure service providers.

Further, the governance framework must concurrently provide the formal structure and conditions upon which regulators could access each other's data, particularly now that legislative hurdles such as Dodd-Frank's indemnification provisions have been removed. Consistent with this approach, in its 2015 Thematic Review, the FSB issued a recommendation that by "June 2018 at the latest all jurisdictions should have a legal framework in place to permit access to data held in a domestic [Trade Repository] by domestic authorities and by foreign authorities, on the basis of these authorities' mandates and in accordance with domestic regulatory regime."<sup>8</sup>

DTCC applauds the SEC for quickly recommending a revision of its Proposed Rules on *Access to Data Obtained by Security-Based Swap Data Repositories and Exemption from Indemnification Requirement* to take into account the legislative repeal of the indemnification provisions. We encourage the SEC and the CFTC to consider CPMI-IOSCO's Guidance on *Authorities access to trade repository* in the development of their respective data access rules.

Important precedents exist at a multi-lateral level which show that regulatory cooperation can make cross-border data sharing possible. DTCC's TIW provided authorities access to data on CDS transactions pursuant to guidance issued by the ODRF, which defined the parameters of information that could be disclosed based on parties to the transaction and the underlying reference entity on whom credit protection was being bought or sold. The credit derivatives data provided was standardized, aggregated and shared across jurisdictions.

The ODRF example demonstrates that existing infrastructures can be leveraged to perform the aggregation of OTC derivatives data, provided the relevant supervisory authorities agree on a governance layer. For aggregation to work, as demonstrated in the credit derivatives markets, consistent data with very clear access rules is essential.

DTCC believes that the FSB, in conjunction with CPMI-IOSCO, is best positioned to identify and commission a neutral college of regulators to establish a global governance framework. This group would support maintenance of global data standards and appropriate data sharing. A governance framework would also establish the foundation and necessary structure to enable global supervisors such as the FSB and CPMI-IOSCO to develop their guidance for data standards and harmonization.

<sup>8</sup> FSB *Thematic Review on OTC Derivatives Trade Reporting: Peer Review Report*, 4 November 2015.

### 3. *Ensuring Global Adoption and Implementation*

Once guidance on data standards is agreed upon and a governance framework is established, a challenging but critical final step is for policymakers to ensure that these efforts are adhered to and implemented globally.

Ideally, a single standard setting authority should be responsible for monitoring the adoption of standards in domestic rulemaking and compliance with those rules as well as outcomes. This is a proven three level process which has been successfully adopted by the Basel Committee and CPMI on monitoring the implementation of the Principles for Financial Market Infrastructures, and could be extended in scope to create the necessary conditions for the consistent adoption of global data standards and the corresponding governance framework.

Without consistent adoption at the domestic rulemaking level, many of the obstacles complicating efforts to achieve cross-border data harmonization for market transparency purposes will remain unaddressed. G20 leaders can support these efforts by continuing to address legal barriers to data access and mandating that jurisdictions adopt and adhere to these principles within a specific timeframe. DTCC appreciates the FSB's recent recommendation referred to above that all jurisdictions should have a legal framework in place by 2018 to address access to data by domestic and foreign authorities, on the basis of these authorities' mandates and in accordance with the domestic regulatory regime.<sup>9</sup>

Given the global nature of OTC derivatives markets, global coordination is essential. Congress can play a pivotal role in these efforts by strongly encouraging regulators to address key issues surrounding data harmonization and data sharing globally. DTCC stands ready to assist and looks forward to continuing work with U.S. policymakers, regulatory bodies globally and industry participants to strengthen the global derivatives marketplace.

#### **Conclusion**

Mr. Chairman, Ranking Member, thank you for inviting me to speak today on this important topic. As you know, access to high quality, aggregated data is necessary to assist in safeguarding the markets and in protecting our economy. I will be happy to answer any questions and look forward to a continued dialogue with you and your staffs.

The CHAIRMAN. Thank you, ma'am. Mr. Gil?

#### **STATEMENT OF ANDRÉS GIL, DIRECTOR, CENTER FOR CAPITAL MARKETS COMPETITIVENESS; REPRESENTATIVE, COALITION FOR DERIVATIVES END-USERS, WASHINGTON, D.C.**

Mr. GIL. Thank you. Mr. Chairman, Ranking Member Scott, other Members of the Subcommittee for the opportunity to testify at this hearing to review the G20 swap data reporting goals.

My name is Andrés Gil, and I am testifying on behalf of the U.S. Chamber of Commerce and the Coalition for Derivatives End-Users. The Chamber is the world's largest business federation, representing the interests of more than three million businesses of all sizes, sectors, and regions. The Coalition includes more than 300 end-user companies and trade associations. Collectively, the Chamber and the Coalition represent a wide and diverse population of domestic and international commercial businesses and trade associations.

At the outset, let me thank the Members of this Subcommittee for their focus on balancing regulations, to promote financial stability, and for Main Street businesses to have the tools necessary to operate and grow as well as the CFTC for listening to the concerns of end-users and for creating a data-reporting regime that is both robust and sensible.

<sup>9</sup>FSB *Thematic Review on OTC Derivatives Trade Reporting: Peer Review Report*, 4 November 2015.

The Chamber believes in America's global leadership in capital formation and supports capital markets that are the most fair, transparent, efficient, and innovative in the world. As part of that mission, we recognize the acute need for commercial end-users to effectively manage risks. This should be consistent with financial regulatory measures that promote economic stability and transparency without imposing undue burdens on derivatives end-users.

With that background in mind, we support and believe in the G20 swap data reporting goals including improving transparency in derivatives markets, mitigating systemic risk, and preventing market abuse. But there are real economic consequences of getting derivatives regulation wrong. Main Street businesses use derivatives to obtain access to raw materials, lock in prices for commodities, and mitigate risk. Many U.S. companies are able to maintain more stable and successful operations through the use of a variety of risk management tools, including derivatives. Smart regulation should encourage, not discourage, such practices.

However, implementation of the G20 goals has begun to hurt end-users. For example, the European Union appears to be proceeding without due regard for the economic and regulatory burdens imposed on end-users by certain swap data reporting obligations. These include dual-sided reporting and interaffiliate obligations which require end-users to adopt costly new reporting systems to comply with EU law. Both requirements impose significant initial and ongoing operational, legal, and cost burdens for end-user companies.

We suggest that there must be a better way for regulators and the market to get the data they need without imposing duplicative and burdensome regulations on real economy companies, especially because they do nothing to promote the goals of the G20 framework.

Ultimately, the Chamber and the Coalition believe that this has resulted in a fragmented market where U.S. end-users operating abroad now face compliance with multiple reporting regimes and required data sets for their transactions.

The larger point, however, is that the cumulative effect of new derivatives regulation threatens to impose undue burdens on end-user hedging. Both the direct regulation of end-users, the reporting requirements on which this hearing is focused, and indirect regulation, such as capital and liquidity requirements imposed on our counterparties serves to discourage end-user risk management through hedging.

We need a regulatory system that allows Main Street to effectively use derivatives to hedge commercial risk resulting in key economic benefits, one that allows businesses to improve their planning and forecasting, manage unforeseen and uncontrollable events, offer more stable prices to consumers, and contribute to economic growth. We should always aim to avoid the imposition of unnecessary burdens on end-users that restricts job growth, decreases investment, and undermines our competitiveness abroad.

As the Subcommittee considers the implementation of G20 reporting obligations, it is our hope that these issues will be at the forefront of your efforts. Continued support for global standards, rather than proceeding on divergent paths, is important for data

reporting consistency. Congress has the ability to influence that process by promoting harmonization and sensitivity to the impacts on end-user companies. Together, we can strengthen our financial systems by supporting Main Street business.

Thank you, and I am happy to address any questions that you may have.

[The prepared statement of Mr. Gil follows:]

PREPARED STATEMENT OF ANDRÉS GIL, DIRECTOR, CENTER FOR CAPITAL MARKETS COMPETITIVENESS; REPRESENTATIVE, COALITION FOR DERIVATIVES END-USERS, WASHINGTON, D.C.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross section of the American business community with respect to the number of employees, major classifications of American business—*e.g.*, manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Mr. Chairman, Ranking Member Scott, other Members of the Subcommittee, I want to thank you for inviting me to testify at this important hearing, which focuses on matters of significant concern to the end-user community. I am testifying today on behalf of both the U.S. Chamber of Commerce ("Chamber") and the Coalition for Derivatives End-Users ("Coalition"). The Chamber is the world's largest business federation, representing the interests of more than three million businesses of all sizes, sectors, and regions. The Coalition includes more than 300 end-user companies and trade associations. Collectively, the Chamber and the Coalition represent a wide and diverse population of domestic and international commercial businesses and trade associations.

The Chamber's mission is to ensure America's global leadership in capital formation by supporting robust capital markets that are the most fair, transparent, efficient, and innovative in the world. As part of that mission, the Chamber recognizes the acute need for commercial end-users to effectively manage risk. Similarly, the Coalition, representing the engines of our domestic and global economy, has consistently supported financial regulatory measures that promote economic stability and transparency without imposing undue burdens on derivatives end-users; a sentiment with which I believe a consensus of those in this room agree.

At the outset, let me thank the Members of this Subcommittee for their focus on balancing regulations to promote financial stability and for Main Street businesses to have the tools necessary to operate and grow.

Main Street businesses use derivatives for their intended purpose—obtaining access to raw materials, locking in prices for commodities and mitigating risk—not for financial speculation. This allows businesses to produce goods with stable prices for consumers. Therefore, there are real economic consequences of getting derivatives regulation wrong for Main Street businesses and the American consumer. Many U.S. companies are able to maintain more stable and successful operations through the use of a variety of risk management tools, including derivatives. Smart regulation should encourage, not discourage, such practices.

The Chamber and the Coalition have worked diligently to address the regulatory burdens faced by commercial end-users, and that is why, before I dive into the subject matter of this hearing, I would like to thank the CFTC for listening to the con-

cerns of end-users and for creating a data reporting regime that is both robust and sensible. Unfortunately, we cannot say the same for the G20 framework.

We are broadly supportive of the G20's swap data reporting goals, including improving transparency in derivatives markets, mitigating systemic risk, and preventing market abuse. However, as this Subcommittee is aware, implementation of those G20 rules domestically has begun to vary considerably. For example, the European Union ("EU") appears to be proceeding without due regard for the economic and regulatory burdens imposed on end-users by certain swap data reporting obligations. It is important to remember that these obligations are being imposed on entities that do not pose systemic risk and did not cause the financial crisis. Swap data reporting, at its core, is largely driven by the need for transparency within the derivatives markets. The theory is that, with transactional details, regulators will be better equipped to assess market shortcomings and better ensure financial stability. While that may be so, the real question is what level of transaction detail is necessary, or even helpful?

The EU, unlike the U.S., has implemented dual-sided and inter-affiliate reporting requirements on end-users. Unfortunately, in many circumstances these regulations are duplicative, costly and otherwise detract from the risk mitigating nature of end-user derivatives. Disparate treatment has resulted in a fragmented market where U.S. end-users operating abroad now face compliance with multiple reporting regimes and required data sets for their derivatives transactions. Beyond the costly issues of compliance, the lack of consistency across jurisdictions in a global market does not serve the G20 goals of greater transparency, international harmonization, and systemic risk reduction in the derivatives markets.

We understand that European policymakers believe that a dual-sided reporting regime for derivatives transactions is appropriate in order to reconcile certain circumstances in reporting errors and confirm the integrity of reported data. However, we believe that adopting a dual-sided reporting regime presents legitimate and significant costs on end-users and should not be adopted without a thorough analysis of whether dual-sided reporting presents any significant benefits to such error reconciliation. This is especially true given that, in the United States, regulators have access to accurate derivatives transaction data through single-sided reporting, coupled with straight-through-processing and the existing confirmation and reconciliation processes employed by end-users and other market participants.

The CFTC and lawmakers have correctly recognized that the intrusive nature of intragroup reporting—swap data reporting of transactions among entities within a single end-user corporate structure—does not serve to promote the goals of the G20 framework. Nor does it increase systemic risk, either by creating counterparty credit risk or increasing interconnectedness between financial institutions. The EU's approach fails to substantively justify the need for information related to the intracorporate management of commercial risk—such information has little or no value to regulators when compared to the costs and operational burdens that end-users face in reporting such transactions. Forcing end-users to comply with the same reporting requirements for intragroup transactions as those required for external derivatives transactions would simply burden end-users without any corresponding benefit.

Finally, it is also worth noting that the EU has also included futures markets in their reporting legislation. That inclusion is outside of the G20 commitment and has proven to be highly burdensome and costly for end-users. This is a particularly large issue given that tools on collecting data from futures markets are already available to European regulators.

The larger point, which I know this Subcommittee appreciates, is that the cumulative effect of new derivatives regulation threatens to impose undue burdens on end-user hedging. Both the direct regulation of end-users through reporting requirements, on which this hearing is focused, and indirect regulation, such as capital and liquidity requirements imposed on our counterparties, serves to discourage end-user risk management through hedging. We need a regulatory system that allows Main Street to effectively use derivatives to hedge commercial risk, resulting in key economic benefits; one that allows businesses—from manufacturing to healthcare to agriculture to energy to technology—to improve their planning and forecasting, manage unforeseen and uncontrollable events, offer more stable prices to consumers and contribute to economic growth. The imposition of unnecessary burdens on end-users businesses restricts job growth, decreases investment and undermines our competitiveness in Europe—leading to material cumulative impacts on corporate end-users and our economy.

While we support reforms to enhance derivatives market transparency and reduce systemic risk, we remain concerned that a regression to dual-sided and intragroup

reporting would place disproportionate, costly and unnecessary burdens on end-users and would not provide regulators or markets with any discernible benefit.

Throughout the development of the G20 framework, the passage and implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Chamber and the Coalition have advocated for a more transparent derivatives market through the imposition of thoughtful, new regulatory standards that enhance financial stability while avoiding needless costs on end-users. The importance of prudent regulation and international harmonization of regulatory standards that promote Main Street business has been echoed by Members of Congress, including by Chairman Conaway, who has noted that bipartisan efforts must “protect end-users from being roped into reporting, registration, or regulatory requirements that are inappropriate for the level of risk they can impose on financial markets. It is clear that end-users did not cause the financial crisis, they do not pose a systemic risk to the U.S. financial markets, and they should not be treated like financial entities.”<sup>1</sup> These efforts are clearly reflected in the Commodity End-User Relief Act, which includes several provisions to provide end-user relief, including ensuring that there is adequate time between completing and reporting a transaction to protect an end-user’s hedging in thinly-traded markets.

As the Subcommittee considers the U.S.’s implementation of G20 reporting obligations, it is our hope that the effects of such requirements on commercial end-users are at the forefront of that consideration. Continued support for global standards, rather than proceeding on divergent paths, is important for data reporting consistency. It also has the potential minimize reporting burdens for end-users through the development of high quality data that can be easily understood and used by regulators throughout the world. While we realize that Congress does not have a direct hand in the implementation of the G20 framework, Congress does have ability to influence that process by promoting harmonization and a sensitivity to the impacts on end-user companies. Together we can strengthen our financial systems by supporting Main Street business.

Thank you and I am happy to address any questions that you may have.

The CHAIRMAN. Thank you. I have several questions as I know the other Members do as well. This will be for Ms. Kruse or Ms. Collazo, predominantly.

In its 2010 report entitled *Implementing OTC Derivatives Market Reforms*, the Financial Stability Board stated authorities must have a global view of the OTC derivatives markets through full and timely access to the data needed to carry out their respective mandates. The recommendations help achieve this objective, including that trade repository data must be comprehensive, uniform, and reliable, and if from more than one source, provided in a form that facilitates aggregation on a global scale.

Ms. Kruse, Ms. Collazo, why has the Financial Stability Board been so concerned about regulators having a global view of the swaps market? And how do their recommendations help achieve that objective?

Ms. KRUSE. Thank you, Mr. Chairman. I can start. I think it is, back to the statement that was made earlier, these are global markets, and you may have market participants in your jurisdiction that trade transactions that may seem explicit to the U.S. markets. But in fact, a lot of their trading activity and many of their affiliates may cross over into other regions. And so to understand really the risk that that particular entity and its affiliates hold, you need to have a broader view of trading activity.

Ms. COLLAZO. Thank you, Mr. Chairman, for that question. It is an excellent one because it is one that is often discussed. Adding to what Tara just described, it is one about understanding all the

<sup>1</sup>Press Release, *Congressman Conaway Praises Approval of the Customer Protection and End-User Relief Act*, U.S. Representative Mike Conaway (Apr. 9, 2014), available at <http://agriculture.house.gov/news/documentsingle.aspx?DocumentID=1110>.

activity, these financial companies have many entities, and making sure that the regulator can see the activity of the entity at the parent level, across all of the subsidiaries and branches that they may have.

But there is another important point here as well, particularly as it relates to credit default swaps, and the Lehman crisis was a classic example of that. Lehman Brothers was an entity as well that, for credit default swaps, that was the underlying security. And that transaction could occur between two non-U.S. entities. And during that crisis, there were rumors that the outstanding debt that firms would have to pay with Lehman going bankrupt was over \$400 billion. Well, we were actually able to look at the contract because we offered a post-trade processing service that had all the global data. And we saw that through aggregating that, it wasn't \$400 billion, it was \$6 billion. But the important point here is that these are contracts that neither side was a U.S. party, yet had a significant systemic impact. And that to me is a sort of classic example for why regulators need to be working together globally because these are inherently cross-border trades, and there are going to be trades outside our jurisdiction that is going to be relevant, particularly in a time of crisis for our authorities to be able to see that information. Thank you.

The CHAIRMAN. Were you able to see that difference immediately, the difference in the \$400 billion and the \$6 billion?

Ms. COLLAZO. So it was speculation of the \$400 billion notional. There were rumors essentially that the payout on Lehman bankruptcy for credit default swaps by those who held these transactions and had sold protection, they would have to pay at time of auction, north of \$400 billion.

DTCC was uniquely positioned at that time because we were providing post-trade. We were essentially performing the management of the operations of the credit default swaps. And so we took that data and we looked at the payments if the auction occurred. And the number was not \$400 billion. We identified that if the auction was zero recovery rate, the amount would be \$6 billion. In fact, when the auction for Lehman occurred, the exchange of payments was \$5.2 billion.

The CHAIRMAN. If I can, did that take a day? Did it take a week? Did it take a month? How long did it take you to determine that it was going to be \$6 billion, not \$400 billion?

Ms. COLLAZO. A very long, painful day.

The CHAIRMAN. A day? Thank you. I will recognize Mr. Scott from Georgia for any questions that he may have.

Mr. DAVID SCOTT of Georgia. Yes, thank you, Mr. Chairman. Ms. Collazo, did I say that right?

Ms. COLLAZO. Yes, you did, Ranking Member.

Mr. DAVID SCOTT of Georgia. Wonderful. I was very intrigued by your testimony, but I have to agree with you. The cross-border harmonization issue is very critical. Share with us a moment because you talked about the nine jurisdictions that you have. Tell us what those jurisdictions are. And then you mentioned the workload capacity of did you say 80 million messages? I didn't get it. Was that 80 million per year or was it per day? And then what is that other figure?

In other words, what I am trying to get at is the enormity of this problem and why the issue of transparency is so critical to identifying systemic risk? But a good starting point is that you are right. They are sort of in the wheelhouse, and that was a profound amount of work that you issued before us. Could you elaborate on those points?

Ms. COLLAZO. I would be happy to. Thank you for that question. It is certainly at the heart of what I was trying to communicate regarding the enormity and the global impact. So I appreciate it.

So in answer to your first question, as it relates to nine jurisdictions, these represent the United States under the CFTC. We also cover reporting in Europe under the ESMA regulations. We are also in Australia, Singapore, and Japan. And we support reporting for three Canadian provinces.

And so we have been uniquely positioned really to look across that data set and identify where those divergences exist. When I speak about the enormity of the data that is coming in, the 80 million messages a week that I described, as it relates to U.S. volume coming through, really is to sort of set the context of how much activity, messages, are just coming through, and that this is something in terms of data standards that become so important when you see this size of information.

In terms of globally what we support for these nine jurisdictions, we see approximately 300 million a week. So this is big. And when we sort of think about how we arrive at reliability, usability of the information, it is not a one-size-fits-all. It has to be a means where we can, and my colleague, Tara Kruse, mentioned this, where we can leverage existing market conventions.

In that example of the \$400 billion and the \$6 billion, why were we able to aggregate that information in a day? Because we have the data held in a highly standard way for credit default swaps.

Mr. DAVID SCOTT of Georgia. I want to get to my other point. I have about a minute left. I want to ask how difficult or expensive is it, given all of what you are talking about there, for smaller players in these markets like our end-users? And Mr. Gil, you may chip in here, too, because that is where the rubber meets the pavement for us is the complexity of what this makes for our end-users to interface with the SDRs and accurately report swaps data.

Ms. COLLAZO. Yes. So I will say a few brief words and then I will let Mr. Gil respond to that as well. The work that we are proposing here will actually drive efficiency, remove complexity, and ultimately that will benefit the end-users and in fact, I would even add would enable them to have a level of transparency into this data being reported that would support the efforts both from the G20 goal as well as end-users actually having some benefit here.

Mr. GIL. I would definitely associate myself with those comments. I would also underscore there is also the mistaken kind of assumption that reporting simply means sending an e-mail by an end-user. That is completely wrong. What actually occurs for an end-user is the creation of a system, a computer system, usually from scratch, very costly, and usually not in the best position for someone to actually report. So I would say that the costs are tremendously high.

Mr. DAVID SCOTT of Georgia. Yes. So you don't see, for example, end-users having an exemption from this?

Mr. GIL. Under the current rules, end-users, under single-sided reporting would rely on their financial counterparties to do the reporting. Obviously under the dual-sided reporting in other jurisdictions we have a lot of concerns.

Mr. DAVID SCOTT of Georgia. Okay. Thank you, sir. I appreciate it.

The CHAIRMAN. Mr. Neugebauer?

Mr. NEUGEBAUER. Thank you, Mr. Chairman. One of the things, as I sit on this Committee and the Financial Services Committee, and we have been dealing with a plethora of regulations that came out of Dodd-Frank, is that changing the business model into market behavior. And one of the things I have been particularly concerned about is liquidity in some of these markets. And markets do not perform well if they don't have the right amount of liquidity. And what we have seen is that some of these regulations have changed market players' behavior. We have seen some players get out of the marketplace.

And so one of the things that I am a little concerned about is this recently drafted technical specifications creates a pretty detailed and highly prescriptive set of standards on how to report each and every trade. And I am afraid that might not be all that easy for some of the non-standard hedging products.

So I guess, Ms. Kruse, do I have a valid concern that with all of these changes that we are making, that we are changing market behavior a little bit and potentially have a liquidity issue?

Ms. KRUSE. Congressman, yes. I would absolutely agree with that. I think sometimes we go in the wrong direction. There is a misconception that more data is better data. But it is better to stick with a core set of data fields that allow you to understand the market risk of the transactions and focus on improving those before looking to expand the requirements.

Mr. NEUGEBAUER. Mr. Gil, I am also concerned about these increased reporting requirements, and we were talking about end-users. Mr. Scott brought up on the swap market. I think about adding 120 additional data fields and having to compile the data and report the data on each and every trade, is particularly for smaller end-users, that is, to me that is problematic. Am I missing something here?

Mr. GIL. Congressman, we share your concerns completely. The CFTC's proposal, while well-intentioned, does ask for a number of additional data fields that will impose additional costs. Those costs obviously flow down to end-users. To the extent that that financial reporting party has to start collecting that information, it does go to the end-user. The number one thing that we want to avoid is pricing the end-user out of the market because of increased costs.

Mr. NEUGEBAUER. Yes, one of the things that I wonder is if the requirements are maybe well-suited for reporting—could perhaps be more suited for the dealers, swap dealers, themselves rather than putting that responsibility on the end-user. Is that a reasonable thought?

Mr. GIL. Congressman, that is a great question. Honestly, the costs do end up flowing to the end-user regardless of who is the re-

porting party. We have seen that in a number of different regulations, whether it is capital or margin, and it applies for reporting, too. I think that the important thing to do honestly in addition to making sure that the right person and the right party is actually reporting this information, is making that information as targeted as possible, eliminating issues with current reporting issues, and then only asking for data sets that are truly needed, going forward.

Mr. NEUGEBAUER. Yes. I think one of the things, because I heard you say a while ago it is pretty expensive, the start-up. So I am thinking that the infrastructure that the swap dealers already have in place may be a more cost-effective place to do that, rather than asking the end-users to have to develop that infrastructure.

Mr. GIL. Congressman, I would agree with that.

Mr. NEUGEBAUER. Yes. So the final point that I wanted to make is that I am extremely concerned about, as we have gotten this new regulation, we have also, with Dodd-Frank, we created new entities. We have OFR and it is collecting a huge amount of data. The CFPB is collecting a huge amount of data now, millions and millions of records on credit card holders across the country. I am concerned with two things. One is do the regulators need all that data? But more importantly, now I am worried about the sensitivity in collecting that data and the safety of that data because much of that data is very proprietary. Again, one of the things that we would hope that the CFTC and other regulators would do is, look. This is the data we need to make a safety and soundness issue. We don't need to know that much more about that transaction than a certain subset. And I am having a hard time believing that we have 100 fields that will determine whether we have the right amount of data on that, particularly for non-standard trades as well.

So Mr. Chairman, thanks for having this hearing today.

The CHAIRMAN. Mr. Aguilar?

Mr. AGUILAR. Thank you, Mr. Chairman. I have a couple questions for Mr. Rogers. In your testimony you comment that in a post-Dodd-Frank world, the Commission has adopted rules for data reporting that have changed how we view the markets. Specifically, can you talk a little bit about the transparency to market participants? Give me an example of that and what do you believe are some of the most significant gains in these efforts. And with respect to SDR data quality, do we plan to continue building upon this progress and how will we do that?

Mr. ROGERS. Thank you for the question, Congressman. I would say that from a significant advancement perspective that at the Commission we have a view into the data that we did not have at the time of the financial crisis. And we are actually able to make use of the data that we get through the SDRs every day. Those purposes are to assess exposures for particular market participants overall but then also assess risk, financial risk, to firms and what-not. So we actually analyzed the same data that is coming into the SDRs for those purposes.

Other purposes would be for the *de minimis* study, for example, that is currently ongoing. Or Made Available for Trading.

So, we have a variety of divisions performing market oversight functions or monitoring swap dealers or assessing financial risk

that are all looking at data that we didn't have a view into before and are able to then do analysis, reach out to industry participants if there are questions that we have about the data and be more informed about what is happening in the marketplace. I think that is the most significant advancement that has been made. I would add that certainly there is lots of work that needs to be done, moving forward, in terms of improving the quality of data, but we actually are using the data on a daily basis.

One other thing that I would add is that we are trying to create clarity in terms of what data we would expect to see and how we would expect to see it. That was the purpose of the technical specifications document that was issued with the 120 fields. We believe with that clarity that the quality of data will improve, the quality of the data going into the SDRs will improve because people will know what to submit and when. That is the objectives of those efforts.

Mr. AGUILAR. I appreciate it. One more for you. The regulators, the global regulators working on this through the data harmonization working group to propose guidelines for harmonizing the derivatives data across the jurisdictions, work streams are taking place on data elements such as unique trade identification, unique product identification, and other data elements. Once the working group puts out its recommendations expected later this year, how will CFTC respond? Will it use these recommendations? What do you think are some of the next steps, and do you envision that there will be changes that are needed based on that work?

Mr. ROGERS. Thank you for the question, Congressman. The guidance that is being issued through the CPMI-IOSCO initiative is truly guidance to the regulators on the standard ways to represent this information with the notion that the regulators that are participating in this activity will adopt that guidance and implement it in their jurisdictions. From a CFTC perspective, we would certainly expect to be implementing the guidance of this initiative.

Even at this point, we are looking at how that would be done. So there may be some aspects to the guidance that comes out that would not require a change to rules but probably would require some guidance from the Commission, and there may be some that would in fact require changes to rules.

So that is something that we would be looking at, and we would expect that other regulators that are a part of the process would be doing as well. That is actually something that we talk about when this committee gets together to discuss the implementation, and that is where a lot of coordination happens, both domestically and internationally in the work that we are doing, moving forward, to create that global harmonized standard.

Mr. AGUILAR. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lucas is not here, Mr. LaMalfa?

Mr. LAMALFA. Thank you, Mr. Chairman. Mr. Gil, of course, I am glad we are having this hearing. It is important to hear from the end-users on how this process works or the difficulties of it. You didn't have a whole lot of time earlier. Could you elaborate a little more on the burdens that are imposed on the end-users by this amount of data that is required? Would you care to elaborate

a little bit more on what that really looks like and what kind of a barrier that might actually be towards trading?

Mr. GIL. Absolutely. That is a great question. Thank you for that. I think that one way of kind of thinking about it, again, I use the analogy of someone thinking that an e-mail is sufficient. Sometimes people don't realize that an end-user also has a continuous obligation to update that information that is posted. So you have to create a system from scratch. You have to create the code in order to actually implement the system. Then you have that reporting obligation, going forward, in terms of updating that continuous information.

Let me take the example of Europe where that is even tougher. So for example, you have a dual-sided reporting obligation, and usually you would actually rely on the financial counterparty to supply that information and send it to an SDR. In that situation, you actually have to do it yourself. So the end-user has to adopt this to begin with.

So for an international company that is doing both business in the United States and Europe, sometimes they are faced with a situation where they may not have to post that information or report it in the United States but they do in Europe. And that creates complexity and burden.

Mr. LAMALFA. And how much do you think that has created a barrier with international transactions?

Mr. GIL. I think it has been significant, Congressman. I don't have any numbers on me.

Mr. LAMALFA. This isn't the first time it has come up. Ever since I have been on this Committee, it has been a topic that has been a source of frustration with trying to—more harmonization is needed between the U.S. and European concerns. Please.

Mr. GIL. Right. To answer that question, it is important to look at how this system has kind of developed over time. The Europeans have decided to actually develop the system that is very different from the CFTC and what we have in the United States. A few years ago the CFTC granted no-action relief and has helped with a lot of these different reporting obligations, which we really appreciate.

So for example, inter-affiliate reporting which would have been very burdensome for end-users, is something that the CFTC has granted relief from. Europe is different, and because of that, we face different reporting obligations.

Mr. LAMALFA. The level of detail Mr. Neugebauer was talking about as well, the amount of data, the number of fields expanding, how do you find that as being really helpful or what do you think the theory is, or how that would even actually be helpful? We have a lot of data. We have a lot of data to keep track of. Is it secure enough? At the end of the day, is it useful to anybody on the regulatory end?

Mr. GIL. I think you have a great point there, Congressman. The fact is, more information is not necessarily helpful or useful, and we need to actually look at that.

So for example, I have used the example of the EU because it is very helpful here. In the dual-sided reporting regime, you have about 50 percent matching, so in other words, 50 percent actually

working in that system. You have more information in that system, though, because it is coming from two different sources. Taking that analogy and using it here, now you have 120 new data fields. You might have potential mismatches. You are going to have a lot of false positives. More information is not necessarily helpful in that respect.

Mr. LAMALFA. It seems like one could get lost in all that, and I don't know if it is even looked at on the regulatory end anyhow. Ms. Collazo alluded to that as well.

Mr. Rogers, again, we are hearing multiple times whether here in this room, I had others in my office complaining about the overload of information as it affects credit unions in the Dodd-Frank situation and just a lot of frustration with what many people feel are unneeded levels of information. The harmonization problem across the border is huge since I have been here hearing these testimonies over time.

What do you see are really the biggest differences between the United States and G20 members on these reporting requirements and what is CFTC going to do to have a much better harmonization so we are not creating a barrier or even Europe looks at this as hostile towards trade? I am short of time, too, so you have to hurry a bit, please. Thank you.

Mr. ROGERS. Yes. Thank you for the question, Congressman. I believe the work that we are doing internally with CPMI-IOSCO is geared towards in particular a set of fields that are necessary for aggregation and standardizing on that front. The work that we are doing at CFTC is fitting into that, but when we look at the data that we are asking for, we look at it from the perspective of the use cases that we have at the Commission. And it is based on the specifications that are intended to provide greater clarity for fields that are already being asked for but then there are also situations where there were new asks of data as it relates to that particular technical specifications document.

Mr. LAMALFA. Right. I better cut you off there.

Mr. ROGERS. Sure.

Mr. LAMALFA. But every time I hear about more clarity, it seems to be a greater burden on the people, whether it is this or whether it is clarity as set down by the Army Corps of Engineers on their policy. I will yield back, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you. I am going to go to a second round of questions pretty quick and try to move fairly fast through these. Mr. Rogers, I have a couple for you real quick. Does the CFTC have full and timely access to all of the data needed to carry out the mandates of the Dodd-Frank Act to enhance transparency, promote standardization, and reduce systemic risk?

Mr. ROGERS. I believe we do have access to the data that we need, but I do believe that there are refinements that need to be made in that data in terms of the quality of it, whether it is complete or whether it is accurate. And we are taking steps in that regard. There are circumstances where data has been identified, new data that would be required. But for the most part, I would say that we do have access to the data to perform quite a lot of the functions that we are required to perform.

The CHAIRMAN. Do you or does any other authority have a global view of the swap markets?

Mr. ROGERS. Thank you for the question. I would say that at this point in time, no. We have a view into the data that we have jurisdiction over, and that gives us insight. And we would have to reach out then and get data that we would need in a broader context. It is an issue that is being worked on through the Financial Stability Board and CPMI-IOSCO. But at this time the mechanism that would be envisioned to have a single place where every jurisdiction could go to do that assessment is not in place at this time.

The CHAIRMAN. Why not?

Mr. ROGERS. I believe it is a complicated matter that requires examination from a variety of different fronts. One of them would be the legal barriers, and in the United States we have just had the repeal of the indemnification provision. But in other jurisdictions, there are similar barriers to having that information being shared. Other laws, like privacy laws and things like that, there are governance and data protection things that would need to be worked out to make sure that the data that would be available is available in appropriate ways and protected properly and used properly. So those are just a couple of issues that would need to be addressed to stand up a regime like that.

The CHAIRMAN. As you work through that, it would be helpful for this Committee to have those recommendations, especially on how we protect people's privacy while at the same time making the data useful.

One more question: Within the confines of your recent appropriations, what work are you doing to improve the technological capabilities of the Commission to accept, process, and analyze swaps data from the SDRs?

Mr. ROGERS. Thank you for the question, Congressman. We are working on a variety of fronts, starting from the technological layer. There are cycles to technologically refresh our environment. So as an example, our storage capacity is something that we are addressing this year. From a more data-oriented perspective, we are working very hard to provide specifications that will hopefully improve the quality of information but also working on the systems that are necessary to combine data from multiple swap data repositories in such a way that our staff, regardless of the divisions that are represented, can go to one place and do the analysis that they need to do to carry out the mission of the Commission. So quite a lot from both the technological front and from the data perspective.

The CHAIRMAN. I have one more question if I may, Mr. Scott, before I go to you. Ms. Kruse, it was mentioned the importance of using existing market conventions. What are those market conventions and what are we using instead of those conventions?

Ms. KRUSE. Sure, thank you, Mr. Chairman. It is a very good question. The conventions, the key ones, are the following: There are the product definitions that have been published and developed over time that are used by market participants to agree to the terms of their transactions and confirm the terms of the transactions. They establish terminology and definitions for terminology that frankly just are the market standard for how derivatives are agreed and confirmed. Yet those terms and the definitions that un-

derlie them aren't being consistently used in leverage. Instead, you have regulators creating new terms to represent the same information or defining it differently which isn't really economically what was agreed between the parties.

Also from an electronic representation, there are standard ways to represent some of this data. A lot of that is in the Financial products Markup Language. This is an open-source electronic messaging scheme that is used by market participants, even before there were reporting requirements to electronically confirm the trades. So there already is a mechanism to represent consistently for instance things like business day conventions established in these, or certain dates and payment types, *et cetera*. And those values are not necessarily being leveraged and reflected in the regulatory requirements. Instead, regulators start fresh and kind of reinvent the wheel to come up with their own values. If you go back to these standards and regulators align to them, it not only increases the efficiency of reporting but increases the consistency between the regulatory requirements.

The CHAIRMAN. Thank you. Mr. Scott?

Mr. DAVID SCOTT of Georgia. Yes, thank you, Mr. Chairman. So this morning we have heard from the panel, Ms. Kruse, Collazo, and you, Mr. Gil, that we have global regulators that are working together with the CPMI-IOSCO Data Harmonization Working Group, and they will propose guidelines for harmonizing derivatives data across all of the nine jurisdictions, according to Ms. Collazo, and that work streams are taking place on data elements such as the unique trade identification, unique product identification, and other data elements.

So then I have to turn to you, Mr. Rogers, and ask you, once this working group, as your three fellow panelists have laid out, puts out its recommendations, which I understand is expected later this year, will you, the CFTC, heed those recommendations?

Mr. ROGERS. Thank you for the question, Congressman. Let me provide a little context behind the recommendations that are coming out from the CPMI-IOSCO group. They are focusing, besides the UTI and the UPI, on 80 fields that are necessary for de-aggregation of data. Within those 80 fields, yes, the CFTC does plan to adopt the recommendations of the group. The needs though in terms of what the CFTC does with data actually is broader than the mandate of those 80 fields. And that is why we have in our technical specification that has come out 120 fields as an example actually covering three asset classes: credit, interest rates, and foreign exchange.

Mr. DAVID SCOTT of Georgia. Right. So your answer is that you will heed the recommendations? Now let me give you this entrance ramp by asking you that if you do, do you envision that there will be changes needed to current rules and reporting requirements based on this work?

Mr. ROGERS. Thank you for the question. I believe that there is certainly the possibility that that would exist. I don't know that I can say categorically, but I believe that that is in all likelihood a possibility. I think that for example in our Part 45 rules, there are very specific appendices in the back of that, and there might be ad-

justments that are needed to that. But there could be adjustments in other areas.

One of the things that we are looking at from a Commission standpoint is the potential for changes to our rules based on information that we know now. But also, I could envision that changes would be required as it relates to that work that is being done by CPMI and IOSCO.

Mr. DAVID SCOTT of Georgia. Okay. Let me ask each of you to comment, if you could. The data quality in ISDA swaps data repository is high, very high. There is a high bar for data to make it into the swap data repository and many validations are in place to ensure data quality. All of the SDRs have been working together to present data in the most efficient manner. And the suggested path forward is to allow the SDRs to work with the CFTC. And I have been assured that this is a very achievable goal. Yet, there is still talk about improving the quality of the data. So my question is, what is the best path forward to improve that data quality? Mr. Rogers?

Mr. ROGERS. Thank you for the question. I think that from the CFTC's perspective, as I mentioned in my opening remarks, I believe that in some cases the swaps data repositories don't feel that they are empowered to reject data. If we provide greater clarity on: first, that they can; and second, just what the criteria would be for validation, whether it is making sure that data that is not supplied is now supplied or more complicated things around data quality, that will substantially improve the quality of the data coming to the Commission. And so that is a priority focus of ours.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. LaMalfa?

Mr. LAMALFA. Thank you again, Mr. Chairman. Mr. Gil, listening to the complexity of this day and over time, there is certainly a case to be made, can exceptions be made from somebody's reporting requirements at a certain level or a certain timeline? Would you have any recommendations on that? Would you be supportive of that? And if you would, how would you put that into place? How would you implement that sort of thing?

Mr. GIL. Thank you very much, Congressman, for that question. I think it is completely appropriate to be looking at this, looking at the burden that is imposed on end-user companies and finding out if there are exemptions or abilities to tailor that type of reporting in a way that will be appropriate for end-users.

In terms of specific recommendations? It is difficult to say considering that this is a technical staff document, alpha proposal. I think the main point, though and the main point that I underscore that the other panelists have also mentioned is that it is incredibly important to make sure that it is consistent with the work being done by CPMI-IOSCO. It needs to be consistent with end-users, especially the businesses across different jurisdictions need to have the same reporting obligations throughout.

Mr. LAMALFA. Thank you. Let me shift to Ms. Kruse, too, I picked up that you talked about the reinvention of the wheel, whether it had been a way of doing things that was working and now you have to almost scrap that in order to have these two different languages talk to each other in really plain terms here.

What would you see is the concern about the previous way of doing things as being deficient? Where is that concern coming from and what are these—elaborate more on the pitfalls of having two different methods of doing that with this reinvention of the wheel as you mentioned?

Ms. KRUSE. Thank you, Congressman. I mean, the real pitfall is that it is very inefficient trade. It also creates a lack of clarity. It allows participants to interpret the data in a different way, potentially report it in a different way, in a different way than they might have agreed to trade or the way they might have confirmed it bilaterally between themselves.

Ideally, if you want good quality data, you want the data to be provided to the regulators and viewed by the regulators in the same terminology and in the same form and as close to the same form as the parties agreed to it between themselves to begin with.

Mr. LAMALFA. So the industry standard amongst the people talking to each other, doing it, should be adapted to by the regulatory agency so that you are going to get better quality instead of trying to translate it into something completely different that they don't work with basically?

Ms. KRUSE. Yes. That is correct. I mean, a lot of the issues you see with data quality are not attributed to the fact that the parties don't agree on the terms of the trade. They have confirmed the trade. They have legal certainty. It is the way the data is transformed differently by parties sometimes due to technological differences in their systems, sometimes due to different interpretations of what is required or asked for by the regulator that ends up showing it is very—

Mr. LAMALFA. What is the quality of the technology that the regulator brings to the table compared to what you have within your system?

Ms. KRUSE. I think it is more so about the regulators adopting what is already available from an industry perspective because parties use those standards to provide the information to the regulator, and then the regulator can leverage and benefit from those existing standards. It ought to save them a lot of work, and it ought to provide a mechanism for more consistent data.

Mr. LAMALFA. Thank you. Sounds sensible to me. Ms. Collazo, you talked about having an international governing framework here where you would have, in order to cover this international misunderstanding here, you would have an outside group made up of multi-national entities to speak to each other about that, come to agree. Could you elaborate on how that would come about? How do you envision that and how would that be formed and what would it be accountable to?

Ms. COLLAZO. Thank you for the question, Congressman. In terms of the governance model, it is really a jumping off point from what Tara Kruse just discussed which is their existing market standards. And our hope and expectation is that those standards are recognized at a global level.

But we also know that standards evolve over time. And we don't want it to be—

Mr. LAMALFA. I'm sorry, running out of time. But how would you formulate this international entity or governance group that would be trying to assemble this? How would that come about?

Ms. COLLAZO.—governance. Right.

Mr. LAMALFA. If you could please?

Ms. COLLAZO. So essentially what we would like to see is that the governance model is such that it has representatives from each of the jurisdictions, major jurisdictions that have derivatives data and that they are constantly—that they can take inquiries. It can be a governance model that is owned by the industry, such as ISDA has particular governance oversight of certain data elements. Regulators representing multiple jurisdictions can be part of that governance framework. And then there can be a process for as the standards evolve for this governance framework, to review it, to comment on it, and to make sure that it is aligned with how entities would report and the changes they would have to make to this.

Mr. LAMALFA. Okay. To sum up then, would they have any kind of a regulatory authority or is it more of a recommendation that has credibility amongst all the separate groups that should be paid attention to? Are you going to empower them with some kind of enforcement or some kind of regulatory—

Ms. KRUSE. I would say—it is a great question. I would say that it is more about enabling the standard to evolve and that the regulation recognizes that governance framework so that as changes occur in the market, the data is consistently being updated on a global basis.

Mr. LAMALFA. Thank you. So they could be listened to and with credibility. Mr. Chairman, I thank you for your indulgence. I yield back.

The CHAIRMAN. Thank you, Mr. LaMalfa. We will take that minute-and-a-half out of the next meeting. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Chairman, and thanks to all the witnesses for being here today. I would like to start with Mr. Rogers. As the CFTC pushes to develop these standards to report each and every swap trade, are precautions being taken to ensure that such rules don't end up hurting liquidity? Because reporting actually imposes real costs on the market participants.

Mr. ROGERS. Thank you for the question, Congressman. Yes, I would say that the data that is being asked for is being looked at in terms of the implications for the use by the Commission and on the marketplace in general. We have focused on in fact in our technical specifications existing standards, existing practices and look forward to feedback on exactly what we are asking for and how that fits into the framework that already exists with the notion of trying to ensure that we are able to accomplish our regulatory mission but also trying to not be overly burdensome to industry.

Mr. DAVIS. Okay. Ms. Kruse, does industry feel the regulators are only demanding the information they need or expanding into new fields?

Ms. KRUSE. Thank you, Congressman. I mean, we definitely feel that they are expanding. That is right. I would really question the idea that the 120 fields in the technical specification are all priority fields. Many of these are new fields. There are probably a couple dozen of them that are brand new fields which is an expansion of

reporting requirements. At this point in time people feel it is more important to focus on improving the data fields that are already required by the Commission and making those more useful rather than looking to expand the scope of the requirements.

Mr. DAVIS. Okay. Now we know every SDR is going to need to make some changes to comply with this uniform reporting standard. Are you concerned that the regulators won't give industry enough time to implement some of these changes with the fields that you have mentioned? Ms. Kruse, go ahead.

Ms. KRUSE. That is for me, Congressman. Thank you for the question. Yes, it could take significant time. I mean, one of the concerns that we really have is that we don't want jurisdiction-specific implementations. We want the global initiative at CPMI-IOSCO to play out, and to the extent that there are changes that are necessary to promote consistency, which there probably will be, then the industry is very willing to do that. But they want to do it in a globally coordinated fashion. It is very expensive and inefficient to have interim jurisdiction-specific changes to regulations, especially if those might then be superseded by the global mandates.

Mr. DAVIS. Okay. Well, I guess for the other two witnesses, do you have any comments on any of the questions I have asked?

Ms. COLLAZO. I would add one other comment in terms of the data and having a much more narrow focus on improving the quality there. Really, it is about the ability, when we think about usability, it is about transforming this data into information. And the only way to do that is to have a consistent standard. So we would absolutely agree that narrowing the focus on what are the key economic terms, what are the key data elements, for example, the parties to the trade that are needed to be able to aggregate and have useful information. Data in and of itself is not information.

And so when looking at that, we think that there is a much more narrow set of data elements. In fact we did suggest to CPMI-IOSCO that that data set is somewhere in the vicinity of 30 to 50 fields. And we made that specific recommendation on those fields for credit derivatives. So we would really urge that there be a much more narrow lens around these data standards, that the focus is around how would that information be used? What aggregation, what output of the data would be utilized by the regulators? And that is the objective we should be turning our attention to.

Mr. DAVIS. Okay. Thank you. Mr. Gil?

Mr. GIL. I would associate myself with the comments of Ms. Kruse and Ms. Collazo. I would also add—

Mr. DAVIS. And not Mr. Rogers?

Mr. GIL. Not Mr. Rogers.

Mr. DAVIS. Okay.

Mr. GIL. What I would say, though, in addition to the points that they raised, we have to look at what tools are also available currently to talk about swap data quality and, for example, portfolio reconciliation and confirmation of trades. Those basically ensure that the economics of the bargain that are actually entered into between parties is confirmed. So when we are talking about data quality issues, we are talking more about month, date, year *versus* date, month, year kind of issues, not the economics of the actual transaction.

Mr. DAVIS. Right. Well, thank you all very, very much. Mr. Rogers?

Mr. ROGERS. May I add something? Yes?

Mr. DAVIS. If the Chairman allows me extra time, you can.

The CHAIRMAN. Absolutely.

Mr. DAVIS. Thank you.

Mr. ROGERS. Thank you both. So I wouldn't say that without question we are looking at how the global standards align with the things that we are asking for. And a real good example of that is the UPI data element. We have been having conversations with industry for a long time about the unique product identification and how to represent that, and we are specifically asked, "Please don't create something at the Commission that would then be overtaken by an international standard." And it is for that reason that that is an element that hasn't been brought into the conversation.

We work very hard to align what we are doing domestically with what is being done internationally and do try to leverage international standards. Having said that, we have gotten feedback at our TAC meeting this week that some of the things that we were asking for in our technical specification did represent more things than we were asking for and heard very clearly that the recommendation was focus on making the elements that we already have better before asking for new elements. And that is something that we will absolutely take into consideration as we contemplate the comments that we have gotten or will be getting as a result of this—

Mr. DAVIS. I think from some of the questions we have asked, I respect the fact that the CFTC is willing to take those ideas into consideration. We would urge that to happen, and we appreciate your willingness to work with us. And thank you all for being here, and I don't have any time to yield back.

The CHAIRMAN. Mr. Kelly?

Mr. KELLY. Ms. Kruse, the CFTC swap data reporting requirements are not fully aligned with the SEC's requirement for securities-based swap data. Differences exist as to who is obligated to report, reporting timelines, and what data is reportable. What is the impact of these discrepancies between the SEC and CFTC's swap data reporting standards?

Ms. KRUSE. Thank you for the question, Congressman. It is an excellent one and one that I have been quite concerned about. We have been working with the SEC in providing comment to them as they have worked to finalize their rules. And one of the major comments that our members have continued to put forward is that the SEC should be working to try and align with the CFTC to the greatest extent possible.

What it means for our participants is a great deal of additional cost and inefficiency because they have to build out different reporting pipelines, different reporting logic, different reporting data fields for their securities-based swaps as they are currently reporting for their swaps. It also creates a great deal of expense for trade repositories that are looking to support it. That cost gets passed back to the market participants.

The SEC also has a requirement that goes to the end-users, very specifically they are looking for the party who is not responsible

primarily for reporting to supplement the data with unique identification codes like trader IDs and trading desk IDs which amounts to requiring these parties to be onboard to all of the trade repositories and building out their own pipelines to report additional data.

Mr. KELLY. And if I mispronounce your name, I apologize. Ms. Collazo? If you or Mr. Gil, I noticed you were nodding during some of that. If you have comments that you would like to add, I'd just appreciate it.

Ms. COLLAZO. Thank you, Congressman, for the question. I would absolutely agree with the comments that Ms. Kruse made, and this is a real concern because we have talked about globally but even domestically we have these challenges. We are very concerned about the impact that it will have in terms of the quality of the data that we will receive. These types of fields, additional fields that are being recommended by the SEC is not information that is otherwise held in a systemic way. There are challenges in adhering to it in terms of the end-user impact. How are the swap dealers to gather this kind of information? As a swap data repository, how can I know that that information is actually accurate? And it is also morphing into concerns such as personal information. There are additional obligations that the SEC regulation has about a swap data repository being an issuer of these identifiers. And we do not believe that that is a role that a repository should play, and we question the value of that measured against the information that would be derived.

Mr. KELLY. And I apologize, Mr. Gil. I wanted to give Mr. Rogers just a chance to respond, and I will come back to you if I have any time. What is the CFTC doing to harmonize the data reporting standards with the SEC, Mr. Rogers?

Mr. ROGERS. Thank you for the question, Congressman. I know that SEC and CFTC from a mission policy setting direction do coordinate their activities that they have going on within their particular purviews. I can also say that the SEC does participate in the CPMI-IOSCO initiative, and that is a means of collaboration between our organizations at the very specific data level. Of course, it is up to the particular jurisdictions to adopt the recommendations that are coming out of this initiative. But we would expect that everyone would be adopting it. So there is coordination at the very specific data level, but there is also coordination at the policy level.

Mr. KELLY. And Mr. Gil, you have my remaining 30 seconds.

Mr. GIL. Thank you. I would only add in addition to the differences that have kind of been noted here is inter-affiliate reporting. And so the CFTC in its no-action relief granted relief from that in its reporting rules. The SEC seems to be going down a different route and will require it despite the fact that it is internal risk management. So end-users find that to be a significant concern. We will be inputting comments on that.

Mr. KELLY. Thank you, and Mr. Chairman, I yield back.

The CHAIRMAN. That is right on time. Ladies and gentlemen, Ranking Member Scott and myself, we would like to thank you for coming and testifying before the Committee today. Under the rules of the Committee, the record of today's hearing will remain open

for 10 calendar days to receive additional materials and supplementary written responses from the witnesses to any questions posed by a Member. This Subcommittee on Commodity Exchanges, Energy, and Credit hearing is now adjourned. Thank you.  
[Whereupon, at 11:28 a.m., the Subcommittee was adjourned.]

