

Testimony of
Marisol Collazo
Chief Executive Officer, DTCC Data Repository (U.S.) LLC
The Depository Trust & Clearing Corporation
“Hearing on G20 Swap Data Reporting Goals”
House Committee on Agriculture
Subcommittee on Commodity Exchanges, Energy and Credit

February 25, 2016

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.¹ 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 US\$1.6 quadrillion.²

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.

¹ 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>

² 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”).

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 default swap ("CDS") market on a weekly basis since January 2009. This information is available, free of charge, on 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.³ 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.

³ See G20 Leaders' Statement at the Pittsburgh Summit (Sept. 2009), available at http://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.

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.⁴ 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 10 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 publically 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, regulators 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.

⁴ 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>

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](#), *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 policy makers 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 consider 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.⁵ 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.⁶

⁵ 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>.

⁶ 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 recordkeeping 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).

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 recordkeeping and reporting rules with respect to OTC derivatives transactions that require counterparties to be identified by LEIs.⁷ 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 regarding 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 requirements 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.

⁷ 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.

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."⁸

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.

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.

⁸ FSB Thematic Review on OTC Derivatives Trade Reporting: Peer Review Report, 4 November 2015

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.⁹

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.

⁹ FSB Thematic Review on OTC Derivatives Trade Reporting: Peer Review Report, 4 November 2015