

August 21, 2017

**Via Electronic Submission**

Mr. Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

Re: Division of Market Oversight Review of Swap Reporting Rules in Parts 43, 45,  
and 49 of Commission Regulations

Dear Mr. Kirkpatrick,

BSDR LLC (“BSDR”), Chicago Mercantile Exchange Inc. (“CME”), and ICE Trade Vault, LLC, (“ICE Trade Vault”), (collectively, the “Swap Data Repositories” or “SDRs”) appreciate the opportunity to provide comments to the Commodity Futures Trading Commission (“CFTC” or “Commission”) regarding the Commission’s Roadmap to Achieve High Quality Swaps Data (the “Roadmap”)<sup>1</sup>.

The SDRs commend the Commission for its continued focus on data accuracy and the review of the reporting rules to assist the market in streamlining reporting and creating better data quality. The SDRs look forward to the opportunity to collaborate with the Commission to make thoughtful amendments that will achieve the Commission’s goals while simplifying the reporting and related obligations on market participants and the SDRs.

**I. Introductory Comments**

Currently there are global regulatory efforts to harmonize swap data standards and validations. Given these global harmonization efforts, the SDRs request that the Commission coordinate any rule amendments and harmonization of requirements with the foreign and domestic regulators. The SDRs, all which operate trade repositories in other jurisdictions, and reporting counterparties, will be impacted by changes by the CFTC and the CPMI-IOSCO working groups.

Given the substantive nature of potential modifications to the reporting rules, the SDRs request that all amendments, including validations on fields, be finalized at once and implemented together to avoid duplicative and costly implementations. The SDRs would request that any changes to the reporting rules align with CPMI-IOSCO and that implementation of corresponding system updates be done all at once. Implementing at once limits the chance for

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<sup>1</sup> CFTC Staff Letter 17-33 (July 10, 2017).

further rounds of corrective work, as evidenced in other jurisdictions. While the SDRs understand the Commission's desire to make incremental progress, a staggered approach will be more costly and complicated for market participants and SDRs to implement. As such, the SDRs request that the CFTC and global regulators require that system changes be implemented as part of a single effort.

The SDRs also request the Commission implement only modifications that are necessary to allow the Commission to meet its stated goals of streamlining the reporting process and improving data accuracy and completeness. The SDRs believe the Commission should consider the options that allow the SDRs to perform post submission modifications, rather than requiring reporting counterparties to make modifications upstream. This approach will lessen the impact on reporting counterparties while still ensuring that the Commission gets the data in its desired form. More specifically, allowing the SDRs the option to build logic to transform the data it receives from reporting counterparties, rather than requiring it be captured at the time of submission, will permit the SDRs to limit changes to their technical specifications and thus, fewer changes will be required of reporting counterparties.

Finally, the SDRs would encourage and welcome the opportunity to make the rule amendment process a collaborative effort with Commission. The SDRs are best positioned to provide useful input and feedback regarding the operation of domestic and international trade repositories. Further, the SDRs have a keen understanding of their own capabilities and limitations, as well as that of reporting counterparties. With respect to specific amendments or implementations, the SDRs request that the Commission provide background on the purpose of the requested changes. Often, if the SDRs understand the intended usage of the data, the SDRs can better guide the Commission on the most effective way to deliver the needed results. Once rule amendments are finalized, the SDRs would also encourage the Commission to publish guidance and Q & A documentation. Such guidance has been helpful in other jurisdictions to clarify vagueness where it exists within the rules. If the Commission provides guidance that is publicly available, implementations, and therefore, data sets, would be more consistent across SDRs and market participants.

## **II. Tranche I: SDR Operations Review**

### **a. SDR Validations**

#### ***Leverage existing SDR validation processes to improve consistency and completeness of data reporting***

To date, each SDR has a well-established and unique approach to the validation of data received. To achieve data accuracy and completeness whilst limiting the impact on SDRs and reporting counterparties, the SDRs are supportive of leveraging existing validation processes used by each SDR. Given the mature state of the SDRs' existing systems and validations and the cost of modifying SDR systems, the SDRs request that the Commission limit the amount of system re-architecture required. The more extensive the changes required to be made, the more lead time the SDRs will require for implementation. This will result in increased costs on SDRs and reporting counterparties.

As detailed above, to further limit the impact of changes on reporting counterparties and SDRs, we would request that the Commission provide flexibility to the SDRs to capture data in the manner and form that the SDRs see fit, so long as the data made available to the Commission conforms to the prescribed values and is in the mandated format. This approach would have the added advantage of allowing each SDR to leverage their extensive existing validations processes to deliver consistent, high quality data as opposed to having to make significant modifications or create new validation processes.

To the extent the Commission intends to make modifications to the fields and validations on fields, the SDRs request the opportunity to be involved in the drafting process. While we are agnostic as to whether such modifications are accomplished by the SDRs working collaboratively to develop suggested minimum validations or by the Commission developing such validations, we believe inclusion of the SDRs in the process will help the Commission achieve its goals.

***Work with SDRs to setup processes for rejecting swap data reports with missing or invalid data***

The SDRs are supportive of implementing processes for rejecting reports with missing or invalid data<sup>2</sup>. The SDRs request the Commission consider implementing new processes once the CFTC has harmonized its fields with other jurisdictions. Prematurely imposing requirements on the SDRs, could result in additional changes being required shortly after to conform with global standards.

Furthermore, to date, the SDRs have taken varying approaches to missing or invalid data. For consistency across SDRs and globally, the SDRs recommend implementing validations on the inbound submissions, such that where a required field is blank or invalid data is provided, a report will be rejected. This should not be read to recommend that all SDRs be directed to implement the exact same validations on the inbound submission. Rather, any validations implemented should be designed to allow the SDR to provide prescribed values in the mandated format to the Commission.

***Identify initial set of minimum validations including blank/not blank validations and some allowable values and format validations where appropriate***

As noted, the SDRs are supportive of implementing validations on fields one time and as part of global harmonization efforts. The SDRs recommend waiting to implement validations on fields until the Commission has finalized the fields it will require as part of global harmonization efforts and otherwise.

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<sup>2</sup> It should be noted that many SDRs already have extensive processes in place for the rejection of data with missing or incomplete elements.

The SDRs request that the Commission coordinate these efforts with other jurisdictions<sup>3</sup> so market participants can work toward a harmonized set of expectations. The SDRs would expect that the harmonized efforts not be limited to fields to be reported but also the description of the field, allowable values and formats, and the validations on those fields. However, we would request, as detailed previously, that an SDR have the flexibility to capture the data on input however they see fit so long as the data made available to the Commission conforms to the allowable values and format set forth. This will allow the SDRs to use existing fields and values provided they yield the same information required by the Commission<sup>4</sup>.

This said, the SDRs request that the Commission set forth a defined list of validations that should be implemented with clear, specific guidance. Minimally, this should include, standardization of field names, an indication of how and when validations should be performed, a description of the validations that the SDRs are to implement inclusive of a description of the outcome the Commission hopes to achieve with each validation, as well as ongoing public Q & A documentation, which may be used to define uniform standards for atypical scenarios for use by market participants and SDRs uniformly.

Additionally, to the extent that data can be validated against a golden source (i.e. GLEIF), it should be required. The SDRs would like to see the fields that can be validated against a public source, like GLEIF, expanded beyond LEIs where possible (i.e., registration status in reportable jurisdictions - Swap Dealer etc.). It will help to reduce costs and increase data accuracy for SDRs and reporting counterparties if generally static data maintained in a public database, such as GLEIF, could be used for validation purposes by the SDRs.

#### **b. Ensure Counterparties Confirm Accuracy of SDR Data**

*Identify most efficient and effective solution for swap counterparty(ies) to confirm the accuracy and completeness of data held in an SDR*

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<sup>3</sup> The Canadian provincial regulators have discussed setting similar validation standards. Given the similarities between the fields we would encourage coordination in establishing such validations.

<sup>4</sup> For example, an SDR has captured an indication of whether the reporting counterparty is a US person in a field named <RptPtyUSPerson> with valid values “Yes” and “No”. But, the Commission wants the information provided to them with the field <Ctrpty\_1\_US\_Person\_Ind> with valid values “Y” and “N”. The SDR should not have to collect information on input in a field named <Ctrpty\_1\_US\_Person\_Ind> with valid values “Y” and “N”, if it requests the information necessary to be able to populate the fields, and provides the data to the Commission in the requested formats with the stated valid values.

The SDRs commend the Commission for reviewing the requirements related to confirming accuracy and completeness of data reported to the SDRs. As drafted, the reporting rules are inconsistent and unclear as to the non-reporting counterparty's obligations to verify the accuracy of swap data reported on its behalf. CFTC Regulation § 49.11(b) states that the SDR must receive acknowledgement from both counterparties of data accuracy and any error corrections. However, Part 45 does not require an affirmative responsibility of the non-reporting counterparty to verify swap data. SDRs do not have the means to confirm the accuracy of reported swap data. CME and ICE believe that the obligations to confirm data accuracy and completeness should reside with those that are best positioned to know whether the data is accurate and complete (i.e. the parties to the transaction). The SDRs are not in such a position. As the SDRs are not counterparty to or a participant in the transactions in any way, the extent of the SDRs' ability to confirm accuracy of data received, is limited to field level validations including: ensuring a field is populated, if required or conditionally required, ensuring a field is populated with an enumerated value; ensuring a field is populated with a value in the proper format (numeric, alphanumeric, date, time, etc.); and, ensuring a field is populated with a value that makes sense to that product and/or field. However, if a reporting counterparty has submitted a valid value, but in error (i.e. flipping buyer and seller, missing a zero in notional amount, etc.), the SDRs will not be able to identify such an error. While the SDRs are agnostic as to which participants should be responsible for confirmation of data accuracy and completeness, the responsibility should not live with the SDRs.

Though the SDRs have in place processes (whether by contractual terms or mechanically) for the reporting counterparties to confirm the accuracy of the data they submit, it is impossible to confirm accuracy with the non-reporting counterparties, SDRs do not necessarily have a relationship with the non-reporting counterparties, nor can an SDR compel a non-reporting counterparty to establish a relationship. To the extent that the SDRs do not have a relationship with the non-reporting counterparties, it is not possible for the SDRs to satisfy the obligation to confirm accuracy with the non-reporting counterparties under the current reporting rules. As such, the Commission should relieve SDRs of the obligations contained in CFTC Regulation § 49.11(b), since these obligations are untenable

CME and ICE recommend the Commission clearly define the obligations counterparties and/or participants have for confirming accuracy and completeness and in what time frame. As stated above, the only persons who can accurately and completely confirm the trade data, are the parties to the trade. The SDR should have no responsibility to reach out to the non-reporting party<sup>5</sup>. In addition, to the degree that non-reporting counterparties are given obligations under the rule, they should be required to on-board with each SDR. Furthermore, with respect to the correction of data, the SDRs believe that amendments to a previously submitted swap should be provided

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<sup>5</sup> Should the Commission choose to have non-reporting parties have affirmative obligations to confirm the accuracy of the data, the SDRs believe that the non-reporting parties must onboard to the SDR and follow the process and procedures established at the SDRs to confirm the accuracy of the data.

by the reporting counterparty or its delegate, exclusively. The SDRs should not be required to develop a means for the non-reporting counterparty to identify data inaccuracies, to the SDR directly – this is particularly inefficient and creates more room for error. Any inaccuracy identified by the non-reporting counterparty should be raised with the reporting counterparty for resolution. Finally, the SDRs encourage the Commission to, where possible, leverage existing processes (i.e. reconciliation processes set forth in § 23.502) to reduce redundancy and the burden on impacted market participants.

### **III. Tranche II: Reporting Workflows**

#### **a. Streamline Workflows**

*Explore whether to combine PET and Confirmation data into a single, clearly defined and electronically reportable set of data elements*

BSDR and CME do not believe that the Commission should dictate in the regulation the messages that reporting counterparties can send to the SDRs. As discussed in more detail below, the BSDR and CME wish to retain the flexibility to accept a single message or multiple messages.<sup>6</sup>

Should the Commission continue to require that Confirmation Data be reported, at a minimum, the Commission should clearly define which data elements constitute Confirmation Data. Such data elements should not include identifiers, such as Clearing ID, as they are not part of the typical confirmation process. Additionally, the Commission should extend the timeframe to report required Confirmation Data to align with the swap confirmation requirements set forth in § 23.501<sup>7</sup>.

*Work to remove uncertainty as to what must be reported and how*

All fields that are required to be reported should be embedded in the appendices to parts 43 and 45, so there is a single place to look to identify field reporting requirements. The appendices should include expected field names, valid values and other required validations. For example, international swap is not required in the appendices to part 43 or 45, but is referred to in § 45.3(i) and requires that certain data.

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<sup>6</sup> ICE Trade Vault will be commenting separately on this issue.

<sup>7</sup> Specifically, swap dealers (“SD”) and major swap participants (“MSP”) have until the end of the second business day following the day of execution to confirm a swap transaction with non-SDs, non-MSPs and non-financial entities (“FE”). The confirmation deadlines are shorter for swaps with other SDs, MSPs or FEs. Additionally, there are no deadlines prescribed for confirmation of transactions between end users. Minimally, reporting counterparties to such transactions should have at least as long to report Confirmation Data to an SDR as SDs or MSPs who are transacting with non-SDs, non-MSPs and non-FEs. See 17 C.F.R. § 23.501(a).

It goes without saying, that all existing guidance, including no-action letters and frequently asked questions, should be addressed in the amended regulations so market participants have a clear picture of their regulatory obligations.

***Eliminate multiple reporting streams and unnecessary messages.***

Currently, the SDRs have architected their systems differently. Certain SDRs accept only a single message for Part 43 and Part 45 data and certain SDRs accept both single and separate messages for Part 43 and Part 45 data. To avoid increasing costs unnecessarily for both SDRs and reporting counterparties, SDRs must retain the flexibility to accept a single message, as well as, to accept separate messages. Requiring that the SDRs accept only a single message or only separate messages will require substantial and costly modifications to the impacted SDRs' systems, as well as the reporting systems of market participants. Similarly, market participants have made significant investments in their existing infrastructure and it would cause undue burden to require an extensive architectural change. Rather, the Commission should make allowances for additional methods of reporting.

While the SDRs are generally supportive of simplifying reporting and eliminating unnecessary messages, the SDRs request the Commission allow the SDRs the necessary flexibility to retain certain elements of their systems.

**b. Focus on Key Data Fields**

***Work to harmonize data fields with foreign regulators, building on CPMI-IOSCO process and Dec 2015 CFTC RFC***

The SDRs are supportive of global harmonization efforts generally and believe these efforts will bolster the CFTC's stated goals<sup>8</sup>. For example, implementing CPMI-IOSCO guidance on unique transaction identifiers (referred to as a unique swap identifier under Commission regulations<sup>9</sup>) without modification would both streamline reporting and reduce messages that must be reported. More specifically, pursuant to the guidance, USI generation would no longer be limited CFTC registrants, as is currently the case under § 45.5. Such changes would enable anyone with an LEI to create a USI and SDRs would no longer need to generate USIs and

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<sup>8</sup> The Commissions stated goals include: (1) ensure the CFTC receives accurate, complete, and high quality data on swaps transactions for its regulatory oversight role; (2) streamline reporting, reduce messages that must be reported, and right-size the number of data elements that are reported to meet the priority use-cases of the agency; and (3) evaluate Parts 43, 45, and 49 of Commission Regulations to identify provisions that need updating or changing to meet these goals and clarify obligations for reporting counterparties and SDRs.

<sup>9</sup> For consistency purposes, the SDRs request that the Commission utilize the term unique transaction identifier rather than unique swap identifier.

transmit them to non-SD and non-MSP swap counterparties<sup>1011</sup>, thereby streamlining reporting and reducing the number of messages that must be sent.

***Look to reduce the number of fields currently reported***

The SDRs are supportive of limiting fields to those that the CFTC requires to perform its oversight functions. Doing so will reduce burdens on reporting counterparties and the SDRs while still ensuring that the Commission can carry out its mandate. By reducing the number of fields to be reported, the confirmation of completeness and accuracy will be less of a burden and the SDRs will be able to simplify their systems and processes.

***Focus on minimum number of fields that allow CFTC to perform its oversight functions, rather than capturing every data point on a swap***

The SDRs are supportive of limiting fields to those that the CFTC requires to perform its oversight functions.

***May expand to cover margin movements and discrete data points relating to risk and positions, with an eye to consistency with how this is reported under ESMA rules***

The SDRs do not have an opinion on this topic.

***Recordkeeping requirements would continue for all terms of a swap, even those not required to be reported***

The SDRs do not have an opinion on this topic.

**c. Technical Specifications**

***Once CPMI-IOSCO harmonization efforts have sufficiently progressed, Division will propose detailed technical specifications***

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<sup>10</sup> This requirement, under §§ 45.10(c)(2) – (3) that SDRs transmit USIs as soon as technologically practicable (“ASATP”) after creation of the USI to both reporting and non-reporting counterparty for off-facility and bilateral swaps executed between two non-SDs or non-MSPs, is especially problematic because the SDRs may not have a relationship with non-reporting counterparties to transmit to them the USI. This is like the challenge related to § 49.11(b) identified in Section II.b of this letter.

<sup>11</sup> Additionally, because swap counterparties have entered into a legally binding commercial relationship, they are best suited to send information to one another, rather than requiring SDRs to transmit information to counterparties with which they have no relationship.

The SDRs support efforts to harmonize globally and appreciate the opportunity to review and comment on technical specifications before being implemented. The SDRs would ask that to the extent possible, the Commission implement fields as harmonized by CPMI-IOSCO without modification. This approach will yield better data quality and consistency globally and will reduce burdens on the SDRs and market participants in making modifications to their systems.

***Would include definitions, form and manner specifications, mapping to existing data languages (FpML and FIX), and allowable values where appropriate***

The SDRs support the inclusion of more explicit definitions in the technical specifications. However, if it is the Commission's intent to mandate a particular data language, the SDRs oppose any such efforts. Mandating a specific data language be used by the SDRs has the potential to require costly changes by SDRs and reporting counterparties with no foreseeable benefit.

***Will seek to match foreign regulators as closely as possible, although some elements may be different depending on Commission's needs***

The SDRs are supportive of harmonization efforts with foreign regulators and are understanding of the fact that there may have to be some differences.

***Update specifications for SDR validations to cover full suite of required data elements and include remaining allowable values and format validations***

To limit burdens on SDRs and reporting counterparties, the SDRs ask that changes to validations be required to be implemented at one time. This will allow the SDRs to take a holistic view when implementing the changes. Because of the interconnectedness of certain fields, requiring subsequent changes could impact the existing validations. This will also limit the impact on reporting counterparties, requiring them to make significant changes only once.

#### **d. Re-evaluate Reporting Deadlines under Part 45**

***Explore alignment of CFTC with the SEC and ESMA, including potential move to T+1 reporting***

Extending the Part 45 reporting deadline to T+1 will mean that most counterparties<sup>12</sup> will have confirmed trades before making the Part 45 reports, which should improve the accuracy of Part

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<sup>12</sup> Counterparties are required to confirm within the following timeframes:

- **Swaps between SDs/MSPs and SDs/MSPs:** the reporting counterparty SD/MSP must execute a confirmation ASATP, but no later than the end of the first business day following the day of execution. *See* 17 C.F.R § 23.501(a)(1).

45 data. If the Commission also extends the Part 43 reporting deadline to T+1, this increase in data accuracy would also be seen in the data reported to the public, enhancing transparency. While we acknowledge that the usefulness of the publicly disseminated data in pre-trade price discovery will decrease as the time frame for reporting after execution of the transaction increases, the quality of the data publicly disseminated would improve. Further, unlike futures contracts, OTC swaps executed off-facility can, in many cases, take a day or more to negotiate and execute. Thus, a delay in the dissemination of twenty-four hours may not be as impactful to price discovery and transparency as might be anticipated. Finally, Core Principle 9 for swap execution facilities requires timely publication of trading information on price trading volume and other trading data on swaps, to the extent prescribed by the Commission. To the degree that a SEF publishes this data in a time frame inside of T+1, market participants would continue to have visibility of those swaps, should the Commission move to a T+1 reporting deadline.

Should the Commission choose to bifurcate the timing of Part 43 and Part 45 reporting, to real-time and T+1, respectively, it is the belief of the SDRs that reporting counterparties would continue to report in the current timeframe, thereby significantly reducing the likelihood of any material improvement to data accuracy

***Explore whether changing deadlines will improve data accuracy by building upon existing market practice of trade confirmations***

The SDRs have differing opinions as to the value of Confirmation Data and will comment accordingly in individual letters.

***Find ways to leverage existing confirmation processes to aid in reporting, where appropriate***

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- **Swaps between SDs/MSPs and FE:** SD/MSP must execute a confirmation ASATP, but no later than the end of the first business day following the day of execution. *See* 17 C.F.R § 23.501(a)(3)(i).
  - DCOs must confirm all terms at the same time the swap is accepted for clearing. *See* 17 C.F.R § 39.12(b)(8).
  - SEFs must provide each counterparty “with a written record of all of the terms of the transaction which shall legally supersede any previous agreement and serve as a confirmation,” at time of execution, except in the case of bunched orders. *See* 17 C.F.R § 37.6(b). NOTE: SEFs are generating confirmations despite no-action relief alleviating SEFs from the requirement to obtain and maintain copies of the underlying previously-negotiated agreements between counterparties to uncleared transactions, before incorporating such agreements by reference in the trade confirmation as required by § 37.6(b). *See* CFTC Letter 17-17.

The SDRs have differing opinions as to the value of Confirmation Data and will comment accordingly in individual letters.

**e. Increase the Utility of the Real-Time Public Tape**

***Evaluate real-time reporting regulations in light of goals of liquidity, transparency, and price discovery in the swaps market***

The SDRs recommend that the Commission perform analysis of market participants reporting in certain less liquid or illiquid markets to determine if there are anonymity concerns that are not addressed under the current regulation. If a high-volume participant wants to change SDRs, this may be difficult if the new SDR's volumes in an asset class or product are smaller. Moreover, if a client ported to a new SDR, trades in less liquid products, their activity would likely be identifiable. This is particularly problematic without a unique product identifier system, since the way counterparties name a product may be unique, and thus distinguishable to the public.

Additionally, the SDRs suggest that the Commission solicit feedback from market participants, the intended users of the public data to determine its usefulness in its current form, as well as whether they are utilizing it for pre-trade price discovery or post-trade purposes.

***Address ongoing issues of reporting packages, prime brokerage, allocations, risk mitigation services/compressions, EFRPs, and post-priced swaps by clarifying obligations and identifying those distinct types of transactions to increase the utility of the real-time public tape***

The SDRs agree that addressing issues related to packages<sup>13</sup> and EFRPs is a worthwhile exercise because a failure to do so could result in misleading pricing data. The SDRs recommend that reporting counterparties should be permitted to report in a manner that reflects how the transactions are represented in their booking systems. Further, the SDRs systems should be architected in such a way as to allow reporting counterparties to report either individual legs as multiple USIs linked together, or as a single USI.

The SDRs request the Commission provide guidance as to which life-cycle events should be reported and how they should be reported with respect to such transactions. However, in providing such guidance, the SDRs ask that the Commission ensure that the level of specificity (i.e. the number of different types of events) required, is that which is necessary for the Commission to meet its oversight objectives, and no more. The more granular the events, the less likely it is to be accurate. Further, as most reporting counterparties do not currently capture

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<sup>13</sup> For package trades and shaped trades, within the commodity asset class, a counterparty often trades an OTC calendar year, or a longer-term swap with a varying price, quantity, and/or many other terms that are applied to specific portions of the term, such as the hour, day, month, or year.

this type of information in their booking systems there will be a cost associated with the modifications. The cost to reporting counterparties to make such modifications should not outweigh the benefits to the Commission. Finally, given the complexity in solving for the issue of linking all swaps involved in many-to-one or many-to-many events (i.e. compression, netting, etc.) the SDRs would request that the Commission advise how this information will further the Commission's mission.

#### **IV. Target Timeframes for Review**

As already stated, the SDRs would request that the Commission finalize all rule amendments and implementations, including all validations, at one time.

In all likelihood, the implementation of changes will involve dependencies between different entities (i.e., SDR and DCO; DCO and reporting entities) with work needing to be completed sequentially, rather than in parallel. To ensure sufficient human and financial resources are available, the Commission should make every effort to ensure the content, scope and timing are known during the reporting entities budgeting process.

Furthermore, where possible the Commission should avoid setting compliance dates that fall during the end of the year due to the reduction in staffing levels and year-end freezes. If this cannot be avoided, we would request the Commission soften the impact of the changes by lengthening the timeframe in which the marketplace must come into compliance.

Lastly, when setting a compliance date, the SDRs request that the Commission consider other regulatory reporting requirements both domestically and internationally. This will be particularly important in the coming year with the anticipated completion of the CPMI-IOSCO harmonization work. We are expecting that at least some of the work for many foreign jurisdictions will fall in 2018. The multitude of changes across multiple jurisdictions will be a large endeavor.

#### **V. Additional points of interest to the SDRs**

##### ***SDR Compliance Obligations***

The SDRs request that the Commission clearly articulate SDR compliance obligations to monitor the data and report to the Commission<sup>14</sup>. More specifically, the SDRs would like clarity on obligations to check the compliance of trades submitted. Additionally, to the extent an SDR becomes aware that a participant is out of compliance, the SDRs request clarity as to obligations to notify the Commission and notify the reporting and non-reporting counterparties. If reports are expected detailing client compliance, the SDRs request that a clear list of fields to be included in such reports, be detailed in the rule.

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<sup>14</sup> See 17 C.F.R. § 49.13 and § 49.15, respectively.

Because the SDRs are not self-regulatory organizations (“SRO”), except for terminating or suspending service, the SDRs do not have capability to enforce rules or other SRO-type obligations.

### ***Part 43 and Part 45 Reporting Should be Harmonized and/or Combined into a Single Rule***

To the extent that there are differences in Part 43 and Part 45, they should be harmonized. The other option is to combine the two parts into a single rule. In some cases, the same fields between Part 43 and Part 45 are currently labeled with differing field names and should be harmonized for consistency and to avoid confusion.

### ***Part 43 – Appendix B***

For publicly reportable swap transactions that are economically related to a contract listed in Appendix B to Part 43, the related futures contracts should be included in a clearly defined and public list. Currently, not all contracts are defined. Alternatively, the Commission could include a field in the list of data elements that reporting counterparties would provide indicating whether the swap is economically related to one of the contracts described in Appendix B.

### ***Valuation Data – End User Reporting Counterparties***

The current rule for valuation reporting for end users does not support the intended purpose of valuation reporting while placing an unnecessary burden on participants. Section 45.4(c)(2)(ii) requires a non-SD, non-MSP to report the current daily mark of the transaction as of the last day of each fiscal quarter within 30 days of the end of the fiscal quarter. In other words, the Commission provided non-SD, non-MSPs one calendar month to report valuation data and are only required to report this for transactions where they are serving as the reporting counterparty. The SDRs request that the Commission consider the value of this information as compared to the cost and burden placed on non-SDs, non-MSPs, given that by the time the data is reported it is significantly out of date. It seems unlikely that this stale valuation data aids the Commission in its obligation to monitor for systemic risk.

### ***Valuation Data – Other Commodities Asset Class***

Valuation data as it relates to the Other Commodities asset class should be clearly defined by the Commission to reduce the inconsistencies in place today across the SDRs. More specifically, the Commission should explicitly define how and using what methodologies valuations should be reported for the Other Commodities asset class.

### ***Notional Value – Other Commodities Asset Class***

Where notional is required to be reported for an other commodity swap, the Commission should clearly define the notional calculation formula.

### ***Capping requirements – Other Commodities Asset Class***

The SDRs request that the Commission codify the relief requested by CME, DTCC and ICE on June 28, 2017 with respect to the requirements for capping of notional amounts for the other commodity asset class pursuant to § 43.4(h). As noted in the request, except for commodity indices, other commodity swaps differ from other asset classes in that there is no concept of notional currency value. Market convention instead uses notional quantities of units related to the underlying physical commodity for quoting and trading of swaps in the other commodity asset class, rather than notional currency value. Market convention presents a challenge for SDRs in meeting obligations to cap swaps above levels set forth in § 43.4(h), as notional quantities related to the physical commodity being traded are not necessarily unique (i.e. the measure could be barrels or gallons for the same commodity).

The SDRs recommend the exclusive use of the notional currency value, such that the notional currency value can be compared to the value of USD 25 million as set forth in § 43.4(h)(1)(v). To the extent that the notional value of an other commodity swap is greater than USD 25 million, a scaling factor will be disseminated to the public, subject to any rounding required by § 43.4(g). The notional currency value should only be used for comparison and calculation purposes and should not be publicly disseminated. If the notional value is less than the required USD 25 million, then the swap quantity will be disseminated as it is reported to the SDR.

Because notional currency value is not required to be reported on other commodity swap transactions, the value must be calculated, if possible. The SDRs should be able to elect to have the reporting counterparty submit the calculated notional currency value. Or, SDRs may calculate the notional currency value when notional currency value is not provided. The standard for calculating notional currency value by an SDR would be Price \* Total Quantity. To the extent that price is not available at the time the swap is reported to an SDR, the SDRs should not be obligated to cap for any other commodity swaps that do not have a price at the time they are required to be publicly disseminated and/or for those swaps for which a notional currency value was not provided or cannot be calculated.

### ***System Malfunctions - Materiality Threshold***

The SDRs request that a “materiality” threshold be added to the notification requirements of § 49.24(g) in connection with system malfunctions, to harmonize with the same requirements for other CFTC registrants<sup>15</sup>. A swap data repository is the only registration category subject to

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<sup>15</sup> For swap execution facilities (“SEF”), § 37.1401(e)(1) requires that a SEF must notify the Commission of all “[e]lectronic trading halts and material system malfunctions.” Similarly, for designated contract markets (“DCM”), § 38.1051(e)(1) requires that a DCM notify the Commission of all “[e]lectronic trading halts and material system malfunctions.” Finally, § 39.18(g)(1) requires that a DCO notify the Commission of “[a]ny hardware or software

System Safeguards which does not have a materiality threshold – it must report all system malfunctions.

***Counterparties should be able to determine the reporting party in certain circumstances***

Under CFTC Regulation § 45.8(c), if both counterparties are non-SD/MSPs and only one counterparty is a financial entity, that entity should be designated as the reporting counterparty. Furthermore, § 45.8(e) states that if both counterparties to a swap are non-SD/MSPs and only one counterparty is a U.S. Person, that counterparty should be designated as the reporting counterparty. When applying these hierarchy principles, a foreign financial entity supersedes a U.S. entity. It is the SDRs view that U.S. entities can better discharge the creation and continuation data reporting obligations than foreign financial entities. When both parties are non-SD/MSPs regardless of the financial entity or U.S. Person designation, these parties should be afforded the opportunity to select the reporting party.

***The Commission should add portability provisions to the Reporting Rules similar to those currently utilized by DCOs***

Section 45.10 (Reporting to a single SDR) requires that all swap data for a given swap must be reported to a single SDR, and specifically, the SDR to which creation data is first reported. The Commission did not directly address whether the data in one SDR may be transferred or “ported” to another SDR. The SDRs believe the Commission should reevaluate whether swap data should be allowed to be transferred to another SDR. The SDRs support the concept of swap data portability and allowing the reporting counterparty to transfer data to the SDR of its choice. The SDRs believe that the Commission should allow market participants the commercial flexibility to port trades and begin reporting to a new SDR. Currently, the Part 49 rules only contemplate customer porting in the situation where an SDR is winding down or withdrawing its registration. The SDRs request that the Commission explicitly provide for porting more broadly, as this is consistent with the portability and transfer provisions currently in place for DCOs<sup>16</sup>.

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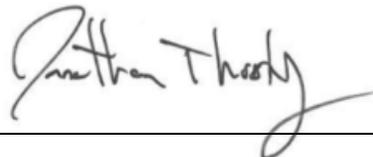
The SDRs appreciate the opportunity to provide comments on the Roadmap for the Commission’s consideration. Should the Commission wish to discuss these comments further, please feel free to contact any of the undersigned representatives of the SDRs.

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malfunction, security incident, or targeted threat that materially impairs, or creates a significant likelihood of material impairment, of automated system operation, reliability, security or capacity.”

<sup>16</sup> See 17 C.F.R. § 39.15(d) Transfer of customer positions.

Sincerely,

Benjamin Macdonald President	Jonathan Thursby President, CME Swap Data Repository	Kara Dutta General Counsel
BSDR LLC	Chicago Mercantile Exchange Inc.	ICE Trade Vault, LLC
		

CC: Michael Wise, BSRD LLC, Chief Compliance Officer  
Tim Elliott, CME Inc., Executive Director & Associate General Counsel  
Trabue Bland, ICE Trade Vault, LLC, President