SPEECHES & TESTIMONY

Remarks of Chairman J. Christopher Giancarlo at the Futures Industry Association 12th Annual International Derivatives Expo, London, United Kingdom

"Recalibrating the CFTC's Cross-Border Regulation: Current Status and Next Steps"

June 5, 2019

Introduction

Good morning. Thank you for your kind welcome. It is great to be here at the FIA's International Derivatives Expo in London, at what will be my final speech to the FIA. I expect to be stepping down as Chairman in mid-July and handing the baton to Heath Tarbert.

I am particularly pleased to have this opportunity to speak to you today here at The Brewery. As some of you may remember, last September, a short walk from here at Guildhall, I gave a speech setting forth my proposal to recalibrate the CFTC's cross-border swaps framework.[i] A month later, I published a white paper on cross-border swaps regulation that proposed updating the agency's current cross-border application of its swaps regime with a rule-based framework based on regulatory deference to third-country jurisdictions that have adopted comparable G20 swaps reforms.[ii] Accordingly, returning to London to discuss cross-border issues feels a bit like coming home.

What I would like to do today is discuss what has been happening at the CFTC on the cross-border front and what you can expect to see happen in the future, especially before I leave the CFTC. I will discuss three rulemakings that are currently being considered by the Commission and then lay out a plan for the remaining rulemakings that I expect to be taken up by the Commission under my successor.

I also want to discuss some of the progress that the CFTC has made with respect to comparability determinations for non-U.S. jurisdictions and discuss an approach to addressing cross-border issues relating to non-U.S. trading platforms.

First Principles

Before diving into the substance, let's take a step back and consider the first principles that inform my approach to cross-border regulation.

First, the CFTC is tasked with implementing Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act" or "Dodd-Frank"). Dodd-Frank was enacted to reduce systemic risk (including risk to the U.S. financial system created by interconnections in the swaps market), increase transparency, and promote market integrity within the financial system. Dodd-Frank is clear in its approach to the extraterritorial application of CFTC rules. The CFTC's swaps authority "shall not apply" to activities outside the United States unless those activities "have a direct and significant connection with activities in, or effect on, commerce of the United States…."[iii]

Notice that Dodd-Frank addresses the CFTC's extraterritorial jurisdiction by stating in the negative that the CFTC has no authority outside the United States unless …. Unless what? Unless the activity has a "*direct and significant*" connection with the United States. Accordingly, determining what is "direct and significant" to the U.S. financial system should be at the heart of the CFTC's approach to cross-border issues.

Second, a key distinction that informs my cross-border approach is the difference between swaps reforms that are designed to mitigate systemic risk, on the one hand, and swaps reforms that address market and trading practices, on the other. The former includes swaps clearing, margin for uncleared swaps, dealer capital, and recordkeeping and regulatory reporting. These reforms seek to mitigate the type of risk that may have a "direct and significant" connection with the United States. By contrast, swaps reforms that are focused on market and trading practices, such as public trade reporting and price transparency, trading platform design, trade execution methodologies and mechanics, and personnel qualifications, examinations, and regulatory oversight, do not go to systemic risk but to how the markets operate. While certainly important, these reforms generally do not have as great a "direct and significant" connection with the United States as the swaps reforms that are specifically designed to address systemic risk. Such reforms may be legitimately different across jurisdictions depending on local market conditions and characteristics.

Third, the CFTC should act with deference to non-U.S. regulators in jurisdictions that have adopted comparable G20 swaps reforms. In doing so, the CFTC should seek stricter comparability for substituted compliance with requirements intended to address systemic risk and afford more flexible comparability for substituted compliance with requirements intended to address market and trading practices. Mutual commitment to cross-border regulatory deference ideally should mean that market participants can rely on one set of rules – in their totality – without fear that another jurisdiction will seek to selectively impose an additional layer of particular regulatory obligations that reflect differences in policy emphasis, or application of local market-driven policy choices beyond the local market. This approach is essential to ensuring strong and stable derivatives markets that support economic growth both in the United States and around the globe. I will return to this idea in a few minutes when I discuss the progress the CFTC has made in making comparability determinations for non-U.S. jurisdictions.

These first principles are the core of my cross-border approach and inform the CFTC's new cross-border rulemaking, to which I will now turn.

Current Rulemaking Initiatives

The CFTC staff has prepared three rulemakings that are now being considered by the Commission. The first two deal with issues relating to the regulation and supervision of central counterparties or CCPs. The third deals with swap dealer and major swap participants' registration and regulation.

DCO Registration with Alternative Compliance Proposal

The first clearing proposal addresses the registration of non-U.S. derivatives CCPs, which we call derivatives clearing organizations or DCOs, that clear swaps for U.S. persons. The CFTC has almost two decades of experience overseeing non-U.S. DCOs engaging in activity in U.S. derivatives markets. LCH Ltd was the first non-U.S. DCO to register with the CFTC 18 years ago. Other CCPs became registered after the enactment of Dodd-Frank in 2010. Through its supervisory powers, the CFTC has informally calibrated its day-to-day oversight of these registered DCOs based on the core principle of deference to the oversight of primary regulators, while taking into account the specific circumstances of a particular non-U.S. DCO.

I would like to address the current informality of our approach and, in doing so, introduce significant additional areas where we can defer, appropriately and consistent with our risk oversight responsibilities, to non-U.S. DCOs' home country supervisors. Among other things, this first proposal sets forth a framework under which non-U.S. DCOs that do not pose a substantial risk to the U.S. financial system would have the option of being fully registered with the CFTC as a DCO but meet their registration requirements through compliance with their home country requirements. These DCOs that are "fully registered with alternative compliance" would still be able to offer customer clearing through futures commission merchants ("FCMs"), just like other fully registered DCOs. Consistent with the commitment to apply supervisory deference under Title VII of the Dodd-Frank Act where appropriate, the home country regulator would have supervisory primacy over these DCOs with the CFTC much more narrowly focused than is currently the case, from both a legal and practical perspective, on U.S. customer funds protection at these DCOs.

This narrow focus on customer funds protection is appropriate to help ensure the legal requirements relating to segregation at both the FCM and DCO level are met, and that, if necessary, the bankruptcy protections afforded to customers under the CFTC's FCM model work as intended. I would note in this regard that many non-U.S. customers choose the FCM model at non-U.S. DCOs to clear their swaps transactions even though there is no legal requirement to do so. For example, to date this year over three quarters of non-U.S. customer business at LCH Ltd's SwapClear, on a gross notional basis, is cleared via the FCM model. I believe this "voting with their feet" is a testament to the efficacy of the customer funds protection regime under U.S. law and CFTC regulations, and the efforts of the CFTC and its staff over many years to help ensure the ongoing effectiveness of this regime.

Most importantly, it is critical to use objective criteria to determine whether a non-U.S. CCP potentially poses "substantial risk to the U.S. financial system" and to provide transparency about such criteria. The proposed definition of substantial risk to the U.S. financial system consists of two 20 percent tests. The first focuses on the percentage of initial margin from a "U.S. origin" (*i.e.*, initial margin posted by clearing members ultimately owned by U.S.-domiciled holding companies, regardless of the domicile of the clearing member) at a specific non-U.S. DCO. The second focuses on the "U.S. origin" business of the non-U.S. DCO as a percentage of the overall U.S. cleared swaps market. Where both of these "20/20" thresholds are close to 20 percent, the Commission would be able to exercise discretion in determining whether the DCO poses substantial risk to the U.S. financial system. I believe that objective and transparent criteria, such as the ones being considered by the Commission in this forthcoming rulemaking, are what all regulators around the world should strive for to provide appropriate predictability and stability to the markets.

Exempt DCO Proposal

At the same time, the Commission is considering whether to provide non-U.S. DCOs that do not pose a substantial risk to the United States, and that are subject to "comparable, comprehensive supervision and regulation" by appropriate regulators in the DCO's home jurisdiction, the option to be exempt DCOs under an enhanced framework. Unlike the current CFTC approach to exempt DCOs, this option would permit exempt DCOs to offer customer clearing to U.S. eligible contract participants (i.e., other than U.S. retail customers) through foreign clearing members that are not registered as FCMs, provided that the DCO and the FCM offer clear and succinct disclosure to U.S. eligible contract participants on the bankruptcy protections that would be afforded to them under relevant non-U.S. law.

This approach is similar to the CFTC's long-standing approach to foreign futures clearing, which provides U.S. customers, **including retail customers**, with the ability to opt out of the bankruptcy protections offered under U.S. law to foreign futures funds. In this regard, I believe it is wholly appropriate to permit U.S. eligible contract participants – particularly small- and medium-sized institutional investors that do not have the heft of their larger-sized brethren to access foreign cleared swaps markets indirectly through non-U.S.-based operations – to exercise their own business judgment in this area. In other words, I believe it is appropriate to afford these institutional investors the opportunity to weigh the potential economic benefits of accessing products cleared at a non-U.S. CCP through a non-U.S. intermediary that would otherwise not be available to them, with the attendant potential risks relating to the use of a non-FCM intermediary, *i.e.*, risks that institutional – and potentially retail – investors in those non-U.S. markets take every day when they choose to clear swaps through those non-U.S. intermediaries at non-U.S. CCPs.

Some non-U.S. DCOs that are currently exempt from registration may elect to remain exempt or register under the full registration regime with alternative compliance that I just described. In either case, they would be able to offer customer clearing, but in different ways. Exempt DCOs would be able to offer customer clearing to U.S. eligible contract participants through non-U.S. intermediaries operating in their markets, while fully registered DCOs subject to alternative compliance would be able to permit customer clearing through U.S. FCMs. In both cases, in terms of regulatory oversight of the DCO, the CFTC would defer to the primary regulator or regulators of the DCO.

Swap Entity Cross-Border Proposal

The Commission is also considering a rule proposal to address the registration and regulation of non-U.S. swap dealers and major swap participants, as well as foreign branches of U.S. banks. Specifically, the proposal addresses the cross-border application of the swap dealer and major swap participant (collectively referred to as "swap entities") registration thresholds. It also addresses compliance with certain swap regulations applicable to swap entities in the cross-border context, including by establishing a formal process for registered swap entities to request comparability determinations from the Commission. If adopted, the proposal would replace the related portions of the cross-border guidance issued by the CFTC in 2013,[iv] the cross-border rules proposed by the CFTC in 2016,[v] and certain related staff no-action letters and guidance.[vi]

Among the issues that are addressed in this proposal are the treatment of "foreign consolidated subsidiaries" ("FCSs") and swaps between non-U.S. counterparties that are arranged, negotiated, or executed by personnel in the United States ("ANE Transactions"). The proposal addresses the risk that non-U.S. swap dealing activity poses to the United States. It does so in a way that does not restrict the ability of U.S.-related entities to access foreign markets or apply the swap dealer rules extraterritorially unless the activity truly poses a "direct and significant" risk to the U.S. financial system, as Dodd-Frank requires. Further, the proposal will not unnecessarily limit the ability of U.S. participants, including foreign branches of U.S. banks, to access foreign markets or the ability of non-U.S. persons to use U.S. personnel in an incidental manner to support non-U.S. swap activity.

The Commission is currently considering these three proposals. I intend to call them for a vote before I leave the CFTC.

Comparability and Substituted Compliance

The rulemaking proposals I just discussed are complemented by a series of comparability determinations that the CFTC has issued and plans to consider in the near future.[vii] A commitment to deference must be a fundamental component of the Commission's cross-border framework. The use of deference tools, like substituted compliance and exemptions, is intended to promote the benefits of integrated global markets by reducing the degree to which market participants will be subject to duplicative regulations.[viii] Deference also fosters international harmonization by encouraging U.S. and foreign regulators to seek to adopt consistent and comparable regulatory regimes. When properly calibrated, deference promotes open, transparent, and competitive markets without compromising market integrity while mitigating the risk of fragmentation in global cross-border markets.[ix]

The CFTC recently granted substituted compliance to Australia with respect to margin requirements for uncleared swaps.[x] It also amended a previous substituted compliance determination for Japan with respect to the uncleared margin requirements.[xi] Previously the CFTC granted substituted compliance for the European Union ("EU") with respect to the uncleared margin requirements.[xii]

Further, in March, the CFTC and the Monetary Authority of Singapore ("MAS") announced the mutual recognition of certain derivatives trading venues in the United States and Singapore.[xiii] Specifically, the CFTC issued an order exempting certain derivatives trading facilities regulated by MAS from the requirement to register with the CFTC as swap execution facilities ("SEFs").[xiv] Previously, the CFTC issued an order exempting certain multilateral trading facilities and organized trading facilities authorized within the EU from the requirement to register with the CFTC as SEFs.[xv] A comparability assessment for Japanese trading venues should also be completed soon.[xvi]

This is all a good start, and I am pleased that many of these comparability determinations came under my Chairmanship. However, I believe the CFTC should continue to make additional comparability determinations wherever appropriate.

Remaining Implementation Plan

Now I want to briefly discuss the remaining implementation plan for the CFTC's cross-border recalibration. In addition to the releases and comparability determinations discussed above, CFTC staff is also working on a number of additional cross-border rulemakings. These additional rulemakings will address the remaining aspects of the CFTC's cross-border approach, including application of the clearing, trade execution, and reporting requirements to cross-border swap transactions. The goal is ultimately to replace CFTC guidance and staff advisories and no-action letters with formal rulemakings.

Approach to Non-U.S. Swaps Trading Venues

Non-U.S. swaps trading venues is the last topic I want to touch on today. The CFTC recently proposed amendments to its rules relating to SEFs.[xvii] However, this proposal deliberately did not address the cross-border application of the SEF rules.

Currently market participants look to guidance published by the CFTC staff in 2013 that addressed when multilateral swaps trading platform located outside the United States may have to register with the Commission.[xviii] The staff guidance took the view that a non-U.S. swaps trading venue should register as a SEF (or designated contract market) if it provides U.S. persons or persons located in the United States (including personnel and agents of non-U.S. persons located in the United States) with the ability to trade or execute swaps on or pursuant to the rules of the platform, either directly or indirectly through an intermediary.[xix] At the same time, the staff guidance stated that among the factors that would be relevant in evaluating the SEF registration requirement for non-U.S. swaps trading platforms is whether a significant portion of the market participants that a multilateral swaps trading platform permits to effect transactions are U.S. persons or U.S.-located persons.[xx] This has led to some uncertainty regarding when non-U.S. swaps trading venues may have to register as SEFs. Rightly or wrongly, the staff guidance has generally been interpreted by non-U.S. trading venues to require SEF registration if the trading venue has even one U.S. person that has the ability to trade on the platform.

The CFTC should be committed to trying to make comparability determinations for trading venues in all the major swaps jurisdictions where the vast majority of over 90% of global swaps activity takes place. As I noted above, the CFTC already has exempted trading venues from registration as SEFs in the EU and Singapore, and a comparability assessment for trading venues in Japan is close to completion. In case of Brexit, the CFTC already announced the intention to extend the exemption from registration as SEFs to UK trading venues consistent with our arrangement with the EU.[xxi] This leaves Hong Kong, Australia, Canada, and Switzerland to account for most of the world's non-U.S. swap activity.

In all remaining jurisdictions where implementation of comparable G20 reforms remains generally incomplete, much less than 10% of global swaps activity takes place. For these jurisdictions, I believe that the CFTC should take a more risk-based approach to the registration of non-U.S. trading venues. Unlike CCPs, trading venues do not pose significant risk to the United States. The CFTC should allow U.S. persons to access the trading venue directly or indirectly through a non-U.S. intermediary, subject to an appropriate materiality threshold. The materiality threshold should be based on a level of trading involving U.S. persons that does not meet the Section 2(i) "direct and significant" standard. The precise standard would be set by the CFTC based on appropriate criteria.

I believe the combination of comparability determinations and a rulemaking for non-major markets that establishes an appropriate materiality threshold should address the concerns that U.S. persons have about accessing foreign markets.

Conclusion

Let me close by reiterating a point I made in the past: the CFTC must remain a leader in global swaps reform.[xxii] I am convinced that this is best achieved if the CFTC's approach to cross-border swaps reform is not viewed as unilateralist and dismissive of the capacity and interests of non-U.S. jurisdictions. Instead, it should be risk-based and committed to deference to competent regulatory authorities.

To not adopt an approach of regulatory deference would lead us down a very different course, one of overlapping and confounding cross-border regulation and market fragmentation, high regulatory cost and constraints on economic growth. That course would lead us in the wrong direction, one that hazards systemic risk. We should avoid that course.

We must have the confidence of our convictions. Global swaps market participants seek access to deep pools of trading liquidity in global markets. We must not divide the global market into artificially separate and less resilient liquidity pools based on the nationality of trading participants. That will fragment markets into individual trading pools of liquidity that are shallower, more brittle, and less resilient to market shocks, thereby increasing systemic risk rather than diminishing it. Instead, the approach of deference is intended to thwart such fragmentation, so as not to impede hedging of financial risk that is necessary for global economic growth.

I personally hope that we can renew faith in regulatory deference. With the proper balance of sound policy, regulatory oversight, outcomes-based regulatory deference and a little bit of courage, world derivatives markets will continue to evolve in responsible ways and continue to help grow the global economy, creating a future of untethered aspiration where creativity and economic expression is a social good in its own right, and a source of human growth and human advancement.

Thank you for your time and attention. Farewell.

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[i] *See* Remarks of Chairman J. Christopher Giancarlo to the City Guildhall, London, United Kingdom (Sep. 4, 2018), available at: https://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo52.

[ii] *See* CFTC Chairman J. Christopher Giancarlo, Cross-Border Swaps Regulation Version 2.0: A Risk-Based Approach with Deference to Comparable Non-U.S. Regulation (Oct. 1, 2018) ("Cross-Border White Paper"), available at: https://www.cftc.gov/sites/default/files/2018-10/Whitepaper_CBSR100118_0.pdf. I particularly wish to thank my Counsel, Matthew Daigler, for his work on the Cross-Border White Paper and the staff of the Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight for their thoughtful work on the three rule proposals described herein.

[iii] Section 2(i) of the Commodity Exchange Act also provides that the swap provisions apply to activities outside the United States when they contravene CFTC rules or regulations, as necessary or appropriate to prevent evasion of the swaps provisions of the CEA enacted under Title VII of the Dodd-Frank Act.

[iv] Interpretive Guidance and Policy Statement Regarding Compliance With Certain Swap Regulations, 78 FR 45292 (July 26, 2013), available at: https://www.govinfo.gov/content/pkg/FR-2013-07-26/pdf/2013-17958.pdf.

[v] Cross-Border Application of the Registration Thresholds and External Business Conduct Standards Applicable to Swap Dealers and Major Swap Participants, 81 FR 21946 (Oct. 18, 2016), available at: https://www.govinfo.gov/content/pkg/FR-2016-10-18/pdf/2016-24905.pdf.

[vi] *See* CFTC Staff Advisory 13-69, Applicability of Transaction-Level Requirements to Activity in the United States (Nov. 14, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/13-69.pdf; *see also* CFTC Staff No-Action Letter Nos. 13-71 (Nov. 26, 2013), 14-01 (Jan. 3, 2014), 14-74 (June 4, 2014), 14-140 (Nov. 14, 2014), 15-48 (Aug. 13, 2015), and 17-36 (July 25, 2017). CFTC Staff No-Action Letters are available on the CFTC's website at: http://www.cftc.gov/LawRegulation/CFTCStaffLetters/No-ActionLetters/index.htm.

[vii] Previously, the Commission provided substituted compliance with respect to foreign futures and options transactions. *See, e.g.,* Foreign Futures and Options Transactions, 67 FR 30785 (May 8, 2002); Foreign Futures and Options Transactions, 71 FR 6759 (Feb. 9, 2006).

[viii] *See, e.g.,* Report of the OTC Derivatives Regulators Group (ODRG) on Cross-Border Implementation Issues (Mar. 2014), available at: https://www.esma.europa.eu/sites/default/files/library/2015/11/2014-03-odrg_odrg_report_to_the_g20_march_2014.pdf.

[ix] *See* IOSCO Report on Market Fragmentation and Cross-border Regulation (June 4, 2019).

[x] *See* Comparability Determination for Australia: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 12908 (Apr. 3, 2019), available at: https://www.cftc.gov/sites/default/files/2019-04/2019-06319a.pdf.

[xi] *See* Amendment to Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 12074 (Apr. 1, 2019), available at: https://www.cftc.gov/sites/default/files/2019-04/2019-06152a.pdf; Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 63376 (Sep. 15, 2016), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2016-22045a.pdf.

[xii] *See* Comparability Determination for the European Union: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 82 FR 48394 (Oct. 18, 2017), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2017-22616a.pdf. On March 25, 2019, the CFTC adopted interim final rules permitting transfers of qualifying uncleared swaps in the event of a "no-deal" Brexit without triggering CFTC uncleared swap margin requirements. *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 12065 (Apr. 1, 2019), available at: https://www.govinfo.gov/content/pkg/FR-2019-04-01/pdf/2019-06103.pdf.

[xiii] *See* Joint Statement of the CFTC and the Monetary Authority of Singapore Regarding the Mutual Recognition of Certain Derivatives Trading Venues in the United States and Singapore (Mar. 13, 2019), available at: https://www.cftc.gov/PressRoom/PressReleases/7887-19.

[xiv] *See* In the Matter of the Exemption of Approved Exchanges and Locally-Incorporated Recognised Market Operators Authorized within Singapore from the Requirement to Register with the Commodity Futures Trading Commission as Swap Execution Facilities (Mar. 13, 2019), available at: https://www.cftc.gov/sites/default/files/2019-03/SingaporeCEASection5hgOrder.pdf.

[xv] *See* The United States Commodity Futures Trading Commission and the European Commission: A Common Approach on Certain Derivatives Trading Venues (Oct. 13, 2017), *available at:* https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/dmo_cacdtv101317.pdf*; see also* In the Matter of the Exemption of Multilateral Trading Facilities and Organised Trading Facilities Authorized Within the European Union from the Requirement to Register with the Commodity Futures Trading Commission as Swap Execution Facilities (Dec. 8, 2017), available at https://www.cftc.gov/sites/default/files/idc/groups/public/@requestsandactions/documents/ifdocs/mtf_otforder12-08-17.pdf

[xvi] In 2013, the CFTC also approved a series of comparability determinations that would permit substituted compliance with non-U.S. regulatory regimes as compared to certain swaps provisions of Title VII of the Dodd-Frank Act and the Commission's regulations. Working with authorities in Australia, Canada, the EU, Hong Kong, Japan, and Switzerland, the Commission was able to issue comparability determinations for entity-level requirements. In two jurisdictions, the EU and Japan, the Commission also approved substituted compliance for certain transaction-level requirements. *See* European Union: Certain Entity-Level Requirements, 78 FR 78923 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30980a.pdf; European Union: Certain Transaction-Level Requirements, 78 FR 78878 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30981a.pdf; Japan: Certain Entity-Level Requirements, 78 FR 78910 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30976a.pdf; Japan: Certain Transaction-Level Requirements, 78 FR 78890 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30977a.pdf; Canada: Certain Entity-Level Requirements, 78 FR 78839 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30979a.pdf; Switzerland: Certain Entity-Level Requirements, 78 FR 78899 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30978a.pdf; Hong Kong: Certain Entity-Level Requirements, 78 FR 78852 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30975a.pdf; and Australia: Certain Entity-Level Requirements, 78 FR 78864 (Dec. 27, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-30974a.pdf.

[xvii] *See* Swap Execution Facilities and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018), available at: https://www.cftc.gov/sites/default/files/2018-11/2018-24642a.pdf.

[xviii] Division of Market Oversight Guidance on Application of Certain Commission Regulations to Swap Execution Facilities (Nov. 15, 2013), available at: https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/dmosefguidance111513.pdf.

[xix] *See id* at 2.

[xx] *See id* at 2, n.8.

[xxi] *See* Joint Statement by UK and US Authorities on Continuity of Derivatives Trading and Clearing Post-Brexit (Feb. 25, 2019), available at: https://www.cftc.gov/PressRoom/PressReleases/7876-19.

[xxii] *See* Cross-Border White Paper at 84.