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COMMODITY FUTURES TRADING COMMISSION

OPEN COMMISSION MEETING

9:30 a.m.

Thursday, February 20, 2020

CFTC Headquarters Lobby-level Conference Room
1155 21st Street, NW, Washington, D.C. 20581

1 COMMISSION MEMBERS

2 Chairman Heath P. Tarbert

3 Commissioner Brian D. Quintenz

4 Commissioner Rostin Behnam

5 Commissioner Dawn DeBerry Stump

6 Commissioner Dan M. Berkovitz

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1 PROCEEDINGS

2 (9:32 a.m.)

3 CHAIRMAN TARBERT: Good morning. This
4 meeting will come to order. This is a public meeting
5 of the Commodity Futures Trading Commission. I'd like
6 to welcome members of the public and market
7 participants as well as those on the phone or watching
8 via webcast. I'd also like to welcome my fellow
9 Commissioners, Commissioner Quintenz, Commissioner
10 Behnam, Commissioner Stump, and Commissioner
11 Berkovitz.

12 As always, we'll begin with the Pledge of
13 Allegiance. Anyone is welcome to join. Today the
14 pledge will be led by Margie Yates. Margie, please
15 come on down. Margie is a vital member of our
16 Facilities and Operations Team. She's truly a Jack of
17 all trades, whether it's helping to organize our
18 annual FinTech conferences, our Agricultural
19 conferences, our open Commission meetings like this or
20 our Advisory Committee meetings. She and her entire
21 Facilities Team are instrumental in making sure this

1 agency works day in and day out. So thank you so much
2 Margie.

3 (Pledge of Allegiance.)

4 CHAIRMAN TARBERT: Well, we assemble today
5 to consider three matters relating to the Commission's
6 swap data reporting rules. Specifically, we're
7 considering proposed amendments to Part 43, which
8 relates to the real-time public reporting of swap
9 data. We'll also vote on amendments to Part 45 which
10 governs the reporting of swap data to the CFTC. And
11 finally, we'll consider reopening the public comment
12 period for Part 49 which relates to swap data
13 repositories. Reopening the comment period will allow
14 the public to comment on all three swaps data rule
15 proposals together.

16 We'll now go ahead and move to opening
17 statements. I'll go first followed by my fellow
18 Commissioners in order of seniority. Commissioners
19 are free to reserve their time to make a longer
20 closing statement if you wish. After opening
21 statements, staff will present proposals for the
22 Commission's consideration and then the Commission, we

1 will have three separate votes, one for each of the
2 three proposals.

3 I'll just begin by saying that data is the
4 lifeblood of our markets. Yet for too long market
5 participants have had been burdened by confusing and
6 costly swap data reporting rules. Simplicity should
7 be a central goal of our swap data reporting rules,
8 making rules simple and clear, advances compliance,
9 price discovery, and risk monitoring. Everyone knows
10 that I generally favor a principles-based approach to
11 regulation where it's appropriate. But here there are
12 a number of cases where a rules-based approach makes
13 more sense and swap data reporting is one of those
14 areas where prescriptive rules are actually much more
15 helpful to market participants and to the Commission.
16 They provide clarity and guidance and reduce
17 unnecessary burdens.

18 Without clear guidance from the Commission,
19 SDRs and market participants have been left to wade
20 through Parts 43 and 45 on their own. We've
21 essentially asked them to guess what specific data
22 fields they should be reporting to us rather than us

1 telling them exactly what we're looking for and why we
2 need it.

3 As a result, we've seen a proliferation of
4 reportable data fields that in some cases have run
5 hundreds deep, but yet for all its sprawling
6 complexity the current data rules omit uncleared
7 margin creating a potential black box of systemic
8 risk. And that just describes CFTC reporting. Our
9 market participants also have to report to the SEC as
10 well as the European Securities and Markets Authority,
11 known as ESMA. These different reporting regimes have
12 created a Byzantine maze of fields and timetables.

13 Today's proposed amendments to Part 43 and
14 45 are a first step towards changing this system. In
15 fact, our Part 45 proposal includes a technical
16 specification that identifies 116 standardized data
17 fields. We're also proposing our efforts to harmonize
18 our swap data reporting requirements with those of the
19 SEC and ESMA. This harmonized approach will reduce
20 the burdens of duplicative reporting while painting a
21 more complete picture of market risk.

1 We're also proposing to enhance public
2 transparency by fixing certain reporting practices
3 that distort what's actually happening in our markets.
4 And then finally, commercial end-users, commercial
5 end-users who use swaps periodically for purposes of
6 managing their risk, shouldn't have the same reporting
7 requirement obligations as big banks who are in the
8 swaps market day-to-day. So we provided a little
9 relief for end-users as well.

10 Simplifying our swaps data reporting rules
11 to achieve clarity, standardization, and harmonization
12 will inevitably make for sounder regulation. And I'm
13 so grateful for our staff, which spans several
14 different offices for working on this in the past few
15 years. Thank you so much. I'd now like to recognize
16 other Commissioners for their opening statements.
17 We'll start with Commissioner Quintenz.

18 COMMISSIONER QUINTENZ: Thank you Mr.
19 Chairman. Good morning everybody. Good morning to
20 the staff. I'm pleased to support the data proposals
21 in front of us today which I hope will represent the
22 beginning of the end of this agency's longstanding

1 efforts to collect and utilize accurate, reliable swap
2 data and further our regulatory mandates.

3 I think there is frequently a trade-off
4 between being first and being right. That is
5 especially true when it comes to regulation. And I
6 think specifically true when it comes to the CFTC's
7 historical approach to the uncleared swap data
8 reporting regime.

9 Although this agency was the first regulator
10 in the world to implement swap data reporting
11 requirements, it did so only in a non-partial, non-
12 descriptive, non-technical fashion which in my opinion
13 led to the fact that even today the Commission has
14 great difficulty aggregating and analyzing data for
15 the uncleared swaps market across data repositories.

16 But I am pleased that over the last few
17 years the CFTC has continued to lead global efforts to
18 reach international consensus on these reporting
19 requirements so that derivatives regulators can
20 finally get a clear picture of the uncleared
21 landscape.

1 I do want to note just for clarity purposes,
2 the difference between the historical and even current
3 poor usability of the uncleared data that we have
4 versus the significant usability of the swaps data
5 that's been produced by clearing houses for clear
6 swaps trades. In fact, that data is used regularly by
7 the Commission to monitor risk in real-time even at
8 the client portfolio level. It's my hope as we
9 finalize the rules today we will move the uncleared
10 regime towards that usability and that functionality.

11 Thank you to Meghan. Thank you to Richard.
12 Thank you to the entire team, for your hard work on
13 this. It's taken a long time and I'm very
14 appreciative of your efforts. Thank you.

15 CHAIRMAN TARBERT: Thank you very much.
16 Commissioner Behnam.

17 COMMISSIONER BEHNAM: Thanks Mr. Chairman.
18 Good morning everyone. First-off thanks to the DMO
19 staff and the entire team that's here before us and
20 anyone who worked on the rule, as always the critical
21 amount of work that's been done and I appreciate your
22 time and effort working with my office to get here

1 today. Also like Commissioner Quintenz, I look
2 forward to supporting both of the rules today. I will
3 have a number of questions after the presentations and
4 also I will publish a statement later on after the
5 meeting.

6 I think as a general matter, echoing both
7 the Chairman and Commissioner Quintenz it goes without
8 saying the importance of data and what we learn from
9 the financial crisis and how important data is to our
10 role and responsibility as a regulator. Certainly, I
11 don't think we could have avoided the crisis in 2008
12 if we had a lot more data but certainly, I think the
13 right data and collecting it in a punctual manner and
14 being able to sift through it and digest it and
15 understand the risk that it poses to the market would
16 have given us a better picture of the risks that are
17 out there.

18 So I think this is a great step towards
19 fulfilling some of those the mandates from 2008 and
20 2010. Certainly, it's been a long effort to get here
21 and I think there's always going to be improvement we
22 need to be making domestically with our regulators

1 across the city, but of course, our partners across
2 the globe in Europe and Asia as well.

3 So again, thanks for your work. I look
4 forward to today's presentation and the questions and
5 I'm pretty much looking forward to supporting the
6 rules and having a better data set to look at. Thank
7 you.

8 CHAIRMAN TARBERT: Thank you very much.
9 Commissioner Stump.

10 COMMISSIONER STUMP: Thank you. I'm
11 extremely pleased to be here today to advance these
12 rules, and I want to thank, like everyone, I'm very
13 grateful to all of the folks who have worked to get us
14 where we are today, but particularly the Division of
15 Market Oversight, who not only worked to get this rule
16 set before us, but have worked over the past several
17 years to ensure that the public had ample opportunity
18 to weigh in.

19 And I think for me, anyone who knew me
20 during the crisis when everyone was responding, I
21 happened to work on Capitol Hill, knows that I
22 consider this particular set of rules to be

1 foundational to effectuating the reforms that we were
2 tasked with. It's sometimes overlooked as being as
3 important as it is. But I think we can't follow
4 through with all of our other mandates under the
5 reform agenda without having the appropriate and
6 adequate data.

7 So thank you all. I applaud your commitment
8 to these rules, and I really appreciate your efforts
9 to incorporate some suggestions from my office as
10 well. I also want to thank the Office of the Chief
11 Economist and the Office of the General Counsel, some
12 of whom were in my office at close of business
13 yesterday. So you all have done a tremendous amount
14 of work to get this rule set to the place where it is
15 today as well.

16 And finally, a special note of gratitude to
17 Dan Bucsa, for his work, both in his capacity as the
18 Deputy Director at DMO, where he was the Team Lead for
19 some of these rules, for all of these rules, and in
20 his current capacity in my office as the Chief of
21 Staff.

1 So at the onset of the financial crisis, the
2 most obvious regulatory predicament was the OTC swaps
3 and the lack of information that we had about them.
4 The Pittsburgh Accords were predicated upon the global
5 regulatory community needing to procure data to inform
6 decision makers about these opaque markets. I've long
7 believed that lacking information, especially
8 concerning the swaps markets, was among the most
9 fundamental issues to be addressed post-crisis. In
10 2012, the Commission was a first mover in establishing
11 reporting requirements for swaps, and other regulatory
12 bodies have since followed. However, despite the
13 substantial efforts and the cost of implementation,
14 the different data elements, formatting and technical
15 specifications utilized by individual jurisdictions
16 make it extremely difficult to aggregate the data
17 across global markets and thus limit the data's
18 utility.

19 The G-20 Leaders' directive from Pittsburgh
20 in 2009 included an expectation that members would
21 "assess regularly implementation and whether it is
22 sufficient to improve transparency in the derivatives

1 markets." And I'm pleased that today the CFTC is
2 heeding this direction because with the benefit of
3 time and experience, we are able to better harmonize
4 with other regulators around the world, reasonably
5 refine the reporting obligations to a common set of
6 comparable elements, reportable elements, improve the
7 accuracy of regulatory reporting, and reduce the
8 burden placed on end-users. I expect the takeaways
9 from this meeting may focus on a limited number of
10 policy choices we are making, but I feel it's
11 important to highlight the multitude of positive
12 improvements included within the proposals.

13 For example, previous iterations of swap
14 data reporting rules lacked specificity and did not
15 include clear definitions, allowable values, or form
16 and manner for all reportable data elements. By more
17 clearly defining what is expected, the proposal also
18 appropriately removes what has become known as the
19 "catch-all bucket," which in some circumstances
20 resulted in the menu of options on what and how to
21 report swap data expanding from several hundred to
22 over one thousand swap data elements.

1 Today, we hope to present a more tailored
2 and finite list of required swap elements that have
3 been identified by the staff as possessing tangible
4 and repeatable use cases. The proposed rule also
5 improves the efficacy of the swap reporting by
6 focusing on price forming events and minimizing the
7 dissemination of extraneous information that does not
8 foster price discovery. The proposed rule removes the
9 requirement to report the "mirror swap" component of
10 the prime brokerage process that has limited price
11 discovery value. The proposal also clarifies how and
12 when to report post-priced swaps and risk compression
13 exercises, and highlights these unique transaction
14 types on the public tape.

15 The proposal reasonably extends the deadline
16 for reporting regulatory data for swaps to T+1 for
17 large, sophisticated reporting counterparties such as
18 swap dealers and T+2 for smaller, less frequent
19 reporting counterparties such as end-users. This not
20 only harmonizes our rules with fellow regulators, but
21 correctly puts the emphasis on ensuring that the swap
22 data is accurate rather than focusing on speed. The

1 proposal further reduces burdens on end-users by
2 removing the requirement for those counterparties to
3 submit valuations of uncleared swaps on a quarterly
4 basis.

5 Today's proposal creates a mechanism for
6 achieving higher quality swap data. The rule
7 standardizes validations across SDRs, empowers SDRs to
8 apply validations and reject swaps, and clarifies that
9 reporting counterparties have the onus to address
10 errors causing any rejections in order to come into
11 compliance. This represents a robust attempt to
12 ensure that reported swap data is complete, formatted
13 in a standardized and harmonize manner, and accurate.

14 And now, for what I expect will be the topic
15 garnering much public attention today, block trades.
16 As envisioned by the original rules, the proposal
17 utilizes current data to reset block and cap sizes to
18 more appropriately delineate the profiles of various
19 products. By applying the information we now have at
20 our disposal, it was determined that additional
21 categories for block transactions were necessary such
22 that we might move away from one size fits all, the

1 approach that's currently in place, by differentiating
2 between overall trading activity and transaction size
3 of distinct products.

4 In general, the block size would increase,
5 meaning that fewer transactions are eligible for block
6 treatment. This attempt to ensure that only the most
7 appropriately sized transactions are publicly
8 disseminated with a greater time delay would also
9 warrant consideration as to the suitable length of
10 time for such delays to allow market participants to
11 effectively transact in large sizes and hedge their
12 positions appropriately. The Commission and staff
13 have received divergent views on this topic since the
14 inception of these rules. The guiding statute
15 requires consideration of whether public disclosure
16 will materially reduce liquidity.

17 Frankly, I do not know the right answer.
18 Last night I reviewed several comment letters received
19 on the topic with wide ranging opinions. Life
20 insurers, asset managers, and energy companies who are
21 counterparties to swap dealers expressed the need for
22 longer delays, while some fund managers and liquidity

1 providers expressed concerns for any expanded delays
2 in public reporting.

3 Today's proposal presents yet another
4 opportunity for further comments, and the Commission
5 will benefit from any information that you are willing
6 to submit to us with regard to the specific changes,
7 and there are many with regard to the block
8 transactions. I think it's unfair for it to be
9 reported as only an extension to the delays because
10 it's multifaceted and I encourage folks to read the
11 entire set of proposals with regard to block trades
12 before reacting.

13 And with that, I'm happy to support the
14 rules. I, again, want to thank you all for your
15 efforts. I look forward to the presentations and the
16 public comments. Thank you.

17 CHAIRMAN TARBERT: Thank you. Commissioner
18 Berkovitz.

19 COMMISSIONER BERKOVITZ: Thank you, Mr.
20 Chairman. Before I begin my statement on the rules
21 before us today, I'd like to recognize a couple of
22 former Commissioners in our audience today who are

1 present here. Commissioner Hatfield, Commissioner
2 Fred Hatfield who was the Commissioner of the CFTC
3 from 2004 to 2006 or '07, I believe, is with us today,
4 and Commissioner Fowler West, who was a Commissioner
5 from 1983 to 1992, I believe, is present -- is with us
6 today.

7 I had the privilege of meeting with
8 Commissioner West early this week and revisiting some
9 history and a couple of notable aspects. Commissioner
10 West was Staff Director for the House Agriculture
11 Committee under Chairman Poage and Chairman Foley, and
12 was Staff Director of the Committee at the time that
13 the Commodity Futures Trading Act was passed in 1974,
14 so present at the creation of the CFTC and was
15 describing -- he was actually on the telephone call
16 with the Chairman of the Committee and President Ford
17 when President Ford was considering vetoing that
18 legislation and the Chairman help persuade President
19 Ford not to veto that bill.

20 But that really was a visionary act, and we
21 owe a tremendous gratitude for the foresight of those
22 in Congress at the time in supporting that '74 Act in

1 terms of giving this agency exclusive jurisdiction
2 over all futures products across all types of
3 commodities and expanding the CFTC's jurisdiction
4 beyond agricultural products, into any type of product
5 for which there could be a futures contract.

6 If you think about it at the time in 1974,
7 those were turbulent times in our markets. There we
8 were just about to enter or started into a period of
9 tremendous inflation and oil and energy, the Arab Oil
10 Embargo -- a real significant ramp up in energy prices
11 and the market participants and companies needed a way
12 to manage those risks. And this agency's expansion of
13 jurisdiction and the regulation of those markets
14 really enabled the expansion of these risk management
15 tools that are so prevalent today.

16 Commissioner West was also instrumental in
17 another item that is very near and dear to my heart,
18 and the Commission has dealt with recently. In 1990
19 Commissioner West issued a dissent on the Brent
20 Interpretation that the Commission refused to publish.
21 Commissioner West provided me with a copy of the
22 seriatim. It was a 3-to-1 vote where the Commission

1 voted not to publish Commissioner West's dissent on
2 the Brent Interpretation.

3 And Congress took note of that, the
4 Commission's determination not to publish the dissent
5 and revised the Commodity Exchange Act in what's now
6 Section 2(a)(10)(C) of the Commodity Exchange Act to
7 provide that any time a Commissioner has a concurring
8 or dissenting opinion on any matter before the
9 Commission that the Commission shall published that
10 dissent.

11 I know Mr. Chairman and all my colleagues
12 here are great supporters of Commissioners rights to
13 speak and issue dissents and have their views
14 published on any Commission matter, and recently that
15 view of the Commission and that statutory authority
16 was upheld by the Seventh Circuit Court of Appeals in
17 case that we are still dealing with, but in terms of
18 Commissioners rights to issue opinions and to have
19 those opinions published, that is a right that the
20 Commission can't deny to a Commissioner.

21 Nor can a Court deny to any Commissioner.
22 It's a statutory right we all have, and I thank my

1 colleagues for support of that right that we have
2 seen. I thank the General Counsel for his excellent
3 defense of that right and even the Seventh Circuit
4 Court of Appeals recognized the excellent defense of
5 that right in the court.

6 So I want to express my gratitude for
7 Commissioner West for standing up for that principle
8 back in 1990. I went back this morning. I was just
9 curious to see if this opinion is published on our
10 website and interestingly enough, there is a link to
11 it. If you look at the biographies we have on our
12 website, we have biographies of former Commissioners
13 so you can go back and look and see the bios of former
14 Commissioners. And there's a link to Commissioner
15 West's dissent. But there's nothing there. The link
16 is not active. So I would ask -- I would ask that
17 today the Commission's unanimous consent that we
18 actually publish Commissioner West's dissent from 1990
19 under the authority of 2(a)(10)(C).

20 CHAIRMAN TARBERT: So moved. We will hereby
21 publish.

1 COMMISSIONER BERKOVITZ: Thank you. So I'd
2 like now to turn to the business before us, the two
3 rules we have before us and I support issuing both of
4 these rules for public comment. On Part 45,
5 collecting swap data is absolutely critical to
6 fulfilling the purposes of the Commodity Exchange Act,
7 including ensuring the financial integrity of all
8 transactions subject to this act in the avoidance of
9 systemic risk. The financial crisis of 2008 showed
10 how a lack of transparency in swap trading, and
11 regulators inability to monitor risk can create
12 fertile ground for the accumulation of excessive
13 risks.

14 The Commission must collect appropriate swap
15 data to fulfill its statutory mandate. The data must
16 be accurate and sufficiently standardized so that the
17 Commission can easily aggregate and analyze the data
18 reported to different swap data repositories. The
19 Commission must be able to determine how different
20 derivatives categories and products are being traded,
21 as well as the positions and risks that different

1 market participants are taking across the entire swaps
2 market.

3 I support today's proposal to amend the
4 Parts 45, 46, and 49 reporting requirements because it
5 would improve the standardization and accuracy of swap
6 data, reported to SDRs and would thereby strengthen
7 the Commission's ability to oversee swap markets. I
8 commend the many CFTC staff members who have spent
9 years reviewing swap data and helped improve the data
10 reporting framework.

11 I also believe that in addition to having
12 valid data, we must have the tools to analyze the data
13 and determine whether there are excessive risks in the
14 marketplace. I think that the Commission should
15 devote greater attention to this effort on and I will
16 be talking about that a little bit further.

17 With respect of Part 43 I'm voting -- this
18 is the real-time public reporting requirements
19 rulemaking. I'm voting to issue for public comment
20 the proposed rulemaking that would amend certain rules
21 requiring real-time public reporting of swap trades.
22 The proposal is intended to enhance the existing real-

1 time public reporting framework adopted in 2012.
2 Although I'm voting to issue the proposal for public
3 comment and believe that many of the provisions in
4 this proposal would be beneficial, I do not support
5 the provision in the proposal that would permit a 48-
6 hour delay in the reporting of block trades. A 48-
7 hour delay for all block trades is simply too long.

8 The 48-hour delay could impede rather than
9 foster price discovery. It could also undermine
10 market integrity by providing counterparties to large
11 swaps with an unfair information advantage. While an
12 appropriate block trade reporting delay is mandated by
13 statute, and is necessary to allow effective hedging
14 of the position, the delay should be appropriately
15 limited.

16 I commend here on this rulemaking, all of
17 the CFTC staff who have worked on the reporting rules.
18 I also appreciate all the time the staff took with me
19 and my staff over the past several weeks, including
20 late yesterday afternoon and also the Office of
21 General Counsel to help understand the rule and to

1 make improvements to the draft that was presented to
2 us.

3 Getting swap reporting right is a difficult
4 but important function of the Commission. Improving
5 price discovery through real-time public reporting
6 serves the CFTC's mission. The proposal offers a
7 number of pragmatic solutions and improvements to
8 known issues with the current rule. Significantly,
9 there will be fewer block trades under this rule.
10 They will, however, be of a larger size.

11 These improvements should not and need not
12 come at the expense of market transparency and an un-
13 level playing field. I look forward to the
14 presentation by the staff and to comments on these
15 proposals. Thank you.

16 CHAIRMAN TARBERT: Thank you very much.

17 So allow me also to welcome former
18 Commissioner Hatfield, as well as you Commissioner
19 West. We also look forward to publishing, even if
20 it's 20 years late, your opinion.

21 I also want to take an opportunity before we
22 hand it over to the staff to make their presentation

1 to especially thank all my fellow Commissioners for
2 their input on this rule and for the exchange of ideas
3 and debate, particularly Commissioner Stump, who has
4 led the data protection initiative and played a key
5 role in this on particularly Dan Bucsa, her Chief of
6 Staff, we couldn't have done this without you
7 alongside the hard work of the staff.

8 I also want to thank some people that are
9 not in the room today, two agencies in particular, the
10 Securities and Exchange Commission and ESMA, in
11 Europe. Both of them had an opportunity to comment on
12 our rules and provide feedback. And this is one of
13 the rare occasions where we've worked with other
14 agencies to really get something together, which has
15 some degree of harmonization for market participants.
16 So I want to thank our fellow regulators also for
17 their contributions.

18 Staff will go ahead and make a presentation
19 of the Commission on today's proposals. Staff will
20 present all three proposals together because they're
21 closely related. After the presentation, the floor
22 will be open for questions from each Commissioner.

1 Following the close of the discussion, the Commission
2 will vote separately on each proposal.

3 All final votes conducted in this meeting
4 will be recorded votes. The results of the votes
5 approving issuance of the rulemaking documents will of
6 course be included with those documents in the Federal
7 Register.

8 So to facilitate preparation of the approved
9 documents for publication in the Federal Register, I
10 now ask the Commission to grant unanimous consent for
11 the staff to make the necessary technical corrections
12 prior to submitting them to the Federal Register.

13 COMMISSIONER QUINTENZ: So moved.

14 COMMISSIONER BEHNAM: Second.

15 CHAIRMAN TARBERT: Thank you. Without
16 objection, so ordered.

17 Okay. At this time, I'd like to welcome the
18 following staff for their presentation on today's
19 proposals. And we have actually have nine staff
20 members with us today showing the breadth of and the
21 amount of work that went into these rules.

1 We have Dorothy DeWitt, who is our Director
2 of the Division of Market Oversight. We have Meghan
3 Tente, Acting Associate Director from the Division of
4 Market Oversight; John Coughlin, who is our Research
5 Economist in the Office of Chief Economist. We have
6 Kate Mitchel, who's an IT Specialist with our Office
7 of Data and Technology. We have Richard Mo, Special
8 Counsel with the Division of Market Oversight. We
9 have John Roberts, Research Analyst with the Office of
10 Chief Economist. We have David Aron, who is Special
11 Counsel in our Division of Market Oversight and also
12 from the Division of Market Oversight, we have Matthew
13 Jones, Attorney Adviser, and Benjamin DeMaria, Special
14 Counsel.

15 So thank you so much. With that, I will go
16 ahead and hand it over to you Dorothy.

17 MS. DeWITT: Good morning Mr. Chairman and
18 Commissioners. Thank you for opportunity to present
19 today. Before we start I want to give that thanks on
20 behalf of everyone at this very long table and those
21 that are not at the table that helped contribute to
22 this rule.

1 Before we start our presentation today, we
2 would like to take this opportunity to give everyone
3 an idea of the achievements that these proposals
4 represent. We would also like to recognize the many
5 people who have made these proposals possible. These
6 two new proposals relating to Parts 43 and 45, along
7 with our existing proposal related to Part 49 swap
8 data repository data verification, are the product of
9 years of efforts and coordination both within the
10 Commission and outside the Commission on an
11 international scale.

12 In 2017 the Division of Market Oversight
13 Data and Reporting Branch, sometimes referred to as
14 DAR, announced the Roadmap to Achieve High Quality
15 Swap Data. However, the Commission, DMO, and the Data
16 and Reporting Branch have been working since the
17 commencement of swap data reporting in 2012 to improve
18 data quality and the reporting system for both the
19 Commission and for market participants.

20 We believe that the three Roadmap proposals,
21 including the two we're presenting today, will work
22 together to achieve the Roadmap's goals of ensuring

1 the Commission receives accurate, complete, and high
2 quality data for swaps transactions. This will first
3 allow the Commission to more effectively and more
4 efficiently achieve its regulatory mission. It will
5 also allow us to simplify, streamline, and standardize
6 the reporting system for our reporting entities and
7 the public. Finally, it will update and clarify other
8 swap data requirements for our market participants.

9 Data reporting can be a dense and highly
10 technical topic. Yet it's critically important that
11 the reporting system be as clear and as efficient as
12 possible. Quality data is essential for every
13 Commission division and office to perform its
14 responsibilities and for the public to better
15 understand the swaps markets. We believe these
16 Roadmap proposals would be immensely beneficial to the
17 Commission, market participants, and the public by
18 molding a reporting system that is more standardized,
19 more harmonized, and more user-friendly for everyone
20 involved.

21 These proposals reflect an important
22 achievement because they serve as a model for

1 coordinated, data driven, policymaking. Data quality
2 is an issue not only for the CFTC and its registrants
3 and market participants, but also for their
4 international counterparts. These proposals, and the
5 global coordination that went into developing them,
6 reflect the CFTC's core vision to be a global standard
7 for sound derivatives regulations. They also reflect
8 the CFTC's core values of commitment, forward
9 thinking, teamwork, and clarity. That last core
10 value, clarity, is a word that you've heard many times
11 already today and will continue to hear it throughout
12 this presentation.

13 The team sitting here who crafted these rule
14 proposals engaged in extensive coordination with our
15 colleagues within the CFTC, with our market
16 participants, and with our US and international
17 counterparts in an effort to ensure the proposals will
18 improve and optimize the data reporting system.

19 The contributions that arose from this
20 coordination have been invaluable, and we would like
21 to thank many of them specifically. First, we would
22 like to thank our CFTC colleagues throughout the

1 agency. This includes our colleagues within the
2 Office of Data and Technology, the Office of the Chief
3 Economist, and the Office of International Affairs,
4 including those seated at the table today, as well as
5 those in the audience. Their data expertise and
6 leadership in coordinating the harmonization efforts
7 both domestically and internationally were invaluable.

8 We'd also like to thank our colleagues in
9 the Division of Clearing and Risk, the Division of
10 Enforcement, our other colleagues in the Division of
11 Market Oversight, and the Division of Swap Dealer and
12 Intermediary Oversight, as well as the Office of the
13 General Counsel. Their crucial feedback and review of
14 these proposals, especially in the way that they
15 helped craft the proposed data fields.

16 We'd also like to thank the Chairman and
17 each of the Commissioners and their staffs for their
18 constructive feedback as we prepared these proposals,
19 which served to challenge our analysis and as a
20 result, markedly improved the final product.

21 We'd also like to thank our colleagues from
22 other regulators who coordinated with us on this data

1 harmonization effort and provided valuable feedback on
2 the proposals. These colleagues and counterparts,
3 including our counterparts at the Securities and
4 Exchange Commission, the European Securities and
5 Market Authority or ESMA, all of the members of the
6 data harmonization efforts under the auspices of CPMI
7 and IOSCO, and the Financial Stability Board.

8 We would also like to thank the many market
9 participants who provided feedback on the data
10 reporting system and suggestions for improvement. We
11 particularly appreciate the feedback received for
12 improving public data reporting. The public is the
13 intended audience for this data, and we want to make
14 sure that this reporting is as useful and user-
15 friendly as possible. We look forward to even more
16 feedback from the public during the comment period for
17 these proposals.

18 Finally, I would like to recognize and
19 express my appreciation for the DMO DAR staff,
20 including Meghan Tente, David Aron and Richard Mo.
21 They will be presenting today and also been Ben
22 DeMaria, Tom Guerin, Kristin Liegel, and Elie Mishory.

1 Their tireless efforts in leading and drafting the
2 Roadmap proposals have made today's achievement
3 possible. We all owe them a debt of gratitude for the
4 improvements to the reporting system that are
5 reflected in these proposals.

6 It's now my pleasure to introduce Meghan
7 Tente, the Acting Associate Director for the Data and
8 Reporting Branch, to start today's presentation.

9 MS. TENTE: Thank you Dorothy. And thank
10 you Mr. Chairman and Commissioners for the opportunity
11 to present these proposals. Today we're presenting
12 two notices of proposed rulemaking for the
13 Commission's approval.

14 The first proposes amendments to Part 45 of
15 the Commission's regulations. These regulations cover
16 the swap data reported to swap data repositories, or
17 SDRs. CFTC staff uses SDR data to measure risk,
18 monitor trends in compliance with our rules, and
19 produce both internal and external reports. The
20 second proposal amends Part 43 of the Commission's
21 regulations. These regulations cover swap data that

1 market participants report to SDRs for public
2 dissemination.

3 Section 2(a)(13) of the CEA directs the
4 Commission to provide for the public availability of
5 swap transaction on pricing data. In doing so, the
6 Commission has to ensure that it does not identify the
7 swap counterparties. It has to provide a time delay
8 for outsized swap transactions and account for whether
9 the public disclosure of this data will materially
10 reduce market liquidity.

11 We're going to begin the staff presentations
12 on the Part 45 proposal. The goal of the Part 45
13 proposal is to standardize the data the CFTC receives,
14 adopt international technical standards to standardize
15 data across borders, and amend our rules to ease
16 burdens for reporting parties where doing so will not
17 impact the CFTC's ability to fulfill its
18 responsibilities.

19 Since 2012, the CFTC has obtained a
20 significant amount of swap data from market
21 participants. To-date, counterparties have lacked
22 clear standards from the Commission for reporting data

1 to SDRs. This has created issues with standardization
2 that have posed challenges to staff in using the data
3 and to market participants in reporting the data.
4 Today's proposals adopt international standards to
5 help standardize the data the Commission receives.

6 To provide some background, John Coughlan, a
7 Research Analyst in the Office of the Chief Economist
8 who helped us in drafting the proposed swap data
9 technical specifications, will share his experience
10 using the data to help frame the issues the proposal
11 addresses.

12 MR. COUGHLAN: Thank you, Meghan. And thank
13 you, Mr. Chairman and Commissioners for the
14 opportunity to present. At the CFTC I'm a heavy data
15 user of the swap data. I've been working with the
16 Part 45 swap data since I joined the Commission in
17 2015. I've also worked in DSIO and DMO prior to
18 joining the Office of the Chief Economist.

19 So in these roles I've worked extensively
20 with swaps data for different purposes. I'm here to
21 share some of these experiences with you today,

1 including challenges faced by data users and solutions
2 proposed here to address those challenges.

3 Working with Part 45 data makes clear that
4 the swaps market is enormous and very complex. There
5 are lots of trades with many life cycle events, huge
6 notional amounts, complicated counterparty
7 relationships, thousands of products, et cetera. It's
8 a very exciting area of study.

9 The second thing you notice is that although
10 the data is structured and stored in rows and columns,
11 it is sometimes not standardized. When the CFTC
12 adopted the reporting rules in 2012, clear standards
13 did not exist for reporting something as
14 straightforward as, for example, a three-month LIBOR
15 swap. As a result, the Commission ended up with
16 dozens of different characterizations of the same
17 product in the data. Significant staff time was
18 needed to confirm, for example, that these different
19 characterizations were indeed the same product, and
20 then we had to manually reorganize them.

21 The Commission has produced valuable
22 analysis and products with swap data; nevertheless

1 market-wide aggregation and analysis with currently
2 available data is challenging and very labor
3 intensive.

4 As a data user in the Commission, I've
5 worked on cross-divisional teams of data users to
6 determine, for example, whether a given market
7 participant is above or below the *de minimis* threshold
8 of \$8 billion in gross notional. This analysis
9 required workarounds and filters given the data.
10 Despite the challenges, the Commission has produced
11 reports that are well-received by the public,
12 especially including the Weekly Swaps Report and the
13 Entity-Netted Notionals Reports. These reports are
14 especially valuable to end-users like pension funds,
15 insurance companies, and asset managers that
16 previously did not have any view of the risk
17 composition of the markets they were trading in
18 outside of their own activity and maybe the
19 information their dealer counterparties shared with
20 them.

21 From the perspective of a data user, the
22 Part 45 proposal addresses these challenges head on.

1 The proposal standardizes the data elements we
2 collect, and in so doing, will solve many of the
3 issues we struggle within the data. The harmonized
4 data elements and technical specifications included in
5 this Part 45 proposal reflect lessons learned from
6 years of internal work with swaps data, external
7 coordination with the international and domestic
8 harmonization efforts, and frequent consultation with
9 market participants.

10 So to summarize, CFTC data users believe the
11 changes in this proposal will provide cleaner, more
12 standardized data that will enhance the Commission's
13 ability to facilitate more accurate, efficient
14 analysis of swaps markets, enable better public
15 reports, policymaking, and market oversight. Thank
16 you.

17 MS. TENTE: Thanks John. Next we'll hear
18 from Kate Mitchel, an IT Specialist in the Office of
19 Data and Technology. Today's proposal proposes
20 adopting technical standards for swap data reporting
21 according to CPMI-IOSCO technical guidance resulting

1 from several international work streams. CFTC staff
2 has led or participated in each of these efforts.

3 Kate has represented the CFTC on the IOSCO
4 efforts to standardize the data fields, also known as
5 the Critical Data Elements, or CDEs. Kate will
6 provide some background on these efforts and explain
7 their impact on the proposals.

8 MS. MITCHEL: Thank you, Meghan and thank
9 you Mr. Chairman and Commissioners for the opportunity
10 to speak.

11 In 2009, in response to the financial
12 crisis, the G-20 leaders agreed that all over-the-
13 counter derivatives should be reported to trade
14 repositories (known as TRs, or SDRs in the US), to
15 further the goals of improving transparency,
16 mitigating systemic risk, and preventing market abuse.
17 Since that time, regulators across major derivatives
18 jurisdictions, including the CFTC, have coordinated to
19 develop global guidance on the harmonization of data
20 elements that are reported to TRs and are important
21 for global aggregation.

1 These data elements include what are called
2 other Critical Data Elements, also known as CDE.
3 Under CPMI-IOSCO, the CFTC and other regulators
4 developed, sought public consultation on, and then
5 published technical guidance related to, over 100 CDE
6 data elements. The technical guidance provides
7 direction to global authorities on how to implement
8 CDE through harmonized or standardized definitions,
9 formats, and usage.

10 The CDE working group was made up of two
11 dozen authorities who determined which data elements
12 were critical to harmonize for global aggregation and
13 for conducting market surveillance and enforcement,
14 supervising market participants, and assessing risk,
15 among other important regulatory responsibilities.

16 The CDE technical guidance does not
17 determine which critical data elements are required to
18 be reported in a given jurisdiction, since each
19 authority is responsible for its reporting
20 requirements. Instead, if a jurisdiction adopts a
21 subset of data elements, the guidance provides those

1 authorities with the harmonized definitions, formats
2 and allowable values for those data elements.

3 Commission staff co-chaired the CPMI-IOSCO
4 working groups and also were active members of the
5 working groups, participating in the development of
6 the guidances, as well as solicitation and review of
7 responses to multiple public consultations, along with
8 related industry workshops. Commission staff across
9 the CFTC also provided extensive feedback for the data
10 elements, taking into account the Commission's
11 experience with swap data reporting and its use of
12 such data in fulfilling its regulatory
13 responsibilities.

14 Commission staff have now developed a
15 technical specification that outlines the data
16 elements that we believe will be required to be
17 reported to the SDRs under proposed Part 45. The
18 technical specification currently contains 116 data
19 elements. Approximately two-thirds of the data
20 elements in the technical specification are
21 internationally harmonized, while one-third are CFTC-
22 specific. Staff have determined these CFTC-specific

1 data elements are needed to perform the Commission's
2 regulatory responsibilities, and there is not
3 currently a CDE data element that can adequately
4 provide the same information.

5 This technical specification also provides
6 the data elements required to be reported and publicly
7 disseminated under proposed Part 43, including any
8 dissemination requirements for SDRs for public
9 reporting. Staff appreciates the Commission's support
10 in taking the important step of adopting the technical
11 standards.

12 MS. TENTE: Thanks, Kate. Next we'll hear
13 from Richard Mo, Special Counsel in DMO's Data and
14 Reporting Branch. Richard has represented the CFTC on
15 a separate IOSCO effort to standardize the unique
16 transaction identifier and also represents the CFTC on
17 the work stream for legal entity identifiers, or LEIs.

18 Richard will provide some background on
19 these efforts and explain their impact on the
20 proposals.

1 MR. MO: Thank you, Meghan and thank you Mr.
2 Chairman and Commissioners for the opportunity to
3 present.

4 The Commission currently requires each swap
5 to be identified with a unique swap identifier, or
6 USI, a proprietary standard developed by the
7 Commission in 2012 in the absence of a uniform global
8 standard. However, Commission staff, including
9 myself, actively participated in international efforts
10 to develop a uniform global standard to identify each
11 swap. These culminated in the unique transaction
12 identifier, or UTI, and the 2017 publication of the
13 UTI technical guidance.

14 The technical guidance provides guidance to
15 authorities on the format, generation, and use of
16 UTIs. Even after agreement on how a UTI should be
17 composed, without a harmonized approach on who
18 generates the UTI, there is a risk for multiple UTI to
19 be generated for a single swap. To address this
20 issue, another key part of the technical guidance is a
21 hierarchy detailing the factors that authorities
22 should consider when drafting their rules governing

1 the entity responsible for generating a UTI for each
2 swap.

3 In the proposed Part 45 revisions the
4 Commission would: one, mandate that each new swap be
5 reported with a UTI instead of a USI; two, provide
6 instructions on how to create the UTI; and third,
7 detail which entity is responsible for generating the
8 UTI for each swap.

9 Commission staff has worked to ensure that
10 the proposed Part 45 revisions conform to, and do not
11 conflict with, the UTI technical guidance, as global
12 data aggregation would be hindered if multiple UTIs
13 are generate for a swap reportable to multiple
14 jurisdictions. The proposed revisions also aimed to
15 ensure that the same UTI reported to another
16 jurisdiction is reported to us.

17 The Financial Stability Board has
18 recommended that all jurisdictions adopt the UTI by
19 the end of this year. The proposed implementation
20 date for the UTI provisions in Part 45 would meet the
21 FSB target. We note that the Commission is among the
22 first authorities to announce its UTI implementation

1 plans, in keeping with the CFTC's vision set by the
2 Chairman of being the global standard for sound
3 derivatives regulation.

4 In addition to identifying transactions, the
5 proposed revisions would also enhance the Commission's
6 ability to identify swap participants. The Commission
7 uses the legal entity identifier, or LEI, to identify
8 counterparties, and CFTC played a crucial role in
9 establishing the LEI in 2013. The CFTC was a founding
10 member of the Global LEI System, and since the
11 beginning, has served on the executive committee of
12 the LEI Regulatory Oversight Committee, or LEI ROC, a
13 group of authorities from over 50 countries tasked
14 with overseeing the LEI. I currently serve as the
15 CFTC representative to the LEI ROC.

16 Similar to UTI, a globally accepted
17 identifier for counterparties in the form of the LEI
18 will allow for aggregation of swaps data at a global
19 level and reduce cross border reporting complexity for
20 participants, as a US firm that obtains an LEI from a
21 US LEI issuer could use that LEI to report to ESMA,

1 just as an EU firm could report a European-issued LEI
2 to us.

3 The proposed revisions also further
4 reinforce the Commission's commitment to the LEI by
5 requiring those entities posing the most systemic
6 impact to annually renew their LEIs, along with
7 enhancements aimed to ensure that non-reporting
8 counterparties obtain LEIs.

9 Finally, I should mention the future
10 enhanced role of the LEI ROC. The FSB has recommended
11 that the LEI ROC, in addition to overseeing LEI, serve
12 as the international governance body for UTI, UPI, and
13 CDE. This transition is expected to occur later this
14 year. When the transition occurs, the governance for
15 the identifiers for each transaction, the
16 counterparties to each transaction, the product in
17 each transaction, and the CDE data elements will all
18 be under one roof, fostering greater collaboration
19 among global authorities to facilitate the effective
20 use of swaps data in assessing systemic risk and
21 detecting market abuse. Thank you.

1 MS. TENTE: Thanks, Richard. The Commission
2 has to adopt a rule changes to implement all the goals
3 just described. These changes range from updating the
4 list of data fields in Part 45 to amending our
5 transaction identifier rules to adopt the tiebreakers
6 Richard just described, recognizing that the changes
7 proposed to standardize the data would necessarily
8 involve costs to market participants. We've
9 identified some areas of reporting to streamline to
10 ease reporting burdens, where doing so won't sacrifice
11 the Commission's ability to fulfill its
12 responsibilities.

13 Here are some highlights of these changes.
14 The proposal would give swap counterparties more time
15 to report data to SDRs. Under the proposal, we're
16 extending the time to report new swaps or changes to
17 swaps to T+1 or T+2 from the much shorter deadlines we
18 have today. The proposal would require one swap
19 creation data report at execution instead of the two
20 we require today, and the proposal would no longer
21 require end-user reporting counterparties to report
22 quarterly swap valuation data to SDRs.

1 Together staff believes the Part 45 proposal
2 will harmonize our reporting to international
3 standards, standardized the data for CFTC users, and
4 streamline reporting to reduce burdens for swap
5 counterparties. We look forward to receiving comments
6 on the proposals.

7 Now staff will present on the Part 43
8 proposal. The goal of the Part 43 proposal is to
9 standardize the data publicly disseminated by SDRs,
10 propose solutions to two issues were concern might be
11 inhibiting utility of the public tape, and update the
12 regulations related to block trades. To begin, John
13 Roberts, Research Analyst in the Office of Chief
14 Economist, will discuss the importance of the publicly
15 reported swaps data.

16 MR. ROBERTS: Thank you, Meghan and thank
17 you, Mr. Chairman and the Commissioners for the
18 opportunity present.

19 Over the course of my five years in the
20 Office of the Chief Economist, I have been involved in
21 many projects requiring the use of swaps data. Part
22 43 is especially interesting to me because my research

1 focuses on how market participants learn from trades
2 and how we can use such information to study market
3 liquidity. The Dodd-Frank Act placed emphasis on
4 increasing transparency in the swaps market and to
5 that end mandated that data on swaps transactions be
6 made public.

7 Commission staff involved in these proposals
8 believe that one way to achieve the CFTC's mission
9 while promoting the integrity, resilience, and
10 vibrancy of the US derivatives markets to sound
11 regulation of derivatives is to ensure that these
12 markets are transparent, both in terms of products
13 traded and individual executions. The CFTC's initial
14 work on Part 43 created what we believe is the most
15 truly transparent swaps market consistent with the
16 CFTC's core value of transparency. As Part 43's name
17 suggests, the primary intended use of Part 43 data is
18 real-time monitoring of swaps markets. Professional
19 traders rely on public data to watch the market. With
20 Part 43, market participants can watch the price
21 discovery process and collect information, allowing
22 dealers to quote more accurate prices to clients and

1 clients to determine when to accept or reject quotes
2 during the negotiation process.

3 The real-time streaming nature of the data
4 opens new opportunities to apply big data technologies
5 and integrate swaps market information with other
6 financial data in near real-time. This can lead to
7 market participants making more informed trading
8 decisions, which in turn can lead to improved price
9 discovery. The value of Part 43 data also extends
10 beyond the use in real-time. It allows practitioners
11 and academics access to historical intraday market
12 information.

13 For example, private entities such as Clarus
14 and FIA regularly study Part 43 data and publish
15 results of their findings. Further, academic research
16 using the public data has found that increase in
17 market transparency has improved the market. This
18 information will continue to be useful for researchers
19 studying market liquidity and price discovery in swaps
20 markets.

21 Lastly, we expect under the proposed rule
22 changes that the quality of the data will improve as

1 harmonized fields will capture details of trades and
2 products in a uniformed fashion which we believe will
3 increase the usefulness and user friendliness of the
4 Part 43 data.

5 In conclusion, following the mandates
6 outlined in the Dodd-Frank Act, the CFTC created Part
7 43 to increase market transparency. Since its
8 inception, and to this day, the CFTC is the leader in
9 swaps market transparency. This information is used
10 by professional traders and dealers to monitor the
11 market and collect information that helps them make
12 better trading decisions. It also creates
13 opportunities for technological innovations which can
14 improve how the swaps markets function.

15 Finally, this information is used by
16 researchers and data scientists to gain market
17 insights and help them inform the general public,
18 which leads to more informed market participants.
19 Thanks.

20 MS. TENTE: Thanks, John. Now we'll hear
21 from David Aron, Special Counsel in DMO on two of the

1 specific Part 43 proposals for post-priced swaps and
2 prime brokerage transactions.

3 MR. ARON: Thanks, Meghan. First, I'll
4 discuss post-priced swaps, which is primarily an
5 equity swap product. The proposed definition of a
6 post-priced swap is a swap for which the price is
7 unknown at execution. The price is unknown because
8 it's contingent on a subsequent event or activity,
9 such as the determination of a broad-based stock index
10 level later in the day or a swap dealer completing a
11 post-priced swap hedge. As background, Part 43
12 generally requires swap reporting to SDRs as soon as
13 technologically practicable after execution.

14 However, some market participants are
15 concerned that ASATP reporting allows other market
16 participants to negatively impact the eventual post-
17 priced swap price. Proposed rule 43.3(a)(4) would
18 permit delaying the reporting of all Part 43 post-
19 priced swap data until the earlier of: the price being
20 determined and just before midnight Eastern time on
21 the execution date.

1 If the price is not determined by 11:59:59
2 p.m. Eastern time, the reporting counterparty would
3 have to report to an SDR by that time all Part 43 data
4 for the post-priced swap other than the price and any
5 other unknown Part 43 data and report each previously
6 unknown data point to an SDR ASATP after such data
7 point is determined. When the known post-priced swap
8 data is reported by the deadline, it'd be flagged so
9 it could be displayed on the public tape as such.

10 It appears that post-priced swaps constitute
11 a significant portion of swaps reported on a delayed
12 basis. Therefore, by permitting post-priced swap
13 reporting to be delayed until the proposed deadline,
14 late reporting should be substantially reduced. Staff
15 understands that delaying Part 43 post-priced swap
16 reporting until the proposed deadline would address
17 over 90 percent of the post-priced swap problem. The
18 purpose of Part 43 reporting is to enhance price
19 discovery. However, reporting post-priced swaps ASATP
20 after execution without a price doesn't serve that
21 goal optimally. As a result, we've drafted proposed
22 Rule 43.3(a)(4) to further that purpose.

1 We will now turn the mirror swaps, which I
2 will describe briefly in a moment. Proposed Rule
3 43.3(a)(6) states that prime brokerage transactions
4 defined as mirror swaps would not be Part 43
5 reportable. Although mirror swaps aren't currently
6 addressed in Part 43, DMO previously provided
7 conditional no-action relief from certain Part 43
8 requirements in 2012 and the proposed requirements
9 would, in part, be based on that relief.

10 By way of background, a mirror swap is part
11 of a larger transaction structure. In these
12 structures, a prime broker enters into an agreement
13 with its customer, authorizing it as agent for the
14 prime broker to cause the execution of a swap to which
15 the prime broker and a third party would be
16 counterparties, which we're proposing to call trigger
17 swap, with the swap terms and counterparties falling
18 within specified parameters.

19 We define the completion of the negotiation
20 of the material economic terms and pricing of the
21 trigger swap as the pricing event, which I'll come
22 back to later.

1 Under the proposal, a mirror swap would be
2 defined as a swap that among other things, is executed
3 contemporaneously with the corresponding trigger swap
4 and with one exception, has identical terms and
5 pricing as a related trigger swap, except for the
6 inclusion of prime brokerage fees in the mirror swap.
7 As for the exception, in more complicated prime broker
8 transaction structures, the notional of the mirror
9 swaps in the structure may differ from the notional of
10 the corresponding trigger swap.

11 However, in those cases, each prime broker
12 would still have a flat market risk position, because
13 the terms and pricing of a trigger swap and its
14 related mirror swaps are the same, reporting both or
15 all under Part 43 could falsely indicate the
16 occurrence of two or more pricing events and overstate
17 the price discovery activity that's actually
18 occurring. Although mirror swaps would not be
19 reported pursuant to Part 43 under the proposal, they
20 would be reported pursuant to Part 45 and identified
21 as mirror swaps, so the Commission would still have
22 data available for the mirror swaps.

1 As for trigger swaps, the proposal would
2 require Part 43 reporting ASATP after related pricing
3 event and identifying trigger swaps as such so that
4 they would be flagged on the public tape to signal the
5 existence of one or more related mirror swaps.
6 Trigger swaps would also have to be reported pursuant
7 to Part 45 and reporting parties would have to
8 indicate in those reports that the trigger swaps and
9 mirror swaps are related. As a result, the Commission
10 would have a complete picture of the swaps resulting
11 from each pricing event.

12 We believe these proposals for post-priced
13 swaps and mirror swaps are a practical way to address
14 a longstanding Part 43 reporting issue while also
15 ensuring that accurate, non-misleading data for these
16 swaps are still available to the public and the
17 Commission. Thank you.

18 MS. TENTE: Thank you, David. Now we'll
19 hear from Matt Jones, Special Counsel in DMO, to
20 discuss the proposed changes to block reporting rules.

21 MR. JONES: Thank you, Meghan. And thank
22 you, Mr. Chairman and the Commissioners for the

1 opportunity to speak. We are proposing to revise the
2 block trade rule primarily to better target those
3 large trades that merit block treatment and to change
4 the dissemination delay for reporting block trades to
5 give market participants more time to place a hedge
6 position after entering into a block sized trade. We
7 are proposing to update which swaps are subject to
8 block treatment because the current requirements do
9 not reflect the current levels of activity on the
10 swaps market and do not incorporate new insights we
11 have gained from reviewing the reported swaps data.

12 Current Part 43 set block size in 2013 based
13 on trade data and volumes from 2010. The Commission
14 necessarily developed the current block trade rules
15 without the benefit of Parts 43 and 45 data. The
16 proposed block trade rule benefits from extensive
17 analysis of the swaps data reported pursuant to Parts
18 43 and 45. In particular, two of our analysts, Greg
19 Stovall and Kristin Liegel, reviewed over 24 months of
20 data to inform our proposed changes to the block trade
21 rule and performed ongoing analysis to confirm the
22 robustness of these recommendations. As we considered

1 the proposal to extend the reporting delay, we
2 especially want to tailor our block treatment to those
3 trades that create a liquidity concern. With the
4 delay that is 15 minutes, we consider the market
5 impact relatively minimal if a set of trades receives
6 or does not receive block treatment.

7 However, with a block delay that is two
8 days, we believe that being over-inclusive in our
9 block trade definition could make the swaps market
10 unnecessarily opaque. To better target trades that
11 merit block treatment, we propose to create more
12 granular swap categories that separate swaps based on
13 similar levels of liquidity and to update the block
14 size and cap sizes based on the 67 percent notional
15 and 75 percent notional calculations [in situations
16 where we apply a calculation to set the block or cap
17 size. As a clarification, we did not propose to set
18 all block size and cap sizes based on calculations.
19 For example, we propose to set some block sizes to 0,
20 and set some cap sizes to fixed amounts.]

21 By making the swap categories more granular,
22 we believe that we can better target large trades by

1 product market. At times, the current swap categories
2 bucket distinctive products together to calculate a
3 single minimum block size. For example, we block IRS
4 swaps for US dollars, euros, UK pound sterling, and
5 Japanese yen together. Since the volume of US dollar-
6 IRS swaps traded on US markets is significantly larger
7 than these other currencies, US dollar-IRS swaps have
8 an overwhelming impact on their swap categories' block
9 size thresholds.

10 Consequently, the resulting block sizes are
11 too large for Japanese yen-IRS and too small for US
12 dollar-IRS. Less than two percent of Japanese yen,
13 46-day to 23-month IRS are currently eligible for
14 block treatment. By separating the swap categories
15 based on currency, each swap product benefits from its
16 more closely tailored block threshold.

17 Finally, we propose to update the block size
18 and cap sizes, based on recently calculated 67 percent
19 notional and 75 percent notional amounts for each of
20 the proposed swap categories, which we believe is
21 necessary when the trade volume for products in a swap
22 category change. We also propose to modify the

1 current dissemination delay for block trades to 48
2 hours because we are concerned that the current delay
3 may be insufficient for market makers and other market
4 participants to place a hedge position without paying
5 a significant premium.

6 Market participants have requested various
7 delay times, and we're interested in considering these
8 and others submitted as part of the comment process
9 for purposes of the final rule. These requests have
10 included maintaining the 15-minute time delay or
11 extending the 15-minute time delay for various
12 periods, such as four or eight hours until the end of
13 day, 24 hours, 48 hours, or much longer.

14 Based on discussions with market
15 participants, we believe the traders generally seek to
16 hedge their portfolios before the close of business on
17 the day a swap is executed. This is because the risk
18 of unfavorable price movement after a large swap is
19 executed typically dissuades market participants from
20 significantly delaying their swap hedging with the
21 goal of executing their hedges later at a lower cost.

1 We propose to extend the delay to 48 hours
2 for all block trades as a conservative measure to
3 account for potential situations when a market
4 participant requires additional time and to create
5 more consistency with the disclosure requirements in
6 the European Union for non-liquid swaps. Thank you.

7 MS. TENTE: Thanks, Matt. I will also
8 highlight for Part 43 that we're proposing to finally
9 have the Part 43 data fields be a subset of the Part
10 45 data fields. Staff hopes that standardizing Part
11 43 and 45 together will help standardize the public
12 data to improve the public's ability to use it across
13 SDRs. This concludes staff presentations on the Part
14 43 and Part 45 proposals.

15 Now Ben DeMaria, Special Counsel in DMO's
16 Data and Reporting Branch, will quickly remind
17 everyone why we're reopening the comment period for
18 the Commission's Part 49 proposal from this past
19 spring.

20 MR. DeMARIA: Thank you, Meghan. Thank you,
21 Chairman and Commissioners. I'm here presenting today
22 as the lead author for the first of the Roadmap

1 proposals, which we released in 2019 and is commonly
2 known as the verification NPRM. The verification NPRM
3 focused on data verification and correction
4 requirements for the SDRs and market participants,
5 amongst other issues. It's intended to work in tandem
6 with the other two proposals that my colleagues have
7 just described, as all three constitute the Roadmap
8 rulemaking trilogy, which I think we can all agree is
9 the best trilogy to have released anything in 2019.

10 It's also a perfect example of how the
11 Roadmap proposals are intended to work in tandem,
12 because the third item the Commission will be voting
13 on today is the reopening of the comment period for
14 the verification NPRM.

15 As we stated in the NPRM release and in the
16 most recent comment extension, we intended to reopen
17 the comment period to allow market participants and
18 the public to comment on all of the Roadmap rules.
19 True to our word, today's reopening of the comment
20 period is explicitly designed for commenters to be
21 able to comment on all three proposals as they may
22 choose, be that all together or individually. The

1 comment period would also overlap for the same exact
2 amount of time with the comment periods for the two
3 new proposals.

4 As described in the release being voted on
5 today, all comment letters previously submitted for
6 the verification NPRM are still valid and will be
7 reviewed as part of the public comment process.
8 Market participants and the public can amend any
9 previous comment submissions, or submit new comments
10 if they so choose, but they are not required to do so
11 in order for their original comments to be addressed.
12 Thank you.

13 CHAIRMAN TARBERT: Well, thank you very much
14 to our staff for that informative presentation.

15 To begin the Commission's discussion and
16 consideration of these rulemakings. I'll now
17 entertain a motion to adopt the proposed rules
18 amending Parts 43 and 45 and reopening the comment
19 period for Part 49.

20 COMMISSIONER QUINTENZ: So moved.

21 COMMISSIONER BEHNAM: Second.

1 CHAIRMAN TARBERT: Now we'll move to
2 Commissioner's questions and statements. We'll go in
3 order of seniority, so I'll be first. I only have a
4 few questions and my questions are related to Part 43.
5 And then I'll briefly outline my reasons for
6 supporting the rule.

7 Just to sort of set the stage here, I just
8 want to make certain that I understand this, you guys
9 have been working on this collectively since, what,
10 2012? Is that what you said? Since the sort of the
11 first set of rules came out? Anybody can answer that.

12 MR. DeMARIA: I'll answer that. It's fair
13 to say that we have been working on this since the
14 implementation period for the original rules because
15 we were addressing feedback from market participants,
16 addressing issues that came up during that process,
17 and continued to take feedback throughout that entire
18 period. We also had more formal discussions with the
19 other regulators, market participants, and within the
20 building, as well. We've talked about a number of
21 those initiatives.

1 More specifically, we had a 2014 request for
2 comment that data factored very heavily in. There was
3 a 2015 request for comment specifically on data
4 fields. We've done the cleared swaps reporting
5 rulemaking in 2016. There's the indemnification
6 rulemaking, which is about sharing data between
7 regulators.

8 We announced the Roadmap in 2017. We've had
9 all of the harmonization work on the international
10 level since around that time, and then we have today's
11 proposals. These specific proposals, they were in
12 their infancy around 2015 and then really kicked off
13 in the last few years.

14 All this obviously took a long time, which
15 is why I went through that whole list, because we
16 wanted to get things right, and we wanted to make sure
17 everything's harmonized, and we want to make sure
18 everything works. And all of the coordination and
19 research and effort that's required does take a long
20 time. But we're honestly, really, immensely proud of
21 what we're proposing today because it reflects all of
22 that work and all of that time and we think it's going

1 to be a huge leap forward for the data quality for the
2 Commission and for the market participants that are in
3 our markets.

4 CHAIRMAN TARBERT: So while this appears
5 very technical in nature for those that are here in
6 the audience and maybe watching via webcast, to
7 summarize it I would just say it's kind of a big deal,
8 right? We've been working on this now for arguably
9 eight years, but certainly on crystal proposals for at
10 least five years. And this is absolutely critical to
11 ensuring that our markets get the information they
12 need and that we, as a regulator, get the information
13 we need.

14 MR. DeMARIA: Yes, it is a big deal.

15 CHAIRMAN TARBERT: Thank you. And then the
16 other aspect of this, which I think is relatively
17 unique among our rulemakings, apart from the length of
18 time in the amount of staff effort, is the fact that
19 we've been coordinating with other regulators on this.
20 And I think someone mentioned, I forget who maybe it
21 was you, Richard? That we sit on the committee and

1 there are 50 other jurisdictions represented. Is that
2 right? On the LEI ROC?

3 MR. MO: Yes. The LEI ROC is composed of
4 approximately 90 members from over 50 countries.

5 CHAIRMAN TARBERT: Wow. So over 50
6 countries and then in particular, we've been working
7 with the SEC, which I think is really important to
8 make sure we're together with them as well as with
9 major jurisdictions, including the European Union.

10 MR. MO: That's correct.

11 CHAIRMAN TARBERT: Excellent. Well, thank
12 you again for all your work. I don't think today's
13 proposals are particularly controversial, particularly
14 Part 45. We have a system that I think, you know, we
15 were first out the door to get it up and running. It
16 obviously needed a great deal of work and we've spent
17 the time and effort over the last number of years in
18 making that work and we're proposing efforts to
19 improve it.

20 I think in particular I want to focus on
21 Part 43. So when I think of Part 43, I do think of
22 the CFTC and our Part 43 regime as being the global

1 standard. It's absolutely critical that we have
2 public transparency and I know I have said this, that
3 I'm sort of Mr. Transparency as it were in terms of
4 what the agency's doing, this agency voted as a whole
5 to make transparency one of our four core values and
6 transparency is obviously important in the agency, but
7 it's just as important, if not far more important for
8 our markets.

9 So one of the things that I think I want --
10 I'm still giving a great deal of thought to is as how
11 we're handling reporting delays for certain of the
12 things under Part 43. I think from my standpoint
13 post-trade pricing that makes sense to me, putting out
14 information to the public that doesn't have pricing
15 data that, to me doesn't make sense. It's not useful
16 plus, I think as you mentioned, people can undercut
17 that and try to drive up or drive down the eventual
18 price of the equity.

19 Mirror swaps. That makes sense to me as
20 well. I think there the real issue is double
21 counting. We don't want market participants to look
22 at this data and get the sense that they're actually

1 twice as many transactions as there really are,
2 because ultimately what people want to know is, you
3 know how many -- what's the arm's length negotiated
4 for bargain of a particular swap? And so, when you
5 include mirror trades, it looks like there's double,
6 maybe even more than actual swaps in the market that
7 represent an actual transaction -- arm's length
8 transaction.

9 I think we do have to think seriously about
10 how we're handling the reporting delay for block
11 trades. We want high quality data to be reported as
12 quickly as possible, and we do recognize there are
13 some situations that may require a delay. But I want
14 to be very clear to everyone who's watching that this
15 is an area we want to get right. We want to encourage
16 comment letters and feedback. We're looking very
17 seriously at this issue and we'll continue to do so.

18 I think this represents this proposal, the
19 expert judgment of staff and as a result, I would just
20 want to ask a few questions just so I fully understand
21 the proposal, you know, how we got to where we are and
22 also that the audience can understand that as well.

1 So when I think of why we have a potential
2 reporting delay for block trades and this question
3 will be for you, Matt, you know, basically, it's this.
4 We want market makers to be able to supply swaps,
5 particularly to end-users. We want them to be able --
6 and end-users often need a large position. Someone
7 comes and it's an insurance company. They have
8 interest rate risk. They come to a swap dealer and
9 they say "we need a big position." The swap dealer,
10 of course, works with their client to get them that
11 big position. And then the concern is if they report
12 it immediately or within 15 minutes, they won't be
13 able to then hedge that position. And as a result, if
14 that continues to occur, then I guess the swap dealer
15 -- there'll be a disincentive to supply swaps for
16 hedging tools for end-users.

17 Is that Is that sort of the basic gist here?

18 MR. JONES: Yes, that's the basic gist. To
19 the extent that an end-user is trying to put up a big
20 position, they're likely to if they cannot find a
21 market maker that's comfortable with putting up a
22 hedge quickly, they might find themselves having to

1 pay a premium in the market to the price of a smaller
2 trade, and so that could dissuade them from taking on
3 that large block position. It effectively becomes
4 less liquid for them if there's large sizes.

5 CHAIRMAN TARBERT: And I think you mentioned
6 that most of the hedging occurs within the same
7 business day or within the close of business on the
8 same day. Is that based on what we know how the
9 market operates?

10 MR. JONES: Yes, based on how we know it
11 operates. And there's surely examples where there are
12 exceptions to this rule, but generally a trader and a
13 trading desk, when they take on a position that
14 they're intending to hedge, they're not intending to
15 go home until they have it hedged, because there could
16 be fundamental changes with the underlying products
17 that overwhelm any change due to a liquidity concern
18 from trying to hedge that position that day.

19 So they're going to want to close out that
20 risk before they go home.

1 CHAIRMAN TARBERT: And so, in your view,
2 that I guess the 48-hours that gives sufficient time
3 or more than sufficient time?

4 MR. JONES: In our view, it gives more than
5 sufficient time. We could imagine some situations
6 where perhaps someone puts up initially an imperfect
7 hedge and they've done that on day one. At the same
8 time, they're trying to put up a better hedge and
9 perhaps over -- so they with that imperfect hedge
10 they've limited their risk, and perhaps they're
11 looking to take on a little bit more, get a little bit
12 more time to put on their perfect hedge position.

13 So there's some unusual situations like that
14 that we I want to be --

15 CHAIRMAN TARBERT: And so, I guess what I'm
16 wondering and this is something I think I'd like to
17 hear public comment on. And I'd like to discuss this
18 more with my fellow Commissioners, as we embark on
19 this comment period is, if you know, maybe there are -
20 - all swaps are not created equal in terms of
21 liquidity in terms of their ability to clear. You
22 guys, I think acknowledge that. If it falls into one

1 of these buckets, then you know the 48-hour delay
2 takes place.

3 But I guess what I'm wondering is, could we
4 consider the possibility of maybe having blocked
5 delays shorter than 48-hours for certain types of
6 swaps, you know swaps that you really shouldn't need
7 an imperfect hedge initially. You know, where you can
8 go ahead and hedge that exposure more quickly.

9 So I guess that the question is just simply
10 you know what the staff consider the possibility or is
11 a possibility in your view, your technical expertise
12 where we could have sufficient time for certain swaps
13 that are that are fewer than 48-hours if they're
14 cleared, if they're more liquid?

15 MR. JONES: Yes, I think that's definitely
16 something we would consider for purposes of the rule
17 and getting comments. We thought it was simpler to
18 come out with a single time delay.

19 CHAIRMAN TARBERT: And I believe that single
20 time delay is not just sort of specific. Doesn't
21 ESMA, other jurisdictions have a similar time delay?

1 MR. JONES: Yes, and this is to get us a
2 little bit more consistent with the European Union,
3 which this is -- probably you could say it's their
4 initial time delay. I think that they do have more
5 than one.

6 CHAIRMAN TARBERT: Okay, great. Well, no, I
7 appreciate that. Like I said, this is an amazing
8 proposal that represents so much work for so many
9 years. And I think it's fantastic to get it out there
10 for proposal. It is not in any way, shape or form
11 going to be the final version as we consider comments
12 to it. But I think it represents a tremendous effort,
13 and I look forward to hearing all the public comments,
14 particularly on the block trade part of it, and then
15 hopefully finalizing it later this year.

16 So I just want to say that I fully support
17 today's proposals. I think they'll simplify swap data
18 reporting, and they will provide greater regulatory
19 harmonization. They will enhance public transparency.
20 Then finally, they'll give relief for end-users. So
21 I'm pleased to support this proposal, and with that I
22 will turn to Commissioner Quintenz.

1 COMMISSIONER QUINTENZ: Thank you, Mr.
2 Chairman. I think you and the staff described well
3 the balance in the rule in the proposal between
4 providing the market with sufficient real-time data
5 for price discovery purposes while also acknowledging
6 the risk that exists to liquidity and to
7 counterparties, with letting a certain amount of that
8 information out too quickly that will lead to higher
9 costs or lower liquidity.

10 And for some trades in the rule, the
11 standard that was described "as soon as
12 technologically practicable" will still be the
13 standard for reporting in real-time. Is that correct?

14 MS. TENTE: Yes, the overall standard will
15 remain "as soon as technologically practicable."

16 COMMISSIONER QUINTENZ: And in terms of, you
17 know, the scope of trades to which that term applies
18 in this proposal compared to the status quo
19 environment, do we expect it to be about the same more
20 or less? I guess a different way of asking that
21 question is, as we have calibrated the block sizes,

1 what's the universe that we expect those thresholds to
2 apply?

3 MR. JONES: So with the new block
4 thresholds, we expect that there'll be many more
5 trades that are not blocked than before. Not to say
6 that the, you know, there weren't an overwhelming
7 number that we're necessarily being blocked, but we
8 were at P50 percent for our prior calculation for the
9 block threshold. And then, we also had some that were
10 determined that were in, still in the initial period.

11 And so, as we move up to the P67 percentage
12 for the calculation and we update for today's numbers,
13 we expect that all of the block sizes are going to be
14 moving higher. Generally. There could be some
15 exceptions that we didn't look at specifically.

16 COMMISSIONER QUINTENZ: Okay, thank you.

17 So there's a realistic outcome or scenario
18 where the "as soon as technologically practicable"
19 standard in some cases, which is as soon as seconds of
20 execution, will apply to a larger percentage of trades
21 than it does now in the marketplace, therefore,

1 increasing the amount of actual real-time data that
2 exists in the swaps market.

3 That's a potential outcome of this proposal?

4 MR. JONES: Yes, I think that that would be
5 the outcome that we'd all expect. There are a few
6 different swap categories that are particularly low-
7 liquidity that are completely blocked. But those are
8 basically in situations where the trades are maybe one
9 or two a month or things like that.

10 COMMISSIONER QUINTENZ: Okay, thank you.

11 And could we just discuss for a second how this
12 proposal compares to the EU's real-time reporting.
13 You mentioned that briefly, but it's my understanding
14 that the EU has a higher threshold for what it
15 considers a liquid product. Or, conversely, a lower
16 threshold for illiquid products, that more products
17 qualify, more trades qualify for block trades and that
18 the reporting delays can span anywhere between 48
19 hours and four weeks is that accurate?

20 MS. TENTE: That's an accurate portrayal of
21 their rules.

1 COMMISSIONER QUINTENZ: Okay. So even
2 though in a more narrow set of circumstances we are
3 moving to a potential 48-hour reporting threshold,
4 there exists the opportunity in Europe for some trades
5 to be reported over four weeks after execution.

6 MS. TENTE: Yes, and I would note that they
7 just announced a public consultation on their real-
8 time reporting rules as well. So I think we will
9 benefit from their experience in this venue and you
10 know, our comments will hopefully inform theirs as
11 well.

12 COMMISSIONER QUINTENZ: Thank you for
13 bringing that up. I was going to encourage continued
14 effort, which I know there is, and has long been
15 resolving the potential ongoing regulatory arbitrage
16 outcomes of whatever we do versus whatever exists out
17 there. So thank you for that.

18 Meghan, you might be the best person to
19 answer this, I think you described it before. But
20 could you go again through the statutory requirements
21 of real-time reporting and the description of what the
22 Commission should consider in terms of block trades?

1 MS. TENTE: Sure. So Section 2(a)(13) of
2 the Commodity Exchange Act directs the Commission to
3 provide for the public availability of swap
4 transaction and pricing data. The Act defines real-
5 time public reporting as swap transaction and pricing
6 data reported as soon as technologically practicable
7 after execution. But there's a caveat that in doing
8 so, in providing this data to the public, the
9 Commission has to ensure that the public data does not
10 identify the swap counterparties, provides a time
11 delay for these outsized swap transaction, and
12 accounts for whether the public disclosure of the
13 delay will materially reduce market liquidity.

14 So that's where the block threshold comes
15 from.

16 COMMISSIONER QUINTENZ: Okay, thank you. So
17 there is an acknowledgement in the statute that block
18 trades exist and that they are beneficial to
19 participants in the market under certain circumstances
20 and the strict adherence to a real-time reporting
21 threshold would be detrimental to those and therefore
22 less other criteria that we need to consider in

1 establishing what the reporting regime needs to be
2 there.

3 And again, I think it comes back to the idea
4 of a balance where we want to ensure that trades that
5 are reported as quickly as possible and provide the
6 marketplace with that price discovery but not impede
7 the liquidity that should exist for viable purposes
8 that increases costs or dissuades market participants
9 from using this market for hedging purposes.

10 MS. TENTE: Yes, the Commission has to
11 consider those criteria for those reasons.

12 COMMISSIONER QUINTENZ: Okay. I'm very
13 pleased to acknowledge and agree with the Chairman's
14 perception that the thresholds we have in front of us
15 are based off of your own expert judgments in looking
16 at the data and looking at the marketplace over the
17 last number of years. I think any of us can have
18 opinions about what those thresholds should be. It
19 would be nice if those opinions were based on the data
20 that you use. So I would encourage anyone that
21 comments on changing those thresholds to use data in
22 their analysis.

1 I guess lastly, Meghan, you and I have
2 talked about this before. I know that the Chairman
3 and the Chairman prior to him have been very focused
4 on SEC coordination, harmonization. I've been very
5 pleased to help support that effort. I know this has
6 been a rule that has had a particular focus of
7 coordination with the SEC. Could you describe a
8 little bit about the length and the detail of those
9 conversations and how interested they have been and
10 their reactions to and feedback into this rule.

11 MS. TENTE: So the initial harmonization
12 effort started about 18 months ago when your office
13 announced it. And since then, we've worked with them
14 on sharing information on the fields we're going to be
15 proposing today and the technical specifications
16 associated with those fields. The SEC works very
17 closely with us on all of these international
18 harmonization efforts, so we hope that they'll follow
19 our example in the future of adopting many of this
20 same CDE fields. And we've also shared the proposals
21 for their feedback, and we've appreciated all of their
22 support and help in these efforts.

1 COMMISSIONER QUINTENZ: And so, because
2 these are technical specifications, these would serve
3 the underlying purpose for an SDR to build a platform
4 in a reporting regime using -- so it's not a form that
5 we demand participants fill out. It's a technical
6 specification for SDRs to construct their own
7 reporting regime. So if the SEC agrees with, and
8 possibly adds, some fields to what we have produced,
9 there's a scenario that an SDR could provide one
10 interface to market participants to report either
11 security-based swaps or swaps directly.

12 MS. TENTE: Yes, especially in light of the
13 jurisdictional product differences I think that's a
14 possibility.

15 COMMISSIONER QUINTENZ: Thank you very much
16 for all of your hard work. I'm very pleased to
17 support it today. Thank you, Mr. Chairman.

18 CHAIRMAN TARBERT: Thank you Commissioner
19 Quintenz. Commissioner Behnam.

20 COMMISSIONER BEHNAM: Thanks, Mr. Chairman.
21 And again, thank you to all the staff for your
22 presentations across the two divisions. I'm going to

1 pile on here on block trading, but before I ask a few
2 questions, I do want to recognize my support for your
3 comments Mr. Chairman. I do have concern about the
4 48-hour reporting proposal. I do think it arguably
5 flies in the face of, you know, the major intent of
6 Dodd-Frank, and more specifically, Title VII about
7 transparency.

8 I appreciate certainly Commissioner
9 Quintenz's comments about the balance that we need to
10 find, which is very difficult, given the statutory
11 requirements of appreciating the need for block trades
12 but also understanding and appreciating the sort of
13 countervailing interests of market transparency and
14 integrity and efficiency.

15 So just a couple things, because I know a
16 couple of the questions have already been asked. But
17 I do want to highlight a few things, and I am also
18 very encouraged by the fact that we are -- although
19 proposing this based on data, that the division that
20 is presenting is open to comments from the public and
21 their suggestions of what the best path forward is as
22 we look towards a final rule in the coming months.

1 Matt, you very succinctly sort of
2 articulated the potential negative consequences of
3 having a short reporting period where a dealer would
4 not be able to hedge risk that it took on with an end-
5 user, sort of suggesting the Chairman's hypothetical.

6 What are the potential risks of having an
7 extended or a longer reporting pre-period lets, you
8 know, use 48-hours in this case where you're going to
9 have in some circumstances a large gap. Is there a
10 potential for sort of price mismatch or some negative
11 consequence that you are in having to balance with the
12 issues about not being able to hedge risk?

13 MR. JONES: Sure. So as you look at the
14 data, you'll see that we expect that in most cases,
15 the block threshold should block -- you know it's a
16 pretty wide range, but between two and five percent of
17 a swap category. And so, there is a lot of trades
18 that are coming through there providing pricing
19 information for participants.

20 As you look at that swap categories that
21 have fewer trades. The numbers can change, especially
22 when you're not looking at it over a year. But maybe

1 over a week period or a month period, you could find
2 that you get a unusually large number of block trades.
3 You could also find that the block trades are
4 exclusively being done by, say, Freddie Mac or Fannie
5 Mae. And so, maybe someone who is a price leader and
6 is informing the other market participants is
7 completely blocked for all of their trades. And that
8 could also be disadvantageous for other people because
9 they're not getting the best information. They're
10 getting the information from the less sophisticated
11 market participants.

12 COMMISSIONER BEHNAM: Thank you. That was
13 very helpful. And I think it's something that I think
14 we should consider, again, as a countervailing point
15 to some of these costs and benefits and some of the
16 risk that whether intended or not, we would be
17 potentially embracing or bringing on if we go down
18 this road of a 48-hour reporting period.

19 Not everything is clean and in black or
20 white, you know, they're certainly gray areas. And we
21 have to, I think, as a Commission, consider all the
22 factors but also keeping in mind again, as I mentioned

1 the Title VII mandate and what our statute requires us
2 to do in sort of supporting transparent markets and
3 above all else, to your point, Matt, accurate and
4 transparent pricing for market participants, both big
5 and small.

6 Second point I'd like to talk about. Meghan
7 this might be for you. The EU, you've mentioned
8 obviously their work in this space, and they currently
9 -- correct me if I'm wrong. But they currently have
10 for block trades a 48-hour reporting period for at
11 least some asset classes?

12 MS. TENTE: Yeah, the main reporting delays
13 is 48-hours.

14 COMMISSIONER BEHNAM: So you may have
15 addressed this in part with your discussion with
16 Commissioner Quintenz, but in our conversations with
17 them, have we asked or do we get a sense of how that's
18 working and whether or not it's achieving its goal
19 that they initially intended?

20 MS. TENTE: So we haven't engaged with them
21 specifically on Part 43 yet, but I think since they've

1 got their consultation open now, I think I would
2 probably try and start those dialogues.

3 COMMISSIONER BEHNAM: Thanks. That would be
4 great. I would encourage that, I think, certainly as
5 a sort of second mover in this space, it would be
6 helpful for us to be able to glean some of what
7 they've learned in their efforts.

8 Lastly, the SEC and I don't know -- the
9 answer to this might be no. But the SEC, through its
10 Fixed Income Market Structure Advisory Committee, the
11 FIMSAC, deliberated a 48-hour trading rule for fixed
12 income products. So a different set of products, and
13 they put out a pilot review and then it was either
14 withdrawn or put on hold.

15 Was the deliberation, the data, the
16 conversation around that -- conversation and proposal
17 ever considered? And I say that in light, of course,
18 above all else it's good to learn from our regulators
19 and harmonize and coordinate, which I know we do. But
20 this was specifically an issue that I think is
21 interesting, because there certainly is an alignment
22 between what we're trying to accomplish and what they

1 were trying to accomplish in the fixed income space,
2 and given some of the criticism from buy-side/sell-
3 side firms about both liquidity and the ability to
4 sort of enter into transactions, but the downside risk
5 was pricing and unfair advantage for some of the
6 larger players in the market space.

7 And again, I don't know if that would be
8 perfectly aligned with what we're dealing with in the
9 swap space, but certainly something I would hope we
10 dig into a little bit so that we could learn from what
11 they've learned, but also some mistakes that they may
12 have made.

13 MS. TENTE: I think we'll consider that and
14 at one point we had considered a similar study, but we
15 decided to move forward with the proposal instead, and
16 we hope that the preamble, you know, addresses the
17 different range of feedback we've gotten and we get
18 good comments from there.

19 COMMISSIONER BEHNAM: Great, thank you.

20 So moving on, two more questions and I don't
21 know, Roger Smith was the SEF No-Action Relief staff
22 and I know Roger's in Chicago probably watching right

1 now. But Dorothy, you were at the table with him I
2 guess on January 30th, when we had that meeting to
3 propose codifying some of the no-action relief.

4 But -- and we can talk about this separately
5 if it's not something we can answer right now. But in
6 that proposal, one of the provisions was to eliminate
7 the "occurs away" language in the definition of block
8 trade. Meghan, you're nodding your head. So
9 hopefully you can answer this. And again, correct me
10 if I'm wrong. But the underlying policy intent was to
11 incentivize more trading on platform, on SEF, on
12 moving trades away from blocks.

13 And if that is, in fact, the case is that
14 sort of -- is there a discrepancy with what we're
15 doing with the 48-hour trade reporting rule? And this
16 sort of occurs the way that we proposed last month
17 with the no-action relief.

18 MS. TENTE: In terms of execution, we've
19 worked with Roger to make sure that our proposal is
20 consistent with his. But in terms of the effects on
21 execution, I think we've been more focused on the

1 reporting side. But I don't know if anyone else has
2 any insight into that.

3 MR. JONES: So in terms of the change to
4 permit trading on a SEF, the proposal is now
5 considering that you could actually execute a block
6 trade on a SEF. So it wouldn't really impact the
7 location. It's more agnostic to the location where
8 someone's deciding to do the trade.

9 COMMISSIONER BEHNAM: That's helpful.

10 One other point I want to make and I'm going
11 to shift now to Part 45, but there's a little bit of
12 connection to 43. I think Meghan, you may have spoken
13 with my staff before this meeting, and I think it's a
14 little bit of a technical thing, and I only bring it
15 up as a matter of the public hearing about it, because
16 it's important as they review these rules. They
17 understand some discrepancies that were
18 unintentionally in there, but that I think the intent
19 or plan is to fix.

20 But the discrepancy between 43, 45 and the
21 form and manner of reporting and the public
22 dissemination of the swap transaction and data.

1 There's something in the preamble, but it's not in the
2 rule text, I think in 43 but in 45 it's in both the
3 preamble and the rule text. So I just want to
4 confirm, if you're aware of that. And it's the
5 delegation that the Commission's giving to the
6 Director that we have these things in line between 43
7 and 45.

8 MS. TENTE: So both delegations are in the
9 current Part 43 and Part 45 rules, and they're staying
10 in the Part 43 and Part 45 rules. Both delegations
11 get us to the same point and we're proposing to update
12 both of them consistent with the changes to the rules
13 in both proposals. If there's a discrepancy in the
14 preamble, I'm sure we can explain it in the final and
15 hopefully resolve any confusion.

16 COMMISSIONER BEHNAM: Thanks. And then my
17 last two questions and John, these might be for you,
18 and I think they're going to be helpful for the public
19 to understand some of the work that you've been doing
20 across different divisions and from a sort of market
21 data standpoint, how important these rules are and
22 what they enable us from a surveillance standpoint,

1 from a risk management standpoint, both from OCE, and
2 the different divisions.

3 But in the 45 proposal, in the cost benefit
4 analysis, there's, you know, suggestion that the
5 negative effects of data discrepancies in swap
6 information has essentially prohibited us from doing
7 our job, sort of at the best that we could do. So if
8 you could give us a little bit of flavor of how, when
9 hopefully we finalize this rule and we smooth out some
10 of these data fields and the standardization becomes a
11 little bit cleaner, both in-house and then across
12 agencies, domestically and globally.

13 What in this analysis can enable you to do
14 better. How is it going to sort of empower the agency
15 to be better in its oversight role? And how will the
16 market benefit from that as well?

17 MR. COUGHLAN: Yeah, thanks the question.
18 So there are a couple pieces, I guess. First is the
19 benefit of standardization, right. So the ambiguity
20 of the original rules created, just like with the
21 example I used in the initial statement is we have
22 three month LIBOR swaps characterized a bunch of ways.

1 We have to sort of manually re-categorize those. So
2 the new rules will fix a lot of those kinds of basic
3 data problems that were there in the data.

4 And then there's, you know, there are some
5 conceptual challenges for rules like, you know, the *de*
6 *minimus* rule is a tough one because there are a lot of
7 categories that are just not in the data that we have
8 to -- we have to add separately, which is that's
9 always going to be there, I think. And then third,
10 we're bringing in some things, like, you know,
11 collateral and margin fields that are going to allow
12 us to more directly address things like collateral and
13 margin rules and systemic risk that was not there
14 before. So --

15 COMMISSIONER BEHNAM: Are we going to have
16 to change anything from an infrastructure standpoint,
17 or is this just a sort of reprogramming of what we
18 receive and how we receive it?

19 MR. COUGHLAN: Possibly. I mean we're -- in
20 a lot of ways it will make our infrastructure
21 challenges a little easier because we're going to be
22 bringing cleaner, more standard data from the three

1 different SDRs at the moment, right? This is all part
2 of ODT's move to the cloud anyway, so it'll probably
3 coincide with that. But there will definitely be some
4 database changes for sure.

5 COMMISSIONER BEHNAM: Okay. Well, Mr.
6 Chairman, I appreciate your efforts on this. And
7 again, thank you to DMO. Thank you to OCE for your
8 hard work. Thanks though OGC, of course, echoing
9 Ben's statement and yours: this is a big deal. And I
10 appreciate the years' long effort and something that
11 I'm happy to support. So thanks again.

12 CHAIRMAN TARBERT: Thank you very much
13 Commissioner Behnam. Commissioner Stump.

14 COMMISSIONER STUMP: Well, I wasn't going to
15 ask any questions, but I don't want to miss the
16 opportunity to again highlight all the positives and
17 I, too, have interest in the block issue. But I
18 wanted to perhaps give you guys another opportunity to
19 talk about all the positives.

20 And in particular, when we did Part 49 last
21 summer, I was somewhat critical of doing it in advance
22 of Part 43 and Part 45, because to me, these are all a

1 puzzle. They fit together, they're supposed to work
2 cohesively.

3 So I'm wondering if maybe with each
4 individual who's responsible for specific data sets
5 talking about them on an individual basis, if it might
6 be worthwhile to discuss a bit how all of these data
7 sets are designed to provide more efficiency, not just
8 for the agency, because we know that that's going to
9 be -- we hope that's going to be the case, but also
10 for the reporting counterparties and the
11 infrastructure of the SDRs.

12 So again, maybe this is just an opportunity
13 if you want to address how that is going to all fit
14 together and make for a better outcome?

15 MS. TENTE: Thanks. So the Part 45 proposal
16 today will give clear instructions on what market
17 participants have to report to SDRs. SDR should then
18 have clear instructions on the data they'll be
19 receiving and how to validate it.

20 The Part 49 proposal from the spring will
21 instruct reporting counterparties how to check the
22 data and how often and how to correct errors. And the

1 Part 43 proposal will benefit from the standardization
2 of the Part 45 proposal by combining the two datasets.

3 MR. DeMARIA: If I could add one little
4 thing to that, also related to Commissioner Behnam's
5 recent question: There are a lot of other issues from
6 the main ones that we're dealing with, including
7 giving the Commission the flexibility and the ability
8 to say this is how you send things to us, this is
9 when you need to do things, including how to send us
10 data from the SDRs, in the proposal from last year.

11 COMMISSIONER STUMP: Thank you. I just
12 didn't want to miss the opportunity to highlight all
13 the positives. I don't have any other questions.
14 Thank you.

15 CHAIRMAN TARBERT: Thank you Commissioner
16 Stump. Commissioner Berkovitz.

17 COMMISSIONER BERKOVITZ: Thank you, Mr.
18 Chairman. And I think it's been a very illuminating
19 and helpful discussion on some of these issues, and
20 I'm going to have some additional questions, but I do
21 want to echo the sentiment that Commissioner Stump
22 just expressed.

1 I'm going to be focusing on issues as I see
2 them. So what I'm not asking about are the positive
3 aspects of the proposal. There are a lot of positive
4 aspects in both the Part 43 proposal and the Part 45
5 proposal. And we'll get comments on those. I think
6 the more granularity in terms of the types of blocks
7 is a positive development. I think some of the
8 changes to not have duplicative reporting and to clean
9 up some of those issues are significant improvements.
10 And therefore that's why I support putting this out
11 for proposal.

12 Nonetheless, I do have a significant concern
13 with the reporting delay on the block trades.

14 Just to clarify what we're talking about
15 here, on a block trade is the two counterparties are
16 typically a dealer and a non-dealer. Is there or are
17 there potentially two non-dealers? What percentage of
18 these blocks involve dealers as a counterparty?

19 MR. JONES: I would say it is -- well, I
20 don't have percentages in front of me by any means.
21 But if I was just giving you a guess, if I'm allowed
22 to do so --

1 COMMISSIONER BERKOVITZ: Sure.

2 MR. JONES: I would say well, over 95
3 percent. So it would involve a dealer on one side --

4 COMMISSIONER BERKOVITZ: Dealers --

5 MR. JONES: On one side, at least.

6 COMMISSIONER BERKOVITZ: Okay. And so, we
7 talked about the trade-offs here on the balance that
8 we need to achieve. The dealers are the ones who
9 provide the liquidity. The dealers, when they do a
10 block they're not taking positions, they want to be
11 ultimately flat, so they have to hedge.

12 So the dealers have a clear interest in a
13 longer time delay in terms of being able to hedge.
14 The dealers also have an interest in a longer time
15 delay in market opacity. They have an information
16 advantage. They're the ones -- they know the price of
17 the block that they've done. They know the price, but
18 nobody else knows -- they know the price of the blocks
19 they've just done. But if there's a time delay, no
20 other market participants will have that knowledge.

21 They have an information advantage. Is that
22 correct? Of the dealers? When they do, these blocks,

1 they have an information advantage over other market
2 participants until that time is reported?

3 MR. JONES: Yes. I mean, they're aware of
4 that particular block trade that was executed. And
5 unless, well, depending on their relationship with the
6 counterparty, it's possible that counterparty shopped
7 the block trade around, many counterparties will go to
8 two dealers, even for a block trade. So these are
9 ongoing relationships, and they're relying on that to
10 not have that dealer then go out in the market and
11 steal or take the supply ahead of them if they don't
12 go with them.

13 But generally they have an advantage in that
14 particular trade that most the market doesn't have.

15 COMMISSIONER BERKOVITZ: Thanks. And on the
16 other side, the end-users. I think that it's been
17 articulated. The end-users interest is getting a fair
18 price. They want to know when they do a block, they
19 want to be getting the market price for that. They
20 also have an interest in the dealer on the other side
21 of the transaction, generally being able to hedge so
22 that the dealer is not building in an additional cost

1 of the hedge, so that they don't want to have the
2 price -- the end-user doesn't want to have the price
3 that they're getting have to include some dealer
4 expense for hedging.

5 So the end-user has -- wants to achieve the
6 correct balance in terms of the time delay and the
7 price discovery. Is that is that correct? Okay, so
8 here's countervailing interests -- dealers like
9 opacity and the end-users like transparency. But the
10 end-users want sufficient time delay, too, so that the
11 dealers don't have to charge them too much for the
12 cost of hedging.

13 Let me ask. It's been talked about the
14 European 48-hour delay or the European delay. What
15 significance is that to us? I mean, we've got our
16 market that we do. Why should we -- what relevance is
17 the fact that the Europeans have a different or have a
18 specific rule?

19 MS. TENTE: I think in all the factors we
20 consider, we always consider harmonization as a
21 potential benefit. And if it ends up not being a
22 potential benefit then we wouldn't necessarily propose

1 harmonizing. So at least raising the option and
2 raising their time delay, I think will benefit the
3 proposal by getting public feedback on that aspect of
4 it.

5 COMMISSIONER BERKOVITZ: That wouldn't
6 necessarily harm our market if we were to adopt a
7 different time delay?

8 MS. TENTE: No. No.

9 COMMISSIONER BERKOVITZ: Okay. Are there
10 currently products -- products under the current
11 structure, under our current rule that are less than
12 48-hours reported that would move under the rule to
13 48-hours delay.

14 MR. JONES: There are some products in our
15 rule that may move under the delay in that we're
16 changing the swap categories. So previously we would
17 have bucketed some things together into a larger
18 bucket. And now that we make the buckets more
19 specific to each product there, you could see that
20 you're getting -- say before you were getting the
21 percent of this very large bucket. But that three

1 percent was all of the US-IRS trades, which is the
2 example I gave.

3 But when you break that bucket up into
4 Japanese yen, pound sterling, US dollars, then
5 suddenly Japanese yen, maybe there are some trades in
6 Japanese yen that now will receive block treatment
7 under their own block threshold that previously were
8 getting none because they were close to zero because
9 those trades are just all at a lower volume.

10 COMMISSIONER BERKOVITZ: Okay, I'm not sure.
11 I follow. There are these things that are currently
12 not blocks that would become --

13 MR. JONES: Well, so that --

14 COMMISSIONER BERKOVITZ: I thought there
15 was.

16 MR. JONES: There will be overall fewer
17 trade subject to block treatment.

18 COMMISSIONER BERKOVITZ: Okay

19 MR. JONES: However, when you break up the
20 swap categories currently, the swap categories group a
21 lot of trades together, and so US-IRS trades tend to
22 trade in larger volumes than Japanese yen-IRS trades

1 on our US markets. So when you're looking at which
2 trades a subject to block treatment, they tend to all
3 be US, especially in the shorter term tenors, who tend
4 to all the US dollar trades because it just so happens
5 that 50 biggest trades every month are US dollar
6 trades.

7 And to the extent that there's no Japanese
8 yen trade that makes that top 100 list of biggest
9 trades, then they're never getting a block trade.
10 They're never getting blocked treatment for any of
11 their trades. When we split those buckets up, we
12 raise the block thresholds generally. But now there
13 would be some Japanese yen trades that we would expect
14 would have the opportunity for block treatment.

15 COMMISSIONER BERKOVITZ: So there would be a
16 new category -- I guess a couple things. One, there's
17 new categories of blocks. Things that weren't blocks
18 under the current rule that will become blocks under
19 the new rule.

20 MR. JONES: Yes, that's true. Because of
21 breaking up of the swap categories to make them more
22 granular.

1 COMMISSIONER BERKOVITZ: Okay, so all those
2 would now have a 48-hour delay. Where previously
3 they're not blocks at all?

4 MR. JONES: So we'd have to, I'd prefer to
5 look at a specific example which I unfortunately don't
6 have in front of me. But you could, because we are
7 generally raising the block threshold in any case from
8 50 percent notional, that was set in -- based on 2010
9 numbers to 67 percent notional based on 2019 numbers.
10 We're just over across the board going to be raising
11 the block levels for everyone.

12 And so, that that will mean that what you
13 said would be easier to address if we were not raising
14 all the levels. There's a possibility that you won't
15 be increasing blocks in the case of Japanese yen
16 because they wouldn't -- they now would have their
17 block threshold raised as well.

18 There are some other asset classes, like the
19 credit asset class, where we're moving away from
20 spreads and moving toward specific CDS products and
21 we're blocking CDS products between their off-the-run
22 effectively between zero and four years and over six

1 years, and in those cases, you could imagine that
2 potentially a CDS product had a small spread and
3 couldn't have received block treatment.

4 And now we would be giving it block
5 treatment because there's so few of those trades that
6 we're just giving them all blocked treatment in those.
7 It's sort of like it's basically another category for
8 very liquid markets.

9 COMMISSIONER BERKOVITZ: So for -- I'm
10 sorry, go ahead.

11 MS. DeWITT: I'm going to ask Meghan to add,
12 please.

13 MS. TENTE: I think it might help if we
14 explain it differently. There are a few different
15 variables changing in the proposal, so we're not just
16 changing the block delay itself or also adjusting the
17 current categories that lead to that block delay.

18 I think Matt was trying to explain that when
19 you adjust the categories which we think is a really
20 positive change based on the data we've gotten and our
21 analysis over the past two years, it's not as simple
22 as just saying the delay will be extended for a

1 certain category or a certain number of swaps. When
2 you change both sides of this, there's going to be a
3 variation, and we're going to figure out how that will
4 play out.

5 COMMISSIONER BERKOVITZ: Another question
6 then would then be -- maybe it's the same question
7 said differently. For trades that there is currently
8 a delay in reporting something that is a block under
9 the current rule for which there is a delay, under the
10 new rule would the delay be longer for a certain of
11 those categories.

12 MS. TENTE: So if your category kept you
13 still subject to a block delay, your delay would be
14 longer. But if your category resulted in you no
15 longer passing the threshold, you wouldn't necessarily
16 benefit from the delay being longer.

17 COMMISSIONER BERKOVITZ: Okay, so I guess my
18 -- the point I think we should consider that I think
19 it's a positive development, this granularity on
20 blocks sizes, but and it may be complex, but I think
21 it's necessary then.

1 We've taken a stride forward in getting this
2 granularity, but at the same time, we've just dropped
3 down the 48-hour delay across the board where I think
4 these different markets have different liquidity and
5 factors, and therefore the delay period also should
6 seem to be appropriately tailored based on data and
7 the characteristics of those particular blocks, and 48
8 hours wouldn't necessarily be appropriate for every
9 single one of them.

10 MS. TENTE: I think that's exactly the
11 issue, and I hope that the proposal lays that out well
12 enough for everybody to understand it because I know
13 it's complicated, but I think that sums it up and
14 we'll look at the comments.

15 COMMISSIONER BERKOVITZ: Okay, great. Thank
16 you. So let me move on then to Part -- before I move
17 off, I do have one more question. So this may be
18 redundant but I want to make it absolutely clear to
19 the commenters that the proposal is 48 hours. But
20 there would not be a notice and comment issue if --
21 there's sufficient notice and comment in the proposal
22 through the discussion that we would have the

1 flexibility to adopt another number time delay without
2 having to re-propose this.

3 MS. TENTE: Staff doesn't expect there will
4 be an issue. And we would point commenters to some of
5 the questions in the proposal that lay out the
6 different options to help them when they give us their
7 feedback.

8 COMMISSIONER BERKOVITZ: Okay. And I'd just
9 like to make it clear for commenters that we're
10 specifically considering less than 48-hours. I think
11 the staff discussion has exhibited that, so that's all
12 fair game where we end up, you know, we'll be through
13 the comment process and there's no prejudgment, but
14 it's fair game.

15 Okay, so now I could move to Part 45. I'm
16 going to start granular and then go up. I want to
17 just clarify the technical specifications. My
18 understanding is that the Commission would delegate to
19 the staff the authority to publish technical
20 specifications for both Part 43 and Part 45. And
21 obviously, these technical specifications for exactly
22 how the data is reported are significant.

1 So could you just explain what those
2 technical specifications are and what they're for and
3 what the publication process is.

4 MS. TENTE: Sure, so the technical
5 specifications contains the list of swap data elements
6 that would have to be reported to SDRs and then as a
7 new development, we're proposing standards, formats,
8 LIBOR values and validation conditions for every data
9 element which we don't currently have undercurrent
10 Part 45. Staff currently has delegated authority
11 under both Part 45 and Part 43. We're proposing to
12 update those delegations consistent with all the other
13 rule changes. And the plan is that today you're
14 voting on proposals that contain the list of all of
15 these data elements in the appendices, as they
16 currently are today, but updated and at the same time
17 when the proposal goes into the Federal Register, DMO
18 will publish the technical specifications on CFTC.gov
19 for everybody to comment on the technical
20 specifications as well.

21 And then when we finalize the rules after
22 we've got comments from everybody, DMO would, pursuant

1 to the delegations of authority, publish the form and
2 manner of those technical standards in the Federal
3 Register.

4 So what would go into the Federal Register
5 would be the formats, standards, allowable values, the
6 technical aspects of reporting, but not the substance
7 of the fields that have to be reported that are in the
8 appendices.

9 COMMISSIONER BERKOVITZ: So we're
10 standardizing the data elements directly in the
11 document that we're voting on. And then these
12 technical specifications like how you would report the
13 manner and form of reporting for those. Is that
14 essentially correct?

15 MS. TENTE: Yes.

16 COMMISSIONER BERKOVITZ: Okay, okay. Thank
17 you. I think that's helpful. And that will help
18 market participants comment on the appropriate
19 documents, in the appropriate places.

20 Let me move to something I touched on my
21 opening statement that the use cases for this data and
22 I view this rule, Part 45 and Part 43 establishing the

1 fundamental building blocks for the data analysis. We
2 can't do the analysis and fulfill the mission that
3 we're charged with unless we have good quality data,
4 unless it's standardized, unless we can aggregate it
5 across the SDR, unless we have -- it's in the same
6 format. Unless we have confidence in the validity of
7 that data.

8 And these rules are really to establish
9 those building blocks for further analysis. And I
10 think John, you've given some indication of the
11 analysis that you currently do with existing data. I
12 think that's been helpful. But I'm also concerned
13 about ultimately what we're going to use all this data
14 for.

15 I get asked this question all the time, like
16 what do you use all this data for and what good is it
17 and what does it tell you and like, you know, systemic
18 risks. So that's ultimately what people are asking.
19 There's a lot of money and resources both in this
20 agency and in the private sector expended in terms of
21 the data. We issue enforcement actions for people who

1 don't report data, and Congress expects the agency to
2 be using this data.

3 And so this rule, as I said it's really for
4 the fundamental building blocks. It's not how we're
5 going to use the data. There are a number of
6 references in the rule that says we're going to use
7 this for systemic risk. We're going to use that for
8 risk monitoring, monitoring various risks, but it
9 really doesn't go into specificity. Maybe it's not
10 the appropriate document to do that.

11 But I don't know if the Commission has
12 really laid this out elsewhere either -- how it's
13 going to use all the data and what are the potential
14 uses. So you've identified several of these. Can the
15 data that we're getting -- is this data going to be
16 useful to measure systemic risk? Or is this just
17 idiosyncratic risks between parties or academic
18 studies? How -- when we talk about measuring risk and
19 the document does that. This field, that field will
20 be used to measure risk. That data field will be used
21 to measure risk.

1 What are we ultimately talking about in
2 terms of the utility of this data, as a risk
3 measurement tool?

4 MS. TENTE: So I think in the Commission you
5 have a lot of different divisions using the data for
6 different purposes, and one of the objectives of
7 bringing everyone together to determine the data we
8 need was to figure out how we optimize each division's
9 use going forward. But I think you also have to
10 remember that this is hopefully a first step towards
11 sharing data with other regulators and to the extent
12 we're looking at systemic risk we need to share data
13 to get the full picture of the risk to the US.

14 So while I think right now our focus is more
15 on the data, we have access to subject to the cross
16 border guidance, any no-action letters existing,
17 impacting who reports to us. I think the goal in the
18 future is to share this data to start looking across
19 borders.

20 Do you have anything to add?

21 MR. COUGHLAN: So it's a good question
22 because you're right, it's ton of data that's coming

1 in. It's expensive to report, and what are we doing
2 with it? Is on everybody's minds in the market,
3 right? So piggy-backing off of Meghan's answer on
4 systemic risk, I mean, there's obviously the global
5 notion of systemic risk. We have much more clearing
6 now, so it's clearing house risk. So now the question
7 is sort of what's in the uncleared space that could
8 affect clearing houses because that's a concentration
9 of risk.

10 In addition, just cleaning up the data will
11 allow us to do a better job of monitoring the markets,
12 which is sort of statutorily required, right? And
13 then the other piece of it is we're trying to put as
14 much value back to the market as we can through
15 reports. And, you know, we have the Weekly Swaps
16 Repots that's been around for a while. Our Chief
17 Economist came up with this notion of entity-netted
18 notionals, which is a much more useful measure of risk
19 in the markets.

20 So better data will allow us to do more of
21 that. And so, we're going to make the markets more
22 transparent for market participants, which, like we

1 mentioned earlier, is really good for end-users who
2 didn't have a look into the general markets before
3 this data was available. It's better for dealers,
4 too, because dealers are on one side of every trade
5 anyway, but they also only see their own book. So if
6 you're a big dealer, you see maybe 40 percent of the
7 market but you know what the rest is.

8 So all that said, I think the last piece of
9 systemic risk is, you know, if you're looking at some
10 sort of build up of systemic risk, that could be a
11 risk problem for the system, measurement of risk is a
12 big issue, right? So we're getting some data elements
13 that we haven't gotten before in terms of collateral
14 and margin, which is super helpful and then better
15 counterparty data and better transaction
16 identification data lets us know who's doing what and
17 how much they're doing of it so we can identify
18 emerging trends that might be something we want to
19 follow up on.

20 And again, the benefit of these markets
21 being so concentrated is a dealer's on one side of
22 almost every trade. So if we see a big buildup, odds

1 are we can call one of our registrants and ask them
2 about it.

3 COMMISSIONER BERKOVITZ: So I would -- we
4 spend a lot of time, and again, I commend the staff
5 you've worked many years on this. It has been a
6 multiyear effort going back to when I was here
7 initially. We worked on it, I leave and come back, we
8 are still working on the same issues, but that
9 indicates the dedication to the issue and the
10 seriousness of it. Once we get those building blocks
11 or now that we're going to get these building blocks
12 like, we really got to focus on what we're going to do
13 with it and how we're going to measure these risks.

14 There's an expectation, rightfully so.
15 We've spent a lot of time and money and asked the
16 market participants to spend a lot of time and money
17 building the system, and we ought to be able to use it
18 for the purposes that Congress intended. It's a tough
19 question. How do you measure systemic risk if you
20 have all the data in the world would you know what
21 systemic risks are? A lot of people in the private
22 sector are thinking about that question too. So I

1 would urge greater focus at the Commission on the use
2 cases for this data.

3 I know that in building up the data elements
4 that the use cases were a factor or were considered,
5 and to justify the various data elements, but we
6 really need to, then go ahead and figure out how to
7 analyze it and ensure organizationally, each division
8 that does it, but we work across the divisions as
9 well.

10 And one thing you mentioned, John, I just
11 have an additional question on and that's exposure
12 reporting. We're requiring margin -- reporting of
13 margin and collateral for the first time in this rule.
14 My understanding is that we don't have reporting of
15 the exposures in the portfolio for which this
16 collateral is being collected. So is the data that
17 we're going to be getting allowing -- permitting us to
18 check compliance with uncleared swap margin
19 requirements or what are we using the margin data for
20 here?

21 MS. TENTE: So going back to trying to
22 ensure each division has what it needs from the data.

1 We did have to consider that this is one single data
2 set among many of the Commission and the uncleared
3 margin rules from what I understand, they --
4 compliance with those involved looking at the dealers'
5 models and a lot of other things in that rule that I'm
6 sure DSIO could explain much better than myself.

7 But if there are limitations in the Part 45
8 data, I think the Commission would consider that and
9 work with DSIO to make sure they have what they need
10 to monitor unclear margin compliance.

11 COMMISSIONER BERKOVITZ: Okay, I appreciate
12 that. And then it sort of reinforces what I was --
13 the previous point that we the Commission need a
14 holistic view of what we're using all this data for.
15 We need to ensure that we're collecting what we're
16 going to be able to use and use what we're collecting.
17 So further discussion on that, whether we're
18 collecting enough or I think some people, you know,
19 whether we're collecting too much. So we'll see.
20 We'll get comments on this and look forward to those.

21 So I thank you again for your work on this
22 and the discussions with me and my office over the

1 past several weeks on it. Thank you. Thank you, Mr.
2 Chairman.

3 CHAIRMAN TARBERT: Thank you very much
4 Commissioner Berkovitz. Are the Commissioners
5 prepared to vote?

6 If so, Mr. Kirkpatrick, will you please call
7 the roll?

8 MR. KIRKPATRICK: Thank you Mr. Chairman.

9 The part of motion that is now before the
10 Commission for a vote is on the approval of the
11 proposed rulemaking on Part 43.

12 Commissioner Berkovitz?

13 COMMISSIONER BERKOVITZ: Aye.

14 MR. KIRKPATRICK: Commissioner Berkovitz
15 votes aye. Commissioner Stump?

16 COMMISSIONER STUMP: Aye.

17 MR. KIRKPATRICK: Commissioner Stump votes
18 aye. Commissioner Behnam?

19 COMMISSIONER BEHNAM: Aye.

20 MR. KIRKPATRICK: Commissioner Behnam votes
21 aye. Commissioner Quintenz?

22 COMMISSIONER QUINTENZ: Aye.

1 MR. KIRKPATRICK: Commissioner Quintenz
2 votes aye. Chairman Tarbert?

3 CHAIRMAN TARBERT: Aye.

4 MR. KIRKPATRICK: Chairman Tarbert votes
5 aye. Mr. Chairman, on this matter the ayes have five
6 and the noes have zero.

7 CHAIRMAN TARBERT: Thank you very much.
8 The ayes have it, and the motion to adopt the proposed
9 rule is hereby approved. You can applaud that.

10 (Laughter.)

11 CHAIRMAN TARBERT: Mr. Kirkpatrick, would
12 you please call the role for the proposed amendments
13 to Part 45.

14 MR. KIRKPATRICK: The part of the motion now
15 before the Commission for a vote is on the approval of
16 the proposed amendments to Part 45.

17 Commissioner Berkovitz?

18 COMMISSIONER BERKOVITZ: Aye.

19 MR. KIRKPATRICK: Commissioner Berkovitz
20 votes aye. Commissioner Stump?

21 COMMISSIONER STUMP: Aye.

1 MR. KIRKPATRICK: Commissioner Stump votes
2 aye. Commissioner Behnam?

3 COMMISSIONER BEHNAM: Aye.

4 MR. KIRKPATRICK: Commissioner Behnam votes
5 aye. Commissioner Quintenz?

6 COMMISSIONER QUINTENZ: Aye.

7 MR. KIRKPATRICK: Commissioner Quintenz
8 votes aye. Chairman Tarbert?

9 CHAIRMAN TARBERT: Aye.

10 MR. KIRKPATRICK: Chairman Tarbert votes
11 aye. Mr. Chairman, on this matter the ayes have five
12 and the noes have zero.

13 CHAIRMAN TARBERT: Once again, the ayes have
14 it and the motion to adopt the proposed rule is hereby
15 approved. And lastly, would you please call the role
16 to reopen the comment period for Part 49.

17 MR. KIRKPATRICK: The final part of the
18 motion before the Commission for a vote is on the
19 approval of the reopening of the Part 49 comment
20 period.

21 Commissioner Berkovitz?

22 COMMISSIONER BERKOVITZ: Aye.

1 MR. KIRKPATRICK: Commissioner Berkovitz
2 votes aye. Commissioner Stump?

3 COMMISSIONER STUMP: Aye.

4 MR. KIRKPATRICK: Commissioner Stump votes
5 aye. Commissioner Behnam?

6 COMMISSIONER BEHNAM: Aye.

7 MR. KIRKPATRICK: Commissioner Behnam votes
8 aye. Commissioner Quintenz?

9 COMMISSIONER QUINTENZ: Aye.

10 MR. KIRKPATRICK: Commissioner Quintenz
11 votes aye. Chairman Tarbert?

12 CHAIRMAN TARBERT: Aye.

13 MR. KIRKPATRICK: Chairman Tarbert votes
14 aye. Mr. Chairman, on this matter the ayes have five,
15 the noes have zero.

16 CHAIRMAN TARBERT: Once again the ayes have
17 it and the motion to reopen the comment period is
18 approved.

19 Well, I would like to thank the staff again
20 for your outstanding work. Really a tremendous job
21 over the last 5 to 8 years. I'd also like to announce
22 that we're planning two Open Commission meetings in

1 March. The first will address more reporting issues,
2 while the second will be our first open meeting
3 outside of Washington will be in Kansas City,
4 Missouri, where we're going to present some customer
5 protection-related issues.

6 Now, I'd like to give my fellow
7 Commissioners an opportunity to make closing
8 statements will go in reverse order of seniority. So
9 with that, Commissioner Berkovitz.

10 COMMISSIONER BERKOVITZ: Thank you. Mr.
11 Chairman, I think this has been a productive meeting.
12 We've had a good discussion of the issues. Once again
13 I support your commitment to open meetings and robust
14 discussion. I think that's critical to the
15 functioning of the Commission, I think it helps
16 improve decisions and our decisions benefit greatly
17 from the discussions and everybody's questions in the
18 back and forth and staff's answers. I think the
19 public scrutiny -- it installs in us a certain
20 discipline to prepare for these meetings and refine
21 our thoughts.

1 And I think that from my perspective, it's a
2 very helpful process, and I hope the public benefits.
3 I've gotten a lot of positive feedback from members of
4 the public in terms of our commitment to open
5 decision-making. And so, I think today's been another
6 productive day in that respect. So thank you.

7 CHAIRMAN TARBERT: Thank you very much
8 Commissioner Berkovitz. Commissioner Stump.

9 COMMISSIONER STUMP: Thank you again. I
10 just want to thank you all. I didn't mention earlier,
11 but of particular importance to me with regard to
12 these rules is the fact that we're advancing the
13 pragmatic application and objective of global data
14 harmonization. I think it's particularly important
15 with regard to this set of rules that we're able to
16 utilize the data in coordinated supervision efforts
17 that we intend to enter into with our global partners
18 in the regulatory space.

19 I've said this before. The next crisis
20 won't be the same as the last, but we're certainly not
21 going to solve it any quicker or better without
22 harmonized data. And that's super important with

1 regard to all the other things we're tasked with
2 doing, whether it's monitoring uncleared margin for
3 the swap dealers we're responsible for with some of
4 this margin and collateral information that we're
5 going to be receiving or various other things that
6 we're tasked with doing.

7 I would like to say, though, this isn't the
8 end, this isn't the final opportunity for us to weigh
9 in on this. Not only will we need to finalize this
10 rule set, but I will continue to press very hard for
11 identified use cases for the information. And I
12 mentioned, Commissioner Berkovitz mentioned this, and
13 I believe that we do need to monitor for collateral
14 and margin adequacy with regard to the swap dealers
15 we're responsible for. But I do question and I ask
16 the public to weigh in on whether or not this is
17 something that we need to be doing in the context of
18 this rule. Is the SDR the right place to be receiving
19 this, because this is where we receive transaction
20 data and collateral is done on a portfolio basis.

21 So I would like to hear from the public on
22 that. But that's not the only thing that I'm going to

1 continue to work on. I'm hopeful that when we
2 finalize these rules that we'll be able to also
3 contemplate working together to prepare for the
4 implementation and turning to principles-based
5 analysis and the eventual granting of substituted
6 compliance determinations with swap data reporting
7 regimes in other jurisdictions, and also harmonizing
8 high quality data with other domestic and
9 international regulators to facilitate aggregation and
10 oversight going forward.

11 And I hope this encourages our regulatory
12 counterparts in all jurisdictions to also lead in
13 adopting standardized data sets so that we can all do
14 the job we were tasked with doing ten years ago. So
15 thanks again to the staff for your hard work. I look
16 forward to working with you going forward on
17 finalizing these rules, working on substituted
18 compliance, proving the use cases and various other
19 things so you guys won't tire of seeing. I'm certain.
20 So, thank you.

21 CHAIRMAN TARBERT: Thank you very much
22 Commissioner Stump. Commissioner Behnam.

1 COMMISSIONER BEHNAM: Thanks, Mr. Chairman.
2 I want to acknowledge and thank Commissioner Stump for
3 her work on these issues and her initiative. She
4 deserves a lot of credit for it on making the
5 Commission better. Certainly data is not something
6 that catches the headlines all the time, but it's so
7 critical, so important in all of you know that thanks
8 to all of you.

9 I also neglected to thank Kate and ODT. So
10 I want to thank ODT for their absolutely invaluable
11 work, which obviously is the linchpin to all of this,
12 right as we talk about data. So thank you. And I
13 also want to recognize the Secretary, a lot of late
14 nights in the past couple months, but thanks for your
15 work. And, Mr. Chairman, I appreciate everything
16 you've done, and I look forward to moving forward on
17 these rules.

18 CHAIRMAN TARBERT: Thank you very much
19 Commissioner Behnam. Commissioner Quintenz.

20 COMMISSIONER QUINTENZ: Thank you, Mr.
21 Chairman. I would just like to echo the comments of
22 my fellow Commissioners in thanking the hard work of

1 the staff over a very long period of time and the
2 culmination of those efforts in today. But to
3 reiterate what Commissioner Stump said, unfortunately,
4 the work's not over. But I think that the light is at
5 the end of the tunnel and hopefully, we're seeing it.
6 It won't be that long until we're back here to
7 consider a great final product and one that is needed
8 and has been a long time coming.

9 As I've said before, you know, the thing to
10 me that really turned the last significant financial
11 recession into a global financial crisis was the panic
12 associated with the recession that was fueled by the
13 opacity of positions in the mortgage market and in the
14 derivative space. Not necessarily the direct
15 exposures, but the lack of awareness of what those
16 exposures were.

17 And the more that we can do to provide
18 ourselves and hopefully the marketplace with data that
19 removes that opacity, the less we have to worry about
20 this part of the market fueling the next crisis. And
21 I compliment all of your work in improving our
22 response to systemic risk. Thank you.

1 CHAIRMAN TARBERT: Thank you very much
2 Commissioner Quintenz and thank you again for your
3 outstanding work. I think these proposals address all
4 of the issues over the last eight years or so. You
5 know, I think that in terms of the one subject that
6 garnered the most attention, I think from the
7 Commissioner's today is that is that issue of block
8 trades. And its tough because Congress asked us to
9 balance two things, right?

10 They asked us to balance transparency on one
11 end with liquidity on the other, making sure end-users
12 have cheap access to hedging needs. So we want to get
13 that right. We're committed to getting that right. I
14 think you heard from a number of Commissioners,
15 myself, and certainly Commissioner Berkovitz, but
16 probably others as well that there's the possibility
17 of greater granularity of having some that are 48-
18 hours, maybe some that are not 48-hours and just
19 working that out.

20 So this is an area, as Commissioner Quintenz
21 said, data is awfully important. We're relying on the
22 great data analysis that you guys have done to come up

1 with sort of this proposal, but I think if there's
2 additional data that can be should brought to bear,
3 that would be truly helpful during this comment
4 period, but we're committed to getting it right.

5 Also, I just want to say that I think
6 everyone agrees that once we get this data, it's in
7 place and we start receiving it. We do have to figure
8 out how we're going to use it and that's a really
9 important issue that I think a number of you have
10 raised. And we're doing some thinking internally, the
11 CFTC, are we best organized as an organization, as an
12 agency to start thinking about this? And so, we are
13 thinking about once we get these reporting rules in
14 place, how are we best organized to consider and make
15 use of this great data to achieve our mission?

16 So with that there being no further
17 business, I'll entertain a motion to adjourned the
18 meeting.

19 COMMISSIONER QUINTENZ: So moved.

20 COMMISSIONER BERKOVITZ: Second.

21 CHAIRMAN TARBERT: Those in favor of
22 adjourning the meeting will say aye.

1 (Ayes.)

2 CHAIRMAN TARBERT: Those opposed, no.

3 (None.)

4 CHAIRMAN TARBERT: Well, the ayes have it.

5 Again, I'm grateful to the staff for your outstanding
6 work and this meeting is hereby adjourned. Thank you.

7 (Whereupon, at 11:58 a.m., the Open Meeting
8 of the Commission was adjourned.)

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