

1 U.S. COMMODITY FUTURES TRADING COMMISSION (CFTC)

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Open Commission Meeting

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Tuesday, October 6, 2020

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10:30 a.m.

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Virtual

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17 BEFORE:

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Heath P. Tarbert, Chairman

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Brian D. Quintenz, Commissioner

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Rostin Behnam, Commissioner

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Dawn DeBerry Stump, Commissioner

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Dan M. Berkovitz, Commissioner

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1 PROCEEDINGS

2 CHAIRMAN TARBERT: Good morning. This
3 meeting will come to order. This is a public meeting
4 of the Commodity Futures Trading Commission. I would
5 like to welcome members of the public and market
6 participants who are listening on the phone or watching
7 our WebEx. I would also like to welcome my fellow
8 commissioners, who are joined with me here today
9 virtually: Commissioner Quintenz, Commissioner Behnam,
10 Commissioner Stump, and Commissioner Berkovitz.

11 As always, we will begin with the Pledge of
12 Allegiance. I will lead, and anyone is welcome to
13 join.

14 [Pledge of Allegiance.]

15 CHAIRMAN TARBERT: Thank you.

16 During today's open meeting, we will be
17 discussing and voting on one final rule. We will also
18 be executing a memorandum of understanding with the
19 Office of Financial Research. For the final rule, we
20 will hear a staff presentation before the Commission
21 deliberates and votes. For the MOU, we will hear a
22 staff presentation and then a statement from our

1 special guest, Director Dino Falaschetti of the Office
2 of Financial Research, before the director and I sign
3 the MOU.

4 We will now move to opening statements. I
5 will go first, followed by my fellow commissioners in
6 the order of seniority. Commissioners are free to
7 reserve their time to make a longer closing statement
8 if they wish.

9 Since becoming chairman, I have prioritized,
10 including the CFTC's approach to collecting data. As a
11 federal agency, we have got to be selective about the
12 data we collect and then make sure we are actually
13 making good use of the data for its intended purpose.
14 For example, we recently adopted three rules to revise
15 the CFTC's regulations on swap data reporting.

16 Today we are engaged in a similar exercise.
17 We are considering whether to adopt amendments to the
18 compliance requirements for commodity pool operators
19 who file on Form CPO-PQR. In plain English for those
20 that are watching, CPOs are people or entities that
21 essentially sponsor funds that are investing in
22 commodities or derivatives. And the way in which they

1 report their information is through our Form CPO-PQR.

2 The amendments we are voting on today reflect
3 the CFTC's reassessment of the scope of the form and
4 how it aligns with our current regulatory priorities.
5 By refining our approach to data collection, the final
6 rule, in conjunction with our current market
7 surveillance efforts, will enhance the CFTC's ability
8 to gain more timely insight into the activities of
9 CPOs. At the same time, the final rule will reduce the
10 reporting burdens for market participants.

11 I am not going to address the shortcomings in
12 the open meeting of the current form. I will publish a
13 statement later that details some of those. But
14 suffice it to say that as the CFTC staff has reviewed
15 the data over the years, it has become apparent that
16 the disparate, infrequent, and delayed nature of CPO
17 reporting has not met our needs. This is largely
18 because the conditions and relative CPO risk profiles
19 may have changed, potentially significantly, by the
20 time the form is actually filed with us, the CFTC. As
21 I have said before, what we need is not overregulation
22 or even deregulation but sound regulation.

1 Right now, we are facing the biggest economic
2 challenge since the Great Depression. And at the same
3 time, we are asking a lot of our market participants to
4 file a bunch of forms. And so if those forms and the
5 data they are providing ultimately are not what we
6 need, then I think it is incumbent upon us to think
7 about it and to make changes where necessary.

8 It is also important to note that Form CPO-
9 PQR is not our only source of data regarding commodity
10 pools. In fact, the CFTC over the years has devoted
11 substantial resources to developing other data strains
12 and regulatory initiatives designed to enhance our
13 ability to see what is happening in financial markets.
14 These data streams also include extensive information
15 related to the trading, reporting, and clearing of
16 swaps. And we are also developing a special tool for
17 funds.

18 Finally, it is important to note that the
19 rule does simply more than eliminate data collections.
20 It also requires something to be collected that we have
21 never collected before, a key piece of information,
22 which is legal entity identifiers, or LEIs, for both

1 the CPOs and their operated pools. LEIs are critical
2 to understanding the activities and interconnectedness
3 within our financial market. So, for all of those
4 reasons, I am very pleased to support today's final
5 rule.

6 With that, I would like to recognize my
7 fellow commissioners for any opening statements you
8 might have, starting with Commissioner Quintenz.

9 COMMISSIONER QUINTENZ: Thank you very much,
10 Mr. Chairman. And good morning to you. Good morning
11 to my fellow commissioners. It is great to see all of
12 you. I think this is the first meeting that we have
13 done with live video feed, and I am too old to be able
14 to participate today in that kind of format. I am
15 looking forward to doing it in person, but this is a
16 wonderful second option. I would like to compliment
17 our Office of Data Technology for ensuring that we can
18 do this to some degree face to face and the public has
19 the benefit of seeing all of us being able to interact,
20 so my compliments to them.

21 I am not going to give a full opening
22 statement. I am going to give a statement during my

1 question-and-answer period today, but I would like to
2 compliment you, Mr. Chairman, on the hard work getting
3 this rule across the finish line. I am going to be
4 pleased to support it today. And thank you very much
5 to DSIO for their hard work on both of the issues we
6 are facing today. Thank you.

7 CHAIRMAN TARBERT: Thank you very much,
8 Commissioner Quintenz.

9 Commissioner Behnam.

10 COMMISSIONER BEHNAM: Thanks, Mr. Chairman.
11 Good morning, everyone. Good morning to my fellow
12 commissioners and you, Mr. Chairman.

13 I am not going to have a prepared statement
14 either. I will post it to the website shortly. But I
15 look forward to supporting both of the matters today
16 and certainly thank staff from DSIO. And, echoing
17 Commissioner Quintenz's comment about our data and
18 technology group, this is great to be together with
19 some video, in addition to the audio, and look forward
20 to debating these issues and moving forward with both
21 audio and video at future meetings.

22 So thanks again, and I will throw it back to

1 you.

2 CHAIRMAN TARBERT: Thank you very much,
3 Commissioner Behnam.

4 Commissioner Stump.

5 COMMISSIONER STUMP: Hi. Good morning.
6 Thank you all so much for the effort to bring us all
7 together, the team that has enabled us to do this. I
8 can't tell you how pleased I am to see everyone's
9 faces. So thanks to ODT and also the teams that put
10 this rule together. Ever since I arrived at the
11 Commission, we have been working on refining the data
12 that we require to do our jobs. And I see that we were
13 able to do so with regard to swap data reporting a few
14 weeks ago. And I am very supportive of moving forward
15 with refining Form CPO-PQR. I am pleased we are doing
16 it, both as it relates to improving the data, utility
17 of the data for our regulatory purposes, but also from
18 a data scoping and protection perspective.

19 So I don't have a formal opening comment, but
20 I just wanted to note that I am pleased to support the
21 rule, and I look forward to the discussion. Thank you.

22 CHAIRMAN TARBERT: Thank you very much,

1 Commissioner Stump.

2 Commissioner Berkovitz.

3 COMMISSIONER BERKOVITZ: Thank you, Mr.

4 Chairman. And good morning, everyone.

5 I, too, am very pleased that we have been
6 able to move to this video format, in addition to the
7 audio format. Obviously I am very much looking forward
8 to the day, hopefully in the not too distant future,
9 when we will be back in person again, but this is the
10 best available technology until we reach that point in
11 time. I was somewhat concerned about on all of the
12 telephone calls being a faceless bureaucrat, but now I
13 am a bureaucrat with a face. So I am pleased to be
14 here today.

15 I, too, will have a statement that I am going
16 to be posting onto the website. I will be supporting
17 today's rule. I have always been supportive of using
18 the best available data to make our decisions. If data
19 is no longer useful or hasn't turned out to be as
20 useful as we anticipated, by all means, we should not
21 be collecting unnecessary data. At the same time, if
22 we can improve our data collection efforts and make

1 better use of our data, I am all for that, too. So I
2 think the rule strikes a reasonable balance between
3 eliminating data that the Commission has not been using
4 and, yet, preserving the data that the Commission
5 believes will be useful to it. And I am supporting the
6 continued evaluation of our data needs.

7 So I am looking forward to today's
8 discussion. Thank you all again.

9 CHAIRMAN TARBERT: Thank you very much,
10 Commissioner Berkovitz.

11 We will now move to consideration of the
12 final rule amending the compliance requirements for
13 commodity pool operators on Form CPO-PQR. After the
14 presentation, the floor will be open for one round of
15 questions and remarks from each commissioner.
16 Following the close of discussions, the Commission will
17 vote on the rule. The votes conducted in this public
18 meeting will be recorded votes. The results of the
19 votes approving the issuance of rulemaking documents
20 will be included with those documents in the Federal
21 Register.

22 To facilitate the preparation of the approved

1 documents for publication in the Federal Register, I
2 would now ask the Commission to grant unanimous consent
3 for staff to make the necessary technical corrections
4 prior to submitting them to the Federal Register.

5 COMMISSIONER QUINTENZ: So moved.

6 COMMISSIONER BEHNAM: Second.

7 CHAIRMAN TARBERT: Thank you. Without
8 objection, so ordered.

9 All right. So now we are moving on to the
10 final rules amending the compliance requirements for
11 CPOs on Form CPO-PQR.

12 So at this time, I would like to welcome the
13 following staff for their presentation. From the
14 Division of Swap Dealer and Intermediary Oversight --
15 and for those of you watching at home, that is
16 basically our division that focuses on market
17 participants -- we have our director, Josh Sterling;
18 Pamela Geraghty, associate director; and Elizabeth
19 Groover, special counsel.

20 I also want to take a moment to recognize
21 others because, as my colleagues mentioned, a lot of
22 work has gone into this rule. And normally you don't

1 see the Federal Government putting a lot of time and
2 effort and continuous thought into a form. But this is
3 a really important form, as my colleagues have
4 mentioned. The data that we collect is really
5 important. And we want to really be thoughtful and
6 careful about that. So there are a lot of other people
7 that have contributed to this rulemaking. So from the
8 same division as Josh and the others, we have Amanda
9 Olear, our deputy director -- thank you for joining us
10 -- Chris Cummings, special counsel. And then from our
11 Office of General Counsel, we have Dan Davis, our
12 general counsel; Deputy General Counsel Carlene Kim;
13 Associate General Counsel Paul Schlichting and Lee Ann
14 Duffy. Also, our Chief Economist's Office has helped
15 out: first and foremost, our acting chief economist,
16 Scott Mixon; and Gloria Clement, senior special
17 counsel. And, then, finally, the commissioners
18 themselves were very active and involved with this
19 rule, and it couldn't have been done without a number
20 of people from the commissioners' offices. So from the
21 commissioners' offices, clearly important to this
22 rulemaking, were Margo Bailey, Laura Gardy, Lucy Hynes,

1 Dan Busca, and Matt Daigler.

2 So, with that, I will hand it over to Josh,
3 Pamela, and Elizabeth, and Amanda for your
4 presentation. Thank you.

5 MR. STERLING: Well, thank you, Mr. Chairman,
6 for those remarks. And good morning to you. And good
7 morning to the Commission. It is great to see you all.
8 After a late summer respite, it is great to be back
9 before you with another final rule for your
10 consideration.

11 We are here today to present our
12 recommendation to adopt amendments to our commodity
13 pool operator, CPO, reporting form, Form CPO-QPR. We
14 in the world-class division of DSIO fully endorse this
15 final rule and ask for your approval. Members of my
16 great team, whom you just mentioned, Mr. Chairman,
17 wrote the rule and will walk you through the specifics
18 in just a minute. Before they do so, however, I will
19 take just a few moments to explain why the form is a
20 valuable tool for the agency and for the division in
21 carrying out a smart, effective, and practical program
22 designed to pursue the CFTC's mission, vision, and

1 value.

2 Adopted, today's rule action will streamline
3 CPO reporting in many key respects. We think that is a
4 significant and positive development. After seven or
5 so years having a form, we took stock of what works
6 well, what can work better, what we think we don't
7 really need. So we will for now continue to collect
8 data from CPOs, but we will do so in a way that
9 improves the regulatory experience of those
10 registrants. This is a core commitment of the chairman
11 and the executive team, on which I serve. Indeed, it
12 is a good one for a Federal agency that has such a
13 strong record of effective oversight.

14 This action, however, is not meant to cast
15 any doubt on the principle that absent other available
16 resources, which we will explore, a registrant should
17 be expected to report meaningful data to further our
18 effective oversight under compliance with the Commodity
19 Exchange Act and the Commission's regulations.
20 Certainly what data we ask them to report requires a
21 discerning look from time to time. And, as I observed
22 to you during our conversation about the proposal in

1 April, the form definitely did need a hard look. I may
2 have even described it at that time as kind of like a
3 Jackson Pollock painting in the service of what we
4 called the regulators' Ragu rationale. That is, the
5 information we need must be in there somewhere.

6 The rule changes today do reflect the
7 discerning looks. I am comfortable saying that when we
8 review the tape from the revised form, I am confident
9 our minds will not be drawn to obscure terms from the
10 art world, like "chiaroscuro" and "impasto." Nor will
11 we suddenly have an inexplicable longing for spaghetti
12 dressed in America's staple marinara sauce. I'm a
13 Prego man myself anyway.

14 I believe the quarterly data about commodity
15 pools will remain a critical feature of our oversight
16 framework. We will continue to explore how the data
17 can best be collected and what data we really need,
18 whether in the format contemplated by the revised form
19 in some improved way or with the replacement of current
20 data calls in the form of others that are more tailored
21 to our needs. Who knows? Maybe we will even be able
22 to achieve a single unified reporting form through

1 continued collaboration with our great friends and
2 partners at the SEC. It is also possible we could
3 potentially obtain needed pool-specific data from other
4 sources, but, in whatever format and from whichever
5 source pool-specific data come to us, there are three
6 main reasons why gathering and reviewing data at the
7 individual pool level is critical.

8 First, funds rarely trade derivatives in
9 isolation. Therefore, understanding the cash market
10 and security derivative positions is important to us,
11 from basis trading to global macro and all the way up
12 the curve to volatility and inverse volatility
13 strategies. Derivatives market data alone will never
14 tell us what a fund needs to be more broadly in making
15 its derivatives trade. And that is indeed a paramount
16 consideration for us in pursuing our investor
17 protection mandate for commodity pool investors.

18 Second, funds are among the largest sources
19 of liquidity in our markets. And our investment
20 decision-making is becoming more concentrated. It is
21 axiomatic that to provide liquidity is to transmit
22 risk. It's scale. That can have an outsized impact,

1 both on our market infrastructure and on commercial
2 end-users, meaning the farmers, ranchers, and energy
3 producers that rely on our markets being deep, liquid,
4 and orderly when they go to hedge the real-world risks
5 that can affect family budgets for hot meals, warm
6 homes, and online access to remote learning.

7 Third, the asset management industry is
8 getting bigger, faster, and stronger. Asset managers'
9 scale are emerging. I have been told that a trillion
10 dollars in asset center management is table stakes to
11 be in the bulge bracket over the next decade. Fewer
12 firms are making a bigger share of trading decisions to
13 drawing a bead on how those views are expressed across
14 specific funds over time only make sense.

15 Ladies and gentlemen, I make these points
16 with confidence as the only funds lawyer to direct this
17 division and perhaps one of the few ever to have worked
18 at this agency.

19 Now, if you want pool-specific data, it is
20 only reinforced with the recent successes the agency
21 has experienced by refining other data tools to achieve
22 record results. I refer most immediately to the

1 Commission's 920 million settlement JPMorgan for
2 spoofing. As recent press coverage has made clear,
3 that case resulted from a commitment this agency made
4 to up its game in market surveillance and enforcement.
5 Faced with terrabytes of exchanged data, the agency
6 invested the time and talent necessary to deploy data
7 tools to get the job done. And, boy, have our
8 colleagues in the Division of Enforcement done so.

9 I will add that of particular interest to me
10 is the agency's case involved data that according to
11 public reports went back as far as eight years. I will
12 say that again: eight years. That is 32 quarters ago.
13 So it would be no good criticism of this form in full
14 to say that data are useless if they are about a single
15 quarter old, far from it, for the three reasons I just
16 articulated.

17 Now, at the same time and as the chairman
18 intimated, we are indeed hard at work implementing a
19 CPO data tool that will use market data to provide us a
20 real-time view of market activity between CPOs, the
21 futures workers, as well as CPOs and swap dealers and
22 major asset classes. That up-to-the-minute view of

1 what is going on out there is key.

2 As I mentioned a moment ago, asset managers
3 are indeed getting bigger, faster, and stronger. And I
4 think that hundreds of billions of cash put to work in
5 our markets can buy a lot of levered exposure. That
6 exposure can be directional and massive across a large
7 CPO, one with a global chief investment officer
8 function, and deploying a follow-the-sun architecture
9 towards trading desks.

10 Seeing how the exposures expand and contract
11 on a day-to-day basis is critical for this agency. The
12 CPO data tool does that already. But it is equally
13 important to understand the strategies of individual
14 funds in their related positions in cash and other
15 derivatives markets over time.

16 Looking at market-based data, the A
17 historical volatility in February '18 and March '20 was
18 important. Knowing at that time which funds were
19 pursuing volatility macro and basis trading strategies
20 according to PQR data will only enrich that kind of
21 market-based understanding.

22 So we come before you today not to limit our

1 ability to understand how funds work in our markets
2 but, rather, to focus our energies around data that
3 indeed enrich our understanding of market activity and
4 investor protection as but another example of my team's
5 smart, effective, and practical approach.

6 Before handing it over to my colleagues, who
7 did just a terrific job here, I will note that I would
8 like to also extend my thanks and thanks to my
9 division, to the same folks that the chairman
10 identified. So we certainly extend a heartfelt thanks
11 to the rest of the team in the division, commissioners'
12 officers, the chief economist, and the general counsel
13 as well, couldn't have done this, if ever, without you.

14 And, if you will indulge me a minute more,
15 Mr. Chairman and commissioners, I want to take this
16 opportunity publicly and on the official record to
17 thank the director of enforcement, Jamie McDonald, for
18 a strong partnership with me over the last 15 months.
19 We have made tremendous strides in strengthening the
20 already strong working relationship between our two
21 divisions. I believe my division referred cases that
22 made up about 10 percent of enforcement's record docket

1 this past year. The divisions can still do more
2 together. And that is all possible because of Jamie's
3 great leadership.

4 As I recently told him, when I interviewed
5 with the chairman for this position, I thought it would
6 be a great job. I got it. Then when I met Jamie, I
7 knew it was something I absolutely had to do. He is an
8 exemplar of public service, a dogged prosecutor guided
9 by a keen intellect and abiding sense of duty to our
10 Nation, true patriot, great colleague, and even better
11 friend. I thank him for the impact he has had on the
12 division and on me personally, and I look forward to
13 our continued friendship in the years to come.

14 With that, I will now hand over the
15 presentation to my team. Thank you.

16 MS. GROOVER: Thank you, Josh, for that
17 introduction. And good morning, Mr. Chairman and
18 commissioners.

19 This final rule will if adopted finalize the
20 Commission's April 2020 proposal amending Regulation
21 4.27 and Form CPO-PQR, a data collection form required
22 to be filed by registered commodity pool operators with

1 respect to their commodity pools operated pursuant to
2 that registration. Specifically, the Commission's
3 proposal outlines several specific amendments to Form
4 CPO-PQR, producing what we will generally refer to
5 today as revised Form CPO-PQR. The proposed amendments
6 included, one, the elimination of Schedules B and C of
7 the form except for the pool schedule of investments,
8 or PSOIs; two, the addition of comps for legal entity
9 identifiers, or LEIs, for filing CPOs and their
10 operated pools that already have and use them; three,
11 the elimination of questions regarding pool auditors
12 and marketers; four, the deletion of all trading
13 thresholds and filing categories as a result of the
14 proposed elimination of Schedules B and C; five, the
15 adoption of a quarterly filing schedule for all
16 reporting CPOs, regardless of their operational size;
17 and, finally, six, replacing the substituted compliance
18 mechanisms for Form PF, a form previously developed
19 jointly by this Commission with the Securities and
20 Exchange Commission with substituted compliance
21 treatment for NFA Form PQR, a quarterly pool filing
22 developed and required by the National Futures

1 Association.

2 The Commission received strongly supportive
3 public comments in response to this proposal.
4 Commenters considered the proposal and revised Form
5 CPO-PQR generally as helpful improvements to the
6 current system. And a significant effort by this
7 Commission to simplify CPO reporting requirements while
8 still ensuring that CPOs and their commodity pools are
9 subject to effective oversight through appropriate
10 levels of regulation. In particular, commenters were
11 in favor of the revised form's simplified structure and
12 uniform filing schedule. And they praised the
13 proposal's efforts to tailor CPO regulatory reporting
14 requirements.

15 Having briefly discussed the proposal and the
16 generally favorable reactions to it, I will now pass
17 the presentation over to Pamela Geraghty to begin
18 discussing specific details of the final rule before
19 the Commission today.

20 MS. GERAGHTY: Thank you, Elizabeth. And
21 good morning, Mr. Chairman and commissioners.

22 Staff continues to believe that these

1 amendments will produce a more streamlined and focused
2 data collection regarding registered CPOs and their
3 operated pools that would be better designed to be
4 utilized in conjunction with data streams the
5 Commission has developed in the seven years since Form
6 CPO-PQR was originally adopted. Consequently, after
7 review of the public comments received and additional
8 consideration of the proposed amendments, staff
9 recommends that the Commission finalize its proposal
10 from the spring by adopting those amendments to Form
11 CPO-PQR and Regulation 4.27 largely as proposed.

12 Staff also notes that the final rule
13 amendments presented here today are intended to
14 constitute the first of several steps in an ongoing
15 assessment of Form CPO-PQR. The substituted
16 information seeks to collect in form and manner in
17 which it collects that information. Like the proposal,
18 a final rule would collectively result in a revised
19 Form CPO-PQR that is considered primarily of the
20 information currently solicited by the form's Schedule
21 A with an additional prompt for LEIs to the extent that
22 a CPO has them and the PSOI from Schedule B, although

1 the concept of an individual schedule is abandoned in
2 the revised form.

3 Commenters strongly favored the proposed
4 elimination of the detailed pool-specific information
5 solicited in Schedules B and C. In fact, the community
6 believes that these amendments will generally produce a
7 targeted data collection with respect to CPOs and their
8 commodity pool activity that is a more complete and
9 more useable by the Commission in its oversight of CPOs
10 on a revised form.

11 With respect to the pool schedule of
12 investments, or PSOI, staff continues to recommend the
13 adoption of the proposed PSOI, including the retention
14 of the 5 percent reporting threshold, notwithstanding
15 commenters' recommendation to the contrary.

16 Multiple commenters recommended two
17 modifications to the PSOI. The first was the
18 elimination of certain of categories of asset classes
19 for which CPOs must report investment positions. And
20 the second was an increase in the reporting thresholds
21 for such investment positions from the current 5
22 percent and 10 percent. Those changes taken together

1 would align the revised Form PSOI with NFA's 2010
2 schedule of investments. However, as Director Sterling
3 noted in his opening remarks, the only way to truly
4 understand the risks posed by a commodity pool, both to
5 the market at large as well as to its participants, is
6 to have a window into the pool's holdings across all of
7 the asset classes to which it is exposed. Therefore,
8 staff believes that reducing the amount of information
9 collected with respect to the PSOI's multiple asset
10 classes prior to assessing the quality of the data
11 produced by the revised form is premature.

12 Regarding the reporting thresholds for the
13 PSOI, staff continues to recommend the retention of a 5
14 percent threshold. In arriving at this conclusion,
15 staff reviewed previous Form CPO-PQR filings for the
16 purpose of determining the amount of data that would be
17 lost if the reporting thresholds were increased to 10
18 percent and we determined that that amount was
19 immaterial. As a result, that concluded that retaining
20 5 percent reporting threshold in the PSOI was
21 appropriate.

22 As I previously mentioned, in staff's view,

1 this final rule is the first of several steps in the
2 Commission's reevaluation of Form CPO-PQR and it seems
3 in the CPO space. As such, staff will reevaluate the
4 PSOI recommended today within 18 to 24 months of the
5 revised form's first compliance date and will make a
6 recommendation at that time as to whether further
7 modification of the PSOI is appropriate.

8 Now, turning to LEI, as proposed, staff
9 continues to recommend requiring CPOs that have and use
10 LEIs to report them on revised Form CPO-PQR with
11 respect to the CPO entities and for operated pools that
12 trade stocks. In the proposal, the Commission stated
13 it hoped that by incorporating LEIs into the revised
14 form, it would be enabled to more efficiently and
15 accurately synthesize information from various data
16 streams on an entity-by-entity basis, thereby
17 permitting better and more coordinated use of the data
18 collected to eliminate risks through pools or pool
19 families.

20 Commenters were generally in favor of the
21 proposed LEI prompt, understanding its purpose and role
22 in developing wholesome and holistic surveillance

1 programs with respect to reporting CPOs and their
2 commodity pools.

3 Several commenters also recommended the
4 expansion of the proposed LEI prompt such that all CPOs
5 reporting on the revised form would be required to
6 obtain and then provide an LEI in order to
7 satisfactorily realize the requirement. Staff declines
8 this recommendation, however, because the addition of
9 an LEI prompt to the revised form is inherently limited
10 by the fact that LEIs are not currently selected with
11 respect to futures transactions, meaning that CPOs and
12 their pools are not currently required to have LEIs in
13 order to participate in the futures markets. Staff
14 believes that under these circumstances, it would
15 neither advance the Commission's regulatory goals of
16 monitoring the markets and systemic risks of CPOs and
17 their pools nor facilitate the integration of useable
18 Commission data for effective oversight of CPOs
19 included if the Commission required all reporting CPOs
20 and their operating pools to obtain and list LEIs on
21 the revised form at this time.

22 Staff notes that the final rule would require

1 CPOs to report their LEIs to the extent they obtain one
2 at any point in the future. And, thus, it contemplates
3 the expansion of LEIs on the revised form as more
4 entities obtain them. Therefore, staff today
5 recommends the addition to revised Form CPO-PQR of an
6 LEI prompt for those reporting CPOs and commodity pools
7 engaged in swap transactions, as proposed, and commits
8 to continuing to monitor developments with respect to
9 LEIs and their role in the commodity interest markets
10 in order to consider both the propriety of expanding
11 the LEI requirements in the future for all of CPOs as
12 well as how such data should be collected and stored
13 for cybersecurity purposes.

14 So at this point, I am going to turn it back
15 to Elizabeth so she can address the last remaining item
16 in the final rule we have for your consideration today.
17 Thank you.

18 MS. GROOVER: Thank you, Pamela.

19 The final rule also would adopt amendments to
20 the form's instructions and definitions, which,
21 importantly, shape the filing schedule structure and
22 scope of revised Form CPO-PQR reporting. Commenters

1 praised the proposed uniform quarterly filing schedule
2 for all registered CPOs required to report on the form,
3 even though that would require the reporting of some
4 information more frequently than is currently required.
5 Overall, commenters appreciated with simplicity of a
6 uniform filing schedule that is consistently applied to
7 all reporting CPOs, regardless of their operational
8 size, that required no monitoring of thresholds to
9 determine the scope or length of a particular filing.
10 And that is, additionally, well-coordinated with the
11 filing schedule of NFA Form PQR.

12 For these reasons, staff continues to
13 recommend the adoption of a quarterly filing schedule
14 for all registered CPOs required to report their
15 commodity pool activity on revised Form CPO-PQR, which
16 is requested and appropriate explanatory instructions
17 in the revised form.

18 Commenters also requested several specific
19 edits to the proposed instructions, assisting staff by
20 sliding those provisions that seemed no longer relevant
21 or internally inconsistent with other aspects of the
22 proposed amendment. After a thorough review of the

1 proposal and the comments, the final rule recommended
2 by staff today includes explicitly proposed amendments,
3 like the removal of questions regarding marketers and
4 auditors as well as substantive and technical edits to
5 the definitions and instructions that were identified
6 both by the commenters and staff.

7 Given the substantial edits that were
8 proposed, commenters also requested that the Commission
9 consider amending the 2015 CPO-PQR FAQs such that the
10 FAQs would be consistent with the content and filing of
11 revised Form CPO-PQR and Regulation 4.27, as amended by
12 the final rule. Staff agrees that if the final rule is
13 adopted today, much of the information currently in the
14 2015 FAQs will become obsolete or inaccurate. To
15 address commenters' valid concerns about this
16 information becoming outdated, staff carefully reviewed
17 the FAQs during the process of drafting the final rule
18 and revised them significantly. Staff expects to
19 submit in the near future these updated draft FAQs for
20 the Commission to consider publishing.

21 Staff further recommends that the Commission
22 amend Regulation 4.27 generally, as proposed, such

1 that, one, CPOs required to report on revised Form CPO-
2 PQR will be allowed to file NFA Form PQR for purposes
3 of meeting this reporting requirement; and, two, Form
4 PF will no longer be so accepted by the Commission,
5 though it will remain a Commission form.

6 Importantly, and as a bid in presenting this
7 proposal, staff makes its recommendation on the basis
8 that NFA will amend its NFA Form PQR to also permit the
9 reporting of LEIs and CPOs and pools that use them,
10 rendering NFA Form PQR and the Commission's revised
11 form substantively identical.

12 Commenters generally praised the proposal's
13 amendments regarding substituted compliance. They
14 stated that permitting substituted compliance with NFA
15 Form PQR, a form that CPOs also are already required to
16 file on a quarterly basis as NFA members, offers
17 additional filing efficiencies without compromising the
18 Commission's ability to obtain relevant and quality
19 data from reporting CPOs. To provide sufficient
20 clarity on this issue and in response to comments
21 received, staff also recommends adding a specific
22 instruction to the revised form that clearly explains

1 the substituted compliance treatment of NFA's Form PQR.

2 Staff further recommends that, going forward,
3 the Commission utilize existing authority under the
4 Commodity Exchange Act for the review of registered
5 Futures Association membership rule changes to ensure
6 that NFA Form PQR continues to be substantively
7 identical to the revised form and, thus, that
8 substituted compliance remains appropriate.

9 With respect to Form PF, this Commission also
10 proposed and no longer accepts the SEC form in lieu of
11 Form CPO-PQR because, if amended as proposed, revised
12 Form CPO-PQR and Form PF would diverge significantly in
13 terms of substance, forms, and even filing schedules.
14 Because the final rule adopts those amendments largely
15 as proposed, staff continues to believe that this
16 divergence will occur. Although reactions to this
17 proposed amendment were mixed, most commenters agreed
18 with and supported it.

19 Additionally, in staff's opinion, continuing
20 to accept Form PF in lieu of the revised forms would
21 clearly frustrate a stated purpose of this rulemaking
22 project, mainly to enhance and better coordinate the

1 Commission's collected CPO and pool data to more
2 efficiently and effectively oversee these registrants
3 and their trading of commodity interests.

4 Finally, staff recognizes that reporting CPOs
5 will need time to adjust to filing revised Form CPO-PQR
6 pursuant to the final rule's amendments. To that end,
7 staff recommends that the Commission not require Form
8 CPO-PQR filing for the reporting period ending December
9 31, 2020 and first require the filing of revised Form
10 CPO-PQR for pool trading activities during the first
11 quarter of 2021. Consistent with Regulation 4.27 and
12 the revised form, this approach means that reporting
13 CPOs would not be required to complete and file revised
14 Form CPO-PQR for their operated pools until May 30,
15 2021, or 60 days after the first 2021 reporting period
16 ends.

17 Thank you for listening. This concludes our
18 presentation of the final rule amending Form CPO-PQR
19 and Regulation 4.27. We would be happy to answer any
20 questions you may have at this time.

21 CHAIRMAN TARBERT: Well, thank you very much,
22 Josh, Pamela, and Elizabeth. To consider the

1 rulemaking, I will entertain a motion to adopt the
2 final rule amending the compliance requirements for
3 CPOs on form CPO-PQR.

4 COMMISSIONER: So moved.

5 COMMISSIONER: Second the motion.

6 CHAIRMAN TARBERT: Thank you.

7 I would now like to open the floor for
8 commissioners to ask any questions about the rule. I
9 will start. Josh, you mentioned that CPOs now are -- I
10 think you used the phrase "bigger, faster, and
11 stronger." Could you just maybe give us a little bit
12 more insight into how many CPOs there are out there and
13 the magnitude of these funds?

14 MR. STERLING: Sure, Mr. Chairman. Thank you
15 for the question. Happy to do that.

16 We have approximately 1,200 firms registered
17 with us as CPOs. And I think over the last ten years
18 or so -- I have served in prior practice before coming
19 here -- we have seen a significant number of mergers in
20 terms of including firms that are registered as CPOs
21 with us. And you can measure a CPO and its potential
22 market by its scale, by assets under management.

1 And I guess when I started in this business,
2 a couple of hundred billion under management was quite
3 a lot. And now we have firms at one, two, four, five
4 trillion under management, and that is retail as well
5 as institutional money. And as the firms get bigger,
6 there is a greater concentration I think of decision-
7 making and then a combination of funds that can come
8 with that. And so we are sort of seeing a bit of
9 concentration including in the context, I should say,
10 of overall growth.

11 CHAIRMAN TARBERT: Right. No. That is
12 great, but that is granular data. I mean, I will make
13 an observation from my position, not as CFTC chair so
14 much as being a former member of the Financial
15 Stability Board, being a current member of FSOC, and
16 then also being vice chair of IOSCO. My observation is
17 that over the last 10 years, particularly post-crisis,
18 we have seen continued growth in these funds, in part,
19 I think, because a lot of the risk that was being
20 housed in the banking sector, a sector that was
21 essentially backed, directly or indirectly, as the case
22 may be, by deposit insurance, ultimately U.S.

1 taxpayers, as well as discount window access. A lot of
2 that risk, because of regulation and just because of a
3 number of other factors, has actually migrated to the
4 fund sector.

5 Now, that said, I don't think it is a bad
6 thing at all. In fact, I think there are many positive
7 attributes that come with that, in fact, because I
8 think a lot of the lending, the intermediation, the
9 credit providing, particularly in things that are more
10 risky, I think having them migrate from the banking
11 sector to the fund sector is a good thing for the
12 financial system. And I think it makes our financial
13 system stronger. I would even argue that our funds and
14 sort of our asset management sector in the United
15 States, whether that is sort of traditional types of
16 mutual funds and things, ETFs, or even hedge funds and
17 private equity funds, I think is the envy of the world.

18 Now, that said, I think that does mean,
19 however, that we need to make sure that we understand
20 what is going on in that. And that is really what our
21 CPO regime is focused on alongside the SEC's regime,
22 which obviously focuses on the entire sector. We are

1 focused on where the funds, you know, have investments
2 of a certain magnitude in derivatives and commodity
3 instruments.

4 So, based on everything, I guess the question
5 for the team is, right now for the current version -- I
6 should say the soon-to-be-current version of CPO-PQR,
7 is there a regulatory use case for the data?

8 MR. STERLING: Yes, Mr. Chairman. Thank you
9 for that and for those observations as well. And I
10 would just add to what you had said that funds aren't
11 intermediaries, which is an important thing to
12 remember.

13 But, to your question, yes, there is indeed a
14 strong regulatory use case for the reasons that staff
15 and I have articulated: the ability to understand what
16 is going on in funds, the ability to understand our
17 investor protection focus alongside market data sources
18 we can use on a more real-time basis.

19 CHAIRMAN TARBERT: No. That is right. And
20 just on the point that you made about funds and their
21 intermediary role, it is very important that funds, at
22 least when it comes to investors, are equity

1 investments. So it is not the same as deposits or
2 whatever. Now, these funds may have leverage with
3 other institutions, but, you know, there is a major
4 distinction between depositing funds in a bank account
5 and depositing funds in a mutual fund in terms of the
6 type of investment. And that is something that I think
7 the larger international system is working on and
8 thinking about and deliberating on.

9 I guess one of the other things that you
10 mentioned, which is really important, is it is not just
11 about the derivatives activities of these funds, which,
12 arguably, we could get by looking at futures markets
13 and even looking at some of the data that we get from
14 our swaps regime, but, really, understanding the
15 relationships between these funds, their derivative
16 positions, and their cash positions. And in many ways
17 when I put CPOs aside, for example, we do a lot of that
18 same kind of rigorous analysis, for example, in the
19 energy markets and the agriculture markets, so
20 important to understand what is going on in the cash
21 markets so we can link the two and ensure, for example,
22 in the futures markets, that there is convergence.

1 And so what I take from your -- as the
2 central point is that it is important that we
3 understand the entire portfolios of the pool so we can
4 make that connection. Is that right?

5 MR. STERLING: Yes, that is exactly correct.
6 They are related positions. They work in tandem with
7 each other, and it is quite important. Yes.

8 CHAIRMAN TARBERT: Great. And, then, do you
9 think there will be a good use case, at least for now,
10 in the soon-to-be CPO schedule of investments alongside
11 the data tool that you are developing?

12 MR. STERLING: Yes, I do. And that data tool
13 is extremely powerful, but it is our market data. It
14 is not pool-specific portfolio data. And we are
15 completely open to other sources and other ways to get
16 at that pool-specific data, but the simple answer is
17 yes, sir.

18 CHAIRMAN TARBERT: Great. And there has been
19 a lot of discussion among the public as well as here at
20 the Commission on the schedule of investments and its
21 utility. But I think there is a specific provision in
22 the preamble that requires us to take a look at it and

1 to sort of justify our use of the data going on. Are
2 you committed to reviewing the use case for the
3 schedule of investments as we proceed along?

4 MR. STERLING: Yes, sir, unequivocally, we
5 are committed to that.

6 CHAIRMAN TARBERT: Okay. Well, no further
7 questions from me. With that, I will turn it over to
8 Commissioner Quintenz.

9 COMMISSIONER QUINTENZ: Thank you very much,
10 Mr. Chairman. I would like to thank Josh and Amanda
11 and Elizabeth and Pamela for their hard work on this
12 and the presentation this morning. I think I will
13 start by reading a statement and maybe making a few
14 reactions and then, if you will indulge me, asking a
15 few questions.

16 I am going to support today's final rule that
17 would simplify and streamline the reporting obligations
18 of commodity pool operators on Form CPO-PQR. The
19 Commission first adopted Form CPO-PQR back in 2012 and
20 closely modeled the form on joint Form PF. The
21 Commission adopted the form of its own volition.
22 Unlike Form PF, which is specifically mandated by Dodd-

1 Frank, there is no similar statutory directive
2 requiring the adoption of Form CPO-PQR. In my opinion,
3 since its adoption, the detailed information requested
4 on Form CPO-PQR has not enhanced the Commission's
5 oversight over CPOs and has never been fully utilized
6 by the staff.

7 I have long questioned the Commission's need
8 to know the litany of data requested on the form. In
9 my view, many of the questions on the existing form are
10 more academic than pragmatic in nature, information
11 that may be nice for the Commission to have but data
12 that is certainly not necessary for the Commission to
13 effectively oversee commodity pools and the derivatives
14 markets. This is why I am very pleased that the final
15 rule eliminates the most burdensome sections on the
16 current form, Schedules B and C, which together contain
17 roughly 72 distinct questions if one includes all the
18 separately identifiable subparts. Many of these
19 questions are challenging for CPOs to calculate
20 precisely and require numerous underlying assumptions
21 that vary from firm to firm, making it difficult, if
22 not impossible, for the Commission to perform an

1 apples-to-apples comparison across the commodity pool
2 industry.

3 While today's final rule represents a marked
4 improvement over the current CPO reporting regime, in
5 my view, more work needs to be done. Importantly, the
6 proposal requested comment about reverting back to the
7 former schedule of investments originally adopted by
8 the National Futures Association in 2010 for its NFA
9 Form PQR, or what I will refer to as, as the chairman
10 referred to it, the 2010 schedule of investments. In
11 2012, the schedule of investments that the Commission
12 adopted in its own rule went much further than the 2010
13 schedule of investments by lowering the itemized
14 reporting thresholds and adding significantly more
15 granular subcategories of investments. For example,
16 the Commission sought information regarding the
17 tranches of various types of securitizations and the
18 types of bonds held by the pool. Historically, the
19 information on the schedule of investments has mostly
20 been used by the NFA for their CPO examination program.
21 However, in its comment letter to the Commission, the
22 NFA noted that "It does not have a need for the more

1 granular information currently in the schedule as
2 proposed" or as originally adopted in 2012 and that "It
3 fully supports aligning the current schedule with the
4 2010 schedule of investments because NFA believes a
5 more streamlined schedule will significantly alleviate
6 filing burdens on CPOs without negatively impacting the
7 usefulness of the information that is collected."

8 While I had hoped this final rule would amend
9 the form to adopt the 2010 schedule of investments and
10 while it does not, I am encouraged that the preamble,
11 as the chairman described, instructs DSIO staff to
12 evaluate the ongoing utility of the current schedule of
13 investments, including comparing it to the 2010
14 schedule of investments, within 18 to 24 months
15 following the compliance date. As part of this review,
16 staff is instructed to consider whether or not in light
17 of its utility, the Commission should revert back to
18 that 2010 schedule of investments.

19 After completing this review, in whole or in
20 stages, staff will develop recommendations or propose a
21 rulemaking for the Commission's further consideration
22 to effectuate the staff's findings. This review will

1 allow staff to carefully consider which questions on
2 the schedule of investments are necessary to
3 effectively oversee CPOs and to propose eliminating any
4 fields which are being received through other data
5 channels or have no regulatory use case to the
6 Commission's oversight function. I think this review
7 is long overdue and is especially timely given the
8 developments in other data streams, like part 45 swap
9 data, that DSIO is actively working to combine with
10 clearinghouse data that we receive on futures
11 transactions to provide a complete picture of a CPO's
12 derivatives activity. I believe that DSIO's ability to
13 monitor in real time a fund's derivatives positions
14 will be absolutely vital to the oversight and
15 regulation of commodity pools in the future.

16 I also would like to say that I think there
17 is an important distinction between how we monitor cash
18 positions and derivatives activity in the futures
19 markets to ensure convergence and the integrity in the
20 futures markets compared to our oversight over CPOs to
21 ensure that we are understanding market environments
22 that may pose trouble for some firms to absolutely make

1 sure that they are following their customer protection
2 requirements so that customers can be protected in the
3 event of trouble.

4 I have never believed and I don't think it is
5 any intent of the Commission or of this form to get
6 into the risk management or trading activity or to
7 dictate from Washington how funds need to trade when
8 making investments on behalf of their clients. I also
9 have long questioned the systemic nature of commodity
10 pool operators in isolation and think that that risk
11 would only be transmitted through the banking sector,
12 where there are other regulators at play that have
13 detailed information at their disposal. I think
14 ultimately our oversight over CPOs is focused on
15 customer protection and customer funds protection and
16 disclosure. And, then, I am hopeful that this is a
17 positive step in the right direction to ensuring that
18 we receive the information we need to allow our
19 effective oversight in that regard.

20 So, with that, I would just like to continue
21 focusing on the further study of the schedule of
22 investments. Staff will conduct a complete review of

1 the utility of the data on that schedule. In my view,
2 18 to 24 months is a long time to review the usefulness
3 of data that we have been receiving for almost 10
4 years. And I guess, putting aside any judgment on the
5 utility of specific information that is being
6 requested, I would imagine we already have an idea, at
7 least, of whether or not there are some reliances that
8 we are receiving from other sources and don't need to
9 ask for it on this form that we receive once a quarter
10 and that comes in to us well after that quarter has
11 ended.

12 So is it possible for staff's review to occur
13 in stages? If DSIO can quickly determine that it
14 already received certain information on the schedule of
15 investments from other data sources, could DSIO act
16 immediately to address that duplicative data
17 collection? And if that is a possibility, Director
18 Sterling, could you maybe describe what actions DSIO
19 may take?

20 MR. STERLING: Yes. Thank you, Commissioner
21 Quintenz, for those remarks and also to you and your
22 team for the hard work with us.

1 I think it is a great question. I do think
2 that the staff, as we have talked about with you, are
3 committed to working on a thorough review of whether we
4 are getting the right data from the right sources. I
5 think we could look at whether other sources besides
6 the schedule of investments should improve the accuracy
7 and availability of the information we need to have a
8 holistic understanding in pursuit of our investor
9 protection and market mandates. So I think that if we
10 do find that we can get good information that serves
11 those needs from other sources or in a different way, I
12 always think it is important to get it right, not for
13 any one personal view to be right. And so we would try
14 to do that. And I think there are ways we could try to
15 do it, whether it is through staff action if permitted
16 or by coming again before the Commission for rule or
17 order action. But yes, sir, we are committed to making
18 sure we get the right data that we need to carry out
19 our programs and enhance what we can see now from
20 market information, thanks to our CPO data tool.

21 COMMISSIONER QUINTENZ: Yes. Thank you,
22 Josh. And I think that the data tool that you raised

1 is -- I saw a demonstration of it. I know that it is
2 being built out. The demonstration I have received so
3 far I think shows it to be an excellent resource. I
4 compliment you and your team for thinking of that and
5 pushing forward with it. I think that that is going to
6 provide much more substantive benefit to the
7 Commission, DSIO going forward, as opposed to this
8 form.

9 I think that that is part of this
10 conversation, that we can't just be viewing this form
11 in isolation. We have to always view the entire suite
12 or portfolio of data that we receive as a Commission to
13 effectuate our regulatory oversight and analyze whether
14 or not it is necessary in each part or in any one
15 instance. And I appreciate this in terms of quickly
16 making any potential modifications or recommendations
17 or taking any staff action expeditiously. I think that
18 it is important that as soon as the Commission staff
19 finds it receives the same or comparable data from two
20 sources, that it takes that action to remedy the
21 redundancy and to relieve market participants from any
22 unnecessary reporting obligations.

1 One final question, if I could. When staff
2 is reviewing the schedule of investments to assess the
3 utility of the information requested, I assume it will
4 be considering whether the information requested has
5 utility to the Commission itself, that it would not
6 consider whether or not the data could be of interest
7 or use to other agencies.

8 MR. STERLING: Yes. Thank you, Commissioner,
9 for that question.

10 You will forgive the background noise. I
11 have a flyover helicopter right now.

12 That is correct. The staff will -- our
13 review will focus on whether or not the Commission
14 itself needs data on the form to meet our current
15 regulatory needs. And I think that is a key term in
16 the preamble. We are focused on the Commission's
17 current regulatory needs. We as a business agency are
18 responsible to and accountable to only the Commission
19 and its mandates. And that is the purpose for which we
20 would seek to collect data on the form or in any other
21 substitute or different way we may ultimately be able
22 to pilot.

1 COMMISSIONER QUINTENZ: Okay. Thank you. I
2 think it is important that it refers to -- the language
3 in the preamble refers to the Commission in these
4 cases, and not those by any other agencies.

5 Forgive me. I had one final question beyond
6 that. I dropped a page here in between. If you'll
7 indulge me, several commenters raised concerns
8 surrounding the cybersecurity of the form and
9 recommended that the Commission permit filing with an
10 alphanumeric identifier to conceal the identities of
11 reporting CPOs. Obviously this is very sensitive
12 information. The Commission itself has robust
13 protections in place to protect the data it receives.
14 But, basically, commenters are asking for us to
15 separate the filing of the substantive information on
16 the revised form without information that would reveal
17 their identity, like an LEI. The preamble notes that
18 staff will continue to review this issue and determine
19 if separate filings are necessary or feasible.

20 Would you or someone on your team be able to
21 maybe expand upon some of the criteria or factors you
22 would expect the staff to analyze as it considers that

1 possibility?

2 MS. OLEAR: Hi. So this is Amanda Olear.

3 COMMISSIONER QUINTENZ: Yes.

4 MS. OLEAR: I apologize. I am having issues
5 with my camera.

6 COMMISSIONER QUINTENZ: It's okay. I can
7 hear you, Amanda. Thank you.

8 MS. OLEAR: Okay. Good. So it's just going
9 to be a disembodied voice for this answer,
10 unfortunately.

11 So we have had discussions internally about
12 what would be required as we work through this process.
13 And, you know, first, we would have to have discussions
14 with our internal technology team about what changes
15 would have to happen on our end. We would also have to
16 have discussions with NFA regarding changes that would
17 need to happen with respect to their program because
18 they are the initial recipients of the data on our
19 behalf. And then once we get the technical -- or,
20 actually, we can do this in parallel, but once we get
21 the technical answers that we need to build out the
22 system, we also need to engage in discussions both with

1 the Office of Management and Budget and our colleagues
2 in OGC to determine what requirements might apply with
3 respect to the Paperwork Reduction Act and if we would
4 need to get a new OMB control number, if we are
5 breaking information into a separate form because we
6 want to make sure that we do that in a legally sound
7 way. But those things can happen in tandem at the same
8 time.

9 COMMISSIONER QUINTENZ: Thank you, Amanda. I
10 think you described that it would be complicated and a
11 lot of work, but I commend the division for being
12 willing to continue to look at that given its
13 importance and the sensitivity of this information to
14 the marketplace.

15 So, in closing, I would just like to say I
16 really deeply appreciate the work of DSIO and this team
17 and you, Director Sterling, for bringing this rule to
18 us in final form today and the improvement in it and
19 the division's willingness to, as the Commission should
20 always do, reevaluate the usefulness of data that it
21 asks for and that it receives in making sure it's using
22 it appropriately.

1 I would just like to take the opportunity to
2 echo all of your comments, Josh, on Jamie McDonald. I
3 put out a little bit of some of my sentiments for his
4 service here, but you said it so eloquently I would
5 like to associate myself with your remarks.

6 And, in closing, I would like to thank Margo
7 Bailey from my team for her engagement in this rule and
8 all of the conversations that we have had on this with
9 you and market participants.

10 Thank you very much. I am looking forward to
11 supporting this today.

12 CHAIRMAN TARBERT: Thank you, Commissioner
13 Quintenz.

14 Commissioner Behnam.

15 COMMISSIONER BEHNAM: Thanks, Mr. Chairman.
16 And I want to thank the DSIO team, Director Sterling,
17 Elizabeth, Pamela, and Amanda, for all of your work
18 with your engagement on my office on this rule.

19 This today is a culmination of a lot of years
20 of work and advocacy and engagement with market
21 participants. Post-Dodd Frank we I think in the
22 regulatory community certainly rethought the way we

1 need to consider and oversee markets, how we need to
2 work with each other better and communicate. And a lot
3 of good things came out of that certainly, but I think,
4 in at least part, today's rule is a product of some
5 unintended consequences and I think a few years of
6 evaluation and dialogue between the public sector and
7 private sector to figure out what we need to do better
8 to ensure that we are being fair and transparent but
9 not overly burdensome in what information we collect,
10 both from a usefulness case -- you know, Mr. Chairman,
11 use case, which I think was appropriate. And it was
12 good to hear Director Sterling's response that from his
13 position as director of DSIO, what we have before us
14 today is relevant, and there is a huge case for the
15 information that we are currently collecting. But
16 certainly, we continue to learn. We continue to sort
17 of move and evolve with the markets. They change and
18 are more technology-driven and ensure that we are not
19 collecting more than we need, protecting the
20 information we have through cyber and other measures
21 but also making sure that the data that we collect is
22 useful in our responsibility and our mission.

1 So, you know, having been a part of this
2 conversation for many, many years, I am really grateful
3 we are here today and grateful to the staff for putting
4 forward a rule that I think is thoughtful; smart; and,
5 above all else, a step in the right direction. And I
6 want to emphasize step. And, Josh, if you don't mind,
7 I want to start with a question about a quote from the
8 preamble, which says, you know, "Today's final rule
9 constitutes the first of several steps in the
10 Commission's ongoing reassessment of Form CPO-PQR and
11 the substantive information it seeks to collect in the
12 form and manner in which the Commission collects and
13 uses that information." You have said it already, but,
14 at least in part, if you don't mind, just from your
15 point of view, what do you envision as the future?
16 What do you envision as the sort of next steps that the
17 division needs to take, that the Commission needs to
18 take so that as we continually move with the market, we
19 are adjusting and realigning our needs and the market's
20 needs so that we can fulfill our responsibility?

21 MR. STERLING: Yes, yes. Thank you, Mr.
22 Commissioner, for those remarks as well as question.

1 And thanks, too, to you and your team for working so
2 hard with us on this rule.

3 Yes. I honestly believe that the direction
4 we could take could lead to many different results-
5 specific tools we would use around the fundamental
6 premise that we do need to understand how funds look
7 over time and what they are doing, not only in the
8 derivatives markets but using derivatives in relation
9 to other instruments. And I think I can best
10 illustrate that with an example I alluded to earlier,
11 which is there has been press commentary on this, there
12 is ongoing research amongst I think all Federal
13 financial regulators on, you know, the March 2020-April
14 2020 market events and what actors in the market may
15 have led to, you know, a correlation to one across many
16 asset classes, including Treasury securities. And
17 there is a relationship between the use of Treasury
18 securities, for example, and futures or swaps trading
19 in our markets, basis trading. And that is a
20 conversation I should have my risk analysts on for, but
21 it is just an example of firms who are trading Treasury
22 futures at that time, firms are trading or had exposure

1 to Treasuries at that time. With the relationship
2 between those two, what kind of funds would be in that?

3 And if we can understand what kinds of funds
4 are acting in that market or the oil market or other
5 specific markets where we really have primacy as a
6 regulator, that will be important. I know other
7 regulators, for example, collect data, portfolio data,
8 on a quarterly basis for certain kinds of funds,
9 including registered investment companies. Is that
10 information we could lever? Are there other sorts of
11 sources that could give us a better picture? They are
12 already being produced so the incremental cost if it is
13 there is perhaps not much and would be really additive
14 to us.

15 And so I can see a lot of different potential
16 outcomes, but the bottom line is we do need to know
17 what pools are doing moralistically, not only for
18 market protection purposes but investor protection.

19 COMMISSIONER BEHNAM: Thanks, Josh. That is
20 helpful. And I couldn't agree with you more. We
21 continue to learn as market events happen, and they
22 will continue to happen. And certainly the March-April

1 period was one of a kind in many respects and something
2 that I know a lot of work has been done, both
3 internally in the agency but also by market
4 participants.

5 You know, a lot of what we are doing today in
6 streamlining the forms and making our work more
7 efficient so that we can reduce burdens and support
8 market participation and liquidity and growth has to do
9 with our relationship with NFA and I'm fully cognizant
10 of the fact that we need to work very closely with NFA
11 so that we are not, again, collecting more information
12 than we need, creating efficiencies and synergies in
13 terms of forms and information that needs to be
14 submitted from the participant side. I think it is
15 helpful for the public to know a little bit about, you
16 know, what is the difference between what NFA does and
17 what we do and in the information they collect, what is
18 their focus versus what our focus is because as much
19 as I think it is important that we create those
20 efficiencies, we also look at the information
21 differently and we have different sort of missions and
22 purposes, which is why you might sometimes have

1 duplication or something that on its face might look
2 inefficient.

3 MR. STERLING: Yes. Thank you, Mr.
4 Commissioner, for that question as well. I do think
5 there are differing and overlapping in these cases for
6 the data collected. And we are in this scenario where
7 there are really two CPO-PQRs in one. And ours is a
8 bit more expansive, particularly with the schedule of
9 investments, than what NFA has used for going on 10
10 years now.

11 You know, as a designated self-regulatory
12 organization, a membership organization, I think that
13 we had looked to NFA to oversee the registration
14 process for CPOs and other registered firms and then
15 also to examine them. And when you walk in the door to
16 examine someone, it is pretty helpful to know what they
17 are up to. And I also think that NFA has done a
18 commendable job under Tom Sexton's leadership and
19 others there of taking a risk focus in their exam
20 program. They can't examine everyone instantaneously
21 or all of the time. Many of our registrants, their
22 members, are located overseas, for example. And the

1 fund structures can be complex. So if you can sort of
2 use it for a risk selection tool to conduct an
3 effective examination program for us, that is great.
4 And we certainly see and look to the results of their
5 exams for all registrant categories, including CPOs.

6 For us, we want to understand that, and we
7 can work and pay for that. But for us, it is really to
8 understand, you know, the registrants themselves and
9 how they interact with other. So if you are a "buy-
10 side" firm, you are an asset manager with funds, you
11 are a CPO with pools, you are introducing liquidity
12 into our markets, you are introducing risk. And that
13 goes to in the cleared context a futures commission
14 merchant uncleared with a dealer. And so there is risk
15 in liquidity transmission. So we want to understand
16 that interaction so we can think about what our rules
17 mean because our rules require different things of the
18 people bringing the money in, the people intermediating
19 the transactions that are FCMs, the folks facilitating
20 trades that can have principal risk, like dealers. And
21 so I think understanding the connections with real-time
22 market data as well as pool-specific data can be very

1 helpful us and then sort of saying, do we have rules
2 that are fully responsive all the way along the chain
3 of registrants involved in trading in these large and
4 dynamic buckets.

5 COMMISSIONER BEHNAM: Thanks, Josh. That is
6 extremely helpful. And I think, you know, it
7 highlights a lot of what I was trying to get at. So I
8 appreciate that. We do in many senses share the same
9 challenges, and we share the same sort of missions.
10 And the markets obviously are the same. But we are
11 unique bodies, and we have unique responsibilities and
12 roles. And we have to work together but also
13 understand that the information in the sort of
14 interaction with the market is unique and then
15 sometimes demands different questions to ask and
16 different data that we collect and different ways of
17 thinking about how to assess risk and how to monitor
18 participation by different institutions.

19 I want to quickly turn to the request from
20 the staff to look at the PSOI information in the
21 revised form in the 2010 schedule of investments and
22 the 18- to 24-month staff evaluation. I think one

1 question -- and I think this is the right thing to do.
2 I supported -- this really goes to the heart of what I
3 was saying earlier, that we need to be constantly
4 evaluating and overlooking what we collect and why
5 we're collecting it.

6 Does this from your perspective, Josh, from a
7 division standpoint pose any challenges from a resource
8 perspective? Are you going to be able to do this?

9 And I have to commend you on the new -- the
10 tool you have I was able to sort of demo it a few weeks
11 ago. It really is great, and I think it is a step
12 forward in so many respects for us to be able to
13 fulfill our responsibilities, but certainly staff --
14 and you know this as well as anyone -- extremely busy
15 and in doing the day-to-day business of the division.
16 Are resources an issue at all in your mind for
17 conducting this review over the next year or two?

18 MR. STERLING: Well, thank you for that. It
19 is a great question. And we are always mindful of the
20 staff.

21 And before I get into that, I just want to
22 give a quick shoutout to Howard Rosen and John Rogers

1 in our Data Technology Office because they helped build
2 the darned tool as well as my team here who did that.
3 So thanks to them. It is a game changer.

4 But yes, I think we do have the resources.
5 It is an important focus for us being we continue to
6 have improved and improving technology resources that
7 make things a lot easier for us. There is a lot of
8 buy-in to look at it. And I think it gets to an
9 important point, which is we want to be in a position
10 always to be able to tell the Commission if they need
11 to do something. And I think that this is a first step
12 to simplify the form but maintain some elements of it
13 that are data-rich and meaningful to us. But we
14 continue to have questions about it and not to the
15 point where we can recommend action by the Commission.
16 So I do think it will remain important to us, and we
17 will continue to make it a focus. And we do indeed
18 have the right resources to do it and the right people
19 under the right leadership of Amanda Olear to do is.

20 COMMISSIONER BEHNAM: Thanks, Josh. I
21 appreciate that.

22 Last question. And this might be for your

1 team, but certainly take a stab if it is for you. The
2 final rule that we are voting on eliminates the ability
3 of a dually regulated CPO to rely on the joint Form PF,
4 the substitute for filing CPO-PQR. And when this was
5 proposed, the Commission expressed some concern that
6 some data streams on commodity pools that are not
7 private funds currently reported solely via Form PF
8 would be lost. And there was a question in the NPRM
9 about this and whether or not there would be some lost
10 data for these specific pools on the Form PF. Can you
11 describe or members of your team the types of responses
12 we got and what your expectations are after we, as it
13 seems we will, support and finalize this rule shortly?

14 MS. OLEAR: Hi. So this is Amanda again,
15 still having issues with my camera.

16 So the commenters did note that it was a very
17 real possibility that some of them may stop including
18 their commodity pools that they otherwise would have
19 included in their Form PF filings. They may stop doing
20 that. I would note that that would require a certain
21 amount of system changes in order to stop that
22 reporting. And so it is not entirely clear how many

1 entities would, in fact, cease reporting on Form PF,
2 rather than just continuing to allow their systems to
3 operate as they have been. But, that being said, we
4 expect that that loss of data would be small and that
5 the benefits of aligning Form CPO-PQR with NFA's PQR
6 outweigh that loss, that potential loss, because,
7 again, I would note that Form PF was designed for a
8 specific subset of funds that Dodd-Frank defines as
9 private funds. And those commodity pools that would be
10 included do not in and of themselves meet that
11 definition. And so they were not technically funds
12 that were of the type that were contemplated to be
13 reported on that form to begin with.

14 COMMISSIONER BEHNAM: Thanks, Amanda. That
15 is great to hear. And I appreciate that sort of cost-
16 benefit analysis there in sort of looking at the
17 greater good and the larger goal that we are trying to
18 capture. And I agree and support that.

19 I will make one last comment, Mr. Chairman.
20 And, Josh, I think you noted this. And feel free to
21 respond if you want. I don't think we differ, per se,
22 on it. But, you know, you mentioned the responsibility

1 of our agency to collect data to analyze, surveil
2 information and to act when necessary within the
3 context of our statute and our mission and our
4 responsibility, which I agree 110 percent. But, you
5 know, we should also be mindful of our responsibilities
6 with respect to the Financial Stability Oversight
7 Council and what we are going to be later voting on
8 with the MOU with the Office of Financial Research also
9 within Treasury. I just make those points because as
10 much as we have to be very disciplined in our work and
11 what we do and how we do it and our interaction with
12 our stakeholders in the context of our statute, we do
13 have other responsibilities as they relate with
14 coordination with other agencies and other government
15 bodies that look at market data and look at market risk
16 and financial stability differently and uniquely than
17 what we do and what we are required to do. So I agree
18 as much as we are required and our statute demands that
19 we focus on our stakeholders and our markets. You
20 know, the Congress has requested that we also use the
21 data that we collect and view it differently, share it
22 with others in a thoughtful way, in a way that

1 protects, obviously, IP and proprietary information but
2 also looks at macro and holistic issues that would
3 protect our economy and our financial market, so just
4 wanted to point that out.

5 And, again, thanks to the team. I think this
6 is really a great day here. And thanks, Mr. Chairman,
7 for bringing this rule up and, Director Sterling, for
8 your work and the entire team because, again, as I
9 said, this has been many years in the making. And it
10 is a step in the right direction, but I would just
11 emphasize to our stakeholders it is one step. We
12 certainly will continue I know to do more work if it is
13 necessary to work with you and to make additional
14 changes to ensure safe and transparent markets that
15 protect customers and also reduce burdens where it is
16 possible.

17 So thanks again. And I look forward to
18 supporting this. And, like I said at the onset, I will
19 have a statement to post to the website very shortly.
20 Thank you.

21 CHAIRMAN TARBERT: Thank you, Commissioner
22 Benham.

1 Commissioner Stump.

2 COMMISSIONER STUMP: Thank you, Mr. Chairman.

3 I fear that Commissioner Quintenz and
4 Commissioner Behnam have made many of the points that I
5 think we all -- we all must be on the same page because
6 we share many of the same thoughts. But I will try to
7 take it in a little different direction. So I have
8 made the point that I support the many improvements we
9 are making to better tailor Form CPO-PQR. And I don't
10 want to in any way minimize those enhancements, but,
11 like Commissioner Quintenz, I wish we had also adopted
12 a similar, more tailored approach to the schedule of
13 investments. The schedule of investments required in
14 today's Form CPO-PQR is considerably more detailed than
15 the former version as it was updated by the National
16 Futures Association in 2010.

17 So if you all will indulge me for a minute, I
18 want to talk specifically about some of those
19 parameters. The 2010 NFA form selected information on
20 broad topic categories, but the CFTC schedule of
21 investments is much more detailed. And you have
22 discussed the need for a holistic view, Director

1 Sterling and Chairman Tarbert, a more holistic view
2 into the vast activities, but the schedule of
3 investments currently includes multiple responses
4 within categories such as residential real estate,
5 commercial real estate, unlisted equities, fixed-income
6 notes and bills, and approximately 60 line items
7 regarding asset-backed securities, including
8 securitization/re-securitization of commercial,
9 residential, agency, CDO, CLO, credit cards, and auto
10 loans classified as senior, mezzanine, or junior
11 equity.

12 So I would just be curious to know -- and it
13 is not a gotcha question. I am genuinely curious to
14 know what, if any, analysis the Commission staff has
15 completed in the years since we have been collecting
16 this information from these portions of the form.

17 MR. STERLING: Commissioner Stump, I want to
18 thank you for two things: for the question, of course;
19 and certainly for the hard work that you personally and
20 your team have put into this issue with us. I know we
21 share a common cause about being smart about data, and
22 we are fully supportive of your efforts there.

1 To your question, I think that, what the
2 staff has done historically with the data in those
3 subcategories over time would happen precisely before
4 our arrivals in Executive PMI. I don't know for
5 certain, but my impression coming in and looking at the
6 situation is that the data were not fully taken
7 advantage of. I think there are reasons for that, I
8 think reasons of budget and resource allocation and
9 other priorities that the Commission has. And maybe I
10 am biased because I was a fund lawyer before I showed
11 up here, but I thought it was pretty gosh darned
12 important. And I am fortunate that the chairman had
13 given his broader perspective on the financial markets
14 and the commissioners as well.

15 And so, having said that, I think that there
16 can be a strong use case for us to understand the
17 interplay of derivatives usage by funds. And the
18 subcategories, if what I read in the papers is true,
19 the financial papers, about the CMBS market, the
20 private lending market, things like that, it will be
21 important for us to focus on those things. I cannot
22 tell you with a sufficient degree of certainty what

1 exactly we will do on that, but it is something we need
2 to be mindful of, both as an agency and as contributing
3 to FSOC and supporting the work we are doing now in
4 IOSCO. We need to be able to look at those kinds of
5 things.

6 But, importantly, I can't tell you that that
7 is always going to be true, there isn't a better way to
8 get at it. But maybe someday we don't need that
9 information. And that is why I think it is important
10 we have the commitment to work hard over the next 18 to
11 24 months to focus on things like this so that we are
12 in a better position to recommend to the Commission
13 Commission action we have confidence in. We are
14 absolutely confident that these changes that we
15 proposed, which were admittedly incremental back in
16 April, were the right ones. We are pleased it seems
17 that the Commission agrees with us. And we want to
18 keep doing that. So I think we can get there. I'm not
19 quite sure precisely how things are used now. I could
20 foresee a use case, but we are always looking at the
21 best way to do things.

22 I hope that that gets to your question and

1 concern, Commissioner.

2 COMMISSIONER STUMP: Thank you for that,
3 Josh. And I also would like to, you know, just
4 hypothetically explore what next steps could be taken
5 if analyzing the schedule of investments and these more
6 granular details that are in some regards outside of
7 our direct oversight jurisdiction. What if in
8 analyzing those, we found something troubling? And if,
9 depending on our ability to discern such risk, the
10 Commission were to identify a concerning trend, either
11 across CPOs or a holding of a particular pool, what
12 official action could the Commission or staff take in
13 response?

14 MR. STERLING: Yes. Thank you for that.

15 So I think that, Commissioner, what we would
16 be looking for in that context is an impact for us on
17 our markets or our registrants. And so, necessarily,
18 if there was information on movement in the cash market
19 or something we are observing over time in the form,
20 which is quarterly, we want to understand the action in
21 the derivatives space. And we could suggest to the
22 Commission an information call, where we require

1 registrants to provide us with supplemental data; we
2 could work with NFA to go out and examine on specific
3 issues; we could issue an advisory or commissioner
4 report, any number of things we could do.

5 Again, though, and importantly, there had to
6 be a connection to our markets thinking about market
7 impact. For investors, you have to think about
8 investor impact. And so we had put out some advisories
9 from the division over the last six to nine months
10 focusing on, you know, understanding commodity pool
11 investing. We did that in coordination with Michael
12 Short in the Public Affairs Office, which was great;
13 and also just some financial innovation. We have
14 issued advisories in that space, including with respect
15 to pool investment, to drive home those messages. And
16 in those cases, you know, there was definitely cash
17 market investing alongside derivatives investing. So
18 we could pursue many different vectors.

19 I will be the first to tell you I think that
20 in looking at that kind of thing and looking for
21 emerging issues, a quarterly reporting form would
22 probably not be the first place we would look, but it

1 would be additive to things we are doing, like with our
2 CPO data tool and information we can get from other
3 places.

4 COMMISSIONER STUMP: Thank you.

5 And I just want to be clear. I could support
6 the expanded schedule of investments if, in fact, it
7 had proven essential to our regulatory
8 responsibilities, but I am not sure that we have
9 accomplished much with the information to date. So in
10 my view, the continued collection of the more granular
11 data from the schedule of investments as it is
12 represents a bit of a dislocation between data wants
13 and data needs. So I am a little bit disappointed that
14 we were not able to implement all of the changes I had
15 desired, which would have included reverting to the
16 2010 version of the schedule of investments. I will
17 anxiously await the staff's evaluation of any ongoing
18 utility of the more granular schedule of investments as
19 well as their recommendations or even proposed
20 rulemaking based upon those findings. And I hope we
21 will be able to revisit the schedule of investments in
22 a timely manner, maybe even sooner than the period of

1 review provided for in the rules.

2 With that, that concludes my questions.

3 Thank you, Mr. Chairman.

4 CHAIRMAN TARBERT: Thank you very much,
5 Commissioner Stump.

6 Commissioner Berkovitz.

7 COMMISSIONER BERKOVITZ: Thank you, Mr.
8 Chairman.

9 Commissioner Stump's discussion has been very
10 informative. Many of my questions have been asked and
11 answered, and the discussion has been very useful. So
12 I will try to not be repetitive, but forgive me if I
13 am.

14 Director Sterling, we have been talking about
15 the schedule of investments and its expansive nature.
16 But it also, does it not, provide us with direct
17 information about commodity pools that are acting in
18 our space? For example, I think you mentioned the
19 events of earlier this year, March or April. We had an
20 April event in the oil market. Does the information on
21 schedule of investments provide us with useful
22 information regarding pools that have been

1 participating in and have positions that are relevant
2 to our understanding of that market? Could you just
3 concretely say what on this form regarding the oil
4 market would have aided us or possibly could have aided
5 us in understanding the events or who was in the market
6 and some of the significant players in the market on
7 that event this year?

8 MR. STERLING: Yes, Mr. Commissioner. Thank
9 you for that question.

10 I do think there is information in the form
11 that can be helpful for that as we formulate policy
12 responses and certainly informational responses to go
13 to market participants, like commodity pool investors.
14 And so, to take an example, it would be helpful for us
15 to know. And the form does tell us, you know, which
16 firms invested in oil during that time and when they
17 did, who their brokers might have been or futures
18 commission merchants or their swap dealers. And so,
19 you know, it would be interesting to understand one
20 quarter to the next how their exposures might have
21 changed and then to take that information along with
22 our market data tool and then understand the

1 disclosures that those funds were making, whether they
2 were boilerplate disclosures about risks attendant to
3 investing in a particular market, oil, gold, anything,
4 really, in March and April, I suppose, and then sort of
5 review those disclosures and then, you know, provide
6 either commentary to the registered firms or helpful
7 public guidance to investors or perhaps both so that we
8 can make sure that we have a firm understanding of the
9 shifts in trading around that time from an historical
10 perspective, one, vis-a-vis our registered firms; and,
11 two, vis-a-vis the public, whether we feel like you're
12 getting good, continuous updated information.

13 In fact, our part 4 rules, I believe -- and
14 the team will correct me if I am wrong -- require a
15 disclosure document to be updated to reflect a change,
16 any material change, within 21 days or you can't use it
17 anymore. And then we each have to stop offering shares
18 in your fund. So it is really important for us to
19 understand that disclosures are being made and updated
20 and maintained in that regard because we have a rule
21 that says it has to be done. So I think it can be
22 quite useful to us, sir.

1 COMMISSIONER BERKOVITZ: Thank you.

2 For a fund that is invested, say, in real
3 estate, residential mortgages, commercial mortgages,
4 how is that particularly relevant to what we may be
5 interested in, rather than just, "Well, there is a need
6 for the Federal Government to know this?" But does it
7 affect -- if they are involved in residential
8 mortgages, does that implicate their potential use of
9 derivatives, interest rate derivatives, or whatever?
10 So are those asset-class investments relevant to our
11 markets?

12 MR. STERLING: Yes, Mr. Commissioner, I think
13 they certainly can be. You know, any debt-based or
14 borrowing-based investment strategy often requires
15 hedging of things like duration and, as you say, rate
16 risk. And so there would be a heavy usage of
17 derivatives there. And they are getting exposure from
18 a swap dealer, say, to that commodity pool in terms of
19 payments on the swap that may become due. And those
20 payments could be accelerated independent of default or
21 something under the terms of the swap. And so it is
22 useful to understand connections like that, one.

1 Two, you know, we have to think about what an
2 abrupt shift in a cash market like that could mean for
3 the investment manager as a whole. We don't have a
4 recovery regime, a bankruptcy regime for asset
5 managers. They are not subject to a capital
6 requirement. I don't think that they necessarily ought
7 to be. But we need to understand that some violent
8 market activities can put those firms out of business
9 and there will be implications other registrants we
10 have and the investors in the funds. And the fund
11 investors have seen the risk. But it is worth knowing
12 these things. And I do think that it can be an
13 important tool for being a helpful regulator in times
14 of stress.

15 COMMISSIONER BERKOVITZ: Thank you. I want
16 to commend you and your team for taking on to improve
17 the data quality and the use of this data. I think it
18 is a really important effort. And I fully support what
19 you have been doing and going forward as well to make
20 this data useful.

21 I agree with my colleagues. We should not be
22 collecting useless data. We should only be collecting

1 data that we use. It is a burden on our system, and it
2 is a burden on the market participants who have to
3 report data. We should only be collecting that which
4 is useful. And so I am supporting this rule today.

5 At the same time, none of this is static in
6 terms of what is useful, what is not useful. Some data
7 is outdated. And also as we go along, we may decide we
8 need more data, too. It is not a one-way street of
9 just reducing data requirements as we go forward.
10 Sometimes we might find that we need additional data.

11 And so I just want to follow up on something
12 that was mentioned earlier. And that is the LEIs and
13 the LEI requirement. The LEI requirement is in the
14 swaps market but not for the futures. And I gather
15 this creates -- and the rule has been fashioned with
16 that recognition. So just if you could, you or one of
17 the team members could, explain the LEI situation? The
18 LEI is only on the swaps side. It is not on the
19 futures side. Whether it would be helpful on the
20 futures side or to integrate the swaps data and the
21 futures data, I guess the LEI is one -- conceptually,
22 it seems like a straightforward way to be able to

1 integrate our swaps data with our futures data. Could
2 you or the team expand on that? And what are the
3 challenges? Or is that the only way of doing it, or
4 are there other ways of doing it? There are lots of
5 recording systems on the futures side. We have
6 exchange reporting and there are many challenges that
7 our Division of Market Oversight has in getting
8 reporting on the futures side into our system. So is
9 this just yet another layer of reporting issues that we
10 have to deal with?

11 You have identified a need here as to how to
12 integrate our swaps data with our futures data. So
13 could you expand on that and efforts that you see going
14 forward about doing that?

15 MR. STERLING: Yes, happy to do that, Mr.
16 Commissioner. And thank you for that question.

17 We identified an LEI number that could be
18 associated with a specific commodity pool as a definite
19 data need. And here is why. It is an important data
20 element for us to sort of tie, you know, which fund is
21 the counterparty to a dealer on a trade. And for some
22 confluence of events that is beyond my grasp

1 technologically, that was not flowing through to us,
2 even when we began to design our CPO data tool.

3 Fortunately for futures trading, we are able
4 to sort of make those connections based on market data
5 that our Division of Market Oversight has historically
6 collected and we have access to. And so we can
7 understand through an account controller framework for
8 futures trading who the CPO is and then what funds the
9 trading might be in. We could not do that with the
10 swap data repository, or SDR, reporting the swaps on a
11 pool-specific level. And so we discussed the matter
12 with the National Futures Association that facilitates
13 reporting for us and identified that if we were able to
14 do that through this PQR mechanism, not only would it
15 be useful to us for sort of historical quarterly
16 lookbacks on swap market relationships, but also it
17 would be important to us in input for our CPO data
18 tool.

19 And, you know, to the extent the form
20 continues to be used and refreshed and new pools are
21 identified within LEI, this will be very helpful to us,
22 so help us have a more composite picture of things.

1 And you know over time, we might find a better way to
2 get to an LEI, but this, based on where we are now,
3 technology and the overall framework, made the most
4 sense to us.

5 COMMISSIONER BERKOVITZ: Are you able to
6 fully integrate your swaps and your futures data with
7 the various systems, LEI on the swap side and the
8 systems that you described on the futures side, to get
9 a holistic picture of a pool so you can cross?

10 MR. STERLING: We will be in a position to do
11 that shortly. We have a plan to do it. But having the
12 LEI will get us there. I think we can marry the
13 futures data to pools right now. The swaps data, it is
14 a little bit more of a challenge in the LEI. Getting
15 it from the fund side will really marry it for us. We
16 do not need, I should say -- sorry for not mentioning
17 this earlier. We don't need the LEI for any purpose on
18 the futures side.

19 COMMISSIONER BERKOVITZ: Okay. Thank you.
20 Well, I just want to again thank you and the team for
21 your work on this rule and working with my office on
22 the various questions and comments we have on the rule.

1 So thank you.

2 CHAIRMAN TARBERT: Okay. Well, thank you
3 very much.

4 I would ask that all of the commissioners now
5 go back on video so I can ask whether the commissioners
6 are prepared to vote. Everyone seems to be nodding
7 their head yes. So, with that, could I ask Mr.
8 Kirkpatrick if you could please call the roll for the
9 motion to adopt the final rule amending the compliance
10 requirements for CPOs on Form CPO-PQR.

11 MR. KIRKPATRICK: Thank you, Mr. Chairman.

12 The motion now before the Commission is on
13 the adoption of the final rule amending the compliance
14 requirements for CPOs on Form CPO-PQR. Commissioner
15 Berkovitz?

16 COMMISSIONER BERKOVITZ: Commissioner
17 Berkovitz votes aye.

18 MR. KIRKPATRICK: Commissioner Berkovitz
19 votes aye.

20 Commissioner Stump?

21 COMMISSIONER STUMP: Commissioner Stump votes
22 aye.

1 MR. KIRKPATRICK: Commissioner Stump votes
2 aye.

3 Commissioner Behnam?

4 COMMISSIONER BEHNAM: Commissioner Behnam
5 votes aye.

6 MR. KIRKPATRICK: Commissioner Behnam votes
7 aye.

8 Commissioner Quintenz?

9 COMMISSIONER QUINTENZ: Commissioner Quintenz
10 votes aye.

11 MR. KIRKPATRICK: Commissioner Quintenz votes
12 aye.

13 Chairman Tarbert?

14 CHAIRMAN TARBERT: Chairman Tarbert votes
15 aye.

16 MR. KIRKPATRICK: Chairman Tarbert votes aye.

17 Mr. Chairman, on this matter, the ayes have
18 five, the noes have zero.

19 CHAIRMAN TARBERT: Thank you very much, Mr.
20 Secretary. The ayes have it, and the motion to adopt
21 the final rule is hereby approved. Thank you all very
22 much.

1 Our second agenda item is to recognize and
2 sign a memorandum of understanding between the CFTC and
3 the Office of Financial Research regarding the sharing
4 of data and information collected on Form CPO-PQR.

5 At this time, I would like to welcome the
6 following staff for their presentation. From the
7 Division of Swap Dealer and Intermediary Oversight, we
8 have Amanda Olear and Andrée Goldsmith. From the
9 Office of General Counsel, we have Natasha Coates, our
10 deputy general counsel; and Matt Rowland, our assistant
11 general counsel.

12 Before the presentation begins, I also want
13 to take an opportunity to thank many of the people that
14 worked on this particular project. From DSIO, Pamela
15 Geraghty, who we heard from earlier; and from the
16 Office of General Counsel, also Dan Davis, our general
17 counsel; and Anthony Hayes, our counsel. And, then,
18 finally, from the Office of Financial Research, I want
19 to give particular thanks to the efforts of Valerie
20 Wells, senior counsel.

21 So, with that, I will hand the floor over to
22 Andrée, Natasha, Amanda, and Matthew. Thank you.

1 MS. OLEAR: Good morning, Mr. Chairman and
2 commissioners. This is Amanda Olear. And it is my
3 privilege to begin the presentation on the memorandum
4 of understanding between the Commission and the Office
5 of Financial Research with respect to the sharing of
6 data collected on Form CPO-PQR.

7 This has been a months-long undertaking
8 involving staff in DSIO, OGC, and at OFR and truly has
9 been an extraordinary effort on the part of staff to
10 bring this agreement to fruition.

11 I will now turn the presentation over to
12 Andrée Goldsmith, special counsel in DSIO.

13 MS. GOLDSMITH: Thank you, Amanda. Good
14 morning, Mr. Chairman and commissioners. Thank you for
15 giving us this opportunity to present the memorandum of
16 understanding between the Commission and the Office of
17 Financial Research regarding the sharing of information
18 collected on Form CPO-PQR.

19 Before I begin, I would like to thank my
20 colleagues in the Commission's Office of General
21 Counsel for their support and assistance in finalizing
22 this MOU. I would also like to thank our colleagues at

1 OFR for their commitment to working with us to develop
2 this MOU and for their cooperation during the
3 negotiation process.

4 I would just like to start with a bit of
5 background on OFR. OFR was established in the Dodd-
6 Frank Act as an office within the U.S. Department of
7 the Treasury. OFR is by statute charged with
8 supporting the Financial Stability Oversight Council,
9 or FSOC, and FSOC member agencies by, among other
10 things, collecting data on behalf of the FSOC and
11 providing such data to the FSOC and to FSOC's member
12 agencies.

13 OFR also performs research. In terms of its
14 research function, OFR's charge includes monitoring,
15 investigating, and reporting on risk to the financial
16 stability of the United States; conducting,
17 coordinating, and sponsoring research to improve
18 regulation of financial entities and markets;
19 investigating and reporting findings related to
20 disruptions and failures in the financial markets; and
21 making recommendations to the FSOC based on its
22 findings; and also conducting studies and providing

1 advice on the impact of policies related to systemic
2 risk. OFR has requested the data collected on Form
3 CPO-PQR in order to carry out its functions consistent
4 with the Dodd-Frank Act.

5 Turning to the MOU itself, the execution of
6 an MOU with OFR covering Form CPO-PQR data has long
7 been a goal of the Commission. When Form CPO-PQR was
8 originally adopted back in 2012, one of the
9 Commission's stated objectives was to facilitate a
10 collection of data that would assist the FSOC in the
11 event that the FSOC requested and the Commission
12 provided the data collected on Form CPO-PQR. Despite
13 this intention, however, and due, at least in part, to
14 some of the challenges with the original Form CPO-PQR,
15 as described in the rulemaking adopted today, the
16 Commission has not provided Form CPO-PQR data to the
17 FSOC or to OFR.

18 In conjunction with the Commission's efforts
19 to reassess the scope of Form CPO-PQR earlier this
20 year, Commission staff renewed negotiations with OFR
21 regarding an MOU that would cover the sharing of data
22 collected on Form CPO-PQR. With the adoption of the

1 amended Form CPO-PQR, Commission staff believes that
2 now is an appropriate time to formalize the mutual
3 understanding of the Commission and of OFR with respect
4 to the terms that will govern the sharing of such data.
5 The information-sharing MOU, thus, sets forth a
6 framework for sharing CPO-PQR data with OFR that
7 provides the necessary protections for the data while
8 at the same time allowing OFR to use the data in
9 carrying out its statutory responsibilities and
10 functions.

11 The Commission's intention is to share both
12 historical and ongoing Form CPO-PQR data pursuant to
13 the MOU. With respect to ongoing data, the Commission
14 has agreed to provide OFR with all data that is
15 submitted on Form CPO-PQR on a going-forward basis as
16 that form has been revised pursuant to today's
17 rulemaking. With respect to historical data, the
18 Commission has agreed to provide OFR all historical
19 data from the same schedules and fields that exist on
20 Form CPO-PQR as it has been revised today.

21 The information that the Commission intends
22 to share with OFR pursuant to the MOU is consistent

1 with information that OFR already receives on a regular
2 basis from the SEC. Specifically, the SEC provides OFR
3 with the data collected on Form PF, a form jointly
4 adopted by the Commission and the SEC, which is
5 required to be filed by CPOs that are dually registered
6 as investment advisers with the SEC. The provision of
7 Form CPO-PQR data to OFR, thus, will complement the
8 Form PF data already shared with OFR.

9 As my colleagues noted in their presentation
10 of the final rule, Commission staff believe that the
11 amendment to Form CPO-PQR will produce a more
12 streamlined and focused data collection regarding
13 registered CPOs and their operated pools. For example,
14 the Commission will collect and subsequently provide to
15 OFR under the terms of the MOU information regarding a
16 CPO's pools monthly rates of return, net asset value,
17 and service providers, including the pools' trading
18 managers and custodians. Commission staff are
19 confident that the data collected on revised Form CPO-
20 PQR will be helpful to OFR and the FSOC in carrying out
21 their statutory responsibilities and functions.

22 I will now turn it over to my colleagues in

1 the Office of General Counsel to continue the
2 presentation. Thank you very much.

3 MS. COATES: Thank you, Andrée. Good
4 afternoon, Mr. Chairman. And good afternoon to all of
5 the commissioners. It is a pleasure to be speaking
6 with you today. And I would like to thank you for
7 giving the Office of the General Counsel this
8 opportunity to discuss the memorandum of understanding
9 between the Commission and the Office of Financial
10 Research, or OFR, regarding the sharing of information
11 collected on Form CPO-PQR.

12 I will briefly discuss the relationship
13 between the Form CPO-PQR information-sharing MOU and
14 the 2011 Financial Stability Oversight Council, or
15 FSOC, MOU. I will then turn things over to my
16 colleague Matt Rowland, who will discuss the applicable
17 use, handling, and disclosure restrictions set forth in
18 the Form CPO-PQR information-sharing MOU.

19 The FSOC MOU was entered into between the
20 FSOC member agencies in 2011. That MOU describes the
21 understanding of the parties with respect to the
22 treatment of nonpublic information obtained from or

1 shared among the parties in connection with or related
2 to the functions and activities of the Dodd-Frank Act.
3 The Commission, OFR, and the FSOC are parties to the
4 FSOC MOU. The MOU covering Form CPO-PQR data and
5 information is intended to complement the existing FSOC
6 MOU. There are some distinctions between the Form CPO-
7 PQR information-sharing MOU and the FSOC MOU that are
8 relevant here, however.

9 First, although the existing FSOC MOU covers
10 the treatment of nonpublic information obtained from or
11 shared among the parties in connection with the
12 activities of the FSOC or OFR, that MOU makes no
13 distinction between work product and nonpublic
14 information. The Form CPO-PQR information-sharing MOU,
15 by contrast, differentiates the treatment of Form CPO-
16 PQR information and Form CPO-PQR work product. It
17 defines Form CPO-PQR work product to include, for
18 example, an OFR FSOC analysis, study, research paper,
19 or other work products that include or are derived from
20 Form CPO-PQR information that is shared or received
21 under the MOU.

22 A second distinction between the 2011 FSOC

1 MOU and today's Form CPO-PQR information-sharing MOU is
2 that the FSOC MOU does not make any provision for the
3 publication of sufficiently aggregated, anonymized, or
4 otherwise masked work product. In contrast, the Form
5 CPO-PQR information-sharing MOU articulates the
6 requirements that must be satisfied before such
7 aggregated, anonymized, or otherwise masked work
8 product may be made public.

9 Lastly, the FSOC MOU does not explicitly
10 reference the use, handling, and other related
11 restrictions under the Commodity Exchange Act. The
12 Form CPO-PQR information-sharing MOU, however, is
13 tailored to the specific circumstances of the Form CPO-
14 PQR information and related work product. Thus, the
15 MOU describes the safeguards that are necessary to
16 protect confidential Form CPO-PQR information and Form
17 CPO-PQR work product in a manner that adheres to the
18 statutory requirements in Section 8.

19 The legal foundation that underpins each of
20 these distinctions will be expounded upon further by my
21 colleague Matt Rowland. Before I hand things over to
22 Matt, though, I would like to thank DSIO staff,

1 including Andrée Goldsmith and Amanda Olear, for their
2 hard work on this endeavor. I also extend sincere
3 appreciation to OGC attorneys Matt Rowland and Anthony
4 Hays and General Counsel Dan Davis.

5 I will now turn things over to Matt Rowland
6 to continue the presentation. Thank you.

7 MR. ROWLAND: Thank you, Natasha.

8 Mr. Chairman, commissioners, as you have
9 heard, there are a couple of aspects of this new MOU
10 that differ from the FSOC MOU. And, as Natasha
11 mentioned, I will speak a bit more about the legal
12 foundation for two of those distinctions and how this
13 new MOU ensures compliance with Section 8 of the
14 Commodity Exchange Act.

15 First, as Natasha noted, paragraph 1 of the
16 MOU draws a distinction between raw data and work
17 product. The FSOC MOU defines nonpublic information to
18 include data or information provided by a party
19 thereto, including the Commission, and any documents to
20 the extent they contain such information, which would
21 include work product based on or derived from that
22 information. Here, this new MOU defines a separate

1 category of work product in order to facilitate the
2 subsequent publication by OFR of work product that it
3 creates based on the raw data it receives from the CFTC
4 pursuant to this MOU. I will address this publication
5 issue in more detail momentarily.

6 Notably, other than allowing for potential
7 publication of Form CPO-PQR work product, the
8 restrictions imposed by this MOU on Form CPO-PQR
9 information and work product are identical.
10 Specifically, paragraph 3(c) of the MOU describes both
11 the allowed uses and the restrictions imposed. This
12 paragraph allows OFR to share both raw data and work
13 product with its own staff, with FSOC and its staff,
14 and with FSOC member agencies and their staff who are
15 working on FSOC or OFR matters on a need-to-know basis
16 for the purpose of performing their official work
17 duties consistent with applicable law. Collectively,
18 these potential recipients of raw data and work product
19 are defined as authorized recipients.

20 FSOC and FSOC member agencies are not being
21 asked to sign the Form CPO-PQR information-sharing MOU.
22 However, as Natasha explained, the existing FSOC MOU,

1 which they have all signed, remains in force with
2 respect to these agencies and their staff. And,
3 moreover, this new Form CPO-PQR information-sharing MOU
4 provides that OFR must advise all authorized recipients
5 of the terms of this new MOU and that as a condition of
6 receiving information or work product, they must be
7 bound by and instructed to comply with the terms of the
8 new Form CPO-PQR information-sharing MOU. And the new
9 MOU further clarifies that authorized recipients may
10 not share information or work product with any person
11 who is not an authorized recipient or otherwise
12 disclose such information or work product.

13 So I just want to note as a reminder here
14 that, in addition to the protections contained in this
15 new MOU and in the existing FSOC MOU, Section 8(e) of
16 the Commodity Exchange Act, pursuant to which the
17 Commission is sharing the Form CPO-PQR information,
18 contains mandatory language restricting any department
19 or agency to which the Commission furnishes information
20 from disclosing such information except in a limited
21 set of circumstances, which includes any action or
22 proceeding under the laws of the United States to which

1 it, the Commission, or the United States is a party.

2 And that would apply here.

3 With respect to publication by OFR of work
4 product that includes or is derived from the raw data
5 provided under the new MOU, paragraph 3(d) of the MOU
6 allows OFR to publish such work product, but only where
7 all of the raw data contained in the work product is
8 sufficiently aggregated, anonymized, or otherwise
9 masked in order to prevent the identification of the
10 business transactions or market positions of any person
11 or trade secrets or names of customers, and where the
12 CFTC has been provided with a copy of the work product
13 in advance and gives its consent in writing that the
14 work product can be publicly disclosed in accordance
15 with the requirements of Sections 8(a) and (e) of the
16 Commodity Exchange Act. In this way, the CFTC can
17 ensure that any market-sensitive or otherwise
18 confidential information it provides to OFR is
19 appropriately protected from disclosure, while still
20 enabling OFR to fulfill its mission.

21 I will note here that the CFTC in all cases
22 reserves the right to ensure the publication of work

1 product is consistent with the requirements of Section
2 8 of the Commodity Exchange Act and in the public
3 interest. When the CFTC provides its written consent
4 to publication by OFR of its work product, the CFTC is
5 exercising its authority pursuant to Section 8(a) to
6 publish general statistical information of interest to
7 the public and the restrictions in Section 8(e) that I
8 mentioned earlier no longer apply to that masked data.

9 So I am going to stop the presentation there.
10 And I want to just thank you for the opportunity to
11 discuss the legal underpinnings of Form CPO-PQR
12 information-sharing MOU. Thank you.

13 CHAIRMAN TARBERT: Thank you very much to the
14 entire team that worked on this.

15 And let me just say the Dodd-Frank Act, as
16 was mentioned earlier, established the OFR nearly a
17 decade ago -- actually, more than a decade ago, to
18 shine a light on dark corners of the financial systems,
19 where risks are going to assess how much of a threat
20 those risks might pose and to provide policy-makers
21 with financial analysis information and the evaluation
22 of policy tools to mitigate them. And OFR's principal

1 role is to support the Financial Stability Oversight
2 Council, of which I am a member, so we can make
3 important decisions regarding the financial system.

4 Now, in carrying out its important mission,
5 it was always contemplated and directed by Congress
6 that OFR would have access to data from other U.S.
7 financial regulators, including the CFTC. Yet, to
8 date, nearly 10 years later, we have shared none of the
9 Form CPO-PQR data with the OFR.

10 Now, admittedly, this was largely because of
11 a number of things, but our shortcomings in the data
12 itself. We have been collecting information, as has
13 been discussed, that we really haven't used from Form
14 CPO-PQR. And, obviously, in Washington, it takes some
15 time for two Federal regulators to get together and
16 negotiate something of this magnitude.

17 The good news is that today's final rule that
18 we just passed unanimously rectifies the shortcomings
19 in the old version of CPO-PQR, making the data finally
20 usable. And so that allows us to enter into this MOU
21 with the OFR. So I am very pleased.

22 And I am not going to go over the legal

1 discussion, but we had our lawyers come on just so we
2 could reassure the public that any information
3 transferred to OFR, which is another Federal agency
4 underneath the United States Treasury, will be
5 protected.

6 I am pleased that today with us to sign the
7 MOU alongside myself is none other than the director of
8 OFR, Dino Falaschetti. Dino, welcome to the CFTC. It
9 is an honor to have you with us. Could you please
10 proceed and make your statement?

11 MR. FALASCHETTI: Likewise, Chairman, thank
12 you. And thank you, commissioners, as well.

13 Following my confirmation, our Office of
14 Financial Research initiated an all-staff effort to
15 fulfill our Dodd-Frank responsibilities. While our
16 mission is simple, it is incredibly important. That is
17 further financial stability through high-quality
18 financial data standards and analysis, principally in
19 support of the Financial Stability Oversight Council
20 and its members. Our signing of today's memorandum of
21 understanding fulfills an important part of that
22 mandate by ratifying an agreement that was years in the

1 making.

2 OFR monitors and analyzes both potential and
3 real-life stressors in financial markets and
4 institutions with the objective of clarifying the cause
5 and extent of any associated vulnerabilities. Our
6 office plays a complementary role in supporting
7 financial stability, which is always important and
8 especially so during these last few months. As COVID-
9 related disruptions evolve, our data products continue
10 to provide timely indicators of financial stress.

11 Today's agreement will provide access to data
12 reported on Form CPO-PQR with the objective of gaining
13 informative insights to activities and risks of CFTC-
14 registered commodity pool operators. The revised form
15 will increase transparency about the size, risk, and
16 monthly returns of CPOs and, thus, complement OFR's
17 consistent efforts to monitor the private fund space
18 while furthering our office's capacity to support FSOC
19 and its member agencies.

20 Finally, the collaboration between OFR and
21 the CFTC helps implement a recommendation from the FSOC
22 2019 annual report that relevant agencies continue to

1 review the available data on private funds to assess
2 whether and how private funds may pose a risk to
3 financial stability.

4 Thank you, Chairman Tarbert, for your
5 initiative in spearheading the considerable efforts
6 that have brought us to this signing ceremony. It
7 would not have happened without your terrific
8 leadership.

9 And I am incredibly proud of the dedication
10 and consistent efforts of our office staff members to
11 further financial stability and, in doing so, further
12 economic opportunity for America and Americans.

13 With that, Chairman, I yield back.

14 CHAIRMAN TARBERT: Thank you so much,
15 Director Falaschetti.

16 Now I think we can go ahead and sign the MOU.

17 [MOU was signed.]

18 CHAIRMAN TARBERT: The MOU is now duly
19 executed.

20 Once again I want to thank you very much,
21 Director Falaschetti, all the folks over at OFR as well
22 as here in the CFTC for making this important data-

1 sharing arrangement possible.

2 Well, now I would like to give my fellow
3 commissioners an opportunity to make closing
4 statements. We will start with Commissioner Berkovitz.

5 COMMISSIONER BERKOVITZ: Thank you, Mr.
6 Chairman.

7 Again I would like to thank all of the staff
8 of the CFTC for their hard work on both of the items
9 before us today, on the CPO-PQR rule, Josh, Elizabeth,
10 Pamela, and Amanda, and the team working with me and
11 Lucy Hynes in my office and the entire Commission on a
12 number of issues that we have discussed today. I think
13 it was a very productive effort and results in a
14 collegial process and unanimous support of that rule.
15 So I want to thank DSIO. I also want to thank all of
16 the team that worked on the MOU for also assisting my
17 office so it enables us to understand the MOU and
18 refine some of the provisions in there to enable its
19 signing today with OFR. And I welcome the director of
20 OFR to our meeting today. So I just want to thank the
21 entire staff and your office and you, Mr. Chairman, and
22 my fellow colleagues on the Commission for their

1 efforts, another day where we have advanced the public
2 interest.

3 At this moment, I would also like to express
4 my appreciation to Jamie McDonald for the service that
5 he has provided to the CFTC and the entire country in
6 leading the Division of Enforcement for the past
7 between two and three years. Maybe it is about three
8 years now. So we had a very successful year in 2020
9 that was just concluded, the fiscal year, many
10 successful results. And I want to express my
11 appreciation to Jamie and the entire Division of
12 Enforcement for those efforts. And I wish Jamie well
13 on his future endeavors.

14 Thank you, Mr. Chairman.

15 CHAIRMAN TARBERT: Thank you very much,
16 Commissioner Berkovitz.

17 Commissioner Stump.

18 COMMISSIONER STUMP: Thank you, Mr. Chairman.

19 I am just going to take the opportunity to
20 utilize my closing statement to briefly comment on data
21 protection because I enjoy talking about it so much.
22 And all of you know it is a particular priority for me.

1 So I would like to associate myself with some comments
2 that Commissioner Berkovitz made earlier in which he
3 correctly pointed out that our data intake needs are
4 constantly changing. And we should not be reluctant to
5 collect the data that we have determined is critical to
6 fulfilling our regulatory mission. We likely collect
7 more data today than at any point prior in the agency's
8 history. As such, I believe it has never been more
9 important to balance our responsibility to be data-
10 driven while also prioritizing, protecting the
11 requisite data.

12 That is why I believe the CFTC itself should
13 strive to only collect the information that we know has
14 a demonstrable use case. And, therefore, I would also
15 expect other agencies seeking the information we are
16 entrusted to protect to offer a precise utility
17 specific to their responsibilities, and perhaps a bit
18 more granular than a broad mission as a justification
19 for the data they request of us.

20 I know as officers of the United States
21 Government, we all recognize the obligation to remain
22 vigilant in safeguarding the data we collect,

1 especially sensitive, proprietary and personally
2 identifiable information, such as that contained in
3 Form CPO-PQR. And in the case of this Commission,
4 Congress has left very little room for interpretation
5 as to our obligations to do so under Section 8 of the
6 Commodity Exchange Act. Our adherence to these
7 requirements has never been more critical in the
8 current environment, where data is increasingly
9 important to the market and the regulators, and most
10 especially in light of the agency's coordination role
11 within the FSOC.

12 With that, Mr. Chairman, I, too, would like
13 to thank the teams that worked on these rules. I have
14 been very pleased to support the update to the form
15 today. And I also want to thank the Office of the
16 General Counsel for the time they spent with me over
17 the course of the past few days discussing the legal
18 parameters around data sharing. Thank you very much,
19 and I hope everyone has a nice afternoon.

20 CHAIRMAN TARBERT: Thank you, Commissioner
21 Stump.

22 Commissioner Behnam.

1 COMMISSIONER BEHNAM: Thanks, Mr. Chairman.

2 First off, I want to thank Director
3 Falaschetti for joining us. And I will start with some
4 comments on the MOU. Thank you, Mr. Chairman, for
5 following through. You made a lot of good points.
6 Obviously, this is many years in the making, but it is
7 important I think to follow through on Congress'
8 mandate from Dodd-Frank but also be responsible, work
9 with our fellow regulators, and do what we can as an
10 agency that has a seat at the FSOC. So I look forward
11 to that continued collaboration, certainly protecting
12 the data, and being very vigilant about what we do and
13 how we do it. But I think this is a good thing overall
14 for the markets, for transparency, for risk management,
15 and financial stability.

16 And regarding the earlier rule, I want to
17 again thank the team, Josh Sterling; and the director
18 of DSIO and Elizabeth, Amanda, and Pamela as well; the
19 entire OGC team; and, of course, chief economist for
20 the work they have done on any matters today as well.
21 I think this is really a good step today, but, again,
22 as I have emphasized and as my colleagues have, both

1 Commissioners Stump and Berkovitz, this is just one
2 step in a longer process. As I emphasized as well, we
3 need to continue working engaging and making sure that
4 our rules sets are up to date, reflect the markets
5 fairly, but also fulfill, provide us with the
6 information we need to fulfill our responsibilities.

7 So thanks again to the team. It is great to
8 be here, obviously, by video again. I hope everyone is
9 doing well. And have a good afternoon. Thank you.

10 CHAIRMAN TARBERT: Thank you very much,
11 Commissioner Behnam.

12 Commissioner Quintenz.

13 COMMISSIONER QUINTENZ: Thank you, Mr.
14 Chairman. Let me first start by thanking you for the
15 conversations you have had with me on the issues we
16 have discussed today as well as your staff and the
17 conversations that I and my office have had with my
18 fellow commissioners and their staffs to try to reach
19 consensus today, which we have. I appreciate all of
20 their involvement and their perspectives and their
21 points of view. And I am glad we were able to find
22 some common ground, despite some of the differences,

1 today.

2 I would also like to thank Director
3 Falaschetti for joining us and for the work he has done
4 at OFR. It is incredibly important work. And he is a
5 fine public servant and my compliments to him for that.
6 I will be having a statement that comes out that
7 details my position on the MOU. And I think it is
8 important for this agency to share information that OFR
9 needs to conduct its responsibilities as the research
10 arm of FSOC in adjudication of its responsibility of
11 financial stability and systemic risk, as opposed to
12 what we do and what our job is, which is a markets
13 regulator and to look at the individual activities and
14 customer protection of these funds.

15 But I appreciate your leadership, Mr.
16 Chairman. There have been some comments that these
17 things have been a long time coming. That doesn't
18 necessarily mean that work hasn't been done on them
19 over that period of time. It takes initiative and
20 leadership to get them across to serve them in the
21 first place. My compliments to you and to the team at
22 DSIO, the teams at DSIO that have brought these before

1 us today. Thank you.

2 CHAIRMAN TARBERT: Thank you so much,
3 Commissioner Quintenz.

4 No formal statement from me other than to
5 thank all of the staff that participated in today's
6 call, today's meeting. Of course, our special guest,
7 Director Falaschetti, thank you so much for joining for
8 this important occasion.

9 And two final thoughts from me in closing.
10 First of all, as many have said, our director of the
11 Division of Enforcement is moving on, Jamie McDonald.
12 This morning, we announced that we had had an historic
13 enforcement year. That is obviously due, in large
14 part, to the vision and leadership of Jamie McDonald
15 and all of the leaders in the Enforcement Division,
16 which is our largest division. And it is critical and
17 very important and, in fact, one of our five strategic
18 goals that we are tough on those who break the rules.
19 And by doing so, we can also at the same time enhance
20 the environment for market participants, which many of
21 what we have done today does, in fact, do. So we have
22 a -- sound regulation requires a multiplicity of

1 important strategic goals, all of which are mutually
2 reinforcing.

3 I also want to thank in terms of the
4 enforcement my fellow commissioners and particularly
5 their staffs. To have the year that we had required a
6 tremendous amount of work throughout the year,
7 throughout the summer in particular, but we had 10
8 closed meetings. We always talk about our open
9 meetings. Today is the 16th open meeting in my
10 chairmanship. But we also had 10 closed meetings and
11 literally more than 100 cases that went through a
12 seriatim process this year. So I just want to thank my
13 fellow commissioners and their staffs, in particular,
14 for all of the outstanding work and diligence.

15 The second point I wanted to make is that
16 October will be an exciting month hopefully for the
17 Commission. This may be our first open meeting of
18 October, but it will not be our last. So I tell
19 everyone stay tuned. You are going to see more from
20 us. We also have advisory committees planned and all
21 sorts of other things.

22 So I ask the commissioners, is there any

1 further business?

2 (No response.)

3 CHAIRMAN TARBERT: Okay. There being no
4 further business, I would entertain a motion to adjourn
5 the meeting.

6 COMMISSIONER QUINTENZ: So moved.

7 COMMISSIONER BERKOVITZ: Second.

8 CHAIRMAN TARBERT: Terrific. Those in favor
9 of adjourning the meeting will say, "Aye."

10 [Chorus of "Ayes."]

11 CHAIRMAN TARBERT: Those opposed, "No"?

12 [No response.]

13 CHAIRMAN TARBERT: The ayes have it. And,
14 again, I am grateful to the CFTC staff, as always, for
15 their outstanding work. This meeting is hereby
16 adjourned. Thank you very much.

17 [Whereupon, at 12:45 p.m., the meeting was
18 adjourned.]