

UNITED STATES OF AMERICA  
COMMODITY FUTURES TRADING COMMISSION

TECHNOLOGY ADVISORY COMMITTEE MEETING

Washington, D.C.  
Tuesday, April 30, 2013

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## 1 P R O C E E D I N G S

2 (10:00 a.m.)

3 COMMISSIONER O'MALIA: We will bring the  
4 TAC meeting to order. I'd like to welcome our TAC  
5 members. We have also included the Data  
6 Subcommittee members and some of the High  
7 Frequency Trading Subcommittee members are here as  
8 well, so I appreciate everybody's participation,  
9 and I certainly appreciate the participation of  
10 our witnesses as we have six panels today and  
11 we'll have a lot of people coming through.

12 We have several topics today. When we  
13 started formatting this meeting agenda it was  
14 about data and so the main topic today will be  
15 focusing on swap data reporting, and much like  
16 Thomas Edison's sentiment, he said the value of  
17 the idea lies in the using of it, and the value of  
18 data lies in the using of it. In other words,  
19 it's one thing for the swap data reporting to be  
20 mandated by Dodd-Frank and regulations, and it's  
21 quite another for it to be formed properly to  
22 reporting entities to the SERs and then ultimately

1 to the Commission itself for access and use in  
2 surveilling our markets. I want to thank the TAC  
3 for working at the Data Subcommittee level and  
4 make recommendations to the TAC and ultimately to  
5 the Commission a year ago. We're going to come  
6 back and revisit some of those recommendations  
7 that you had then and say we should have paid  
8 attention to this a little more closely when  
9 developing our rules.

10 The first data panel today we will hear  
11 from market participants, all walks of life in the  
12 market, to give their perspective on the  
13 compliance challenges that they've had in meeting  
14 the data requirements of the Commission and  
15 interacting with the SDRs. The second data panel  
16 will consist of the SDRs themselves and we will  
17 attempt to frame that debate with our Office of  
18 Market Oversight and Data and Technology. They  
19 have a presentation that they're going to make so  
20 we can begin to figure out these issues and how we  
21 are going to make data reporting an effective  
22 enterprise for this Commission. Then the third

1 panel will be related to data and will hear from  
2 Tradeworx, an organization that the SEC has hired  
3 to help them sort out their data issues. I think  
4 this will give us a good opportunity to look at  
5 the possibilities of using data by the SEC, the  
6 CFTC and figure out what the possible will be in  
7 dealing with big data challenges.

8 As we go through these panels I want to  
9 think of various tools that we need and that we  
10 can harness in order to address the challenges of  
11 swap data reporting. For example, I've called on  
12 a cross-divisional data unit to be created within  
13 our Commission of staff dedicated full time to  
14 organizing and examining the data for completeness  
15 and accuracy, and we also need to work on  
16 interpreting and analyzing that data and  
17 developing the necessary analytical tools to  
18 identify market risk. Another potential tool will  
19 be the development of a written guidebook to  
20 articulate specific instructions to the market  
21 participants and SDRs in order to make the data  
22 reporting process more efficient and consistent.



1 Here I have at the desk Part 20 rules, large  
2 trader reporting, quite a handful of rules. This  
3 is the how-to book to make those rules work. We  
4 publish the rules and then we had to publish the  
5 guidebook. You can see the difference. This was  
6 quite simple. This is 226 pages and 24 pages here  
7 of rules telling you what to report and this is  
8 how to report. Our SDR reporting is going to be  
9 much more complicated than that and I suspect our  
10 guidebook, if you will, for SDRs with fields well  
11 over the 40 or so in large trader will be much  
12 more complicated and much more extensive so that  
13 the paper is going to continue to flow around  
14 here. I'd be very interested to understand the  
15 best way to address things like this the same way  
16 we introduced the Part 20 guidebook on large  
17 traders.

18 The thing we need to focus on is the end  
19 result and the process and we need to have  
20 interaction with the market participants which is  
21 why we're here today and to make sure that we are  
22 asking and demanding of them the things that can

1 be easily done and efficiently done to give us the  
2 best data into the market. I fully expect the TAC  
3 to focus on the SDR issues to continue well beyond  
4 today's meeting. We will continue to refine our  
5 proprieties for reporting in order to reach the  
6 most effective and efficient ways to collect,  
7 manage and utilize data to best effect. These are  
8 big challenges and I will continue to commit the  
9 TAC's attention and resources to help solve them  
10 and make sure the job is done.

11 We also have some other topics on here  
12 to follow- up on previous meetings. Before we get  
13 to the data reporting panels, we have updates on  
14 two topics we have discussed in previous meetings.  
15 First we will hear from CME and NFA, the two SROs  
16 that are addressing the status of customer  
17 protection and technology and a solution to verify  
18 and reconcile account balances claimed by future  
19 Commission merchants and their custodian banks.  
20 As you will recall, these measures were initiated  
21 at our emergency TAC meeting last July in response  
22 to the Peregrine Financial Group debacle and MF

1 Global, and we also held a discussion at our  
2 October 30 meeting in Chicago. Since then the  
3 technology solution has been launched and much  
4 progress has been made, so we look forward to  
5 follow-up with that group and understand what the  
6 status of that is, and we'll also hear from the  
7 technology entity AlfaMetrix who has worked to  
8 implement that solution.

9           After that we'll hear an update from FIA  
10 on the status of compliance of Rules 1.73 and 1.74  
11 relating to the timely acceptance and rejection of  
12 clearing. Last but not least, I've added a  
13 session to the agenda to focus on last week's  
14 Twitter hack and the market's reaction to the  
15 event. It's something that needs to be discussed  
16 and what better place to do it when you have a  
17 room filled with technology experts? Rather than  
18 applying a shoot-first, aim-later strategy, I'm  
19 going to have an open discussion with all the TAC  
20 members including the exchanges where the market  
21 reaction took place to understand the  
22 implications, concerns and possible solutions.

1 The social media genie is out of the bottle and  
2 rather than attempt the impossible of trying to  
3 put it back in the bottle, we need to figure out a  
4 way for our markets and the regulators to respond  
5 to these new market forces. Again I am grateful  
6 for everybody's attendance and participation here  
7 today and am thankful for our panelists. Let me  
8 turn to the Chairman for any remarks he might  
9 have.

10 CHAIRMAN GENSLER: Thank you, Scott, for  
11 your leadership in bringing this committee  
12 together. It's been a great effort of yours, but  
13 you've done an excellent job throughout the years  
14 and this couldn't come at a more timely moment.  
15 The TAC Advisory Committee, I want to thank you as  
16 well. Why is it such a timely moment? For two  
17 reasons. One, we've had a very real change since  
18 your earlier meetings. We've had a paradigm shift  
19 that now the swaps market is moving into  
20 implementation of Dodd-Frank reforms. This means  
21 that we for the first time have real-time  
22 reporting, we have 75 swap dealers registered, we

1 have clearing, it's being phased in between March  
2 and September of this year and we have reporting  
3 to the swap data repositories already underway.  
4 Secondly, as Scott so said and so much has been  
5 reported in the press, we live in a time that  
6 technology is constantly changing and this is  
7 generally a good thing. Innovation in our society  
8 whether it's in the markets, whether it's in  
9 health care, whether it's in our day-to-day life,  
10 all one has to do is look in the kitchen and see  
11 how wonderful technology is and how much easier  
12 things are even today than 40 years ago. There's  
13 a paradigm shift in the swaps market as it's come  
14 to more transparency and central clearing, but  
15 there's also a continual shift, one might say a  
16 paradigm shift as well, with technology. We  
17 always need to adapt and adjust our rules to make  
18 sure that the market ultimately benefits from  
19 transparency but also has a sense that there is  
20 some oversight of these markets.

21           Regarding data, in the panels we'll see  
22 on data, there is and has been a full commitment

1 from the G-20, that's the 20 leading nations  
2 around the globe and jurisdictions, Europe is in  
3 there as well, and it's been there since 2009 to  
4 gather data into trade repositories so that  
5 regulators, central bankers and finance ministers  
6 around the globe can get a sense of these  
7 important markets, the \$600 trillion marketplace  
8 we call the swaps marketplace. Here in the U.S.  
9 and a number of other countries we now have data  
10 repositories registered and reporting that  
11 information. But I think it's natural that we  
12 have some growing pains, and I'm glad that we're  
13 going to have not one, but I guess two panels to  
14 discuss this today. For me, I think that it's  
15 clear what the regulators and the finance  
16 ministers around the globe were saying. They want  
17 a place where they can go and sort and search  
18 data. I say sort and search data, and it's  
19 accessible. Congress put into the statute that  
20 it's directly electronically accessible for the  
21 regulators. That means it's not a report, it's  
22 not necessarily a summary, but a regulator can go

1 in and see trade by trade. We can aggregate it by  
2 counter-party, by reference rate, by trade date  
3 and use modern technology to do that. We're not  
4 there yet. This is natural growing pains, but I  
5 think today's process will help us get along the  
6 way and maybe a guidebook hopefully a little  
7 shorter than this one, but maybe a guidebook  
8 similar to this will help as well.

9 We are also going to hear further about  
10 customer protection and we have put out rules  
11 working with the self-regulatory organizations  
12 like CME and the NFA about direct electronic  
13 access to bank account and custodial statements,  
14 so I look forward to hearing from you today on how  
15 that's working so far. Our rules haven't been  
16 finalized, but you've started with the  
17 self-regulatory organizations to do that, and post  
18 the events of last year particularly at Peregrine  
19 this is a critical issue.

20 Then of course I'm glad that Scott has  
21 put a small panel at the end and maybe that's why  
22 we have the cameras here today with regard to last

1 week's events. As technology changes our  
2 financial system, the rules in place need to be  
3 resilient. As sure as there were bad actors  
4 putting our false information 100 years into the  
5 marketplaces, and all we need to do is read about  
6 the late-19th century and the wonderful but  
7 sometimes heart-wrenching stories about false  
8 information and runs that were created in the  
9 markets of that era, it's sure to be the case that  
10 100 years from now that people will try to put out  
11 false information into markets. They'll use new  
12 technology, things that will make Twitter and  
13 Facebook look old style 100 years from now, but I  
14 think as regulators we need to be resilient as  
15 well and continue to update what we do to promote  
16 transparency and protect the markets and sure that  
17 false information is not put out in the markets.  
18 That's one of the things we're even doing with  
19 regard to LIBOR and Euribor, that false  
20 information is not put out into the market.

21 I think that we do need to finalize a  
22 concept release that we've been working on for



1 many moons here at the CFTC. My hope is that we  
2 could put out a concept release which is about  
3 risk controls and system safeguards for automatic  
4 trading environments. We've talked about it and  
5 sometimes I reference it as testing and  
6 supervision, but last week's events reminds me  
7 once again, and I've been chatting with fellow  
8 Commissioners, I think we will do that in the next  
9 month to 2 months and put that out and get the  
10 benefit of the public comments on it. I think  
11 also we need to finalize something that's in the  
12 weeds, but it's called ownership and control  
13 reporting which we proposed and it's now in front  
14 of my fellow Commissioners and I think the staff  
15 has done an excellent job so that we can know the  
16 actual owners and controllers of futures accounts  
17 in a similar way to what's in the swap data  
18 repositories for swaps. Yes, as a final note we  
19 do need more resources here at the CFTC. If we  
20 don't have the technology resources to keep up,  
21 then all the data in the data repositories, all  
22 that's being done out there in the marketplaces,

1       it's going to be hard for us to be nimble and be  
2       aware of what's going on. I thank you and I thank  
3       Scott for putting this together.

4               COMMISSIONER O'MALIA: Thank you very  
5       much. With regard to the testing and supervision,  
6       we're really ready to use this Commission once we  
7       get it out and we have the benefit of getting  
8       public comment, I think we will schedule another  
9       TAC meeting to address that specifically. So  
10      maybe this summer at our next meeting we can  
11      address high- frequency trading and market  
12      controls directly.

13              CHAIRMAN GENSLER: That would be  
14      terrific. I know that we've all worked very  
15      closely particularly I want to applaud your work  
16      and Commissioner Chilton's work for getting this  
17      document through.

18              COMMISSIONER O'MALIA: Happy to do it.  
19      Commissioner Sommers?

20              COMMISSIONER SOMMERS: Thank you. Good  
21      morning, and thank you all for being here today,  
22      and especially thanks to Commissioner O'Malia for

1 chairing his advisory committee. When he took the  
2 lead on this advisory committee that had sort of  
3 been dormant for a few years, I think none of us  
4 really realized how important the role of this  
5 advisory committee would be in helping us to  
6 resolve some of the challenges that we're having  
7 in implementing the rules surrounding Dodd-Frank.  
8 I think as we review some of the issues that are  
9 on the agenda today, it's important for us to  
10 continue to review the costs and benefits of the  
11 requirements that the Commission has put into  
12 place and the benefits to our regulatory goals in  
13 making sure that those are level with the costs to  
14 the industry. I think that we need to continue to  
15 make sure that these requirements are reasonable  
16 and make sense, and although we may have a long  
17 way to go in resolving some of these growing pains  
18 as we implement Dodd-Frank, the topics that we're  
19 talking about today are extremely important for us  
20 to review and to listen to you as participants  
21 here and the panelists and members of this  
22 advisory committee. Thank you for holding this

1 meeting.

2 COMMISSIONER O'MALIA: Commissioner  
3 Chilton?

4 COMMISSIONER CHILTON: Thanks, and  
5 thanks, Commissioner O'Malia, for really just  
6 incredible work on this and on the concept release  
7 too. The amount of time you've spent on this is a  
8 whole lot more than the rest of us. I know Jill  
9 has spent a lot of time traveling so I can't say I  
10 guess more time than traveling, but the time that  
11 you spend on it every day is really invaluable.  
12 We're not supposed to talk about where things are  
13 like this concept release so I won't talk about it  
14 specifically, but there are a lot of really good  
15 things in there and thank you for that.

16 It seems like every time we meet there's  
17 another meltdown moment taking place, whether or  
18 not it's Knight Capital or the Facebook IPO or the  
19 hack attack last week. For me what it raised was  
20 there's a confluence of the social networks and  
21 the markets that we hadn't really noticed before.  
22 Obviously things that are out there impact the

1 markets, but it really wasn't the social network  
2 to the extent that we saw it last week. So that  
3 comes on the heels of the SEC allowing for  
4 registrants to go ahead and put forth information  
5 about earnings, et cetera, in Twitter, Facebook or  
6 other social media. I think that a lot firms have  
7 over the years looked at social media as more of a  
8 marketing tool as opposed to something that can be  
9 interrelated with their trading computer programs.  
10 It raises a question and we can get to it later as  
11 to whether or not there's anything that needs to  
12 be done, and I'm not suggesting that something  
13 should. Maybe everybody will just supersize their  
14 cyber security regime out of the goodness of their  
15 heart or because they think it's in their business  
16 interest, but I think it's something that we need  
17 to consider and as Commissioner O'Malia said,  
18 maybe we'll think about including something like  
19 that in this document that I hope we can review  
20 later. I'm pleased that we're having the meeting.  
21 I thank everybody for coming. I know it's a big  
22 deal and there's lots of folks and it takes a lot

1 of time to travel, but we really do appreciate it.  
2 Thank you.

3 CHAIRMAN GENSLER: I wanted to add one  
4 more thing because I think what we're all chatting  
5 about toward the end of today with regard to  
6 Twitter and I noticed Commissioner O'Malia handed  
7 me a Journal article as well, was also highlighted  
8 by the Financial Stability Oversight Council last  
9 week in its annual report. It was organized  
10 around seven themes. One of the themes that this  
11 council of regulators that includes the Federal  
12 Reserve and Treasury and the SEC and ourselves was  
13 operational risk, just that we as a council all  
14 recognize that with enhanced technology we also  
15 end up with whether it's the events that we've  
16 looked at in the last year around Knight Capital  
17 or CBOE and so forth. It's these operational  
18 risks that are also part of a theme that the  
19 council picked up.

20 COMMISSIONER CHILTON: Maybe you could  
21 get me invited to one of those meetings.

22 COMMISSIONER O'MALIA: Let's start with

1       our first panel. We're going to talk about the  
2       customer protection technology solution that's  
3       been initiated by our SROs, NFA, CME and really  
4       provided us a great solution going forward that  
5       will enable us to check, that does enable us.  
6       It's no longer a vision. It's actual reality,  
7       that does enable us to check customer funds and  
8       where they are at all times. We get these on a  
9       T+1 basis and no longer can somebody dip into  
10      customer funds over a 20-year period and get away  
11      with it. We're going to know immediately. I  
12      don't know who wants to go first. Chris, you're  
13      going to go first. Chris, Bryan and then Al.

14                 MR. HEHMEYER: Thank you, Commissioner  
15      O'Malia. I'm going to start and then Bryan, and  
16      I'm going to be brief and then Bryan is going to  
17      talk about their experience from the CME and then  
18      we're going to hear from Aleks Kins from  
19      AlphaMetrix. I too would like to chime in and  
20      thank you for your leadership for the Technology  
21      Advisory Committee and to the Commission for  
22      having us all here because I get to tell a good

1 story amongst all of the challenges and dead ends  
2 that the industry faces these days, this is a  
3 story that's a good one. It came out of this  
4 committee. It was in July after the Peregrine  
5 thing and we were using at NFA and I think also at  
6 CME to some degree econfirmation.com which was a  
7 manual basis of going in and checking bank  
8 balances and it was NFA's insistence that Russ  
9 Wassendorf had to give his authorization to  
10 confirm the bank balances which uncovered the  
11 fraud.

12 I think it was in July at this  
13 committee, Commissioner O'Malia was pressing me to  
14 ask if there wasn't a way that the industry could  
15 come up with a technology solution to be able to  
16 check these bank balances on line. Honestly I  
17 came on behalf of NFA and its board and talked  
18 about the vision of something like that and a  
19 little bit winging it because we weren't exactly  
20 sure what that would take and what that would  
21 cost. It was soon after that when I got back to  
22 Chicago and my friends at AlphaMetrix, Aleks Kins



1 and Dennis Zar said you guys know, Chris, that we  
2 have a technology that could probably do what it  
3 is that you all at NFA and CME are looking for.  
4 That led to lunch outside at Seres with Dennis Zar  
5 and David Young and Ken Haas from NAF and myself  
6 where we explored this. Then that led of course  
7 to a high-level discussion with CME who I think  
8 was also talking to AlphaMetrix already on their  
9 own at that point. Quickly things led to things.  
10 And then of course the due diligence that's  
11 involved in looking into AlphaMetrix if the two  
12 regulatory organizations are going to trust this  
13 technology. As we all know, sometimes the  
14 technology needs of one organization may be close  
15 to what another organization has built, but it's  
16 not always perfect. So over the course of the  
17 fall we had to pass our rules and get them in  
18 place at NFA which went into effect February 13 of  
19 this year. Then the two organizations came to  
20 conclude that the AlphaMetrix solution as a good  
21 one. I'd like to make a couple of quick points  
22 and that is that the system is being implemented

1 in phases and the first phase covers bank  
2 depositories. As you all know, SEG locations are  
3 also brokerage firms and other places, but we  
4 began with the bank depositories which is the  
5 majority of course of the funds and certainly  
6 would have prevented the Peregrine problem. Both  
7 of the organizations, NFA and CME, are using this  
8 third party AlphaMetrix 360 to collect the cash  
9 and securities balances on a daily basis. NFA's  
10 FCMs have a total of 172 SEG accounts at 15 banks,  
11 while CME has almost 2,100 accounts at 40 banks so  
12 their task is a lot bigger than NFA's.

13           Again the two organizations worked  
14 closely and worked well together in trying to  
15 implement the solution. It's very important to  
16 note that the third party's role is to collect the  
17 data from the banks and to send it to NFA and CME  
18 and AlphaMetrix doesn't play a role in analyzing  
19 the data or reconciling the data which is  
20 important to keep in mind. They're providing the  
21 technology. CME and NFA have developed automated  
22 systems which alert the staff to material

1 differences in these comparisons so they can  
2 follow through with analysis and perform  
3 reconciliations and the amount in the beginning  
4 was 5 percent and we've quickly been shrinking  
5 that as we've gotten some experience with it.  
6 Most of the exceptions are issues of reporting or  
7 issues of some out trade or something like that,  
8 but they can quickly detect it and then be in  
9 touch with the FCM as to what the nature of that  
10 is or what the nature of the discrepancy is.

11           With the banks essentially complete, NFA  
12 and CME are going to be moving on to phase two of  
13 the project which will cover as I mentioned the  
14 balances between the clearing brokers and the  
15 clearinghouses. NFA and CME are going to split  
16 this effort for this phasing with NFA establishing  
17 the requirements for the clearing broker balances  
18 and CME handling the clearinghouses. Beginning  
19 this month NFA started to meet with clearing FCMs  
20 to discuss their capabilities for providing this  
21 data and that's why the two organizations are  
22 going to split this effort. NFA is doing some

1 initial research which is something that I would  
2 really like to see in confirming of assets held in  
3 pools. This is complex and a large technology  
4 challenge because there are so many pools. There  
5 are many more pools than there are FCMs. The pool  
6 frauds typically get the sort of press that the  
7 FCM frauds get. They're usually much smaller, but  
8 there are more of them. Somebody making off with  
9 somebody's money in a pool to me while it may not  
10 get the press of what happens in a fraud like  
11 Wassendorf's at Peregrine and it may not be as  
12 large an amount of money as \$200 million, but the  
13 person that's got money in that pool has been  
14 harmed just as much by their money being stolen by  
15 a criminal pool operator and it would be great if  
16 NFA could get to balance these reported balances  
17 in these pools but that's going to take some time  
18 to try to deploy this technology but it looks like  
19 this technology is one that can do that for the  
20 pools. Most importantly me and the board from my  
21 chair at NFA is that this was a very good example  
22 of the way a technology that was developed on

1       behalf of the investors by private enterprise on  
2       behalf of investors was something that we were  
3       able to use on the regulatory side and get us to  
4       market quickly. The amount of time that it took  
5       for us to get to market for due diligence,  
6       exploring the technology and deploying it in a  
7       manner of months, in comparison to having to try  
8       to build that, pay for it and then all of the  
9       issues that go along with the testing of building  
10      something and having it be cutting edge, all of  
11      those issues, I shudder in fear how long that  
12      would have taken. We needed a solution to get to  
13      market fast to check these balances and this was a  
14      very good example of the way the regulators worked  
15      together with the private enterprise to bring a  
16      solution that will work, I don't know for how  
17      long, but for certainly the foreseeable future or  
18      a couple of years at least, maybe longer, that  
19      this technology has worked very well. With that I  
20      think you'll probably want to hear also from Bryan  
21      and then from Aleks, and then of course I'm  
22      available for any questions particularly from my

1 chair at NFA.

2 MR. DURKIN: Thank you, Commissioner  
3 O'Malia. On behalf of the CME Group's work with  
4 the NFA, first of all, Chris has done a very  
5 detailed overview of where we're at with the  
6 implementation of this mechanism. We are pleased  
7 to report to the Commission today that from the  
8 CME's perspective we currently received bank  
9 depository information from 2,082 accounts which  
10 represents all material bank depository balances.  
11 This covers all 46 FCMs that maintain customer  
12 balances. As of current date, the cash balances  
13 that have been received from AM 360 represents  
14 over 99 percent of all cash balances that are held  
15 at CME DSRO FCMs.

16 In taking that information in, since we  
17 effectuated this in the middle of March and the  
18 NFA in the middle of February, both regulators  
19 have done reconciliations utilizing their  
20 analytics that they built internally. At CME we  
21 performed automated comparisons of 2,914  
22 segregated balances since we went live with our

1 system and I believe the NFA did some over 2,000  
2 themselves. As a part of this we look for any  
3 materiality events. Where those triggers as Chris  
4 has alluded to did unveil themselves, for the most  
5 part those were reporting issues between the  
6 firms, AlphaMetrix and the depositories that were  
7 able to be validated and reconciled. As we move  
8 toward phase two, we think that given what's been  
9 achieved to date so far, we've learned a lot in  
10 the context of what can be done in a fairly  
11 accelerated path when you have two major  
12 regulators coming together and trying to find a  
13 solution that has worked very well for our  
14 regulatory means. It's our goal as part of phase  
15 two to be able to onboard accounts at  
16 clearinghouses and carrying brokers internally by  
17 the end of this year.

18 COMMISSIONER O'MALIA: How many carrying  
19 brokers are there out there? Do you have a sense  
20 of what that number is?

21 MR. HEHMEYER: Carrying brokers? I'm  
22 not sure. That's not a number that I'm armed

1 with.

2 COMMISSIONER O'MALIA: Is there anything  
3 else?

4 MR. DURKIN: No, that's it.

5 COMMISSIONER O'MALIA: Aleks, you're up.

6 MR. KINS: Good morning. My name is  
7 Aleks Kins. I'm the CEO of AlphaMetrix and I want  
8 to start off by thanking the CFTC and Commissioner  
9 O'Malia for inviting AlphaMetrix in to speak today  
10 as well as the NFA and CME for having me  
11 participate on their update.

12 What is AlphaMetrix? AlphaMetrix is a  
13 company that has built a business based on  
14 investor demand for transparency. I myself have  
15 been in the hedge fund and managed futures  
16 industry for nearly 20 years. For about a decade  
17 I was a fund of funds and as I managed my fund of  
18 funds I felt that it was quite ironic that as an  
19 institutional investor allocating hundreds of  
20 millions of dollars there were no tools out there  
21 to help me with not just daily but our intraday or  
22 daily, but anything less than a monthly in terms



1 of seeing the performance and status of the funds.  
2 Lo and behold, as a fund of funds in the 1990s I  
3 built some technology that stated a process very  
4 simply. Some of the managed accounts I started  
5 receiving from various managed futures managers  
6 and it was a case of be careful what you wish for  
7 because I started getting the transparency I  
8 remembered getting a stack of papers about an inch  
9 thick on my desk in the morning and that was my  
10 transparency. I remember lamenting that I wanted  
11 to know if I was long on the S&P 500 which would  
12 have taken us a month to figure out. As I  
13 searched for a way to aggregate, there was nothing  
14 readily available and I found it ironic that in  
15 the retail let's say equity trading market  
16 investors had already by the mid-1990s to  
17 late-1990s at their fingertips streaming  
18 information and there I was as an institutional  
19 allocator and there was nothing of the sort.  
20 Further, I found once I started building it as we  
21 had investors come in to do due diligence on us  
22 and review what we were doing, I found I lost

1 their attention quite frequently because as I was  
2 explaining our investment methodology and  
3 procedures we had screens on our walls much like  
4 these screens around the room and it had moving,  
5 real-time profit and loss and risk information.  
6 They would tell me one after another, Aleks, this  
7 is very interesting, your guidelines and the way  
8 you do due diligence, but how do I get some of  
9 that? How do I see my funds moving like that in  
10 my P&L? So I only had to hear that a few hundred  
11 times to think maybe there's a business idea. In  
12 2005 we started AlphaMetrix with a handful of fund  
13 to funds as our initial clients and I began a  
14 process of building technology which we found that  
15 even in 2005 there were quite a few large  
16 institutions that were very interested in the  
17 concept of seeing their own portfolios. Obviously  
18 that goes without saying that with the advance of  
19 2008 it was quite the catalyst for bringing us to  
20 the forefront in the investors' minds as our  
21 product in essence is transparency. That helped  
22 propel us to being one of the fastest growing

1 companies in Chicago and so forth, all driven by  
2 investors who were willing to pay for data  
3 aggregation.

4 In short, the way we looked at it is we  
5 believe in free-market principles for driving  
6 transparency problems and solutions to those  
7 problems. Again in 2005 we would from time to  
8 time find pension fund investors, sovereign  
9 wealth, you name it, that would say do I really  
10 need my data on a daily basis? Do I really need  
11 to see the granular level? We found post-2008 we  
12 really don't ever get asked that question anymore.  
13 What is in our DNA? How do we do this? Why is  
14 this different than any other group that we know  
15 of? It started out for me as I said as a  
16 portfolio manager what I thought was a simple  
17 problem. I just want to get my trades aggregated,  
18 I want to see what my P&L is and see my profit and  
19 loss and see what my risk is. That's where I  
20 started discovering that data within the financial  
21 system exists in silos. There are many, many,  
22 many silos and our technology doesn't

1 differentiate between the silos, but some of those  
2 silos are banks, some of them are exchanges, some  
3 of them are hedge funds themselves and what we  
4 found is that as we started streaming managed  
5 futures and hedge fund funds throughout the day,  
6 creating a price and risk information that we one  
7 by one had to in essence map out nearly the entire  
8 financial system, that we might now aggregate data  
9 from about 4,000 hedge funds and managed futures  
10 funds, we are connected to approximately 300 FCMs,  
11 prime brokers, custodians, banks, you name it.  
12 These are all data sources for us so that a new  
13 hedge fund or a new bank is basically how we built  
14 our technology and it's just a form of mapping.  
15 We estimate that we have spent in aggregate  
16 several thousand man years developing -- if you  
17 look at how the sausage is made, it's the meat  
18 grinder that takes the data and turns it into  
19 something that's usable for investors or  
20 regulators or even hedge funds themselves. We  
21 estimate that there's been as much as \$100 million  
22 put into the technology to build this. It is

1 complex because there is no real standardization  
2 of data across the financial system. The other  
3 thing we found is that obviously the common  
4 denominator to all financial instruments is cash.  
5 You could reduce an instrument down to cash flow.  
6 You can then aggregate it any which way.  
7 Obviously with certain derivatives or  
8 over-the-counter instruments, it's a challenge to  
9 reduce it to a common denominator, but that's what  
10 this system does. As Chris Hehmeyer mentioned,  
11 when the NFA and the CME were looking for a  
12 solution, we connected with them and said in  
13 essence we've spent years already building  
14 something that could potentially be of use and we  
15 are already processing for a large number of  
16 institutional investors aggregating information on  
17 their own portfolios. That said, the slide I have  
18 here shows that 84 days from sitting down and  
19 meeting to delivering the phase one which is  
20 complete. We've got 71 different FCMs already  
21 being processed and I think 95 percent with the  
22 CME and that's already 99 percent, so it's

1 basically complete. But why were we able to do  
2 this in this type of speed? The reason why I'm  
3 presenting this is because the only thing that had  
4 to be adapted was the final let's say 1 percent of  
5 the project, the core again, the meat grinder I  
6 mentioned, was already completely developed. We  
7 were able to process not just bank account cash  
8 information, but also financial instruments. We  
9 are already processing on average about 7,500  
10 instruments, Treasuries, you name it, in these FCM  
11 accounts right now and that's not even as large as  
12 the volume within 200 hedge funds that we process  
13 all sorts of esoteric instruments. The machine is  
14 created and now it's a question of looking at it  
15 and maybe turning it upside down and seeing are  
16 there other uses for it. Are there other types  
17 aggregation that can be mapped out and aggregated?  
18 That leads us to as I think was already mentioned  
19 the phase two where we're expanding from FCMs with  
20 the banking holdings to clearing brokers and  
21 carrying brokers and clearing firms and so forth.  
22 Once again AlphaMetrix thanks the CFTC, NFA and

1 CME. Thank you.

2 COMMISSIONER O'MALIA: The Chairman  
3 mentioned that our customer protection rule has a  
4 proposal that would require each bank to give  
5 login access for each individual account to the  
6 Commission and the relevant password. In light of  
7 hacking and cyber issues that we're going to  
8 discuss later, we had a discussion in July about  
9 the issues of pushing out the data versus pulling  
10 the data and trying to understand was there an  
11 exposure issue, do we create additional liability  
12 or holes in the cyber security network if we have  
13 this login ability as opposed to collecting the  
14 data. I'm trying to understand the advantages of  
15 one over the other or is it redundant what we're  
16 asking for in terms of being able to login at will  
17 using the password, and then who updates the  
18 password and how do we keep all of that straight?  
19 It seems from our standpoint to be monumentally  
20 difficult if we have staffing issues how we're  
21 going to login. You mentioned over 2,000  
22 accounts, Bryan. We've got over 2,000 accounts

1 that we'd have to login to and I guess it's a  
2 lottery which one we login to every day. I'm  
3 trying to understand the tradeoff here. Haven't  
4 we solved this problem with this solution you've  
5 put forward?

6 MR. HEHMEYER: One thing I will say is  
7 through the miracles of modern technology there  
8 are about 70 carrying brokers, 50 of which are  
9 clearing members. I got that out there because  
10 your question is more complex once you get the  
11 carrying brokers on there. Then which carrying  
12 brokers can you login to? It's a push technology.  
13 The banks push the information to AlphaMetrix and  
14 then the organizations then do the comparisons.  
15 Am I right, Bryan? I don't know if that answers  
16 your question.

17 COMMISSIONER O'MALIA: Aleks, you can  
18 address the issue of how you're going to protect  
19 this data.

20 MR. KINS: Sure. For us, a push or pull  
21 technology, we've designed it to work other way,  
22 that different institutions have set up files and



1 file transfers differently. There is no physical  
2 logging in to a website and pulling. It's all  
3 automated machinery. One of the challenges why we  
4 weren't able to go to 100 percent right away on  
5 day one is we'd already expected to have completed  
6 a way to communicate with some of the largest  
7 institutions, but there are a lot of much smaller  
8 banks and groups that didn't have push technology  
9 which is probably easier to work with so we had to  
10 work with them to implement a way to receive data  
11 but in a process that was unattended and  
12 automated. Then further I think the question was  
13 security of data. That is always our top, top  
14 concern. You hear people talk about the cloud  
15 versus server and so forth and we don't think  
16 there is one perfect solution for one versus the  
17 other. We'll use the internet and the cloud where  
18 we think it's appropriate to aggregate and pull  
19 data but all data is stored not connected to the  
20 internet on servers and very encrypted and so  
21 forth. We have that all in a separate group  
22 within AlphaMetrix, a separate company called

1 AlphaMetrix 360, which is a subsidiary. We've  
2 gone through SAS 70 compliance, Sarbanes-Oxley and  
3 so forth to putting controls in place. But the  
4 idea is to remove and storage of data from harm's  
5 way on the internet, to only have bits and pieces  
6 out there at any given time and then be  
7 transferring a daily file to the CME and the NFA.  
8 I was trying not to get too technical there, but I  
9 hope that answered what you were looking for.

10 MR. HEHMEYER: One other thing,  
11 Commissioner. Security of course is always an  
12 issue that has to be 24 by 27 under your wings  
13 every day kind of thing, but the logging in thing  
14 at NFA, we've come to find that there are  
15 thousands of passwords and this is a much more  
16 efficient way to monitor these balances, certainly  
17 the daily seg balances.

18 COMMISSIONER O'MALIA: I think you had  
19 contemplated a daily logging in strategy.

20 MR. HEHMEYER: I think we had used one  
21 before too. This is much more efficient if what  
22 we found. We have all those passwords floating

1 around, the one can be prone to being hacked.

2 COMMISSIONER O'MALIA: You guys are all  
3 Technology Advisory Committee members. Anybody  
4 who wants to raise something, put your card up and  
5 jump in, it does not matter and ask any questions  
6 you want. I don't know if any of my fellow  
7 Commissions have a question on this front. Do you  
8 have a timeframe on the next set of the carrying  
9 brokers and the clearing members?

10 MR. DURKIN: Our goal is to have that  
11 account pushed by the end of the year. We should  
12 be in a position, Chris, to be able to report our  
13 progress at the next TAC.

14 MR. HEHMEYER: The pools issue is more  
15 complex. The pool rules the way I understand them  
16 without quoting them allow for pools to invest in  
17 a variety of different instruments. That gets  
18 more complicated in trying to balance it, in  
19 trying to confirm them. That's going to take  
20 longer. But the phase two, as Bryan said, by the  
21 next TAC.

22 COMMISSIONER O'MALIA: Is there anything

1 we can do to help you with the pool issue?

2 MR. HEHMEYER: I can't tell you off the  
3 top of my head what that might be, but if I need  
4 some help, I'm going to ask you.

5 COMMISSIONER O'MALIA: Thanks. So I  
6 assume that they're not held in necessarily bank  
7 accounts, that it's not all cash, it's not all  
8 securities.

9 MR. HEHMEYER: Correct.

10 COMMISSIONER O'MALIA: It would be  
11 metal?

12 MR. HEHMEYER: My feeling is if they're  
13 not current assets, how much of it is not in  
14 current assets, but it's going to take us a little  
15 while. The board and the senior management at NFA  
16 organizational and with AlphaMetrix is a bigger  
17 project and it's much more hours than this one  
18 with CME. The first thing is phase two.

19 COMMISSIONER O'MALIA: Supurna?

20 MS. VEDBRAT: As the data sets are being  
21 designed, is it taking into account that  
22 ultimately there may be a requirement to allow

1       either if it's an asset manager, the end user to  
2       also be able to view this data? I ask this  
3       question because we've recently experienced in  
4       another data exercise where the SDR was not able  
5       to identify which asset manager may have been the  
6       owner of the transaction underlying. The question  
7       is on the data set that's being currently  
8       developed, is it taking account that ultimately  
9       either the asset manager or the end user may also  
10      be one of the viewable bodies?

11               MR. HEHMEYER: There hasn't been any  
12      discussion along the lines of that at the NFA. I  
13      don't have any interest in AlphaMetrix, but  
14      Aleks's description of going to different  
15      exchanges and different asset classes with his  
16      technology is one that might provide something  
17      like that for the industry, but that's more of a  
18      CFTC thing. So there hasn't been any discussion  
19      at NFA along those lines.

20               MR. DURKIN: The same for us at this  
21      point, but we can certainly take it under  
22      consideration with the Commission.

1                   MS. FUHRER: First of all, thank you for  
2 your presentation. It was very, very interesting.  
3 One of the questions that I was thinking about as  
4 you were talking, and I know you touched upon  
5 cyber threats and so on, I was wondering what  
6 consideration was given to customer privacy and  
7 all the privacy considerations as you collect and  
8 aggregate data and also as you disseminate the  
9 data. What are your thoughts about privacy?

10                   MR. KINS: That's a very, very good  
11 question. Security and privacy are at the upmost  
12 of what we do. If we didn't respect security and  
13 privacy, we wouldn't have a business because  
14 outside of this relationship how we built the  
15 business is getting voluntary contribution of  
16 information so we've had to go a long way to  
17 demonstrate that we put in a lot of security as  
18 well as privacy measures. Just for an example,  
19 here with the NFA-CME relationship, we pull this  
20 data but we do not process it or show it to  
21 anybody. It's pushed right to the NFA and CME. I  
22 don't have access to that in aggregate. It's

1 really locked down. But separately on the rest of  
2 our business, data sharing is in essence a private  
3 contract between the hedge fund and the investor,  
4 that the investor can request it and then the  
5 managed futures fund or hedge fund can agree to  
6 share it. It's a system like we're running  
7 through our technology so in the end, each entity  
8 is in control of their own data and if they choose  
9 to share it, they're able to. We're built that  
10 technology, the bridge that allows them to do it  
11 efficiently, so they don't have to send files or  
12 do back office work. That's really the principle  
13 that drives and that's why we also call it our  
14 marketplace because the marketplace of information  
15 and data that they're sharing back and forth and  
16 that's really what drives the sort of free-market  
17 private sector element of it.

18 MS. FUHRER: Thank you.

19 COMMISSIONER O'MALIA: Chris and Bryan,  
20 one thing that occurred to me is we haven't talked  
21 about what the interaction after he pulls it and  
22 gives it to you for evaluation and look for any

1 anomalies to make sure you've got all the data and  
2 all the money in the right spot at the right time  
3 with the right banks, what interface do you have  
4 with the Commission? Are we linked up to this  
5 system? Are we receiving reports?

6 MR. DUNKIN: For any issues where we're  
7 finding materiality concerns in the normal course  
8 of conducting our reviews and exams, we will be in  
9 communication with our counterparts at the  
10 Commission. We look at this in the context of  
11 performing our due diligent in terms of our  
12 overall financial monitoring of our firms.

13 MR. HEHMEYER: I think it's probably  
14 similar at NFA from the board level, I'm sure  
15 about the answer to that, but I would assume it's  
16 very similar. We are posting as you know at NFA  
17 this FCM data twice a month on the website.

18 CHAIRMAN GENSLER: May I ask this  
19 question of Bryan and Chris? Given what you're  
20 doing already in the direct electronic access to  
21 accounts, do you think at Peregrine that somebody  
22 would do that again today, April 30?



1                   MR. HEHMEYER: Much harder. It would  
2                   take hacking and it would take real computer  
3                   technology sophistication. It's like saying could  
4                   anybody hack the defense system? It's possible,  
5                   but this is a significant advancement and much  
6                   more difficult.

7                   CHAIRMAN GENSLER: For listeners are  
8                   home, we do broadcast this, why is that in your  
9                   own words? Why is that which an operator at  
10                  Peregrine can forge and fraudulently doctor bank  
11                  statements, why isn't that possible in this  
12                  system?

13                  MR. HEHMEYER: In some ways it's almost  
14                  generational. The generation that learned how to  
15                  doctor documents, that age group has been rendered  
16                  irrelevant. They can't do that anymore. So is it  
17                  possible down the road?

18                  CHAIRMAN GENSLER: Why is that not  
19                  possible?

20                  MR. HEHMEYER: The secure pushing of the  
21                  data that comes from the bank.

22                  CHAIRMAN GENSLER: Directly from the

1 bank.

2 MR. HEHMEYER: Directly from the bank  
3 into the AlphaMetrix 360 technology into NFA and  
4 CME where we compare it with the FCM tells us, the  
5 200 million that was missing from Peregrine would  
6 have been found the first day it was \$7,000 and  
7 Russ had taken the check out.

8 MR. DURKIN: I would agree in the  
9 totality of the steps that we've taken in terms of  
10 customer protections. This is one major one that  
11 there's been a number of steps that we have taken  
12 to lock up the ability for a firm to be able to  
13 take advantage of the data or the information that  
14 we saw in Peregrine. So it's the independent  
15 reporting that's coming and being pushed to us  
16 from the banks, the electronic reporting from the  
17 FCMs doing those reconcilements on a near  
18 real-time basis to identify whether or not there  
19 are any anomalies and being able to act on them.

20 CHAIRMAN GENSLER: All you're saying,  
21 Chris, is, yes, it's addressed that Peregrine  
22 forged or doctored documents, but a new generation

1 maybe yet to be born, whether they can go into the  
2 computer system, sorry about this, Aleks, but into  
3 Aleks's computer system and doctor something.

4 MR. HEHMEYER: Right and hack a bank.

5 CHAIRMAN GENSLER: Hack a bank or hack  
6 Aleks. That brings us to the topics of later  
7 today about cyber security and so forth.

8 MR. HEHMEYER: Correct.

9 CHAIRMAN GENSLER: Thank you.

10 COMMISSIONER O'MALIA: What about the  
11 issue of MF Global, the thresholds with moving  
12 funds and excess funds and when does it go into  
13 customer funds versus excess funds and we're  
14 trying to understand that? How will that be  
15 solved?

16 MR. DURKIN: Again to my earlier  
17 comments, there are a number of steps that we've  
18 taken that require the CEO or the CFO of a firm to  
19 sign off and authorize any disbursements of funds  
20 in excess of a certain limit. So there are a  
21 number of protocols that we've put in place since  
22 MF Global to be able to readily identify and

1 transfers in addition to watching the customer  
2 balance.

3 CHAIRMAN GENSLER: I think that these  
4 steps which have been taken in coordination with  
5 the CFTC and that have been taken by the  
6 self-regulatory organizations and many futures  
7 commission merchants, we should finalize in some  
8 federal rules and that's what was out for notice  
9 and comment along with other rules. I think there  
10 are positive steps addressing some of the known  
11 problems that came out of the last 18 months.

12 MR. HEHMEYER: I agree. If I could, it  
13 was the result of this committee.

14 CHAIRMAN GENSLER: Plenty of credit to  
15 the committee and Scott O'Malia's leadership.

16 MR. HEHMEYER: The industry and the  
17 Commission can collaborate on issues and we can  
18 raise awareness to certain things where somebody  
19 could step forward with a technology solution.  
20 Hopefully today as you all talk about various  
21 topics, there will be people who might step  
22 forward with a solution that could work between

1 the private and the public.

2 COMMISSIONER O'MALIA: Jim?

3 MR. ROWEN: Just a quick question. As I  
4 understand it, the information is aggregated and  
5 then pushed out to you folks. The question is, do  
6 you now have two aggregation units? You have one,  
7 AlphaMetrix, one at the NFA and CME because that  
8 may create an issue of reconciliation if you're  
9 both collecting data versus just pulling it as you  
10 need it.

11 MR. DURKIN: We conduct an aggregation  
12 across all of the FCMs as we're receiving that  
13 information so that we can reconcile what's been  
14 provided by AlphaMetrix compared to what the FCMs  
15 have individually reported to us. We have a  
16 system that does that reconciliation.

17 MR. ROWEN: But does that reconciliation  
18 go on continuously? Because as you build more and  
19 more data every day, the question is do you go  
20 looking back to the very beginning and reconcile  
21 or is it just as the data comes in you assume the  
22 set that was done previously is accurate?

1                   MR. DURKIN: I don't have the answer to  
2                   that question.

3                   MR. ROWEN: Because that could become an  
4                   overwhelming task at the end if you have data at  
5                   AlphaMetrix as well as what's on site that has to  
6                   be reconciled.

7                   MR. DURKIN: I'd have to follow-up on  
8                   that one.

9                   COMMISSIONER O'MALIA: John?

10                  MR. LOTHIAN: There have been some  
11                  incidents where FCMs have had money in accounts  
12                  that were not properly named. They didn't have  
13                  customer-segregated funds. There have been some  
14                  fines by the Commission as a result of that with  
15                  some fairly high-profile cases. Does your system  
16                  verify those accounts as being customer-segregated  
17                  accounts, and how does it account for anomalies  
18                  like we've seen where these fines have been  
19                  created?

20                  MR. DURKIN: I don't know the answer to  
21                  that.

22                  MR. KINS: A sort of broader answer to

1 that is that the general premise that we've built  
2 the whole system is a trust but verify system and  
3 it's under the premise that multiple unrelated  
4 entities won't corroborate information that's not  
5 true. What our system does is try to find sources  
6 of data and then to reconcile. To answer the  
7 earlier question, the way we're doing the  
8 reconciliation is we can see when something  
9 changes and then we will go back and we'll look at  
10 if there is a change. If there is no change, we  
11 leave the data alone. But in terms of how do you  
12 look at let's say customer-seg accounts, generally  
13 even the large banks and institutions are holding  
14 money at other institutions and so forth and that  
15 goes back to as we started with hedge funds, a  
16 medium to larger size hedge fund, might have 10 or  
17 20 prime brokers, FCM, custodial relationships so  
18 there are pieces of data at all of them, we're  
19 putting it together and then we test it against  
20 something. Generally if it's a hedge fund there's  
21 a net asset value that you look at and so forth  
22 and then nothing can be completely automated, if

1       there is an error or mismatch then there are  
2       people that look at it. We from our side are  
3       looking at it, the NFA and CME are looking at the  
4       data on their side, but in general that's the  
5       concept of how this works. It is corroborating  
6       information across the system.

7               CHAIRMAN GENSLER: John, one piece that  
8       we put in that proposed customer protection, I  
9       don't know that it would be implemented yet,  
10       relates to acknowledgement letters and direct  
11       access to the acknowledgement letters and so forth  
12       would add a little bit more to what you're saying.

13              MR. DURKIN: I would add on to that that  
14       this information would also be incorporated as  
15       part of our exams of the firms, so we do a deeper  
16       analysis into what is actually reported under  
17       their segregated funds.

18              MR. LOTHIAN: It would seem that if  
19       there were a qualification check for the name to  
20       make sure that it says customer seg account, that  
21       you could catch that much sooner as opposed to  
22       having something like that go on for months.



1                   COMMISSIONER O'MALIA: I think you'll  
2                   find in some of our later discussion today garbage  
3                   in is garbage out and if we can't get the basics  
4                   handled in terms of what is or is not customer  
5                   funds, we're going to have a hard time figuring  
6                   some of these larger data questions. So it's a  
7                   great point and it really starts with the quality  
8                   of the information going in. Does anybody else  
9                   have any questions on this panel? We're going to  
10                  go right to the next panel. Aleks, thank you very  
11                  much. We have Walt Lukken to update us on Rules  
12                  1.73 and 1.74. These are a couple of rules that  
13                  are not Dodd-Frank related. The Commission has  
14                  leapt into required some extensive technology  
15                  requirements on the industry some of which are  
16                  available, some of which are not available. This  
17                  is a topic that we attempted to get to in October  
18                  at the FIA meeting in Chicago, but due to the  
19                  storm we couldn't get the right participants at  
20                  the meeting due to travel plans with the hurricane  
21                  so we're kind of picking up where we left off  
22                  there. Walt, thank you very much for your

1 participation.

2 MR. LUKKEN: Thank you, Chairman  
3 O'Malia, and I'll try to catch us up a bit here.  
4 I've been tasked with the exciting and riveting  
5 task of talking about 1.73 and 1.74 which are  
6 correlation rules. 1.73 deals with risk limits  
7 that clearing FCMs have to put on any type of  
8 transactions coming through the clearing firm. On  
9 the flip side, 1.74 deals with straight-through  
10 processing. Once the cleared trade comes into the  
11 system, then it's cleared within a certain period  
12 of time.

13 I wanted to first tackle 1.73. As you  
14 recall, 1.73 as Scott mentioned was briefly talked  
15 about last October at the TAC meeting in Chicago,  
16 but 1.73 requires clearing FCMs of a registered  
17 DCO to establish risk limits and to screen for  
18 compliance with those risk limits. This rule was  
19 scheduled to go into effect last October 1.  
20 Because of the varied way that execution happens  
21 in the futures industry, clearing FCMs found it  
22 very difficult to come into compliance with this

1 requirement. In particular, FIA raised last  
2 summer two issues that were really challenging for  
3 clearing FCMs, one dealing with give-ups in which  
4 an executing broker has to give up a trade to a  
5 clearing firm because the clearing firm doesn't  
6 have a relationship with the customer. It's  
7 difficult in that situation for the clearing firm  
8 to actually screen for orders. And the second is  
9 bunched orders in which an asset management firm  
10 or an account manager pools customer funds and  
11 gives it to an initial clearinghouse which is  
12 allocated at the end of the day to some ultimately  
13 clearing firms for clearing. Again because of the  
14 network effect, the externalities of those types  
15 of trading situations, it was very difficult for  
16 risk limits to be put onto those types of  
17 execution matters and also to be screened. As a  
18 result of that, the CFTC last September 26  
19 provided some relief to the FCM community in  
20 regards to give-up transactions and bunched orders  
21 through June 1 of this year. The date is  
22 approaching so we wanted to give the committee an

1 update on where things stand.

2           After the relief was given last fall, we  
3 sat down with many of the clearing FCMS in New  
4 York and had what we called a vendor showcase.  
5 Greg was part of that group, but all day in a very  
6 large conference room with coffee and donuts for  
7 the guests we brought in vendor after vendor after  
8 vendor to see if there was an outside technology  
9 solution to help us with this problem. I think  
10 what we quickly learned because of the network  
11 effect of the problem is that one vendor although  
12 could solve pieces of the problem, couldn't solve  
13 for the entirety of the problem. So we had to go  
14 back to the drawing board and come up with an  
15 independent solution that FIA has helped to craft  
16 and I think after working with the CFTC and Rick  
17 and some of his team and the Ananda's shop, we  
18 found out that the best and straightforward way to  
19 do this was to enter into a simple screening  
20 agreement between the executing firm and the  
21 clearing firm. This would be very simple. Again  
22 that would agree to a limit based on these

1 screening agreements. These screening agreements  
2 could be housed within FIA's EGUS system. EGUS is  
3 a give-up repository that FIA runs. These  
4 screening agreements could be housed there as well  
5 and automated through the EGUS system. That  
6 allows people to update limits over time. IF the  
7 creditworthiness of a counterparty changes, they  
8 can go into EGUS and change those limits and  
9 notification and the approval system is all  
10 automated so that EGUS makes sure that all the  
11 right people are approving that and it's all in a  
12 repository for those parties to see. So far there  
13 has been good take-up of this solution with the  
14 industry. To date we have nearly 800 screening  
15 agreements in processing in our EGUS systems with  
16 nearly 50 executed fully already, so with roughly  
17 a month to go before the June 1 deadline, we feel  
18 we're well on our way to being in compliance on  
19 the give-up side of this 1.73 problem and  
20 hopefully can report closer to the June 1 deadline  
21 when we'll be fully in compliance.

22 Dealing with bunched orders, there's a

1 similar problem with bunched orders. We took the  
2 solution on give-ups and tried to apply it to  
3 bunched orders. Remember, bunched orders are the  
4 situation in which an account manager bunches or  
5 pools orders on behalf of clients, gives it to an  
6 initial clearing firm and then it's allocated at  
7 the end of the day to several clearing firms. We  
8 thought again could we use a simple screening  
9 agreement between the account manager and the  
10 ultimate clearing firm in order to end up with  
11 again a similar screening agreement where the  
12 account manager agrees to screen for some simple  
13 limits and that that could be either housed with  
14 EGUS if possible or just independently not housed,  
15 just executed between the account managers and the  
16 ultimate clearing firms. The challenge with  
17 bunched orders versus give-ups is, one, we're  
18 dealing with a community outside the FCM community  
19 so it involves account managers and buy-side firms  
20 so that the challenge of getting everybody on  
21 board with a standardized screening agreement is  
22 difficult, and also just sheer numbers. Unlike

1 give-ups in which we're dealing in the hundreds of  
2 give-up screening agreements we have to execute,  
3 we're probably talking in the thousands for  
4 bunched orders. That has made it a challenge to  
5 get into compliance by the June 1 deadline. I  
6 think we have been in discussions with the CFTC as  
7 well as the buy-side about ways to bulk, get  
8 consent and get some of these agreements into  
9 place in what I would call an absent objection,  
10 meaning that the consent agreement goes out and if  
11 firms would object to it, unless they object to  
12 it, account managers would agree to screen for  
13 certain limits communicated to them. This would  
14 be a way for the FCMs and the account managers to  
15 get into compliance by the June 1 deadline and to  
16 get many of these agreements into place at the  
17 same time. If that is not an acceptable solution  
18 to the community, we would have to enter into  
19 individual negotiations with thousands of these  
20 agreements which would certainly get us past our  
21 June 1 deadline and not into compliance. We have  
22 been in discussions with trade associations, with

1 MG, with MFA, with ICI, and we're talking to other  
2 influential members on the buy-side to talk to  
3 them about this concept and to try to see if we  
4 can get agreement with again a very simple  
5 screening agreement to get us into compliance by  
6 the June 1 deadline, so those are both the give-up  
7 arrangements and the bunched order arrangements.

8 I do want to touch on 1.74 and then  
9 we'll answer questions after that as well. 1.74  
10 as I mentioned requires clearing FCMs to accept or  
11 reject a trade within 60 seconds of its submission  
12 to the clearing FCM. A similar 60-second  
13 requirement is in place on CCPs after an FCM  
14 submits a trade for clearing. Last October when  
15 this rule was to take effect, FCMs individually  
16 offered alternative compliance matters under 1.75  
17 to meet this rule, then the CFTC granted relief  
18 through the end of the year. An additional  
19 extension of relief was granted through February 1  
20 of this year to find an alternative method for  
21 compliance with this 6-second requirement. FCMs'  
22 concerns were in order to get to straight-through



1 processing they also recognized that there may be  
2 exceptions and that there will be times when they  
3 couldn't get 60 seconds. It could be operational  
4 issues as we're moving into mandatory clearing.  
5 It could be complex trades in which there are  
6 several legs to a swap trade that may not be  
7 coming into the clearing FCM at the same time. Or  
8 it could be simply a large notional amount coming  
9 in that the clearing FCM has to guarantee that  
10 they may want to do additional credit checks. We  
11 had during this relief period of time tried to  
12 submit an alternative compliance regime having  
13 worked with this buy-side firms on this in which  
14 there would be a ratcheting up over time, an  
15 allowance for exceptions and a ratcheting up over  
16 time of the 60-second requirement so that there  
17 could be exceptions and also reporting of those  
18 exceptions so the CFTC could gather data, they  
19 could see where the trends were, where the  
20 out-trades were and to make further refinements to  
21 this rule as time went on. Unfortunately that  
22 alternative compliance regime was not accepted by

1 the CFTC. The March 11 mandatory category one  
2 deadline came into being. Anecdotally we have  
3 heard from firms that there have been rejections  
4 of trades during this period of time. I think  
5 people are also looking to the category two June  
6 deadline and ratcheting up of clearing that may  
7 cause additional rejections. The CFTC in talking  
8 to the Division of Clearing and Risk have asked  
9 for some data from the clearing firms in order to  
10 understand trends in this area. It's our hope at  
11 FIA that we'd want to work with the Commission as  
12 they get more data, they see whether rejections  
13 are occurring and whether there are trends, that  
14 we can develop an exceptions process if that's  
15 appropriate and work with people as we go through  
16 this transition of mandatory clearing so that we  
17 can get to straight-through processing which is  
18 something that FIA supports. I will cease fire  
19 there and then it over to the Chairman for  
20 questions.

21 COMMISSIONER O'MALIA: Thank you very  
22 much. This is an area where our rules are just

1       goofy. We've tried to come up with a solution and  
2       put it on the industry and we could talk about  
3       cost-benefit analysis whether we got that right or  
4       not and what it took to get to this papering and  
5       re-papering the industry and trying to get all the  
6       account managers to sign up for this, and maybe  
7       Supurna can chime in as to what her thoughts might  
8       be on bunched and give-up orders. These were  
9       massive amounts of agreements in addition to all  
10      the other agreements we're requiring you to  
11      repaper through external business conduct  
12      standards, et cetera. So while our heart is in  
13      the right place, I do know that we've missed the  
14      technology boat in trying to figure out how to do  
15      this. Congratulations on solving the bunched  
16      orders because it was a well-defined community.  
17      The give-ups you got right. As for the bunched  
18      orders, we're still kind of searching for. Then  
19      on 1.74 it confounds me. You sent a letter in  
20      asking under our rules for an alternative  
21      compliance program back in January, January 29, I  
22      believe. You received no official answer back on

1 that. The rule says if you don't get an answer  
2 it's deemed to be in place within 30 days. You've  
3 probably contemplated that and said we won't  
4 assume anything in this one and didn't move  
5 forward on that. Now apparently we're sent a  
6 letter to the entire FCM clearing broker space and  
7 said tell us how many trades you've made or have  
8 not made or you've cancelled that have exceeded  
9 the 60-second requirement that we set under 1.74.  
10 We didn't set it under 1.74. We sent it in an  
11 email subsequently. I'm trying to understand how  
12 we've been completely transparent on this. Now  
13 we're asking for all the same data that you  
14 offered to send us back in January in this new  
15 April letter. Is that your understanding of all  
16 of this?

17 MR. LUKKEN: I think our clearing FCMs  
18 want to be in compliance. Certainly that is our  
19 goal and we are trying to because of the  
20 difficulty of not knowing if a trade is rejected  
21 or if the trade goes over 60 seconds what is our  
22 obligation involved in that. We've tried to

1       develop I think a process in which we would agree  
2       that if there are exceptions that we would be the  
3       first to tell you in weekly reports here are the  
4       exceptions, here is why they ran over 60 seconds  
5       and certainly work with feedback with the CFTC to  
6       find-tune this over time. I think because of the  
7       letters that went out we're getting to the same  
8       place that we had offered in January, but we want  
9       to work with the Commission. If there is not a  
10      problem here, we'll be the first say there's not a  
11      problem here, but we were trying to anticipate  
12      during this transitional time that again it's  
13      transitional, that we hoped within a year to be at  
14      100 percent compliance within 60 seconds, but  
15      there is going to be during these very difficult  
16      uncertain times during operational times, there  
17      may be exceptions to this process and we wanted to  
18      recognize that up front.

19                   COMMISSIONER O'MALIA: I guess I forgot  
20      to mention one other step, that we did provide LCH  
21      which has the same 60-second requirement  
22      additional relief for I think until -- John, how

1 long did we give LCH relief?

2 MR. LAWTON: May 17.

3 COMMISSIONER O'MALIA: May?

4 MR. LAWTON: Yes.

5 COMMISSIONER O'MALIA: The FCMS, no  
6 relief, LCH some relief or second relief. WE do  
7 have John Lawton here. Do you want to share any  
8 thoughts from the Office of DCR?

9 MR. LAWTON: As Walt mentioned, there  
10 were a couple of extensions granted. I think the  
11 thinking was that the rule originally went into  
12 effect was approved in April with an effective  
13 date of October and then there was an extension  
14 granted in October and a second granted in  
15 December, a third request in January and I think  
16 the decision was there wasn't a need for a third  
17 extension so the rule went into effect. The  
18 reporting that Walk was talking about was in  
19 connection with the third request for extension.  
20 Subsequently there were some press reports about  
21 there wasn't compliance. Our informal view of it  
22 is there's been very good compliance and we've

1 talked to firms and we've talked to  
2 clearinghouses. We think there is very good  
3 compliance, but we saw these press reports so  
4 therefore a letter went out to all the firms  
5 saying please give us some data about the actual  
6 extent of our compliance since the effective date  
7 which was March 1 and then the shortened timeframe  
8 as of February 1 and then March 11 which was the  
9 opening of the clearing mandate. The current  
10 letter that's out there is asking for reports from  
11 the firm about compliance since the effective date  
12 of the rule. We expect to be getting those  
13 reports shortly and we will be reviewing them and  
14 we will be in consultation with FIA and the firms  
15 to talk about the data that we get to see what  
16 kind of results we get from the reporting and if  
17 there are anomalies what the situation is. Again  
18 informally it looks like there is probably very  
19 good compliance out there right now.

20 MR. LUKKEN: I would add to that that we  
21 appreciate John's efforts to get more data here,  
22 but the truth is we can be compliance if we set

1 things to auto reject and so at 60 seconds we can  
2 auto reject and be in compliance with this rule.  
3 I think that the alternative costs to this is that  
4 had we had a bit more time either to do credit  
5 checks or if there are maybe operational issues we  
6 might have had to auto reject, and maybe Supurna  
7 can even talk to the problems when the rejection  
8 occurs that that creates uncertainty with  
9 resubmissions of swaps. That was the only issue.  
10 It's not an issue of getting into compliance for  
11 our folks. Our folks can do that through auto  
12 reject. But the question is what the alternatives  
13 could have been had we had more time.

14 COMMISSIONER O'MALIA: John, why is it  
15 that the January 29 letter, the alternative  
16 compliance that was going to provide reports on  
17 any exceptions to the trade, why wasn't that  
18 adopted or accepted or even responded to?

19 MR. LAWTON: I think the view was that  
20 there had been plenty of notice and that it was  
21 appropriate particularly to give some lead time  
22 before the clearing mandate started to have the



1 straight-through processing rule in place.

2 COMMISSIONER O'MALIA: But they weren't  
3 asking for relief to the rule. They were saying  
4 that if they had thresholds over 90 percent that  
5 they wouldn't have to auto reject and they could  
6 send you what exceeded that -- they were going to  
7 be in compliance. You were giving the  
8 straight-through.

9 MR. LAWTON: They were asking for a  
10 later effective date, essentially saying we'll  
11 give you reports and you can review the reports  
12 and we expect to be largely in compliance but  
13 we're asking for the effective date to be later.

14 COMMISSIONER O'MALIA: Supurna, do you  
15 have any thoughts on either one of these rules?

16 MS. VEDBRAT: How long do I have?

17 COMMISSIONER O'MALIA: I know  
18 Commissioner Sommers wanted to ask some questions,  
19 so you have until she gets back.

20 MS. VEDBRAT: I think that it's  
21 important to understand that from a futures  
22 perspective the system has been working. If we

1        were given enough time that the solution that  
2        being developed for swaps as far as credit limit  
3        checking goes, if that was allowed to materialize  
4        it could be extended to futures. And I think that  
5        that would be at least from a BlackRock  
6        perspective a much more optimal solution that  
7        putting in place an assessment letter which if you  
8        can elaborate a little bit about what that means  
9        it would help us. That's on the futures side  
10       something that we would like the Commission to  
11       explore to give an extension. As far as the  
12       rejections of trades taking place, it's important  
13       to understand that in this new world of cleared  
14       swaps a trade floor will interact with six  
15       different entities, a bilateral trade, that's  
16       between two parties. And the interoperability of  
17       the six entities is critical to straight-through  
18       processing. The industry infrastructure is not  
19       ready to allow for a rejected trade to be  
20       resubmitted in a timely manner at this state. I  
21       think given a couple of months the providers will  
22       have the solution that if a trade rejected the

1 buy-side or the client leg of the trade, or  
2 actually it could even be the executing dealer,  
3 would be able to efficiently resubmit the trade  
4 which would ultimately lead to the trade clearing  
5 versus a trade break and that's very important.

6           The other piece that I think hasn't been  
7 mentioned here that I want to draw some attention  
8 to is as this rule is being implemented, auto  
9 rejection may be put in place in some FCMs that  
10 put that in place. The liability of a trade  
11 rejection and a trade break has been passed on to  
12 the end user and that's not trivial. It's been  
13 passed on through documentation if an FCM has not  
14 been able to comply with the 60-second rule or  
15 there's a carve out, that if there is a trade  
16 rejection because of this the FCM wants  
17 indemnification of any market loss or any trade  
18 loss associated with that. The buy-side whether  
19 it's an asset manager or it's the end users, we're  
20 really not in a position to fight this. At least  
21 I'd like to let the Commission know that this is  
22 part of the documentation and given that the

1 mandate for clearing, March 11 has already gone by  
2 and June 10 is around the corner, there is really  
3 no room for negotiation from the buy-side. If  
4 possible do consider all of these as extensions  
5 that are required or requested as well as  
6 understanding that in the swap world we will have  
7 a solution that ultimately can be applied to  
8 futures.

9 MR. LAWTON: Can you describe who the  
10 six entities are?

11 MS. VEDBRAT: The executing dealer, the  
12 client, ultimately there will be a SEF and the  
13 will go to an affirmation platform. The  
14 affirmation platform will send the trade to CCP,  
15 the CCP will send it to an FCM, vice versa and  
16 there will be an SDR. John, I can send you the  
17 layout because we've got a layout that shows the  
18 entities. All I'm saying is that ultimately I  
19 think we're going to have an SDP process that's  
20 going to work efficiently, but just allow time  
21 that these pieces of interoperability are allowed  
22 to be developed in the optimal way and lack of

1 time doesn't make us end up with a solution that  
2 is suboptimal because it's not easy to rectify it.

3 COMMISSIONER O'MALIA: Do you want to  
4 touch on the allocation issue under 1.73? Do you  
5 have any perspective on how difficult it will be  
6 for FIA to organize a repapering to do a risk  
7 check?

8 MS. VEDBRAT: The risk check for the  
9 futures component of it is going to be a very  
10 onerous task because today what we have is we have  
11 agreements in place with executing counterparties  
12 and FCMs that are essentially tri- party agreement  
13 that essentially allow for the transfer of risk  
14 once a futures trade is executed to the clearing  
15 member. These are done on an umbrella basis and  
16 third-party agreements. In order for us to be  
17 able to repaper that for futures where there is a  
18 credit limit given at the account level by the  
19 clearing member and then the executing dealer  
20 having access to that will require almost the same  
21 paperwork that we have in place today that we have  
22 to do for swaps. The proposal was if we had a

1 credit hub in the middle and the credit hub were  
2 to receive limits from every FCM at the account  
3 level, at the allocation level or subaccount level  
4 and then that hub were to be used to do any type  
5 of limit checking when an executing dealer was  
6 going to trade and the account manager were to do  
7 a subscreen screening on a pretrade basis. That  
8 would allow for a lot less paperwork or repapering  
9 but the right screening that that should satisfy  
10 the rule. From a risk perspective, at least in  
11 futures we don't necessarily think we are solving  
12 for anything.

13 COMMISSIONER O'MALIA: Greg?

14 MR. WOOD: In response to that, I worked  
15 with Walt extensively on the futures side of 1.73  
16 particularly with regard to give-ups. As Walt  
17 alluded to, we did have a vendor showcase where we  
18 had several people come in to discuss their  
19 proposals for compliance around the give-up  
20 component of 1.73 for futures. One of the  
21 participants we had there was talking very much  
22 about a central credit check model which their

1 proposal was to integrate that into the matching  
2 engine for the exchange. One of the things that  
3 we were concerned about and it certainly became  
4 clear when we've had discussions with the various  
5 solution providers who were trying to come up with  
6 approaches for credit checking in futures is it  
7 would be a radical change to the way the futures  
8 trading environment has worked on several levels.  
9 Firstly, it would require either the introduction  
10 of credit checking at the venue or a separate  
11 credit hub that would be called either by the  
12 venue or by the execution systems that people are  
13 using. That would certainly take probably years  
14 rather than months to implement into the futures  
15 environment which is why we went for the solution  
16 that meets the requirements of the rule with  
17 regard to the screening agreements based on the  
18 fact that we actually do pretty adequate credit  
19 checks on a near trade basis at most of the FCMs.

20 MS. VEDBRAT: I think that's why this  
21 assessment letter that was discussed is important  
22 to understand what does that entail.

1                   MR. WOOD: Do you want to speak to that  
2 with regard to what the actual screening agreement  
3 is?

4                   MR. LUKKEN: It very closely follows the  
5 actual rule. It requires that the ultimate  
6 clearing firm and the account manager enter into  
7 an agreement on risk limits and those risk limits  
8 as John and his division have talked about are  
9 very flexible and what those could be, they could  
10 be max order sizes, they could be vet finger  
11 limits, they could be a variety of different ways  
12 of measuring risk. Once that agreement is in  
13 place then the account manager would be required  
14 to screen for that with the ultimate customer.  
15 It's a page and a half. I apologize, Supurna, we  
16 are socializing this real time now with the  
17 buy-side community and started last week with the  
18 associations, but this is something where we're  
19 faced with a dilemma of either negotiating  
20 thousands of agreements with account managers or  
21 trying to in bulk discuss this and come to a  
22 standardized form that people could agree to. So



1 we're socializing that right now and we'd  
2 certainly welcome the feedback of BlackRock and  
3 others.

4 MS. VEDBRAT: In the assessment letter  
5 if the credit limit agreement is between the asset  
6 manager and the clearing member and those limits  
7 now become the responsibility of the asset manager  
8 to be able to screen, the asset manager needs a  
9 solution of how they do that. The other thing is  
10 if I were to use swaps as an example because  
11 currently we are working with seven FCMs to get  
12 the unit of measure and to get an easy for us to  
13 be able to check credit limits, if I were to just  
14 use that as an example of how difficult it is to  
15 get some form of standardization across the  
16 industry, that it's not really fair to assume that  
17 the asset manager community or the buy side will  
18 be able to comply with that letter by June 1.

19 MR. LUKKEN: I agree. I'm just stating  
20 what the rule states. The rule states that the  
21 clearing FCM enters into an agreement and the  
22 account manager has to screen. That's what the

1 rule says. So we're just following what the rule  
2 states. I agree that difficulty levels are high  
3 here, but we're trying to stick to as close to the  
4 rule. This is not something that we're imposing.  
5 It's something the rule is imposing.

6 MR. WOOD: And from the perspective of  
7 the FCM community, we're trying to be compliant  
8 with the rule, the qualitative aspects of risk  
9 management between an asset manager such as  
10 yourselves and us as a clearing broker is still  
11 something that we're not trying to sidetrack.  
12 That is something that is very much part of the  
13 discussion between you and your clearing brokers  
14 and it's something that the screening agreement  
15 that we put in particularly around 1.73 and then  
16 the negative consent on bunched orders, these  
17 don't override the conversations that you would  
18 have with the risk managers at your clearing  
19 brokers because we very actively have risk  
20 management in place for your futures trading in  
21 your accounts. The word and the approach that's  
22 been agreed with on give-ups and bunched orders

1 allow us more flexibility around how we implement  
2 them, but we definitely implement them in  
3 discussion with yourselves.

4 MS. VEDBRAT: The other thing as to my  
5 concern about some of these solutions that are  
6 being proposed, today from a best ex perspective  
7 we can execute with a number of executing dealers  
8 and then we are able to give up those trades on an  
9 individual account level to the primary clearing  
10 member for that fund. As these rules break down,  
11 one concern I have is that are we being put into a  
12 state that we can only execute with the executing  
13 dealer that is linked or affiliated with the  
14 clearing member to that fund because from a  
15 pricing perspective, a best ex perspective, that  
16 would not be an area that we would want to end up  
17 in.

18 COMMISSIONER O'MALIA: John, any words  
19 of advice or wisdom?

20 MR. LAWTON: Certainly not wisdom. I  
21 don't think the problem that you just identified  
22 would be a problem. I think the rule contemplates

1       that the firms decide they want to execute through  
2       firm A, they want to clear through firm B or maybe  
3       the client wants to clear through firm B, so there  
4       is no limitation on separating out who ultimately  
5       clears from who you execute through.

6                   MR. TERRY: I work for a small credit  
7       fund in the city and an issue that we've recently  
8       run into is we spend an inordinate amount of time  
9       negotiating our prime brokers and ISDA documents  
10      and there's a timely fashion by which we go  
11      through it and we've now started to negotiate  
12      these execution agreements and the underlying  
13      clearing agreements and it's become a very, long  
14      drawn out process and from both a fiduciary  
15      perspective as well as an expense perspective  
16      we're in a tough position because for reasons I  
17      now better understand, a lot of the clearing  
18      entities we're talking to are refusing to deal  
19      with the issue of what happens if there's a trade  
20      that's kicked back. We bear all of the risk. As  
21      the CEO of my firm I need to determine with our  
22      traders can we live with this risk? These are

1 risks that we've clearly negotiated around in all  
2 the other trading agreements and now we're focused  
3 to deal with these. I don't know how to quantify  
4 that risk. From a fiduciary perspective I don't  
5 know how to quantify that risk and then from a  
6 best execution perspective it puts us in a very  
7 tough position. It has been an interesting 3  
8 weeks to 4 weeks that we've been doing this  
9 because it's forced us into a situation that we  
10 have not been in before which is we cannot get any  
11 reasonable discussion around the negotiation. You  
12 guys are multiples and multiples bigger than we  
13 are, but I would argue that my situation is very  
14 similar to those folks who are coming through June  
15 2 and it's a significant problem. I thought that  
16 that was worth mentioning.

17 MS. VEDBRAT: I was highlighting that  
18 more from the perspective of buy side in general.  
19 It's a risk that is not necessarily brought to  
20 light through the regulation, but it's done  
21 through the documentation. It's important to note  
22 that a lot of these risks are being passed on to

1 the end user.

2 COMMISSIONER O'MALIA: I was just told  
3 that Commissioner Sommers is coming down and she  
4 wants to ask a few questions on this topic. John,  
5 if you'll share with Ananda and everyone else over  
6 in your division the challenges we've heard here  
7 today and if you could articulate specifically  
8 what it is you want and by when and how you  
9 recommend they get there, I think they would find  
10 that very useful.

11 MR. LAWTON: We'll do that.

12 COMMISSIONER O'MALIA: Have you  
13 submitted any relief requests on timing at this  
14 point? I know you're working through it.

15 MR. LUKKEN: I think like I mentioned,  
16 in John's shop they've been very open to  
17 discussions on this and Ananda, so we're waiting  
18 to get more data through these letters. Again if  
19 it's showing trends that we anticipate, then we  
20 would love to offer our help in how to develop an  
21 exceptions process to avoid these types of what I  
22 would call unnecessary rejections.

1                   MS. VEDBRAT:  If we have another minute,  
2           I would like us to be able to discuss the numbers  
3           that we're seeing as far as rejections go today,  
4           obviously there is very little voluntary clearing  
5           taking place relative to mandatory clearing and  
6           also like the March -- active funds, most of the  
7           buy side is going to start to clear by June 10.  
8           One concern that we have is if there was a market  
9           event in which case we would fully expect clearing  
10          members and everyone to start tightening the  
11          limits that they're distributed to us, the level  
12          of the percentage of rejections will go up a lot  
13          more than business as usual and has the Commission  
14          contemplated what would be the state of the market  
15          if our rejection rate went from 1 percent to 5  
16          percent in a day because we will have a lot of  
17          outstanding market risk at that point not knowing  
18          really who is going to be the bearer of the loss.  
19          Then the other piece that I'd like the Commission  
20          to also take into account, this rule will make the  
21          buy side lean more toward a handful of SCMs  
22          because we're going to want to limit any type of

1 operational loss or market loss that we have. Is  
2 it in the best interest of the market to have a  
3 concentration of clearing members for swap  
4 clearing or to allow for a little bit more of a  
5 distributed model?

6 COMMISSIONER O'MALIA: Let me do a  
7 little bit of housekeeping here. We're over. We  
8 started late. We're going to blow through this  
9 break. Those of you who don't know where the  
10 restrooms are, they're down that way. There is  
11 food that way. We're going to try to get back on  
12 schedule. After Commissioner Chilton comes in  
13 we're going to rotate in the next panel and begin  
14 asking those questions right away. Obviously want  
15 you to hear the testimony and the input, but we  
16 are going to go through this break and try to get  
17 back on schedule so we can get to lunch. Maybe if  
18 we can have the next panel get set up and we can  
19 go from there. This is our third panel. This is  
20 the panel where we're going to hear from the  
21 market participants. This is the time to get into  
22 the big data question. Part of the challenge is



1 making sure everybody submits all of the data  
2 correctly in the same manner and it's harmonized  
3 and it's well understood so when the SDR receives  
4 it, it can easily match it, compare it, analyze it  
5 and give the Commission that same ability once we  
6 get ahold of the data. We've heard from a number  
7 of people in implementing Part 43 which is  
8 real-time reporting, Part 45 which is the  
9 regulatory reporting and a much more thorough,  
10 complete set of data and Part 46 which is the  
11 historical reporting of swaps. There have been  
12 lawsuits threatened. There have been extensive  
13 discussions about who has to report to whom in the  
14 SDR community, all of which has been going on  
15 while everybody has been trying to report and  
16 trying to understand the rules and the form and  
17 the format that they have to report to the SDRs.  
18 In the third panel I want to have the opportunity  
19 to hear from the market participants. I think  
20 we've got a good representation of different end  
21 users, buy side, sell side, et cetera, who can  
22 speak to some of these issues and the challenges

1 that they've dealt with in complying with our  
2 rules and the timetables we've given them. If  
3 nobody has any objection, I think we're going to  
4 start on my left, your right, and just walk down  
5 the line unless you guys have already drawn straws  
6 and you have a different format.

7 MS. SMITH: Dana Smith. I'm speaking on  
8 behalf of the working group of commercial energy  
9 firms. My comments are not by any means on behalf  
10 of NextEra individually or any specific working  
11 group. Some of the issues that we've been facing  
12 have been with the rules and where the rules  
13 require some dataset and then when you go to  
14 implement with the SDR, the SDRs have an  
15 additional dataset that they're requiring. It  
16 just makes things a little difficult to  
17 communicate back and forth.

18 COMMISSIONER O'MALIA: Do you want to  
19 elaborate on that? We have what the rule says.  
20 Is it you're complying with what you read in the  
21 rule and then when you submit to the SDR, they're  
22 saying we interpret the rule in a different way?

1           MS. SMITH: They also have those same  
2 requirements, but they have their own requirements  
3 because they're trying to utilize existing  
4 platforms that they already have, whereas we have  
5 been communicating with those SDRs previously on  
6 those existing platforms, it was only a small  
7 dataset that we were communicating. There are  
8 issues with that, and then with the fact that each  
9 of our ETRM systems are highly configured. They  
10 were initially out of the box, but over the years  
11 the systems have been changed to meet each  
12 company's needs and also as products evolve over  
13 time, you're not trading the same products you  
14 were 10 years ago and every year a new product  
15 comes out and everybody specializes and changes  
16 their systems in their own way. So now that we're  
17 all having to try and move everything together and  
18 standardize, whereas there is no MISMO standard  
19 right now for energy. So it's been a longer  
20 process and a more difficult process than  
21 initially anticipated.

22           COMMISSIONER O'MALIA: Are you in

1 compliance, do you believe? What's the status of  
2 this?

3 MS. SMITH: I believe everyone has done  
4 the best they possibly can to be in compliance  
5 when the April 10 was the deadline. I think the  
6 relief was much needed and appreciated to give us  
7 more time to ensure that the data that we are  
8 reporting is accurate when we're reporting stuff,  
9 it's just are we reporting what you want?

10 COMMISSIONER O'MALIA: Have you received  
11 any feedback from us?

12 MS. SMITH: Not recently.

13 COMMISSIONER O'MALIA: How recently?

14 MS. SMITH: I said not recently.

15 COMMISSIONER O'MALIA: Since reporting?

16 MS. SMITH: No.

17 COMMISSIONER O'MALIA: Can you give us  
18 an example of in terms of harmonizing it? Is it  
19 the way they want it reported? Is it what's in  
20 the fields that they want reported? And it's not  
21 what they want, it's what we want and the way  
22 they're complying and demanding of you to comply.

1                   MS. SMITH: I think the end users read  
2 the rule and the feedback that they've gotten has  
3 been one thing, in the way SDRs have read the rule  
4 and what they're required to do is something else.  
5 And then I think the way the CFTC meant the rule  
6 to be is probably something completely different.  
7 You have to make assumptions and document and then  
8 move forward and hope that you're doing your best.

9                   COMMISSIONER O'MALIA: Would a guidebook  
10 similar to what we did with large trader reporting  
11 at this level be helpful to you?

12                   MS. SMITH: I'm sure it would be  
13 helpful, although it would take some time to get  
14 through it, but, yes.

15                   COMMISSIONER O'MALIA: This was smaller  
16 than that and then it grew, but that's one of the  
17 elements that we started with. Is there anything  
18 else to add on that point?

19                   MS. SMITH: No. Thank you.

20                   COMMISSIONER O'MALIA: Raymond?

21                   MR. HANSON: Thank you very much.

22 Raymond Hanson from Credit Suisse. I think I

1 would highlight our challenges with where we are  
2 today and the areas we've either done well or can  
3 improve on in three major areas. The first is  
4 extraterritoriality. There remain a lot of  
5 challenges around the clarity of the rules. Just  
6 a check with the team the other day, we have  
7 approximately 140 use cases as a non-U.S. swap  
8 dealer that we have to ensure we comply with.  
9 That's a significant amount of complexity in our  
10 system and that's being done without the final  
11 guidance on paper which we'll then have to  
12 revisit. That's a real challenge for us in terms  
13 of implementing a solution we can be confident in,  
14 but also having the dependency on that final set  
15 of rules to review that. Our preference would  
16 certainly that we can make those rules as  
17 normalized across the global jurisdictions as  
18 consistent as possible so that we don't have one  
19 engine to meet all our obligations in the U.S. and  
20 another one for the European regulations and  
21 another one for each one of the Asian regulators  
22 because ultimately my understanding is the goal

1 would be to have one set of data consistently  
2 represented that any regulator who needs that when  
3 appropriate can see it. I think that's the first  
4 concern for us.

5 I think also that because the rules have  
6 stated single-side reporting which is we report  
7 one side of the transaction reports, it's  
8 determined who the reporting parties are to  
9 report, whereas when you look at the European  
10 regulations and some of the other regulations, you  
11 look at how TRACE operates, it's two-side  
12 reporting. That introduces a dependency on both  
13 sides having a consistent understanding of their  
14 status as a U.S. person. Whereas if both sides  
15 are reporting, where those disagreements, where  
16 those misunderstandings or lack of clarity exists,  
17 at least both sides can meet their obligations  
18 from their perspective without worrying about  
19 whether or not the entire industry, literally  
20 every dealer and every firm, is in synch. I think  
21 although it would be difficult at this point to  
22 ratchet back the single-side reporting, that is

1 something to keep in mind is a challenge for us.

2 I think the other I would highlight  
3 would be operational issues. I think while the  
4 aspiration of having a U.S. eye on all  
5 transactions through the entire trade flow is  
6 certainly a good one in terms of providing clarity  
7 and traceability. What we've seen is it has  
8 introduced a lot of operational issues because we  
9 now have to think about reporting which was  
10 historically a separate logical function. You now  
11 have to think about any issue in reporting, will  
12 that have a knock-on impact in the confirmation  
13 process. We've been working through that making  
14 sure those issues are identified and they're  
15 addressed, but that's certainly been a challenge  
16 for us as a firm to make sure we're one step ahead  
17 of that and ultimately we're not creating  
18 additional operational risk while being compliant  
19 with reporting.

20 The third one I would talk about really  
21 be around the focusing in the sequence. I know,  
22 Commissioner, you've in many of your speeches



1 talked about big data and the challenges there.  
2 The fact that we are trying to address issues  
3 across five major asset classes and across all the  
4 products in the asset class makes it very  
5 difficult for us to get single products or single  
6 asset classes to what I believe is the level of  
7 detail and level of consistency, something as  
8 simple as it 3M Lib, 3M LIBOR, is it 3M space  
9 LIBOR, something that simple which to me is what  
10 really drives the usability of the data, to me  
11 focusing on that and understanding the  
12 Commission's preference in terms of where we focus  
13 our efforts in the short term rather than a broad-  
14 brush approach which we have today where we have  
15 food-faith compliance expiring in July and  
16 therefore our focus has to be on all the issues  
17 and all the product types and all the asset  
18 classes. Any guidance we can receive in terms of  
19 where to focus our efforts as an industry I think  
20 would help allow us to get some of those key  
21 product sets in a healthier state and the data in  
22 a more usable state.

1                   CHAIRMAN O'MALIA: You want to touch on  
2 the USI issue? I don't understand that as well.  
3 So can you explain what the challenge --

4                   MR. HANSON: So the challenge with the  
5 USI is that there's a requirement that the USI is,  
6 first of all, generated based on the determination  
7 of who is the reporting party. So in single side  
8 reporting, two sides of the trade, one -- you  
9 know, that decision then is used to drive the name  
10 space of the USI. And that name space ties then  
11 back to the U.S. jurisdictions, so we have a  
12 dependency on, first of all, it being a U.S.  
13 counterparty involved in the trade, and then you  
14 generate the USI.

15                   You need to place that USI on things  
16 like the confirmations, for example. By doing  
17 that, what you're doing is introducing a  
18 dependency on successfully reporting the trade or  
19 you're reporting system being operational. For  
20 non-swap dealers, you know, the SDR is responsible  
21 for creating the USI, so you now have an  
22 operational challenge of not only ensuring that

1 the trade was successfully processed internally,  
2 but that the round trip to the SDR was successful.  
3 They return back the USI that they generated.

4 You then need to apply that on the  
5 confirmation, which operationally means  
6 essentially you have to ensure that your systems  
7 can handle that state, management that state or  
8 handle the ability to wait for a successful USI  
9 before processing the trade further downstream,  
10 you know. So it's something we're working  
11 through, but it's certainly something that may  
12 have been either an unintended consequence or just  
13 a challenge in terms of making sure that meeting  
14 reporting obligations does not impact our ability  
15 to issue a confirmation to clients and ultimately  
16 move the money at the end of the day.

17 CHAIRMAN O'MALIA: On the issue related  
18 to 3M LIBOR, just the harmonization of data is  
19 something that Dana talked about as well. Do you  
20 have any recommendations? What can we do to help  
21 you on that?

22 MR. HANSON: So I think the challenge

1       that I speak first, but certainly I would assume  
2       across industry, is the number of products. We  
3       have five asset classes, and the number of  
4       products, there is a limitation in terms of how  
5       many experts you can actually throw at this and  
6       solve the problems collectively in industry in a  
7       relatively short period of time.

8                 So I would think that having a focus on  
9       a certain set of products where we're really  
10      looking to get that data consistent, get the  
11      industry mobilized to focus on those knowing that  
12      that's where you want to see the energy spent  
13      rather than working on good faith compliance all  
14      the way out to wind down businesses and other, you  
15      know, trades that, you know, you may print a trade  
16      once or twice a week. The value of that in the  
17      real time tape is most likely much less than  
18      getting consistent data on those trades that are  
19      printed in high volume.

20                So helping us to understand your focus  
21      areas and where you'd like us as industry to focus  
22      over the next six to 12 months.

1                   CHAIRMAN O'MALIA:   John?

2                   MR. LIFTIN:   I'm John Liftin.   I'm  
3                   General Counsel and Managing Director of the DE  
4                   Shaw Group.   I appreciate the chance to be here  
5                   and give our perspective on some of these SDR  
6                   reporting issues.

7                   Just by way of background, we are a buy  
8                   side firm.   We serve predominantly institutional  
9                   investors.   We have over 1,000 employees.   We're  
10                  based in New York.   We have offices across the  
11                  globe, and we have a significant presence in the  
12                  world's capital markets.

13                  We have been a strong advocate of many  
14                  of the Dodd-Frank reforms, including central  
15                  clearing of liquid and standardized swaps, and  
16                  reporting to the CFTC and the SEC.   We believe  
17                  that this will advance Dodd-Frank's objectives of  
18                  promoting market integrity, increasing  
19                  transparency, and fostering competition.   And we  
20                  invested many months in and many person hours in  
21                  getting ourselves ready for swap clearing and  
22                  reporting, and we've already cleared at this point

1 several hundred interest rate and credit swaps  
2 since the mandatory clearing requirement has been  
3 put in place.

4           And I would just observe that the  
5 burdens that we've been subjected to do this have  
6 been far in excess of the estimates that the  
7 Commission put forth for people like us, non-swap  
8 dealer, non-major swap participants.

9           And in addition to what I just said,  
10 we're also voluntarily clearing more swap products  
11 than are currently required by your clearing  
12 mandate. We consistently support reasonable  
13 reporting requirements because we think it's  
14 important that regulators have meaningful data on  
15 which to base policy decisions. I know that's  
16 something you've been addressing. And also firms  
17 like us want to have better information to manage  
18 our investors' portfolios.

19           As we've e moved into the implementation  
20 stage, though, it hasn't been without challenges,  
21 and we wanted to give a few observations based on  
22 our experience that we hope will help you in your

1 oversight and supervision of these forums.

2 A key element to ensuring market  
3 confidence in these systems is to ensure that all  
4 the parties involved in overseeing swap trades --  
5 I'm talking about DCOs, and SDRs, SROs -- that  
6 they have robust systems and processes for the  
7 protection of confidential data in place prior to  
8 --

9 CHAIRMAN O'MALIA: John, can you pull  
10 your microphone a little closer?

11 MR. LIFTIN: Sure, be glad to. Sorry --  
12 prior to commencing the clearing and reporting of  
13 swaps.

14 Now by way of example, and you may know  
15 this, we and a number of other firms recently had  
16 certain sensitive swap data exposed when a systems  
17 error at one of the SDRs inadvertently allowed  
18 some market participants to access data related to  
19 certain cleared swaps.

20 Now, I don't mean to overstate this. It  
21 was not a Twitter attack. It was, we believe, an  
22 isolated instance, but it certainly got our

1 attention. I know it got the attention of the  
2 SDR. And we just think it's an example of what  
3 can go wrong as we begin to try out these new  
4 processes.

5 Another example of the challenges, we  
6 experienced certain difficulties in trying to  
7 prepare our own systems for reporting on April  
8 10th, and, in particular, we weren't really able  
9 to have an opportunity perform sufficient testing  
10 of the swap reporting system in a timely fashion.  
11 Now, we appreciate that the Commission's just in  
12 time extension of the deadline for historical  
13 reporting, and we hope that that additional time  
14 will be used by the SDRs to allow for greater  
15 testing of swap reporting functionality and  
16 provide them time to test for confidentiality,  
17 security, and the readiness of the systems in  
18 general.

19 I'm sure you know this, but I just want  
20 to emphasize that these trade details are very  
21 sensitive market data. They require the  
22 investment of significant research, time, and



1 resources on our part to create. And we consider  
2 this proprietary information highly valuable  
3 because if a third party were to get access to it,  
4 they could reverse engineer it and emulate our  
5 trading strategies, or with knowledge of our  
6 positions, use it to trade against us, or both.

7 And our intellectual property is  
8 absolutely critical to our franchise. It's the  
9 principle reason that investors entrust us with  
10 their money. So that's why I'm here to make this  
11 point.

12 What we would ask of you is that you  
13 work closely with the new SDRs to ensure that they  
14 strengthen their systems and confidentiality  
15 protection of the trade data that's reported to  
16 them. I would respectfully suggest that these  
17 procedures could include ongoing surveillance and  
18 monitoring of the SDRs, user access, routine  
19 testing of the systems, rigorous supervisory  
20 procedures and obligations, third party validation  
21 of their information, security, and privacy  
22 controls, and timely self-reporting obligations in

1 the event of information security breaches or  
2 leaks. We believe that strong confidentiality  
3 protections like these will foster an atmosphere  
4 of stability and trust among the regulators and  
5 market participants.

6 I would just also note that a side issue  
7 that relates to this is with the reporting forums,  
8 like PF, CPO, PQR, and other forums regulators,  
9 such as yourselves, as well as the SEC, the FSOC,  
10 and the SROs, are receiving a tremendous amount of  
11 systemic risk information from market  
12 participants. We believe that privacy, data  
13 protection has to extend to regulators and SROs as  
14 well, and we hope that that will be a key focus  
15 for all of the regulators. I'm aware that the  
16 Managed Funds Association is planning to submit a  
17 letter very shortly that raises these issues and  
18 provides specific recommendations along these  
19 lines.

20 So to conclude, we want to see swap  
21 reporting and clearing implemented successfully as  
22 does the Commission, and the DCOs, and the SDRs.

1 As implementation unfolds, we do expect there will  
2 be hiccups. We realize not all of them can be  
3 prevented. However, we think with careful  
4 oversight and further rulemaking by the CFTC, many  
5 of these potential pitfalls can be avoided in the  
6 future.

7 And we think a seamlessly functioning  
8 national system of swap reporting and clearing  
9 will encourage other market participants to clear  
10 and report swaps. And this will in turn result in  
11 increased market stability and benefit all market  
12 participants.

13 So thank you very much for the chance to  
14 address these issues.

15 CHAIRMAN O'MALIA: Thank you very much.  
16 I think those are, in light of what we're going to  
17 be talking about later today, very important as  
18 well to maintain the privacy at the SDR and in  
19 this building as well. So thank you very much for  
20 those comments.

21 Tara?

22 MS. KRUSE: Hi. Good afternoon. I'm

1 Tara Kruse. I work at Morgan Stanley, and I'm  
2 here today on behalf of the International Swaps  
3 and Derivatives Association.

4 I think in terms of the issue of further  
5 data standardization and SDRs, to me the largest  
6 challenge that we have faced and will face in  
7 further standardization is really coordinating a  
8 large number and array of market participants,  
9 right? We've got large and small swap dealers.  
10 We have end users, financial and non-financial  
11 parties, middleware providers, CCPs, execution  
12 platforms, a myriad of industry participants who,  
13 frankly, have different technological levels of  
14 sophistication and capacity. They frankly have  
15 different views and interpretations on what the  
16 rules mean and how they should be complying with  
17 them.

18 And unfortunately we all are very much  
19 integrated. It's a complex web. Every trade may  
20 involve several market participants, and unless  
21 they agree on exactly what's supposed to happen  
22 with respect to that trade, it is difficult to get

1 to further data standardization. To the extent  
2 that any of those parties take a different  
3 interpretation, it makes it very difficult to  
4 comply with the rules.

5 And as we each into more global  
6 regulation and other regulators are looking to  
7 fulfill their G20 requirements, it becomes a  
8 situation where you have multi- jurisdictional  
9 reporting across the board. So that web of  
10 complexity continues to increase. We have more  
11 participants from more jurisdictions who are all  
12 looking to have sort of a singular solution.

13 And I think as we look to improve data  
14 standardization, we have to take into  
15 consideration multi- jurisdictional reporting. We  
16 can't have a different data standard for CFTC  
17 reporting versus other global regulators. We need  
18 some global coordination on this.

19 I would also emphasize that time to  
20 market in terms of additional changes is very  
21 important. We are now live. We're in production.  
22 We have a very complicated and integrated system

1 that is helping us comply with our current  
2 reporting requirements. And to the extent we seek  
3 to make changes to improve that that are necessary  
4 and appropriate, we have to make sure those are  
5 implemented in a reasonable time frame that takes  
6 into consideration that complexity, the fact that  
7 it's serving multiple jurisdictions.

8 And then we don't want to risk impacting  
9 what we've already built and impact our abilities  
10 to deliver what we're currently delivering to you.  
11 So I think proper change order management really  
12 has to be considered so that we phase in  
13 additional changes for standardization over time.

14 CHAIRMAN O'MALIA: Now, in your capacity  
15 at ISDA, this is not organizing the industries not  
16 foreign to you all. So what opportunities can you  
17 take to help organize either standardization, some  
18 of these phasing requirements, common language  
19 issues. What's being done on that front to help  
20 things go on?

21 MS. KRUSE: Well, I think trade  
22 organizations, trade associations like ISDA have

1       been really key so far, right, and will continue  
2       to be important. They are the means by which we  
3       bring together different market participants to  
4       try to solve these issues and come to agreement.  
5       But frankly, there's different organizations that  
6       represent different market participants.

7                 Not all participants come to the table.  
8       And frankly, despite our efforts to always get  
9       folks to agree, you don't always come to  
10      agreement. People have a different view. And in  
11      the end, it does require some further  
12      clarification and assistance from yourselves in  
13      order to get us all on the same page and ensure we  
14      are all complying with what your expectations are.

15                CHAIRMAN O'MALIA: Is there an  
16      expectation that you could help us with a  
17      guidebook?

18                MS. KRUSE: You know, I think guidebooks  
19      are great frankly. I mean, I know it's a lot of  
20      work. It's something that has been brought up in  
21      conversation with some of your staff along the way  
22      that because there are many different

1       interpretations and many nuances to reporting,  
2       that having a guidebook would be useful.

3                   And we understand that because of all of  
4       you've had on your plate, it wasn't something you  
5       were able to produce previously. But I think it  
6       is something as an industry we would welcome, and  
7       we would welcome your encouragement of all market  
8       participants to comply with what those guidelines  
9       are.

10                   I would also suggest that we make sure  
11       that to the extent that guidebook indicates  
12       changes to what we currently have in place, that  
13       we have a phased-in approach that works for all  
14       market participants. You know, it's one thing for  
15       a swap dealer to implement a change perhaps in,  
16       you know, a few months' time frame, but a smaller  
17       market participant may not have the same capacity.  
18       So we have to take into consideration time to  
19       market for all participants.

20                   CHAIRMAN O'MALIA: Ed?

21                   MR. PROSSER: Good afternoon. Thanks  
22       for the opportunity to participate here today. My



1 name is Ed Prosser. I'm the Vice President of  
2 Back Trading for Gavilon. I'm here on today on  
3 behalf of Gavilon and also on behalf of the  
4 Commodity Markets Council of which we are a  
5 member.

6 CMC is a trade association that brings  
7 together exchanges in their industry counterparts.  
8 The activities of CMC members include the complete  
9 spectrum of commercial end users of all futures  
10 markets, including energy and ag. Our comments  
11 represent the collective view of CMC members.

12 Gavilon is a supply chain management  
13 company that manages risk across the commodity  
14 spectrum. We are constantly in the market trying  
15 to find the optimal hedge. Most often, we find  
16 that in the organized futures exchanges.  
17 Infrequently, the best hedge is a swap, and more  
18 often than not, a cleared swap. But we do find at  
19 times that non- cleared swaps are counterparties  
20 or entities that we tend not to be swap dealers or  
21 major swap participants.

22 Dodd-Frank established a reporting

1       regimen for swaps, which the CFTC has begun to  
2       implement. Reporting structure is complicated and  
3       confusing, particularly in regards to swaps  
4       between end users, something that is very common  
5       in physical commodity swaps.

6                I don't think the Commission has an  
7       appreciation for the diversity of swap terms. If  
8       they could be standardized, they would be  
9       futurized. I know that part of the unspoken  
10      thought regarding swaps is that many are  
11      standardized, which may be true, especially in  
12      some of the financial products. But in the  
13      agricultural world, as was true in 2000 when CFMA  
14      was passed, there are still swaps being executed  
15      with customized terms on a daily basis by  
16      companies like Gavilon.

17               While we fully support transparent and  
18      access to market data by regulators for robust  
19      market oversight, we question the value to the  
20      Commission of the vast expansion of data  
21      collection we've seen. Trying to turn the data  
22      that we report into information that is accurate

1 scares us. A bushel of corn is 56 pounds. A  
2 bushel of beans is 60 pounds. A bushel of oats is  
3 32 pounds. A ton here is 2,000 pounds. A ton in  
4 England is 2,200 pounds. A ton in the rest of the  
5 world is 2,204.6 pounds.

6 The idea that we try to get all of that  
7 data pushed through and somebody makes  
8 conclusions, I don't know if we can even get the  
9 quantities of these swaps to standard. And the  
10 idea that we report that information, and there  
11 are some conclusions made about that information  
12 that might not be accurate, concerns us.

13 Two examples of Dodd-Frank related  
14 initiatives come to mind that are very troubling  
15 to Gavilon, the CMC and the entire commercial  
16 place. The first issue appeared in the position  
17 limit's final rule that was ultimately struck down  
18 by the courts. The rule required the reporting of  
19 daily physical positions to justify hedge  
20 exemptions, which under the rule were only  
21 available to commercial market participants rather  
22 than the historical requirement of monthly

1 physical position reporting. The change would be  
2 virtually impossible for a global commodities firm  
3 to comply with.

4           The industry viewed the change as  
5 necessary and overly burdensome, given that the  
6 Commission has always had the ability to ask for  
7 data to justify a hedge exemption. Does the  
8 Commission really have the resources, given all  
9 the new market oversight responsibility, to  
10 analyze 30 times the data? Was there an issue  
11 with the monthly reporting regimen that would be  
12 resolved by daily positions being reported? We  
13 implore the CFTC to retain the historical  
14 requirement to report monthly positions in the new  
15 position limits proposal.

16           The second significant expansion of  
17 current data requirements beyond the scope of  
18 Dodd-Frank is related to record keeping  
19 requirements in part one of Commission  
20 regulations. In accordance with Dodd-Frank, the  
21 CFTC expanded the record keeping requirements that  
22 existed for certain market participants in futures

1 to swaps. However, they also significantly  
2 expanded the written requirements and created a  
3 new requirement to report oral conversations.

4 Compliance costs have already been  
5 incredibly substantial now that compliance with  
6 the written requirements is mandatory, and will  
7 only increase once compliance with the oral  
8 recording requirements become mandatory later this  
9 year. Again, the market is searching for a reason  
10 all of this new information must be maintained and  
11 archived.

12 In addition, the rule is vague as to  
13 which communication must be retained. So in an  
14 abundance of caution, market participants are  
15 effectively saving everything.

16 Requests for clarification have not yet  
17 been answered. The CMC will be submitting a  
18 written request soon in a continuing effort to  
19 clarify and hopefully narrow the scope of what may  
20 be retained and, therefore, reduce compliance  
21 costs. I hope the Commission will consider the  
22 idea of how many transactions, how much contact

1 between counterparties goes in to make all of  
2 these swaps come together, and define further what  
3 leads to the execution of a transaction.

4 The development systems, in order to  
5 comply, would be extremely burdensome and costly  
6 on non-swap dealers and end users. To Gavilon, it  
7 matters not that less than one percent of our  
8 transactions would be subject to the new reporting  
9 requirements. We would have to change our IT  
10 systems to handle all the required information,  
11 whether it is for one swap or 1,000. I suspect  
12 that our situation is similar to other companies  
13 in the same market position as us. The days of  
14 submitting a handwritten note on exceptions are  
15 behind us.

16 When you think about the cost of  
17 compliance when spread over such few transactions,  
18 you can appreciate the cost of our compliance.  
19 The economics of compliance coupled with the  
20 complexity of reporting is sending a strong signal  
21 to simply use futures. When you add on the  
22 unknown potential risk associated with

1 non-compliance around swap reporting, the message  
2 to us to use only futures is amplified. Reporting  
3 will force an increase in transaction costs, and  
4 ultimately that cost will be passed onto  
5 consumers.

6 In closing, we fully support the CFTC's  
7 effort to implement Dodd-Frank, bring the OTC  
8 markets into a regulated environment, and generate  
9 transparency in opaque markets. However, we  
10 implore the Commission to do so in a realistic  
11 manner that considers the regulatory benefits  
12 versus the market cost, and not to overly burden  
13 the end users these markets were created for.

14 Thank you.

15 CHAIRMAN O'MALIA: Thank you very much.  
16 Greg Wood will --

17 MR. WOOD: Thank you very much,  
18 Commissioner O'Malia. Just for the record, I'm  
19 here representing the FIA in my capacity as  
20 President of the IT Division, and also as the  
21 Co-Chair of the FIXX Protocol organization's  
22 Global Derivatives Committee.

1           I was asked by various people at the FIA  
2           to just come and give a little sort of view on  
3           this topic, not specifically from the view of swap  
4           data repositories, but also -- but more from the  
5           issue of reporting requirements and data  
6           requirements.

7           So looking ahead, you know, well,  
8           looking behind, we have large trader reporting  
9           where we have a guidebook that is very thick. You  
10          know, we have conversations about swap data  
11          repositories and the quality of data that is going  
12          into those repositories and its usability. In the  
13          future we also have OCR coming, ownership,  
14          control, and reporting. So these are very big  
15          requirements for many participants in the markets,  
16          not just for swaps, but also for the FCMs, for the  
17          buy side as well, you know. These requirements  
18          touch every participant in the market place.

19          And the thing that we would like to ask  
20          or emphasize is we need to look at this in some  
21          sort of holistic manner. There's a lot of  
22          information here that actually overlaps, and there



1 are certain parts that are specific to particular  
2 requirements with regards to swaps and the  
3 challenges around representing swaps and wherever  
4 they can normalized, or, you know, or they remain  
5 bespoke. But there are also - there's a lot of  
6 details around who the participants are,  
7 particularly details around transactions.

8           These are things that can -- if we were  
9 standardize approaches around particular discrete  
10 elements of our reporting requirements, we can  
11 actually reduce the cost of being compliant quite  
12 considerably across the firms. And I think that  
13 is something that everyone in this room is  
14 probably looking towards. We have ever-increasing  
15 budgets with regards to our regulatory  
16 requirements. And whatever we can utilize in most  
17 places is definitely of benefit to all of the  
18 participants in this room.

19           So how do we do that? That's really  
20 where we're asking the question here. We don't  
21 expect someone, for example, like John Rogers to  
22 provide us with a spec to say this is the data

1 that I require. I mean, some guidelines would  
2 definitely be very useful. But then it comes up  
3 to the industry associations wherever it is, where  
4 it's fixed protocol, whether it's even FIA working  
5 as a coordination across the FCMs to then actually  
6 meet those data requirements.

7           And I'm sure, you know, we can work  
8 together. I mean, often there is not going to be  
9 agreement, as Tara highlighted, but I think in  
10 general if we have guidance and we have a goal to  
11 what we can do, we can certainly work together to  
12 actually meet the requirements, and hopefully then  
13 present something that is usable and not just a  
14 massive overhead in terms of time and expense.

15           So really, that's the gist of where I'm  
16 trying to come to here is, you know. There are a  
17 lot of overlapping parts. There are discrete  
18 components that I think we can easily work on  
19 together to identify participants, to identify  
20 transactions. And then there's instrument  
21 details, there's economic details, there may be  
22 more bespoke to certain types of data. But then

1 we can work within the certain organizations that  
2 look after those particular areas, and then we can  
3 fit into whatever framework that you can use.

4 CHAIRMAN O'MALIA: Thank you very much.  
5 In trying to keep us on time, we're butting up  
6 against lunch, but I just want to kind of  
7 summarize some of these things, and I hope you all  
8 stay for the next panel, which will be after lunch  
9 where the SDRs will be in place to help. And John  
10 Rogers and Rick Shilts are going to be here to  
11 kind of frame the debate about the challenges  
12 we're facing.

13 We've heard from you about your  
14 challenges, and let me just tick off the themes  
15 that I heard: Harmonization, operational  
16 challenges, privacy, kind of the complexity of all  
17 of this. There's a time and phase in that we need  
18 to recognize, as well as size. I think somebody  
19 has mentioned the size of the entity is going to  
20 matter in how we mandate this.

21 Multi-jurisdictional, I think that's an  
22 issue that probably we need to get our house in

1 order, but understanding where other jurisdictions  
2 are in this debate and how we're going to meet up  
3 with them. The Chairman has talked about the  
4 multi-jurisdictional goal that he wants to solve.  
5 That's great, but maybe we can touch on that a  
6 little later on. But I think our problem is right  
7 in front of us just dealing with our own rules.

8           And then the standardization and cost  
9 that you all solved and the best way to solve  
10 this. I mean, who's going to be in the room to  
11 sit down, identify what it is we want, and then  
12 what is it is you can provide, and if everybody  
13 agrees on the term and terminology on that.

14           Before we leave, let's just keep that in  
15 mind, and we'll talk to our SDR panels. If  
16 anybody wants to make a comment about anything  
17 they've heard today about this or anything else,  
18 go ahead and do it now. Otherwise, we're going to  
19 talk about it. Adam?

20           MR. LITKE: Yeah, just a question. When  
21 we were working on the guidelines for the swap  
22 data repository reporting in the Data

1 Standardization Subcommittee, one of the things  
2 that was very clear was that it was intended that  
3 the SDRs should be setting the standard for what  
4 was reported to them to be able to answer the  
5 questions that the CFTC was going to ask of the  
6 SDRs.

7           Yet I'd say approximately half of the  
8 members of this panel have said they were  
9 confused. Their interpretation of the rules was  
10 different than the SDR. And it was my impression  
11 that there was no room for the reporting parties  
12 to have any interpretation whatsoever of the  
13 rules, and that was supposed to be done -- the SDR  
14 was supposed to say this is what you're going to  
15 report to us if we're going to be the SDR. That  
16 has nothing to do with the timing or who reports.  
17 I fully understand the questions.

18           And then there was supposed to be a  
19 negotiation between the SDRs and the Commission  
20 over what data could be reported when to the  
21 Commission for usefulness. And the rule was sort  
22 of written that way because the SDR -- each SDR is

1 allowed to set its own standards.

2 Now I'm hearing that people are confused  
3 as to what they should report to the SDR, and I'm  
4 wondering why people are feeling that confusion if  
5 the SDR is supposed to be saying this is my  
6 standard.

7 CHAIRMAN O'MALIA: Supurna?

8 MS. VEDBRAT: Yeah, I'd just like, you  
9 know, add to the cost and standardization, if  
10 accessibility of the data could also be included,  
11 you know, because market participants may have  
12 requirements to be able to reconcile the data.  
13 And, you know, being a user of the SDRs, it hasn't  
14 actually been easy or, I should say, successful to  
15 be able to get the data, which would be the first  
16 step for us to be able to reconcile what's -- you  
17 know, what the SDRs have.

18 CHAIRMAN O'MALIA: That's a great point.  
19 We've heard anecdotally that some people have  
20 submitted data, getting access to their data, what  
21 they submitted is incomplete or not there. Has  
22 anybody else had that problem?

1                   MS. VEDBRAT: It's not easy to identify  
2                   the data, where it came from, you know. One of  
3                   the issues that we've experienced, you know. Then  
4                   the other piece of it is, you know, it's unclear  
5                   if the SDR -- you know, your own data, if that  
6                   should be available free of cost or not. And what  
7                   type of agreements are you required to sign, and  
8                   is there, like, indemnification from privacy  
9                   breaches and things like that that are in those  
10                  agreements, you know, which become problematic  
11                  again.

12                  MR. HANSON: If I could address more to  
13                  the first question -- I've had less interaction  
14                  with the SDRs in pulling back out data. I think  
15                  there's really two issues. One issue is as a firm  
16                  we have historic, I'll call them mappings, and  
17                  information the way we structure trades is  
18                  different, as Tara mentioned, and pretty much  
19                  every other firm has a unique way somewhere in the  
20                  systems across the breadth of the products. So  
21                  there are areas where we as a firm need to  
22                  identify where things are not mapped the way the

1 SDR would have them reported and resolve those.

2 The challenge really for us is doing  
3 that across every asset class, every product out  
4 to the most bespoke in very, very short time  
5 frames as opposed to being able to focus.

6 I think on the flip side, you then also  
7 have the challenge for the -- I agree in principle  
8 that, you know, the SDRs have access to CFTC.  
9 They can clarify. But you do have issues around  
10 multi-jurisdiction where a flag may be mandatory  
11 for one jurisdiction, optional for another. So  
12 we've had, you know, many dialogues with the DCC,  
13 for example, trying to understand what's the  
14 appropriate flag to set. Is it required? Is it  
15 not required? As well as information where we may  
16 be providing a piece of information that from a  
17 purely technical perspective, it's difficult for  
18 them out of, call them potentially hundreds of  
19 trade attributes on a single trade, whether or not  
20 we provided "the appropriate value," you know, in  
21 terms of, you know, for their systems to actually  
22 validate them.



1                   So I think at a broad level it works,  
2                   but at a very technical implementation level, it  
3                   is a challenge, you know, too, because clearly not  
4                   every field we're passing is being validated for  
5                   every -- you know, for every jurisdiction. That  
6                   would be an extremely complex ask, especially as  
7                   you get out beyond the more vanilla products.

8                   MS. KRUSE: Yeah. I think I would add  
9                   on that, too. I mean, it's definitely been a  
10                  collaborative process between market participants  
11                  and some of the SDRs in terms of determining how  
12                  data is reported. But at the end of the day, the  
13                  SDRs, one, have administrative pieces they're  
14                  working at around validation of certain fields.  
15                  So, for instance, they may need to make a certain  
16                  field optional just because it doesn't apply to  
17                  all transactions. But from my perspective, I'm  
18                  always going to turn back to my rules to say, oh,  
19                  for this particular type of transaction, I'm  
20                  required to report it.

21                  So I can't always rely on them to tell  
22                  me what makes me compliant. At the end of the day

1 I think I think as firms, we always feel like it's  
2 going to come back to us. I can't point to the  
3 SDR and say, well, they didn't make report this,  
4 you know, so it's their fault I'm not compliant.  
5 Rather we take the responsibility on ourselves and  
6 work together with them to make sure that the  
7 availability is there to report everything we  
8 believe we need to report, and then we take it on  
9 ourselves to analyze the rules and understand what  
10 we believe will make us compliant in case we need  
11 to speak to what we have done.

12 CHAIRMAN O'MALIA: Anybody else? We're  
13 pretty close to on schedule, believe it or not.

14 Housekeeping. All the panelists and all  
15 the TAC members are invited upstairs for lunch.  
16 And we will see you all at 1:30. Thank you.

17 (Recess)

18 CHAIRMAN O'MALIA: I don't have the  
19 chairman here to shush you, so please sit down. I  
20 refuse to shush.

21 Okay, 1:30, panel four, SDR Data Issues  
22 and Perspective of the SDRs. We're going to start

1 with John Rogers, who many of you know is our --  
2 head of our Office of Data and Technology, and has  
3 been leading kind of our technology effort to make  
4 our rules work, and to ensure compliance, and make  
5 your job easier to comply with our objectives. So  
6 John is going to frame the debate. We had the  
7 markup participants kind of identify their broad  
8 challenges in complying with our rules, and they  
9 were correct.

10 I don't know -- I think it was Adam  
11 mentioned that I thought it was the SDR's  
12 responsibility to tell us what to do. Well, you  
13 know, they maybe a little confused about what our  
14 rules require as well. So based on the data we  
15 received and the efforts put in so far, John is  
16 going to help frame the debate a little bit, and  
17 I'll turn it over to him. Then we will go to the  
18 SDR panels. I don't know if you have guys have an  
19 order. I'll just start at one end and work my way  
20 down, if that's okay. John?

21 MR. ROGERS: Okay, thank you very much.  
22 Yeah, so hopefully this presentation will answer

1 some of the earlier questions from the preceding  
2 panel, too. Maybe not all of them, but some of  
3 them.

4           What we're going to do here is I'm going  
5 to speak for a while, then turn it over to the  
6 SDRs. I'll go through my slides here. But before  
7 I start, I want to mention that, you know, for  
8 those that are provisionally registered that I  
9 appreciate all of the hard work and collaboration  
10 that we've been doing together. That would be,  
11 you know, us from the IT perspective and certainly  
12 from the business divisions at the Commission with  
13 each SDR. So it's been very collaborative and  
14 cooperative.

15           Clearly there's a lot of work to -- that  
16 remains to be done, and we are in the midst -- at  
17 the very beginning stages of a very long-term  
18 process. The way that I look at it is we are  
19 actually standing up a new system. We might be  
20 leveraging existing technologies, but we're  
21 standing up a new system for how we perform this  
22 regulatory function and, you know, how the markets

1 work and whatnot. And standing them up will take  
2 some time.

3 So I've divided the conversation into  
4 four themes: Data quality, data harmonization,  
5 accessibility, and analytics. And I'll go into  
6 each one in turn. The focus that I would like to  
7 have from an SDR perspective is to have people  
8 focus on what they're doing around each one of  
9 these themes, what their future plans are, and  
10 then we can have questions. And I'm going to end  
11 it with a little about the process going forward.

12 So in terms of quality, we're talking  
13 about the validation and normalization of data.  
14 The themes actually begin with the notion of data  
15 coming into the SDR and then how data is used  
16 within the SDR and potentially across SDRs for our  
17 purposes. That's where we get into harmonization.  
18 We actually need to aggregate across SDRs, and so  
19 we're talking about harmonization.

20 The next thing would be accessibility,  
21 how could we go out to the SDRs? As Chairman  
22 Gensler mentioned earlier on, having direct

1       electronic access to the SDRs, including sorting,  
2       filtering, and aggregating by party, counterparty,  
3       product, underlying. And being able to search  
4       based on time is a primary objective of what we're  
5       trying to achieve here. So accessibility is a  
6       very important portion of this.

7                   And then ending the themes with the  
8       notion of analytics. We are in the mode of  
9       analyzing data both from an operational  
10      perspective and from a market perspective, and so  
11      we'll be talking a little bit about those  
12      capabilities.

13                   One of the things that's important for  
14      us is not to focus on how the SDRs handle  
15      something, but what we need from them. I know  
16      that each SDR has a different method or is  
17      leveraging existing technology to become  
18      operational. We understand that and appreciate  
19      that. But we really have been focusing our  
20      dialogue and will continue to focus our dialogue  
21      on the -- what we need from a regulatory  
22      perspective.

1           So let's go into validation. Okay, it's  
2           up there. So we talked about quality and include  
3           validation in that. The ideal scenario for us is  
4           to get good standardized data from the source.  
5           Someone had mentioned earlier, you know, the whole  
6           principle of garbage in, garbage out. I think to  
7           some extent, some of the information that we  
8           received could be erroneous certainly, but I also  
9           think that it's not necessarily always erroneous.  
10          It may be based on the multi- jurisdictional  
11          issues that were raised in the previous panel or  
12          things like that, or just maybe that it's coming  
13          from an existing system and having to flow into  
14          the SDR. But it's important to get the best  
15          standardized data from the source.

16                 To that end, we've sent an initial set  
17          of fields that we will be focusing on to review  
18          and analyze to make sure that we are getting --  
19          that we are seeing good quality data. There are,  
20          in some cases, thousands of fields that we have to  
21          sift through. We can't really tackle all fields  
22          all at once, so we're focusing on particular ones

1 that we need to focus on to support the notion of  
2 the ability to aggregate information.

3 An important thing for us in terms of  
4 ensuring that the level of quality goes up is that  
5 we track data quality issues, that the SDRs have a  
6 sense of what issues they're encountering and that  
7 we can see it as well so that we can work together  
8 to make sure that the quality rises. And that  
9 begins with the SDRs reaching out to the  
10 submitters and ensuring that the quality is  
11 increasing, but also us getting involved where  
12 necessary.

13 One of the things that we've noticed,  
14 one of the things that's a challenge is that there  
15 are different requirements for the acceptance and  
16 rejection of records, and there are different  
17 schools of thought on that. So, for example, if  
18 there's greater acceptance of data, then there's  
19 more visibility into it. But on the flip side,  
20 that raises a question of the integrity of the  
21 data, what can you trust and not trust as opposed  
22 to rejecting data and having it be the only things



1 flowing into the repository are that which are  
2 clean and not necessarily seeing as much of it,  
3 but knowing that the quality is -- the bar is  
4 high. And so having talked with each of the SDRs,  
5 I know that there are different rationales for  
6 that, so it would be very interesting to hear what  
7 people think about those notions.

8 In terms of the kinds of data that we  
9 get, there are -- or not get, but have a view  
10 into, there are four categories that we've talked  
11 about so far. There are messages. That's what we  
12 consider to be the raw data received by the SDRs.  
13 There are events, open swaps, and exposure. Those  
14 last three elements are things that really are  
15 normalized versions of the original message data.

16 So in our -- from our vantage point, it  
17 would be taking those messages and creating some  
18 sort of set of data that we can look at and make  
19 use of that will be based on those events. So  
20 events turn out to be things like confirms, or  
21 terminations, or new trades, and to that extent.  
22 An open swap would be the aggregated data for swap

1 at the end of each day, and the exposure would be  
2 the ability to roll up swaps to really what we  
3 would consider a position level in the futures  
4 space, but we called it exposure for the sake of  
5 this conversation.

6 So let me give you some examples of  
7 validation. This is not meant to be in any way,  
8 shape, or form an exhaustive list of things, but  
9 just to give you a flavor of some of the things  
10 that we're looking at, and what we will look at as  
11 we look at these 22 fields that we recently sent  
12 out.

13 So we've spent a lot of time and effort,  
14 many people, working on a CICI utility to create  
15 an LEI, and there are multiple instances in each  
16 SDR where an LEI is called for. We need that LEI  
17 to be validated against the CICI utility to make  
18 sure that it's a valid LEI. In some cases, there  
19 has been, you know, up until recently no action  
20 relief that has meant that some people didn't have  
21 LEIs necessarily to report. We recognize that  
22 that could be the cause of these issues.

1           But when we look at something like  
2           validating what the legal entity is that's engaged  
3           in a swap, we would expect to see the rate of  
4           valid LEIs going up, and we want to make sure that  
5           we're taking action to ensure that that happens.

6           Others that are simple are on the list,  
7           but if there are particular enumerated values that  
8           need to be validated to ensure that we're getting  
9           the same data, we need to be checking on that. We  
10          need to verify that USIs are properly constructed,  
11          that dates and times are represented in the  
12          appropriate way, that required fields are always  
13          present. Even if someone has a challenge, a  
14          multi- jurisdictional challenge, we still need to  
15          make sure that the data that we require is  
16          provided.

17          Another example that I came up with that  
18          we've been working through in some instances is  
19          the notion of duplication. Are there duplicate  
20          records out there? And this kind of fits in with  
21          the whole rejection-acceptance paradigm. And it  
22          could also relate to the notion of us working more

1       closely with HSDR and understanding the portal and  
2       understanding the data structures, but there are  
3       instances where we see duplication, and we want to  
4       resolve those.

5                 From my vantage point, one of the big  
6       things that we have to address is the notion of  
7       product identification because if you think about  
8       how we then want to aggregate, product would be an  
9       important ingredient to that. So we've talked --  
10       I know that there's been lots of discussion in  
11       previous TAC meetings, and there's been discussion  
12       elsewhere about the unique product identifier, and  
13       that effort needs to pick up so that we can  
14       aggregate across products. And, of course, the  
15       challenge is different for different asset  
16       classes. We need to establish that.

17                 So moving on to -- oh, so one other  
18       thing I wanted to say about validation, you notice  
19       I didn't mention anything about a particular  
20       standard. I didn't mention anything about FPML or  
21       FIX ML. That was by design because while those  
22       things have a lot of value in them, I think that

1 we're really looking at the underlying content and  
2 the ways that we're ensuring, and the processes  
3 that we're using to ensure integrity of data and  
4 whatnot, and that's why we're not focusing on that  
5 at this point.

6 In terms of harmonization, one of the  
7 keys here is that we need to harmonize the data  
8 across SDR, so there are three provisional SDRs  
9 right now. Each one has, just by way of example,  
10 you know, has responsibility for the credit asset  
11 class. We're going to need to look at and come up  
12 with aggregated information about the credit  
13 space, and the only way that we're going to be  
14 able to do that is if we're going to -- if we can  
15 see similar things across each one.

16 So following on to the Chairman's  
17 previous, you know, comments, you know, we need to  
18 aggregate to show the size of the markets overall.  
19 We need to see it by party and counterparty, and  
20 by party, counterparty, and product.

21 Some of the challenges that we face in  
22 that is that there's different types of content

1 flowing into the different SDRs, different  
2 messages, different sizes and shapes of fields and  
3 whatnot, and so making sense of it is one of the  
4 things we have to work through. We need to,  
5 again, aggregate across different types of fields.

6 Overall we've noticed that the volume of  
7 transactions is not as significant as what we're  
8 seeing in the future space, but the future space  
9 is far more standardized, and there's far less  
10 complexity in the data, so that creates a  
11 challenge from that perspective.

12 So some of the examples of principles  
13 are listed on the next slide, and it comes back to  
14 cross checking fields. One of the ones that's  
15 really important that I've seen in some of our  
16 conversations is that from a data management  
17 perspective, fields should never be used for more  
18 than one purpose. If fields -- if one field has  
19 two meanings, then it becomes really difficult to  
20 manage because what happens is you have to manage  
21 it in your software. You have to figure out how  
22 to deduce the meaning of that, and we don't want

1 to be looking to software. So I think that as we  
2 analyze the data more and more, we're going to be  
3 making sure that fields only serve a single  
4 purpose.

5           So moving on. The major elements in  
6 terms of what we're standardizing and harmonizing  
7 on are the types of messages we receive. I know  
8 that the different SDRs know these types of  
9 messages. There's the PET real time confirmation  
10 continuation data, which is referred to as  
11 snapshots. I know that in some instances, some  
12 SDRs are accepting snapshots. Some are not. But  
13 there's valuation records, and then there's  
14 combinations of all of the above. There are  
15 records that are coming in with PET and real time  
16 data all in one place, and that's all fine. It's  
17 useful to see the raw data, but making sense of it  
18 and getting it harmonized is the key. And that's  
19 why we came up with the concept of events, open  
20 swaps, and exposures.

21           So we've already talked about the notion  
22 that we've got these 22 fields that we're going to

1 be looking at. One of the things that -- the  
2 reasons that we focused on these particular 22  
3 fields is because they're pretty consistent across  
4 asset classes. And one of the things we want to  
5 harmonize on is data across asset classes first,  
6 and then we have data that will be focusing on,  
7 you know, more specifically within an asset class.

8 So just like LEI is something that would  
9 apply to all asset classes, or USI, or UPI, there  
10 are a number of fields that fit into that mold,  
11 and we're focusing on those first to allow us to  
12 perform the functions that we want to perform or  
13 need to perform.

14 In terms of accessibility, one of the  
15 key ingredients for Dodd-Frank is, as I've always  
16 come to know it, is the data must be directly  
17 available at the SDR. That means all of the  
18 messages are up there, and then these  
19 transformative things that I've been describing  
20 earlier need to be up at the SDR. They need to be  
21 available within minutes of coming in, not at the  
22 end of the day or something like that. It's



1 important that we have a view into the data as it  
2 flows into the SDR.

3 We understand that certain data will  
4 need to be derived -- actually in some respects we  
5 probably will have more of a requirement for data  
6 to be derived and presented to us if the data is  
7 not flowing in -- you know, in a standardized way.  
8 So the ability to reduce the ask of actually  
9 having to transform data is directly related in  
10 some respects to the quality, and the consistency,  
11 and the standardization that's coming into us.

12 I've already -- we've already touched on  
13 the notion of searching and sorting by a variety  
14 of fields: Party, counterparty, product, data,  
15 and time. The portal needs to have -- each portal  
16 needs to have that capability. We need to be able  
17 to search by some combination or all combinations.  
18 That's an essential ingredient to this process.

19 The other thing is even though we want  
20 to look at data, there's no doubt that we will  
21 want to bring data back to the Commission for use.  
22 And some of those kinds of things will be done on

1 an ad hoc basis, so each portal needs to have an  
2 ad hoc query capability to bring data back to the  
3 Commission.

4 Another ingredient will be the fact that  
5 we need to have -- we need to see reports existing  
6 on the portal, which is not necessarily what I  
7 would consider to be the grid filter sort and  
8 search capability, but rather snapshots in time of  
9 how things looked. So, for example, at the end of  
10 the day, for example. What are the open swaps at  
11 the end of the day, or was it a position, what is  
12 an exposure at the end of the day kind of thing?  
13 Those will need to be out there. Operational  
14 status reports, documentation, all of those things  
15 need to be on the portal.

16 One of our challenges in coming up to  
17 speed on using them is each individual SDR has a  
18 different portal, and that's okay. But it means  
19 that we have to learn how to use those things.  
20 One of the benefits of seeing things differently  
21 is that we're actually shooting for the highest  
22 common denominator. We're going to look for

1 things in one that we really like and ask others  
2 to replicate that kind of capability, again, not  
3 focusing on the how we want things to be done, but  
4 what it is that we need to be effective in our  
5 role. And so that will require lots of  
6 interaction between us.

7           Ultimately, though, we're going to be  
8 asking for a regular feed of information to the  
9 CFTC, and actually, in fact, more than one. To  
10 give you an example of something like that, we are  
11 preparing a swaps report that will be published, I  
12 would expect, in the May time frame, that will be  
13 initially off of credit and rates. The work that  
14 we've had to do to analyze the data across the  
15 swaps repositories was very specific because the  
16 data repositories were different.

17           We were able to figure it out and how to  
18 come up with like data from each swaps data  
19 repository. But ultimately, we want the SDRs to  
20 be producing that output and feeding us that  
21 aggregate of information so that we can then, in a  
22 more -- in an easier manner, put that information

1 together and make use of it.

2 We will also want to see the underlying  
3 data obviously to understand how those numbers  
4 were derived, but that would be an example of  
5 actually what I would think would be a relatively  
6 straightforward feed of information. But we will  
7 also need to have some form of transactional data  
8 flowing into CFTC so that we can do that analysis,  
9 because there are certain types of analysis that  
10 we recognize that we can't do just by looking at a  
11 single SDR.

12 So in cases where we can identify a need  
13 to be pulling data for analysis across SDRs or to  
14 relate that data to futures, we'll need to bring  
15 data down for that purpose. The goal is not to  
16 replicate what an SDR can already do, but rather  
17 to go beyond that capability, and that's why we'll  
18 be asking for standardized data feeds. We're not  
19 there yet, but that's where we're heading.

20 And then the last thing -- the last  
21 theme I wanted to talk about was analytics. So  
22 we've gone over the notion of operational reports

1       that we are asking each SDR to produce, and each  
2       SDR thankfully is giving us something every week  
3       that talks about the flow of data, the amount of  
4       rejections and acceptances. There's going to be  
5       some refinements we're going to need to make to  
6       that. Operational issues that come up, you know,  
7       out of an SDR and how we're working through those  
8       kinds of issues. But there are also other kinds  
9       of metrics that I would say are more on the  
10      business side from my perspective, so things like,  
11      you know, top notional amounts outstanding by a  
12      variety of categories, CDS types, and currency and  
13      customer type, or types in region, types in asset  
14      class, so on and so forth, or trade volumes, and  
15      that sort of thing.

16                 So we'll be continuing to ask for  
17      analytics along those lines. We have to define  
18      our requirements and give them to each SDR and  
19      work through the process of how we're going to get  
20      those things delivered to us so that we can make  
21      use of the information.

22                 So that takes me to the process going

1 forward. The processes going forward is very much  
2 the process that we already have, which is to  
3 continue regularly recurring conversations with  
4 each SDR about what our needs are. Sometimes  
5 those will be in depth conversations. Like, I  
6 know with each of you we've had day-long meetings.  
7 We've been following that up with calls and  
8 whatnot. I expect that pattern to continue. I  
9 would also expect that at some point in time we'll  
10 want to bring the SDRs together and talk about  
11 harmonization so that we can be in the same room  
12 and hear things.

13 But the bottom line is we all must work  
14 together to harmonize data, reports, and portal  
15 capabilities to facilitate regulatory oversight.  
16 And, you know, I'm happy to say that we've got a  
17 lot of people that are dedicated, and focused, and  
18 working hard on this. But as Commissioner O'Malia  
19 said to me at one point when we were talking about  
20 TAC, it's really an all hands on deck issue that  
21 we need to work through to get us to the point  
22 where we want to be.

1 Thank you.

2 CHAIRMAN O'MALIA: Thank you very much,  
3 John. I have a number of questions kind of  
4 regarding, you know, starting -- well, if you go  
5 to slide four, John, if you can get your magic  
6 clicker out there and go back.

7 MR. ROGERS: Oh, sure. We're on four.

8 CHAIRMAN O'MALIA: Okay. So "Establish  
9 a process with submitters, track data using data  
10 quality issues to ensure systemic errors are  
11 addressed, provide information to the Commission  
12 on data quality." And it says, the top line is,  
13 "We must set the course of action for consistency  
14 in data quality."

15 Have we told everybody what our  
16 standards are and what we want from them, or are  
17 we having these one-on-one conversations? What's  
18 the process for informing the market, and how soon  
19 will that be done, and what's the timeline for all  
20 of this?

21 MR. ROGERS: I think it's an ongoing  
22 process, so we have been -- we've just begun, I

1 think, with the issuance of these 22 fields to  
2 articulate what it is that we're requiring to  
3 ensure quality. So things like LEIs or USIs and  
4 things that we need to ensure those things, or  
5 date fields, for example. Some of the fields are  
6 execution time.

7           Those are actually relatively easy to  
8 articulate. We've articulated those to the SDRs.  
9 Now it's -- I think the next step is for people to  
10 come back and say this is how long we can take to  
11 implement the validation rules. Those I don't  
12 think would take an inordinate amount of time, but  
13 then there are some that are going to be a lot  
14 more complex. Taking something like UPI and  
15 figuring out what the standard is.

16           I actually envision this -- that there  
17 will be a degree of harmonization that would need  
18 to occur in a global context, going back to that  
19 multi-jurisdictional issue that was raised in an  
20 earlier panel. So I would say that that kind of  
21 an issue is at least a year out.

22           And there are different nuances by asset



1 class, so there isn't one specific answer, but I  
2 think that the 22 fields that we selected were  
3 fields that we felt like we could make significant  
4 progress in the short term, looking for, you know,  
5 feedback from the SDRs on what they can do to  
6 ensure that we are checking this data to make sure  
7 that it is clean. And, of course, that does  
8 involve the front end of the process, the people  
9 that are submitting the data. There's going to  
10 have to be some interaction on that end to ensure  
11 that there's quality information flowing in. It  
12 also --

13 CHAIRMAN O'MALIA: We use the SDRs to  
14 communicate to that to the market. We're not  
15 sending out -- we have not sent out further  
16 guidance on the 22 fields --

17 MR. ROGERS: We have not, and I would  
18 expect that the SDRs would perform the initial  
19 reach out to the industry on compliance with  
20 those.

21 CHAIRMAN O'MALIA: Okay. I think what I  
22 want to do is you've kind of heard John's

1 presentation. Let's hear from the SDRs, and then  
2 we'll get into it and ask the questions about  
3 whether John is right, or the SDRs are right, or  
4 how they're going to work together.

5           The point of this at the end of the day  
6 is that we're all comfortable with the path  
7 forward, that whatever John is dictating to the  
8 SDRs will filter into the market, and we can ask  
9 them to submit and comply with all of the  
10 expectations we have to make kind of the  
11 presentation John identified and make it  
12 successful.

13           If at the end of the day we are not  
14 confident that there is a road map forward and a  
15 process that you are comfortable with, please let  
16 me know because we haven't succeeded. And so at  
17 the end of this, I want to make sure that whether  
18 it's DMO or ODT, the guys that wrote the rules,  
19 and the guys who are implementing the rules, and  
20 then you all are trying to figure out how this is  
21 going to be completed. It has to succeed. And if  
22 we leave here and we still have questions, then

1 shame on us. This is the perfect opportunity to  
2 solve them. We've got the two guys and we've got  
3 staff back here that are part of it. And, of  
4 course, we've got Commissioner Chilton here, and  
5 he can help.

6 So we're going to start with Bloomberg.  
7 Greg and Nathan are going to testify, and then  
8 we'll just go down the line.

9 MR. DUMARK: Thank you, Commissioner.  
10 My name is Greg Dumark. I'm the Senior Compliance  
11 Officer with Bloomberg's Fixed Income Electronic  
12 Trading Business in New York. Nathan Jenner is  
13 with me. He's the Fixed Income Electronic Trading  
14 COO.

15 CHAIRMAN O'MALIA: Greg, can you pull  
16 that a little closer so we can hear?

17 MR. DUMARK: I'm saying Nathan Jenner is  
18 with me. He's the COO of our Fixed Income  
19 Electronic Trading Business. We'd like to thank  
20 the Commission for giving us the opportunity to be  
21 here today and talk about data issues relative to  
22 the SDR.

1                   In case you didn't know, our  
2                   wholly-owned subsidiary, BSDR, filed an  
3                   application for provisional registration on March  
4                   10th of this year with the Commission. So in  
5                   short, we hope to be the fourth provisionally  
6                   registered SDR. We feel pretty confident that we  
7                   could fulfill our mandate, our duties to be an SDR  
8                   in the sense that we'll allow participants to  
9                   fulfill their reporting obligations across all  
10                  derivative asset classes.

11                  The regulatory reporting of swap  
12                  transaction is a critical component to mitigating  
13                  systemic risk, promoting standardization and  
14                  increased transparency in the swap markets. We  
15                  are, meaning BSDRs, committed to providing the  
16                  highest level of service as an SDR consistent with  
17                  the importance of price transparency. Our BSDR is  
18                  built on proven systems processes that draw on our  
19                  experience as a leader in delivering financial  
20                  data and pricing of the markets. In particular,  
21                  BSDR will make use of our widely- accepted  
22                  technology platform and experience as an industry

1 partner to provide a secure, reliable SDR  
2 database.

3 We appreciate the Commission's concern  
4 about reporting inconsistencies, technical  
5 challenges, and the validation and normalization  
6 of SDR data. In the end, the value of the swap  
7 data reported, as you noted, Commissioner, to the  
8 SDRs rests on the ability to standardize data,  
9 process and retrieve large amounts of data that  
10 allows for the aggregation and risk analysis that  
11 needs to be done on this data.

12 When we got this list of items, the  
13 issue that we're going to discuss today, I sat  
14 down with our Chief Technology Officer for the SDR  
15 and I said, let's go over this and see what's  
16 doable. And many of the items from our  
17 perspective are ones that we absolutely can commit  
18 to working with the Commission and a lot of them  
19 are doable. So we can help work with our fellow  
20 SDRs to standardize this data and have consistent  
21 fields to push out data to you to be able to look  
22 into our database and do the analysis that you

1 want.

2 One of the interesting questions came  
3 up, though, which was it would be helpful to know  
4 from the Commission what their objectives are in  
5 doing surveillance. So in essence, you telling us  
6 what you want to do with the data, and I think  
7 that would be part of the discussion today. We  
8 certainly can work to normalize, standardize these  
9 data fields, but it's also very important from our  
10 perspective to know prospectively what you want  
11 out of the data. So I think it works both ways.  
12 And so I think that's an important component of  
13 this discussion.

14 As I said, we look forward to working  
15 with the Commission and our fellow SDRs to  
16 harmonize the data, the reports, the portal  
17 capabilities necessary to facilitate your  
18 regulatory oversight. Again, we thank the  
19 Commission for the opportunity to be here today,  
20 and we're happy to answer any questions that you  
21 have.

22 CHAIRMAN O'MALIA: Thank you.

1                   MR. JENNER: Great. Thanks, Greg.  
2                   Nathan Jenner from Bloomberg. I'm aware that I'm  
3                   also from Bloomberg, so I don't want to double my  
4                   -- double our floor time. But I'll just add to a  
5                   couple of points that Greg made.

6                   So although we are here in the capacity  
7                   of us being an SDR, it's worth sort of  
8                   understanding where Bloomberg as a parent company  
9                   comes from. Essentially, Bloomberg is all about  
10                  taking in data from a varying set of sources  
11                  around different markets, around different  
12                  regions, and essentially turning that into usable  
13                  information, whether that's standardizing data,  
14                  whether that's turning it into risk reports, or  
15                  whether that's even producing downstream feeds for  
16                  our customers. So, you know, that's the sort of  
17                  background for Bloomberg as a company.

18                  And if you look, a good example of it as  
19                  it relates to this discussion, you know, there's  
20                  already a function on the terminal called SDR Go,  
21                  imaginatively named. But that is a function that  
22                  exists today, which takes in data from other SDRs

1 outside of Bloomberg. And, you know, already on  
2 that function, there's already some examples of  
3 some of the themes that you're talking about, you  
4 know, the ability to search, the ability to sort  
5 data, even the ability to take some of those  
6 trades and turn those into risk reports, whether  
7 they're Delta ladders, or whether they're, you  
8 know, they're some sort of FX exposure, or credit  
9 exposure. Some of that is already available, and  
10 those are things that, you know, even outside of  
11 the Commission, I think the general market is  
12 looking to digest that information as well.

13           So, you know, the point in there is some  
14 of those things that you're asking for, I think,  
15 are already happening. And that leads me into  
16 just the sort of final point echoing what Greg was  
17 sort of saying towards the end of his piece, is  
18 that, you know, I think one of the things that you  
19 will consider as you move through this process is,  
20 you know, do you want to focus more on the  
21 questions that you want answered, or do you want  
22 to focus more on sort of the prescriptions around



1 the data the SDRs collect.

2           You know, arguably, you know, both  
3 courses might get you to a similar place, but from  
4 our perspective, you know, with us as an SDR, if  
5 the Commission is clear on these are the questions  
6 we want answered, i.e., what is the transaction  
7 volume going through the market today? What is  
8 the exposure of certain counterparties? Is there  
9 a spike in a certain instrument? I think it's  
10 very easy for us to then take that question and  
11 figure out this is the data, this is the set of  
12 data we'll need, and we'll turn that data into  
13 information for you. That's the way we'll work  
14 quite well.

15           I think if you, you know, if you focus  
16 more on a prescription on, you know, data should  
17 be collected in this format with this particular  
18 set of fields, I think that's definitely helpful  
19 to a certain point. But I think if you  
20 crystallize the questions that you need answered,  
21 the rest of it will become a lot easier.

22           Thanks.

1                   CHAIRMAN O'MALIA: I think that's a  
2                   great point, and I think to John -- John mentioned  
3                   it earlier. We want reports now, but I think we  
4                   want to be able to do it all on our own at some  
5                   point in the future. And I think to the point  
6                   about surveillance, what do you want in terms of  
7                   surveillance. We want to be able to do any  
8                   surveillance on any entity on any asset. And that  
9                   requires us to look at and manipulate the data in  
10                  the manner we see fit and to kind of serve our  
11                  purposes. And I didn't mean manipulate, but "use"  
12                  I think is the term I was searching for,  
13                  "utilize," "access."

14                 So I think we're of kind of a split  
15                 right now. We want both what you have to offer  
16                 today, but we also want the ability to do it on  
17                 our own in the future. And I think we know we  
18                 can't -- we don't have it all put together yet,  
19                 but we need to be putting it together.

20                 And I think the point about, you know,  
21                 are you going to ask us questions or are you going  
22                 to prescribe what you want. And I think we need

1 to be much more prescriptive about what we want so  
2 you can provide it to us, because clearly you're  
3 that tool that we're going to face the market and  
4 we're going to make you do all the work, and make  
5 demands of you, et cetera.

6 So to answer that brief question, unless  
7 you have --

8 MR. ROGERS: Yeah, I want to add to  
9 that. Yeah, I agree, and it's very interesting.  
10 I think that at one level we'll come up with  
11 specific questions, but we don't necessarily want  
12 to go down the road of asking a specific question,  
13 getting that question answered. If we have the  
14 same question again, ask the question again, get  
15 that answer. It's really around developing  
16 capabilities so that we can looking to NSDR or  
17 look at data across an SDR to answer the question  
18 on our own, which really gets back to more what  
19 was just said. It really becomes a method of  
20 empowerment so that we can search on our own.

21 From the standpoint -- I mean, I really  
22 look at this from two different perspectives. I

1 represent the IT side, so when I look at things,  
2 I'm looking at it from the perspective of data  
3 management, IT functionality, and that sort of  
4 thing. So we'll be looking at how do we get data  
5 in a place where the business can make use of it.  
6 In terms of the kinds of questions of risk  
7 analyses or whatnot, those are going to come from  
8 the business side.

9 I think that you will find that you will  
10 get both of those things. I'm not trying to be  
11 overly prescriptive certainly, but it's important  
12 that when we take these concepts, we turn them  
13 into empowering tools for us to use at the CFTC  
14 for a myriad of purposes. And that even extends  
15 to the notion of something like just validating an  
16 LEI. It doesn't really solve a problem in terms  
17 of risk. It enables things, but when we talk  
18 about let's validate CICIIs against every place  
19 where a CICI is used, we should have to mention  
20 that once and have it universally applied so that  
21 we can move those kinds of issues and move into  
22 more complex issues. And that's the way I think

1 the evolution of this process is going to be.

2 Right now, we want to understand things  
3 around size of markets both from a notional value  
4 perspective/transaction perspective, you know. We  
5 want to know who's opposite whom from a  
6 party/counterparty perspective. But I think that  
7 the requirements are going to continually evolve  
8 and get more complex, and we need you to be  
9 building the capabilities that enable us to do the  
10 analysis that we need to do.

11 CHAIRMAN O'MALIA: Okay. We're going to  
12 go to Chris. Thank you.

13 MR. CHILDS: Thank you, Commissioner,  
14 and thank you for the Commission for giving us the  
15 opportunity to come here and talk to you today.

16 My name is Chris Childs. I'm the CEO of  
17 DTC Data Repository, also known as DDR. I've  
18 prepared a PET, which is is all on your -- in  
19 front of you. You'll be pleased to hear I'm not  
20 going through bullet by bullet. I'll assume that  
21 you can kind of read when you've got an evening of  
22 nothing to do.

1                   So I just wanted to put into perspective  
2                   DDR. We currently have about eight million open  
3                   swaps in our repositories across five asset  
4                   classes. This is on page 3, by the way. That  
5                   portfolio size drives around 40 to 50 million data  
6                   submissions per week, which we in turn then feed  
7                   down to John's group. We receive and publish  
8                   about 85,000 real time price messages every week.  
9                   In addition to the USSDRs, we also operate a  
10                  regulatory repository in Japan, and we also have  
11                  repository in the UK for helping market  
12                  participants with their voluntary reporting.

13                  And I think one of things that we picked  
14                  up earlier from some of the comments was the  
15                  global nature of reporting. And just to highlight  
16                  a couple of things, we have two repositories that  
17                  are actually live now, one for Japan, one to  
18                  support U.S. reporting. One is single sided, one  
19                  side reports, the other, both sides report. One  
20                  we have real time PET confirm snapshots, as John  
21                  was talking about. The other one we have end of  
22                  day snapshots on a T plus two basis. One we have

1        counterparties identified by LEI. The other we  
2        have counterparties with BIC.

3                So those are the types of things that  
4        we're seeing already with two repositories live.  
5        We know the European rules, they're different  
6        again.

7                So I do think that when we talk about  
8        standards and has been pointed out by the FSB as  
9        well, it's important that for those market  
10       participants that are global in nature that we  
11       think about these standards in the global context.

12                Just turning to page 4. I think, you  
13        know, we are now four months into receiving data  
14        from swap dealers, which, in the long scheme of  
15        things, is not a huge amount of time. And we have  
16        collected a hell of a lot of data, and now the  
17        challenge for the industry to is turn that data  
18        into information. And I think the next stage  
19        along that continuum path is what we're talking  
20        about here, which is to standardize and make sure  
21        that the data is sufficient quality that we can  
22        actually aggregate that.

1                   And to the point my friends were making  
2                   from Bloomberg here, given the fact that there are  
3                   multiple repositories, you can only aggregate that  
4                   data and do true market analytics on top of that  
5                   when you've taken data in a standard format for  
6                   multiple repositories so that you can then  
7                   aggregate that data. And again, I think that if  
8                   you're looking at it from central banks'  
9                   perspective, it's important to understand that is  
10                  going to have to be done potentially on a global  
11                  basis as well.

12                  Just turning to the next page and I'm  
13                  picking out on some of the points here. Again,  
14                  standards are typically driven by business needs,  
15                  so we've seen that over the last few years when,  
16                  you know, e-confirm platforms come in, e-  
17                  affirmation systems come in. And because you're  
18                  then trying to compare data from two different  
19                  sources, you have to create the standards to be  
20                  able to make that comparison. And I think that  
21                  the regulatory need for good data is the next  
22                  catalyst. And already we're seeing new language



1 appear in the industry, whether it's USIs, LEIs,  
2 UPIs, and so on. I think, again, when we're  
3 talking about standards, again, it's important to  
4 think about this on a global basis.

5           So if you turn to page 6, just a couple  
6 of things that we've already kicked off at DDR  
7 based on the conversations that we've had with  
8 John and his team at the Commission. We are or  
9 have already started to do reviews of Part 43 and  
10 Part 45 data starting with credit and rates as  
11 they were the first asset classes to kick off.  
12 And, you know, the good news is that we are seeing  
13 standardization, more than people would perhaps  
14 would give credit for.

15           Typically, where the data is coming from  
16 in e- confirm platform or some market  
17 infrastructure, standards are being applied. The  
18 trouble is I think that that population of data  
19 that complies with those standards is getting  
20 muddied with the stuff that isn't complying with  
21 those standards.

22           And so I think, you know, as this

1 evolves, I think you're going to see that, you  
2 know, especially for credit and rates, there are  
3 actually through ISDA and through other kind of  
4 middleware providers and data providers, there are  
5 already standards. I think what we need to focus  
6 on is which standards are we going to embrace and  
7 the move forward with those standards across all  
8 of the swap data repositories.

9           And John mentioned the fact that he has  
10 recently provided the 22 fields to us. We are now  
11 incorporating that into our reviews of data. The  
12 reviews that we're doing now we're feeding back to  
13 our industry market participants to get their  
14 observations around the level of standardization  
15 and talk to them about the next steps.

16           As it relates to accessibility and  
17 analytics on page 7, I think we're in a kind of  
18 infancy here. We have just recently provided  
19 John's staff with portal access. That was  
20 actually yesterday. So we look forward to working  
21 with the Commission on improving the -- you know,  
22 the functionality of that portal, providing the

1 Commission with all of the attributes that they  
2 need, search criteria improvements, and timeliness  
3 of data improvements. And obviously  
4 standardization is also the key to making the  
5 portal more effective and more usable for the  
6 folks at the Commission.

7 One point I do want to pick up that  
8 Bloomberg had made is that ultimately after we've  
9 looked at the size of the market and we've  
10 captured some of that stuff, we are going to want  
11 to reply as an industry, and I'm sure the  
12 regulators are thinking about this market level  
13 analytics. Where are exposures? Can we put this  
14 data through stress tests? Can we identify market  
15 participants that under certain scenarios may be  
16 facing issues? And that analytics and how we can  
17 work with the Commission and the rest of the swap  
18 depositories to provide that level of analytics is  
19 something that I think will become key over a  
20 period of time.

21 So in summing up and on the last page,  
22 what can we do to help the Commission? I think we

1       need to -- you know, we need to embrace standards.  
2       We need to work with the Commission and the other  
3       swap data repositories and the industry on what  
4       those standards should be. We need to monitor  
5       progress against those standards, and over time  
6       increase our validation so that the data that's  
7       coming through to the Commission already meets the  
8       standards that have been set.

9                 We need to provide consistent output in  
10       a standard format so that the Commission can  
11       actually take the data from multiple repositories,  
12       irrespective of how the data comes into us in a  
13       standard format so that they can then amalgamate  
14       the data. And we need to obviously cooperate with  
15       each other as SDRs to make sure that we move  
16       forward at the same pace and that we, you know,  
17       provide the data that you need and when you need  
18       it. It's not going to be -- it's a lot easier to  
19       say than it is to do.

20                And I do want to pick up something that  
21       Raymond had said on the prior panel. I actually  
22       think the prioritization is key. We're not going

1 to be able to do all of this across all five asset  
2 classes overnight. I think we need to focus on  
3 where we can make the biggest headway, focus on  
4 that, and move forward with the industry, with the  
5 Commission, and with the rest of the swap data  
6 repositories.

7 So once again, thank you, and I look  
8 forward to the dialogue.

9 CHAIRMAN O'MALIA: Thank you very much,  
10 Chris. Bruce?

11 MR. TUPPER: My name is Bruce Tupper.  
12 I'm President of ICE's Repository Services, ICE  
13 Trade Vault. During June of last year, ICE Trade  
14 Vault became the first provisionally registered  
15 SDR by the Commission. The service is operational  
16 in the CDS, in commodities asset classes. My  
17 remarks are maybe a little more focused on  
18 commodities and end users.

19 So in the commodities asset class, we  
20 have over 600 participants enrolled, and we've  
21 received over 16 million trades. Many of those  
22 those are historical trades. As an SDR, we are

1 committed to supporting all of our participants  
2 from the most advanced swap dealers to the end  
3 users. Obviously in the commodity asset class,  
4 the end user group makes up a large percentage of  
5 that market.

6 In order to support this group we've  
7 sort of taken the role of a pseudo consultant.  
8 There's a lot of assistance that the end users  
9 need in regards to interpretation of the rules and  
10 how to implement into their systems. So to that  
11 effort, we've, for the past 10 months, held twice  
12 weekly calls with the end users and swap dealers  
13 to review how we offer our service, how to  
14 integrate, how our validation works, our data  
15 standards.

16 It was mentioned earlier by Commissioner  
17 O'Malia the guidebook. We've in absence of that  
18 developed very robust guides for our service.  
19 It's kind of comprised of three separate guides,  
20 but we have more of a user guide that describes a  
21 functionality to our customers. It's about 200  
22 pages. A technical guide which really speaks to

1       how we define our class, our products, and all the  
2       way down to what's an acceptable value for a  
3       particular field.

4                       We worked very closely with the staff  
5       during the drafting of Part 45 rules, particularly  
6       the commodities annex to make sure that those  
7       fields properly represented the trade types in the  
8       commodities asset class. In addition, we also  
9       maintain an ongoing list of questions or Q&A list  
10      that -- it's gone over 600 commonly asked  
11      questions that just over the time of operating  
12      these calls, we've found that our customers find a  
13      lot of benefit to how to interpret how to -- in  
14      regards to the different markets within  
15      commodities, how they should connect their  
16      systems.

17                      I'd say one of the biggest challenges  
18      for us, particularly with end users, is you're  
19      working with older systems that were never meant  
20      to connect to an SDR. So we've spent a lot of  
21      time on our end building functionality that, one,  
22      allows data translation so at the end of the day

1 when we report to John the 16 million trades we  
2 have today that we report to John's group, it's  
3 all in one format. So to be specific, if someone  
4 were to send us a representation of a WTI swap  
5 from 12 different customers, we take all that  
6 data, we validate it. If it doesn't make our  
7 validation, we reject the trade. So we hold a  
8 very high standard in regards to submissions to  
9 our SDR.

10           Once that data is accepted, we then  
11 translate all those fields to standard values. So  
12 at the end of the day, when John and his team are  
13 reviewing the data, they see one representation  
14 for that transaction for all reporting parties. I  
15 think it's a very important to note because we've  
16 chosen up front to do the hard work, which is  
17 validate the data and publish standards that over  
18 the past nine months, all of our customers have  
19 reported to.

20           It's been difficult at times, but we've  
21 found that there are ways to help facilitate that.  
22 For example, we work closely with the major trade



1 capture vendors in the commodities space. We work  
2 with them to build an out of the box SDR module  
3 that could be sold to end users that would connect  
4 to their systems that would help bridge the gap  
5 between what's required of Part 43 and 45, and the  
6 46 historical reporting, which has been  
7 challenging, and then be able to make this level  
8 of validation.

9           With regards to -- let me just catch up.  
10 With regards to supporting staff, we built a very  
11 robust regulator component to our system. We felt  
12 that it was important in order to support the  
13 Commission to build a separate component that  
14 could be developed independent of the -- of all  
15 the parts of the application.

16           So that component is comprised of kind  
17 of two main sections. One is more of a  
18 transactional view of the market, which allows the  
19 staff to pull down trade by trade the transactions  
20 as we receive them, so it's real time. And ten  
21 another component -- section to that component,  
22 which is more of a position driven report. We

1 moved a number of our developers from our  
2 clearinghouse to work with us so that we could  
3 generate a position.

4           So when you look at our system or the  
5 functionality, it looks a lot like our clearing  
6 infrastructure, but without the banking. So when  
7 we reviewed early on about a year the rules, we  
8 really reviewed and determined that an SDR really  
9 -- when you look at it from a system perspective,  
10 it really is much like a clearinghouse, but  
11 obviously no movement of funds. Taking in  
12 transactions, compression, netting, calculation,  
13 position. And that's what our SDR does.

14           Finally, I would like to just make one  
15 note to the Commission and this is more of a maybe  
16 a note or a plea. Provisional registration. As I  
17 said, we've been under the provisional  
18 registration. It'll be about a year in June. We  
19 really hope that final requirements can be  
20 published in regards to have full registration.

21           From our perspective, we view the  
22 implementation -- we're in the implementation

1 phase now, so we're working very closely with  
2 John's group and other departments at the  
3 Commission to support them in using the system.  
4 We're hopeful that we can receive final guidance  
5 in regards to the registration requirements and  
6 those will be issued so we can move out of the  
7 provisional registration.

8 I appreciate the Commission's time and  
9 look forward to any questions.

10 CHAIRMAN O'MALIA: Jonathan?

11 MR. THURSBY:: Hello, and thank you to  
12 the Commission for having me join today's SDR  
13 panel. My name is Jonathan Thursby, and I serve  
14 as the Chief Operating Officer of CME's Global  
15 Repository Service, so we're in the U.S. CME  
16 operates registered -- CFTC registered swap dealer  
17 repository for the rates, credit, FX, and other  
18 commodities assets classes. We are operational  
19 and accepting SDR reports in all four of our asset  
20 classes. CME's SDR is designed to provide our  
21 customers with the most efficient option of  
22 reporting, particularly for trades cleared at CME,

1 straight through processing. CME offers our  
2 customers the lowest operational and lowest  
3 burdens for complying with their regulatory  
4 reporting.

5 In leveraging our long tradition of  
6 regulatory reporting systems and widely-installed  
7 infrastructure with our customers and third party  
8 vendors, CME is able to be a low cost provider and  
9 simplifier of SDR services. CME is further in the  
10 process of registering trade repositories globally  
11 to assist our customers and the market with multi-  
12 jurisdictional reporting obligations.

13 Today we gather after an intense period  
14 of drafting, finalizing, and implementing rules,  
15 and we're just a handful of months into reporting,  
16 as Chris commented on. And it's appropriate that  
17 we do, in fact, take stock of where we're at and  
18 work to levels and expectations. As with any  
19 entirely new ecosystem comprised of software, and  
20 networking, and intricate processes, it should be  
21 expected that we go through a period of tuning and  
22 dialing in. And really after we experience what

1 all our hard work is doing, put into a real world  
2 setting.

3 This reporting ecosystem is exceedingly  
4 complex and comprehensive, and we should be  
5 careful to keep sight of the primary purpose of  
6 mandatory swap dealer priority. It should result  
7 in the collection of useful regulatory data that  
8 provides access to swap positions for the purpose  
9 of assessing systemic risk.

10 Implementation of such a large  
11 technology project should proceed deliberately.  
12 Market participants need to have clarity on  
13 requirements and sufficient lead times. They've  
14 been working very hard to understand our  
15 obligations and meet them, and clients look to  
16 CME, and I'm sure the other SDRs as well, looking  
17 for answers, but unfortunately many times we just  
18 don't have them. And given that, we need to pass  
19 through the threshold of having all of the  
20 foundational reporting mechanisms in place prior  
21 to going on a path of deep scrutiny on measuring  
22 against the end goal that we're all working

1       towards.

2                   For example, if there are not widely  
3       accepted standard, product code, IDs, the ability  
4       of regulators to aggregate will be compromised.  
5       UPI is a long-term project, and I would urge  
6       against attempts to harmonize product in advance  
7       of a UPI system, effectively doubling the work.  
8       And there's other instances where that would be  
9       true as well.

10                   At the same time, there are clearly  
11       challenges working to aggregate product where  
12       product descriptions can vary greatly for the same  
13       instrument. And I think this is an area where we  
14       can look at markets, such as credit, where some  
15       standardization already substantially exists, and  
16       the lift would not be too great to assemble a  
17       cohesive pitcher. For this and other prioritized  
18       areas of focus, we'd be best served as an SDR  
19       working group coming together at the direction of  
20       the Commission to identify the greatest needs and  
21       solve for them collectively.

22                   I was pleased to see last week's draft

1 of the key reporting fields, and we, too, have  
2 taken those under advisement and are looking to  
3 see where we can work to try to accommodate those  
4 fields. And I think the fact that they've been  
5 identified as critical to the work that we're all  
6 doing. It's this type of focus and prioritization  
7 that I think will serve us well in the goal of  
8 monitoring systemic risk.

9           And it's understandable to have the  
10 desire for good analysis quickly following the  
11 implementation. And CME, and I'm sure the other  
12 SDR operators, are fully committed to doing  
13 everything reasonably possible to aid in all  
14 aspects of reporting and delivering good  
15 monitoring. Given the expansiveness, however, I,  
16 again, urge prioritization, along with identifying  
17 more controlled aspects as critical to our  
18 success.

19           One important area that has more control  
20 is the interface between the SDRs and the CFTC.  
21 Purely on numbers, it's a far easier effort  
22 initially to work on our few entities than the

1       entirety of the marketplace to solve for how data  
2       is exchanged. And it's also worth remembering  
3       that in major events on the near horizon, that  
4       would change the landscape of reporting in a  
5       major. With the onset of SEFs, we'll see a  
6       significant consolidation of reporting entities  
7       for the vast majority of the swaps market. And  
8       given the projections of approximately 20 SEFs,  
9       the outlook should be promising that SDRs can work  
10      closely with this smaller audience to fully and  
11      more accurately represent the data. And working  
12      in this far more manageable context, I think we'll  
13      build benefits sooner.

14                 And as a side note, I would urge that as  
15      many of the end user reporting obligations that  
16      still remain to be linked with SEF rules timing.  
17      I think doing so would bring a clear transition to  
18      the market and prevent building solutions for  
19      short-term gap periods.

20                 In addition to harmonizing data into  
21      SDRs and then SDRs into CFTC, it will be important  
22      to achieve a level of harmonization across



1 jurisdictions to ensure data collected is usable  
2 for regulatory purposes. As the purpose of  
3 mandatory regimes is to monitor systemic risk, it  
4 will be necessary to review positions on market  
5 participants who engage in trading across  
6 jurisdictional lines. And establishing global  
7 best practices on representing data is essential  
8 to having readily available and meaningful data  
9 feed for a cross the board review.

10 In addition, there are potential  
11 challenges around duplicate reporting. For  
12 example, as currently contemplated in the MIR and  
13 the Dodd-Frank cleared swaps would be both  
14 reportable to a U.S. SDR as well as an European  
15 TR. It will be burdensome to market participants  
16 and the service providers to have to make multiple  
17 reports on the same data under different  
18 representations and key rules. It's better to  
19 waive reporting where a substantially similar  
20 regime exists, and CME supports a collaborative  
21 regulator sharing model.

22 The regional trace repositories could

1       serve as intermediate and aggregation points to  
2       the local regulator who is in the best position to  
3       coordinate with their global peers on data  
4       sharing. And to ease that effort, work should  
5       start first with end of day data. We obviously  
6       have much to do and much has been accomplished  
7       already. We look forward to the open discussion  
8       that will start today on how we collectively solve  
9       for our outstanding issues.

10               CHAIRMAN O'MALIA: Well, I'm not going  
11       to -- this is where you all have to go to work  
12       now, figure out whether -- what John's request is,  
13       and these guys are going to deliver, and how you  
14       all fit into this. So don't hesitate to jump in.

15               But let me -- John's slide is still up  
16       there, so what I'm a little confused about is the  
17       process you have all talked about, establishing a  
18       process, tracking data quality issues, provide  
19       information. ISDA mentioned it, FIA mentioned,  
20       but I don't see the process by which all of this  
21       gets done. Is it -- do you wait for John to  
22       dictate what he thinks is right? What's the best

1 to get everybody on board and solve this as  
2 quickly as possible? I'm confused as to what the  
3 process is, so maybe -- how are we going to get  
4 there? I'm open to ideas.

5 MR. ROGERS: Because, I mean, certainly  
6 we will dictate the process. I mean, I think that  
7 ultimately it would be outstanding if, you know,  
8 from an industry group perspective, people were,  
9 you know, coming at us with solutions to solve the  
10 problem. But certainly we will be working with  
11 each SDR separately and together to continually  
12 improve the data quality, you know, issues and to  
13 continue to make use of the portals, including  
14 adding functionality to it. Each SDR has a portal  
15 that's up and running.

16 Each one has particular things we would  
17 like to see in it. We will be in on an ongoing  
18 basis working towards improving that. So I think  
19 we have to step back and go back through each of  
20 the different themes.

21 I think from a harmonization  
22 perspective, there needs to be collective dialogue

1 with us and with the SDRs on what we can  
2 harmonize.

3 CHAIRMAN O'MALIA: I like the collective  
4 dialogue, but when and where does that happen?

5 MR. ROGERS: It's been happening. It's  
6 actually happening, in some cases just begun, but  
7 in other cases been going on for a little bit  
8 longer. But it's been going on probably for the  
9 last month or two.

10 CHAIRMAN O'MALIA: Is that a bilateral  
11 dialogue with each of the SEFs?

12 MR. ROGERS: So far --

13 CHAIRMAN O'MALIA: I'm sorry, with the  
14 SDRs.

15 MR. ROGERS: -- it's with the SDRs. So  
16 far it's been a bilateral dialogue. I think that  
17 we need to do is add to that a dialogue that  
18 occurs with each of the SDRs. But that's only one  
19 facet of the challenge. I think that in terms of  
20 something like a UPI, it transcends. A  
21 conversation that we have with an SDR involves a  
22 broader community, and certainly this group has

1 talked about UPI and where it fits.

2 There have been -- there's been global  
3 outreach in that regard. So I think it depends  
4 upon which category of data you're talking about.

5 CHAIRMAN O'MALIA: All right. You've  
6 heard -- sorry, Chris.

7 MR. CHILDS: Yeah. Could I just make a  
8 point on that?

9 CHAIRMAN O'MALIA: Well then, we're  
10 going to go Steve, Pierre, and then the Chairman  
11 apparently wants to talk.

12 MR. CHILDS: One of the things that  
13 we've noticed, and, again, the focus for us is, to  
14 start off with as being on credit rates, is there  
15 is actually a lot of standards already in there  
16 where trades are coming through. DS Match, for  
17 example, as a confirm platform standard exist. So  
18 I think what's not clear to me, however, is where  
19 other SDRs in the same space are collecting the  
20 same standards. And I think that that's something  
21 that we need to work on.

22 But one of the things that will come out

1 of the analysis that each of the SDRs is working  
2 on at the moment is how bad is bad. And I think  
3 that what we're going to find is there's a quiet,  
4 broad population actually in those two asset  
5 classes that we can standardize. We can put it to  
6 bed. We can actually increase our validation on  
7 those trades almost immediately so that we  
8 actually reject anything within those -- coming  
9 through those channels that don't meet those  
10 standards. And then that will leave the rest.

11 And then we need to have a look at the  
12 rest and we need to see whether or not standards  
13 can be applied. You know, in some instances on  
14 the very, very bespoke trades, and I'm sure Pierre  
15 will have a view on this, that's going to be  
16 harder.

17 But we can start working on that  
18 population, which is not as big as people may  
19 think in rates and credit at this moment in time  
20 where standards don't exist. And we can make sure  
21 that those standards are then shared with -- put  
22 together in conjunction with the industry,

1 increase our monitoring and validation against  
2 those, and then hopefully apply to all SDRs. So I  
3 think a GAP analysis and a relatively quick gap  
4 analysis is where we should be starting across  
5 those asset classes.

6 MR. JOACHIM: Sure, thank you. At  
7 FINRA, we've had 11 years' experience operating in  
8 the over the counter market with trace, and a  
9 couple of principles I think that we've dealt with  
10 and we've listened to a lot of the issues that  
11 have been here. And we've actually been working  
12 from the simple side from the more complex world.  
13 And what we call "complex" is not nearly as  
14 complex as what you're dealing with here, so I'll  
15 make that statement first.

16 And we've been both in the exchange  
17 world and in the over the counter world, and there  
18 are very big differences between with exchange  
19 data where you can control and tightly define  
20 definitions and ensure consistency very easily.  
21 The over the counter marketplace is far more  
22 complex and difficult because every counterparty

1 becomes a decision point when they're completing  
2 their information that gets submitted to  
3 intermediaries who ultimately will pass on that  
4 information to the Commission.

5 I'm going to echo some of the things at  
6 least from the lessons we've learned that are very  
7 important I think that have been said today, and  
8 some things maybe I'll say a little differently  
9 that may be a little heretical for some of the  
10 group here.

11 And first is that -- I'm going to  
12 reiterate that I think that it's critical that the  
13 Commission start with a good idea, a very good  
14 idea of what they're going to do with the data.  
15 The temptation is to try to boil the ocean and say  
16 I'm going to collect this data for any way  
17 possible. The problem is when you do that, when  
18 you really get down to needing the data, you won't  
19 be able to use it the way you think because it'll  
20 be -- different questions have different answers.  
21 When you ask a question a different way, you'll  
22 define fields differently.



1                   So I think some of the things you'll  
2                   find out is when clearing -- and, you know, Chris  
3                   just talked about clearing businesses, the  
4                   definitions you might use for clearing might be  
5                   very different than what you use for regulatory  
6                   purposes. And you may want to define fields  
7                   differently when you think about how you might use  
8                   that data. It doesn't mean for clearing purposes  
9                   the standard is not good. It's just that it's  
10                  good for clearing purposes. It may not be good  
11                  for regulatory purposes. And you have to resolve  
12                  those key definitional issues as early as  
13                  possible.

14                  I would say that in the more complex  
15                  worlds, the one thing we discovered very early on  
16                  in the process has been critical that we act  
17                  together with the industry, that we listen  
18                  carefully, but ultimately the regulator has to be  
19                  the arbiter of what the ultimate call is as to  
20                  what the definition is, that we can't just allow  
21                  the consensus to define that because the consensus  
22                  will come out with something that may not be the

1 right answer for regulatory purposes, and  
2 ultimately the regulator needs to make the hard  
3 call as to how things have to be defined.

4 I think they have to do that with  
5 sensitivity to the issues with doing things and  
6 whether they're doable or not, but need to be very  
7 close to that decision process, intimately  
8 involved, and I don't mean with intermediaries. I  
9 mean with the counterparties who are going to have  
10 to complete this information who will start the  
11 process, because you need to understand the  
12 complexity that they're dealing with to make it  
13 work right.

14 I'm going to try not to filibuster  
15 today. I have a couple of things because as  
16 people talked, it brings up a lot of the history  
17 that we've been through over the last 11 years. I  
18 think the one thing I listened to here is I don't  
19 know who is accountable for the integrity of the  
20 data. The integrity of the data is the most  
21 important thing you're going to have when you're a  
22 regulatory -- regulator. You need to know who to

1 hold accountable when you get the inevitable  
2 information that isn't accurate. And it's not  
3 clear to me who you define as the accountable  
4 party.

5           At FINRA, we've always defined the  
6 accountable party as the counterparties. They  
7 were responsible for getting us the most accurate  
8 data. If the data is not accurate, they're  
9 accountable for it. There may be intermediaries  
10 that handle that data in between, but it clearly  
11 has to be in the hands of the counterparty. That  
12 may not be the right answer here, but that's been  
13 the right answer for us, and it's worked for us on  
14 a repeated basis when we found people who didn't  
15 report the data, or didn't report it accurately,  
16 even when they thought they reported accurately,  
17 sometimes they didn't or interpreted it  
18 differently. Very important for us to define that  
19 accountability structure so we can have that.

20           In addition, as every party that touched  
21 that transaction from the time it's created to the  
22 time it's used by you, you need an audit trail.

1 Every change, every modification, every process  
2 needs to be recorded so that -- you know, and  
3 who's touched that so you know who to hold  
4 accountable for it during that process to ensure  
5 you have that integrity. When you use it, it's  
6 got to be done. It's got to be clean, and it's  
7 got to be in a way that you can make good  
8 decisions.

9           The more macro the questions are you ask  
10 yourself, the less concerned you've got for  
11 precision in the data. So when you're asking for  
12 volumes and other kinds of things like that, you  
13 know, close is good enough. One percent, two  
14 percent off, you don't worry about that. But if  
15 you're looking at surveillance issues and you're  
16 down to the individual transactions, you need to  
17 have precision in all of that information, or it  
18 really is garbage in and garbage out. And you're  
19 going to find that when you need it the most, that  
20 that integrity will be elusive for you. And that  
21 goes right down to the customer set.

22           So just some of the thoughts that I've

1 got. I've probably gone for another half hour,  
2 but I'll stop here.

3 CHAIRMAN O'MALIA: Pierre?

4 MR. LAMY: Yeah, I agree with what Steve  
5 said. What I would like to add is I think that  
6 the expression that we have today is you have,  
7 especially for the population of bilateral trends,  
8 is you have different reporting counterparties  
9 have been reporting the data without necessarily  
10 always a good understanding of the way they should  
11 report the data. And it's as to why we end up in  
12 that situation so we could debate for a long time,  
13 but definitely that is the situation.

14 And I think on the other side, to some  
15 extent, probably there was a desire to get the  
16 data here, to make sure that people were able to  
17 comply with the reporting obligation.

18 I think what we need to do now is to  
19 (inaudible) themselves into letting the  
20 counterparty reporting party know when they do not  
21 abide to the standard because each of the  
22 respective SDRs have defined their own grammar in

1       which they want to see the data. So the grammar  
2       exists, the protocol exists, the standard exists  
3       for each of those SDRs.

4                What I would suggest in the initial  
5       stage is they let each and every participant know  
6       when each and every thread do not abide do not  
7       abide to the standard is not compliant with the  
8       protocol and then for a period of time of X number  
9       of months. After that period of time, then the  
10      thread will be rejected.

11               But I think the discussion that we have  
12      today is -- and we heard that in some of the  
13      testimony before, is some of the SDRs may not  
14      necessarily know when they do not comply with the  
15      requirement that is being requested. So that  
16      definitely is the other side, is just letting the  
17      party know when they do not respect the protocol.

18               On the CFTC side, it has been said quite  
19      a few times, is just to define the way you want to  
20      see the data and what do you want to use that data  
21      as a ball and thread, because definitely you will  
22      end up with data that will be specific to issues

1 here that may not have the same way to express  
2 itself, so you will have to define the common  
3 denominator in which you want to express the data.

4 In that respect, what I would suggest is  
5 don't develop a CFTC specific way to express the  
6 data, but think about global correction down the  
7 road, and you want probably to leverage what  
8 exists at the industry level what exists among the  
9 SDRs. And you say the highest common denominator  
10 is the potential (inaudible). But leverage what  
11 exists already and do not engage yourself in  
12 developing your own guidebook because that would  
13 be a very long effort, and could position you in a  
14 CFTC specific solution that would not be scalable.

15 MR. JENNER: Commissioner, may I make a  
16 point just in response to some of those?

17 So I think just to echo what Steven and  
18 Pierre were saying about the Commission defining  
19 the data that's needed. I think another reason  
20 why that's important is perhaps something that we  
21 haven't considered yet so far in this discussion,  
22 and that is that with multiple SDRs, you are very

1 likely to get to a situation where not only is  
2 some of the market fragmented so you have a  
3 quarter of the rate to market in SDR one, another  
4 half in SDR two, and so on. But even beyond that,  
5 you'll have another layer of fragmentation, and it  
6 is very likely that PET data, real time data, will  
7 go one to SDR, and very possible, in fact, likely  
8 the continuation data will go to a different SDR.

9           So, you know, in a punitive example, you  
10 could trade on a SEF that would report to perhaps  
11 the DTCC, SDR, and then you could clear that at  
12 CME whereby the continuation data would end up the  
13 CME SDR. And if you haven't defined the framework  
14 of data that you expect, you know, you're going to  
15 be lost in a sea of information where it's tough  
16 to even trace one trade through a life cycle.

17           CHAIRMAN GENSLER: In listening to the  
18 last conversation, I find it interesting because  
19 normally we're led to believe that it would be  
20 better if some of our rules were less  
21 prescriptive, less detailed, and leave more to the  
22 markets, and here we're kind of getting some of



1 the reverse. We were fairly detailed in the rules  
2 for data reporting, rules in Part 45 and rules in  
3 Part 43, but we left some flexibility to the  
4 markets. And I think -- am I right? We're  
5 hearing -- well, you might want a little bit more,  
6 and then I have something further. But is that  
7 what I'm hearing, at least from some of you?

8 MR. JOACHIM: Yeah, from me are. I  
9 mean, I think from a data perspective, when you  
10 use data, it has to be consistent, and, therefore,  
11 you have to be prescriptive to make sure it's  
12 accurate and consistent. And I also say that  
13 because you have all these counterparties making  
14 decisions, they're all investing in their  
15 environments today to get you their precise  
16 information you want, so they need to know the  
17 first time they do it or as close to the first  
18 time they do it, it's the right way.

19 CHAIRMAN GENSLER: Right. Even though,  
20 I mean, we did have -- I can't remember -- these  
21 are the 120 fields, and it has to have legal  
22 identifier, and it has to have a unique swap

1 identifier. I mean, we're not without detail, but  
2 you're saying, at least for you, it would be  
3 further.

4 MR. CHILDS: I guess the question is,  
5 you know, and I think John is coming to this now,  
6 that there are probably key fields that you need  
7 to be able to amalgamate across all SDRs and all  
8 reporting. And so, thereby -- and, therefore,  
9 they need standards. So the question is, do you  
10 go to that point, and you say we need standards  
11 here, and then let the industry work on what  
12 standards to apply, or do you actually define the  
13 standard, which would arguably reinvent something  
14 that's already in place?

15 CHAIRMAN GENSLER: Can I just add one  
16 thing before -- Scott's earlier question and so  
17 forth in timing. I look at this in several areas.  
18 One is what you all are talking about  
19 standardization, or maybe I would just say  
20 reconciling data, or in a lay term, cleaning up  
21 the data. We have 75 swap dealers that are  
22 reporting data to three registered data

1        repositories. We may soon have a fourth or fifth  
2        data repository.

3                So there's some uniformity, but it's not  
4        always uniform, and that's this discussion of  
5        standardization. We even have some dealers that  
6        might inadvertently be reporting the same trade  
7        twice or three times. I mean, we're still in a  
8        growing area here. I don't know that I personally  
9        have much to contribute there other than I know we  
10       need to clean up the data and make it usable and  
11       reconciled.

12               But there's a second area is access to  
13        the data, which John laid out on his page 8. And  
14        I think he did it very well, so that's why I'm  
15        turning back. When he says the portal allows for  
16        data filtering, searching, sorting, and  
17        aggregation, those are the types of things that  
18        whether it's this regulatory body, or the bank  
19        regulators, or international regulators, when I'm  
20        in meeting with regulators or when we're just in  
21        our Friday surveillance meetings -- this  
22        Commission has had Friday surveillance meetings

1 for 30 plus years, and really talented staff come  
2 in and talk about -- they talk about something  
3 that they've in the futures market play sorted by  
4 this party or counterparty is doing this by this  
5 product on this day. These things that John  
6 picked here are very much in the bloodstream of  
7 regulators to be able to sort, filter transaction  
8 data by these types of things. That's what we  
9 anticipate and hope for, but also, I think, our  
10 rules require, rather than a stale portal or just  
11 a report, that our chief economist or our  
12 surveillance people can go swim in the data and  
13 aggregate and filter by these fields. So I  
14 wouldn't want to lose that. That's a really  
15 important one.

16           And then lastly on aggregation, just  
17 because I've been in enough of these international  
18 meetings, there is a very real desire on the part  
19 of the international regulatory community to see  
20 some way to aggregate across data repositories,  
21 not just that in the U.S. we have three and may  
22 have four or five, but also that there may be data

1        repositories in certain countries. Maybe certain  
2        countries will dictate that they need them in that  
3        country.

4                    And so I think should anticipate that  
5        the international community will be keenly looking  
6        and studying about how to aggregate across data  
7        repositories and whether there needs to be a data  
8        -- an aggregation of all data repositories. And  
9        that might be more out of the Financial Stability  
10       Board and other organizations, and we might  
11       participate in those studies. But I think that  
12       that's a reality that the international community  
13       is looking at, how to aggregate across data  
14       repositories, either within jurisdictions or  
15       across jurisdictions.

16                   CHAIRMAN O'MALIA: Supurna?

17                   MS. VEDBRAT: I just wanted to add a  
18        little bit to the conversation that took place  
19        regarding the continuation data and the real time  
20        data, because one concern is, you know, like it  
21        was mentioned, we can -- you know, you can do to a  
22        block trade and its reported to the SEF SDR, and

1 then the end of day clearing takes place, you  
2 know, either at CME, ICE, or LCH. And then your  
3 end of day reporting goes to another SDR. So you  
4 have, you know, right there a fragmentation of the  
5 same trade flow.

6           So, you know, if the market participants  
7 have the optionality that they could tell the SDR  
8 report my data to this other SDR, we would be able  
9 to help to keep at least the information of the  
10 same trade intact.

11           And then, you know, the other piece of  
12 it is, you know, I would encourage, you know, the  
13 CFTC or the Commission to use the market to also  
14 help with, you know, some of the cleansing of the  
15 data because if the data is allowed to flow back  
16 or is accessible, you know, to the end users, you  
17 know, we will be doing our own reconciliation.  
18 And through that process, a lot of, at least, you  
19 know, the high level issues, you know, will get  
20 results, you know.

21           So if, you know, John, the 22 fields  
22 that you mentioned, making that available to the

1 market, you know, may help to make sure that the  
2 interpretation as it flows through, you know, for  
3 SDRs in the U.S., it's consistently interpreted.

4 CHAIRMAN O'MALIA: Can we focus on that  
5 issue for a second? And what is the right level  
6 of coordination among John telling the SDR what he  
7 wants, the SDR working with end users to  
8 contribute because there's kind of this feedback  
9 loop between the CFTC and the SDR in this, talking  
10 about taxonomy and all of the different potential  
11 ways to report it. But at the same time, we've  
12 heard from the end users, many of which do not  
13 have a dealer currently doing the reporting for  
14 them. So they're struggling a little bit to  
15 understand what it is the rules are. That goes to  
16 Bruce's point about, you know, serving as their  
17 information source in terms of explaining what the  
18 rules actually are to a whole area of end users  
19 that are currently uncomfortable with what's going  
20 on, haven't been following it very closely, and  
21 don't have a dealer to report in their trade.

22 So we've heard it mentioned here, both

1 -- Pierre mentioned it, industry leverage and  
2 prioritization, and Steven mentioned it in  
3 coordination among the entities. So what is the  
4 right relationship?

5 And we've already established the SDRs  
6 -- we're doing this on a bilateral, so  
7 coordination among the SDRs is kind of first order  
8 critical, and then what is the role for industry  
9 participating in that relationship? Can we just  
10 focus on that? Cliff, you had your card up, and  
11 then we'll go to Marshall.

12 MR. LEWIS: Just an extension of this  
13 plan. I think it's particularly apt given recent  
14 events with the quality of commonly used pricing  
15 standards and indexes and benchmarks. And the  
16 analogy to the FINRA experience with trace I think  
17 is very apt. That really was a -- pardon me if  
18 I'm simplifying this too much -- really was the  
19 equivalent of the equity ticker. The idea was in  
20 a market that had no transparency whatsoever, buy  
21 sides fundamentally were really at the mercy of  
22 the sell side as to whether they were getting a



1 decent fill. And there was no way to do  
2 transaction cost analysis or any kind of best  
3 execution analysis. You know, some cynics would  
4 argue that was the reason CDS was invented indeed  
5 because of trace, but I wouldn't be that cynical.

6           The reality is, however, I think the  
7 Commission should be thinking more broadly than  
8 just what is good for the Commission's purposes as  
9 a regulator, and basically view this as an  
10 integral part of the, if you will, the  
11 transformation of the market by introducing  
12 transparency, you know, a very fundamental  
13 principle. So you going to permit buy sides and  
14 new market participants on the market making side  
15 to operate differently.

16           Getting them involved, I think, arguably  
17 is a much better force multiplier for you, the  
18 Commission, to figure out what's really important  
19 because what you've created is a hugely valuable  
20 data source, and it's the people that are going to  
21 be consuming the data, I suspect, even more so  
22 than your own internal statisticians that'll

1       decide how to make this really useful.

2                       There's no shortage of data or analytics  
3       companies, and those guys are going to be viewing  
4       this as a commercial opportunity. Obviously  
5       you're not going to give counterparty information  
6       out. But the reality is you should be thinking, I  
7       think, very much in terms of this being the  
8       equivalent of what trace did to fixed income, to  
9       the credit space, in basically providing a  
10      non-manipulatable benchmark that people can  
11      measure their transaction activities against. And  
12      that's a pretty fundamental part of the overall  
13      reform agenda that you guys are leading the charge  
14      on.

15                      I think more emphasis on the way people  
16      use this for transparency purposes, I think that's  
17      a hell of a lot more important than some of the  
18      more, you know, nitty gritty points. And I think  
19      you can get a lot of help on that, too, because  
20      there are going to be a lot of people that are  
21      going to be thinking they can make money out of  
22      using this kind of data. So I think you guys

1 basically can enlist the help of a lot of people.  
2 It's pretty clear that our friends at Bloomberg  
3 see this as a major value add for their commercial  
4 product. They're not doing it because they want  
5 to help the CFTC, I suspect. They're doing it  
6 because they, believe it or not, want to help  
7 Bloomberg, and that's a pretty good motive to  
8 have.

9           And, as I say, the trace experience is  
10 really an interesting one, which I think you guys  
11 should get your head around fundamentally that  
12 this is about pricing transparency in a market  
13 that's today very opaque. And I think you should  
14 get your head around how you're going to help --  
15 how this is going to help solve some of the other  
16 problems, page 19-901, stuff that you're up to  
17 your, you know, your eyeballs on.

18           CHAIRMAN GENSLER: I think it's a major  
19 part of what Congress and the President came to do  
20 in Dodd-Frank is to bring public market  
21 transparency after the trade, and that real time  
22 reporting was very much, when Secretary Geithner

1 put it in a letter to Congress in May of 2009, was  
2 very much focused on that similar, not identical,  
3 to a trace. And I think this is what we'd now  
4 call Part 43. So I agree with you there.

5 And that the problems with benchmarks,  
6 like LIBOR and your EURIBOR, are now well known,  
7 that the challenge is there that there may not be.  
8 In fact, it looks like there isn't an underlying  
9 market underlying those critical indexes makes  
10 them susceptible to misconduct, that people can do  
11 a lot of mischief when it's not tied an anchored  
12 to real transactions, whereas putting this  
13 information out there on interest rates, and  
14 credit swaps, and energy swaps on a real time  
15 basis helps end users -- tremendous help to end  
16 users, but also it anchors stuff in reality. So I  
17 agree.

18 MR. TERRY: So I just wanted to just to  
19 add, again, anecdotally, I mean, this is an issue  
20 I thought that in a large part -- Chris, you had  
21 mentioned it -- had been solved to some degree  
22 maybe two or three years ago when this issue was

1 finally picked up by the New York fed. Prior to  
2 that, there was a bunch of buy side folks, myself  
3 being one of them, who were driving the standards  
4 initiative for purposes of -- for various  
5 purposes. And only after the fed came in was  
6 worried about the exposure to derivatives when  
7 they forced buy side, sell side, and I think it is  
8 to play the key role in this. And they hired an  
9 outside consultant to help avoid the monkey  
10 chasing its tail scenario where everybody was  
11 trying to build something and they didn't really  
12 know what it was until they took a deep breath and  
13 those folks came into a room and put a road map  
14 together, an outline, and really started to figure  
15 out what it was they were trying to build towards  
16 so they can get to an end result.

17 But it's surprising because a lot of  
18 these issues I thought would've been resolved, you  
19 know, when we did the data standards that came out  
20 in the fed -- you know, the New York fed when they  
21 were looking at this issue trying to reconcile and  
22 what have you. There's teams out there, like Try

1       Resolve, that have certainly benchmarked the 10 to  
2       15 trade attributes who need to figure out whether  
3       you have the trade, the market to market, so on  
4       and so forth. And a small shop like myself, I  
5       look at that report every day. I can scan it very  
6       quickly and kind of figure out where my exposures  
7       are, where are the outliers. So it sounds like  
8       we're reinventing the wheel here quite a bit.

9                 So, I mean, to your point, Scott,  
10       specifically, like, where do you look to, I would  
11       look to perhaps Karel from ISDA or whoever,  
12       because they have solved this problem to a great  
13       deal, and there's a road map that I think,  
14       although maybe not 100 percent in line with what  
15       you're trying to accomplish, is probably 80  
16       percent. Just from past experience.

17                MR. ROGERS: I think that you're right  
18       to some extent in the sense that, I mean, I don't  
19       think that -- I don't want to convey that we're  
20       starting from zero. I think, you know, to  
21       Pierre's point, there are a lot of things that are  
22       already in existence that can continue to be

1 leveraged. And to several people's point, part of  
2 what the challenge is how do we want to make use  
3 of the data, because when you take something that  
4 is already standardized, you bump against -- you  
5 bump that against what your requirements are for  
6 the use of the data.

7 MR. TERRY: Yeah, I totally get that  
8 point, but it sounds like then it's for you as the  
9 driver to tell the folks -- what I'm hearing over  
10 her is we have the data, we can do that. But they  
11 don't seem to have the exact -- like, what's the  
12 output, the end product going to look like? I  
13 know you're going to still try and do all these  
14 things, but like --

15 MR. ROGERS: Right. There's multiple  
16 facets to it. The other part of that -- I think  
17 you're right. As we evolve through this process,  
18 there will be more and more detailed requirements  
19 that people will be able to react to. I think  
20 that at the beginning, we're talking about being  
21 able to aggregate on certain data, like laid out  
22 in the slides. But I think those requirements

1 will continue to evolve and become more specific  
2 and more complex, and there will be different  
3 asks.

4           The other side of this, though, is also  
5 the -- just the implementation of it. You can  
6 have a standard, but then if you have multiple  
7 people implementing that standard, you can get  
8 very different results across each one. So having  
9 the standard in and of itself is insufficient.  
10 It's the application of it. And then it's  
11 understanding of the party that's utilizing that  
12 particular implementation that raises  
13 complexities. So it's a multi-faceted problem, as  
14 I'm sure you understand.

15           But I think the main point is, yes, we  
16 should leverage what exists and bump it up against  
17 what the particular need is.

18           MR. TERRY: I totally get that, and this  
19 will be my last comment. But then I guess I'm  
20 really confused as to where is the issue if it's  
21 not the standardization of the data. Is it  
22 because these folks aren't getting enough



1 directive to say, hey, this is what we're going to  
2 do with the data? Like, I don't mean to be  
3 political.

4 CHAIRMAN GENSLER: We probably, if I had  
5 to guess, are more prescriptive and more detailed  
6 than anything the New York fed did, right?

7 MR. TERRY: Probably.

8 CHAIRMAN GENSLER: And at the time we  
9 did it, we were probably a little bit weary that  
10 we were getting too prescriptive.

11 I think what's happened is now it's a  
12 year and a half since we finalized those reporting  
13 rules, and people have gotten -- you know, they're  
14 actually doing a good faith effort, 75 swap  
15 dealers are reporting, non-swap dealers are  
16 reporting now as well. It's human nature. Some  
17 are just reporting slightly different, and so then  
18 it comes to the data repositories to make heads of  
19 the tails of the slight differences.

20 And so what I'm hearing from at least a  
21 number of people around the table is we need to  
22 maybe with the market wade back into this and see

1 where do we help standardize even more than we --

2 So I suspect we probably are far more  
3 detailed than where there New York fed once was,  
4 but that's because the markets now have a legal  
5 requirement, and that was a voluntary requirement.  
6 And we've moved four or five years on from it.

7 John has identified 22 fields, which are  
8 the first fields to work on. They're not the only  
9 fields long term. And it's really trying to work  
10 through. I wonder, John, to Supurna's question,  
11 whether you can let others know what those 22  
12 fields are. That's up to you and the SDRs, you  
13 know, some way to let others know.

14 MR. ROGERS: Yeah, I think that's  
15 something that we should actually take up and  
16 figure out, I mean, because really what we're  
17 striving for is to improve quality. So sharing --  
18 the information we can share speaks to the  
19 transparency initiative and helps us get there  
20 faster. So I would agree with that.

21 MS. VEDBRAT: And I think you know then  
22 just also making it mandatory that SDRs are

1       allowed the optionality of what -- where you want  
2       the data to be reported will help with the data  
3       integrity. So just as an example, if we traded on  
4       Bloomberg and they reported a real time trade, you  
5       know, to their SDR, you know, but we said that  
6       this is going to clear out CME, please report it  
7       to the CME. SDR, you have your data contained.  
8       There is data integrity over there. We're able to  
9       validate that the whole trade flow, you know, is  
10      either good or bad.

11                You know, that's just going to help your  
12      process when you're aggregating the information.  
13      Just that one forced linkage will force  
14      standardization among all the SDRs because  
15      otherwise the market will not trade on those SEFs  
16      or participate with those SDRs if they can't cross  
17      -- send the data.

18                CHAIRMAN O'MALIA: SDRs want to take  
19      that?

20                MR. THURSBY:: Yeah, I'll go ahead and  
21      start. I think that with respect to what Supurna  
22      was talking, many of you probably don't have the

1 benefit to see this, but John and staff do and the  
2 portal that we provide, which we feel it's very  
3 state of the art in the way that it operates. And  
4 one of the nice features is the traceability to  
5 see back in linkage between the initial SDR, the  
6 original pre-cleared and then the post-cleared.  
7 And so actually there's a full audit history and  
8 linkage that's available. In fact, it's available  
9 to Black Rock and whomever.

10           And I think the value in doing that is  
11 that you do get that full traceability and audit  
12 function. Perhaps maybe that's a function of, you  
13 know, the organic nature of where we're going  
14 where that type of view needs to ripple elsewhere  
15 across, you know, other places where data is  
16 housed. But it certainly is very possible to do  
17 that. I think that brings back and ties back and  
18 brings that consolidated view to that.

19           And I would also add, getting back to  
20 discussions of standards, you know, I think we  
21 should be careful not to oversimplify and just  
22 say, you know, standardization. John had kind of

1 teased up our discussion talking about  
2 harmonization. And I think what we really could  
3 benefit from is direction where the Commission has  
4 seen the differences in what's being reported to  
5 them. Everybody kind of worked in their own  
6 little burrow and built out their solution.  
7 Reporters did, SDRs did, and now we're seeing what  
8 couldn't have really been fully contemplated,  
9 which was the blending and merging of the data  
10 back together again. And I think that's the daily  
11 sessions we've been having ongoing, to start  
12 saying, well, I'm seeing this over here, I'm  
13 seeing it from over here. And that's the  
14 harmonization I think we're talking about, being  
15 able to put together what language is everybody  
16 speaking and doing that.

17           And in doing that process, we're  
18 learning about ourselves, and I'm sure the other  
19 SDRs are as well. And then it ripples back. We  
20 make changes, and those go on back down to our  
21 standards that we have we're reporting in, our  
22 client services team, with our customers. And

1       it's this very organic process, I believe, that  
2       happens. And I just feel that we're at the very  
3       early stages of it, and I know that we're working  
4       on a day-by-day basis right now, but I believe  
5       it'll resume. If we just continue and support  
6       that process, I believe that's one that we'll get  
7       good results out of.

8                   MR. TUPPER: I'd just like to add on  
9       Jonathan's point, I think as far as benefit, each  
10      of us as SDRs, the provision registered SDRs did  
11      meet with John's team for day sessions to review  
12      our portals, our standards.

13                   I think what his team is realizing is  
14      that each of us, we all collect data, but we do it  
15      in a different manner. And if I can make an  
16      analogy, the analogy I make is, you know,  
17      validation to SDRs, like margins or a  
18      clearinghouse, okay? So if we have very little  
19      validation and we'll just take anything in, which,  
20      you know, is happening in certain asset classes,  
21      that at the end, the end result is it's very  
22      difficult for John and his team to make sense of

1 that data. So, yes, we filled in these boxes. We  
2 filled in these fields. But did we do it in a  
3 high quality manner? Did we really validate that  
4 those values that were submitted by that customer  
5 are actual -- you know, they make sense for that  
6 particular field?

7           So this whole level of what is  
8 validation in the quality of data really is  
9 different. You know, particularly even for us on  
10 the CDS side, you know, if you can clear a trade,  
11 then obviously it should be of high quality for an  
12 SDR. It's been cleared. You know, and I made my  
13 point earlier when you're dealing with end users,  
14 particularly in the commodity asset class -- the  
15 reporting hierarchy works well in fixed income  
16 markets. It does not in commodities. The largest  
17 group of trading is amongst end users. So there's  
18 a lot of challenges we're dealing with who should  
19 be the reporting entity, what is the definition of  
20 a swap particularly when you look at the trade  
21 options. So there's a lot of confusion there.

22           I think by and large, the common trade

1 types are fairly easy, and those trades are coming  
2 in. Now that we've -- we're close to getting live  
3 and then were delayed, people have postponed  
4 dealing with reporting the hard trade set.

5 CHAIRMAN O'MALIA: Greg, did you want to  
6 make a comment?

7 MR. DUMARK: Yeah, two comments. Yeah,  
8 two comments. One is I know the issue of  
9 consolidation of the data post-novation, I think  
10 Supurna may have said, which is the choice to send  
11 a trade to the clearing house that is also  
12 operating an SDR. And I can see some of the logic  
13 behind that, but I also -- I think it belies some  
14 of the policy concerns and the Commissioner's  
15 directives on this point, which is that the SEF  
16 does have discretion to report to an SDR of  
17 choice. But also I think the underlying concept  
18 is that you would have multiple SDRs out there  
19 competing in this field, presumably to offer  
20 premium services, and you wouldn't get into the  
21 scenario of having things consolidated within a  
22 limited number of entities. So that's first.



1                   The second, I wanted to revisit  
2 something Commissioner O'Malia started with  
3 several minutes ago, which is as a SEF or, pardon  
4 me, as an SDR that's hopefully coming to market  
5 soon, as I sit here from a practical standpoint,  
6 there are a lot of ways to get to the  
7 standardization issue. But I would love to get  
8 some coordination feedback from the Commission as  
9 I go back and work with our chief technology  
10 officer to put together these fields as a very,  
11 very practical matter of wanting to get this  
12 right.

13                   So I know in certain instances on your,  
14 I think it's Attachment A to the Part 43 with the  
15 fields, there are some suggestions. So for date  
16 and time, I think it's the UTC standard that we  
17 can take the lead on, and it's a well- recognized  
18 standard, so we know how to do that. If there are  
19 other examples, which it sounds like we're  
20 trending towards getting those examples or  
21 guidance to do that, we very much appreciate that.  
22 In other words, I think we can dialogue. Again,

1 we're not in the provisional status yet, but we  
2 hope to be there, but we can dialogue with our  
3 fellow SDRs how to get there.

4           But I think having this triangulation  
5 with the Commission is essential because, you  
6 know, you can get astray here, and if there's --  
7 you know, and I understand there's been some  
8 bilateral ad hoc conversations. We're not yet an  
9 SDR. But I think you lose something when you have  
10 these conversations separately, individually, and  
11 understanding it's working through the process.  
12 But we need sort of this collective guidance or  
13 judgment and expectations from you as we,  
14 particularly us, come to market with our SDR. And  
15 I think having that sort of level of specificity  
16 is going to be critical for us.

17           CHAIRMAN O'MALIA: Okay. I asked John  
18 to pull up slide four again to go back to these  
19 original questions. It says, "CFTC must set the  
20 course of action for consistency in data." So let  
21 me ask the SDRs, of the four of you, do you feel  
22 that you have a uniform process among yourselves

1 consistent with the CFTC to establish a process  
2 with submitters to ensure the quality of data  
3 flows in? Do you believe you have all the  
4 direction you need on that?

5 MR. CHILDS: I can take that first if  
6 you'd like. I think that the dialogue that we've  
7 been having with the Commission over the last  
8 couple of months has been very, very useful. You  
9 know, we'd heard obviously comments around the  
10 fact that the data cannot be used, and it's poor  
11 quality data. So we really asked for some focus  
12 and prioritization. The 22 fields are going to  
13 help.

14 I do think we need to do a gap analysis.  
15 I don't think we actually know how big or small  
16 the problem is at the moment, and I think it's  
17 important for each of the SDRs to actually do that  
18 analysis, first of all. How much of the buy asset  
19 class, how much of the data already has standards  
20 that are being complied with, and then what's the  
21 population that doesn't. For the population that  
22 doesn't, these standards exist already, in which

1 case, we can start ratcheting up monitoring and  
2 working with the industry on the usage of that --  
3 of those standards. Where they do not exist, we  
4 need to then work with the industry on creating  
5 those standards, and then going through the  
6 monitoring and validation process.

7 So, you know, to answer your question, I  
8 think we've got more guidance now. I think we  
9 need more cooperation, not just bilaterally --

10 CHAIRMAN O'MALIA: Specifically with  
11 who?

12 MR. CHILDS: Sorry?

13 CHAIRMAN O'MALIA: Specifically with  
14 whom do you need this cooperation?

15 MR. CHILDS: Amongst the SDRs. And I  
16 think to understand where I've got standards and  
17 whether or not everybody is using the same  
18 standards would be extremely useful. That, by the  
19 way, doesn't mean that we all have to. It just  
20 means that if we've got different standards we  
21 need to be able to map that.

22 So I think that, you know, the next

1 stage on this, right, is to do some, you know,  
2 kind of deep -- the devil is always in the detail  
3 on this stuff, so I think it's important that we  
4 do some -- we take a step back and so some  
5 analysis on the 22 fields and the level to which  
6 standards already exist. And then address a  
7 course of -- you know, or come up with a course of  
8 action based on that analysis. And to be quite  
9 honest, it shouldn't take us too long to do that  
10 in some of the asset classes.

11 CHAIRMAN O'MALIA: Can I ask the SDRs  
12 whether they agree with Chris' evaluation of  
13 bubble number one up there? We'll get to the  
14 other two next.

15 MR. JENNER: You know, I broadly agree.  
16 So I think we have some level of guidance that  
17 we're comfortable with in terms of collecting data  
18 from reporting parties. I think where there may  
19 be some guidance left to be given is once we have  
20 that data, I think we're comfortable collecting  
21 that data, aside from some sort of exotic kind of  
22 swaps, which we'll just put aside for a second.

1                   So I think we're comfortable getting  
2                   that data, but then once we have that data, how do  
3                   you want to see it, specifically the Commission.  
4                   I think we're comfortable, you know, from an SDR  
5                   perspective making that data available to the  
6                   public, perhaps giving them tools to shop and  
7                   analyze that data.

8                   But, you know, I heard the first segment  
9                   of this discussion being the Commission quite  
10                  rightly figuring out how they should interact with  
11                  an SDR, what kind of data they want, what kind of  
12                  questions they want answered. And that's where I  
13                  feel at the moment you're doing the investigation  
14                  as opposed to making the prescriptions. But I  
15                  think that's where there's probably some clarity  
16                  required.

17                  CHAIRMAN O'MALIA: Jonathan, a comment  
18                  on it?

19                  MR. THURSBY:: Yeah, a brief one. I  
20                  think that we've taken the approach over a recent  
21                  period thinking that the data we produce is of  
22                  good quality and is appropriate. And I think it's

1       only when we get into a dialogue coming back from  
2       people who have taken a real good look at the  
3       data, who have a broader perspective are we now  
4       just learning that, in fact, there's things that  
5       maybe we could do differently or just different  
6       orientations of looking at it. And that's the  
7       dialogue that John indicated has just started.

8                   And I think it's still a fledgling  
9       exercise. I think more needs to go into it. I do  
10      think that a more formalized approach would help.  
11      Whether that's a combination of all SDRs getting  
12      together under the guidance of the Commission on a  
13      regular occurrence meeting, identifying key areas  
14      that we can all focus on. We've talked a lot  
15      already just about these 22 points, but I think  
16      there's more to it than people aren't appreciating  
17      that really what these points are aren't just get  
18      the day time stamp correct. They're really more  
19      at a higher level validation that we're talking  
20      about, and that doesn't just come because you have  
21      a quick conversation. You're going to check  
22      reference data sets. There's actual

1       appropriateness to determinations you're going to  
2       make. And that only comes -- it's an organic  
3       process. It has to happen.

4               I think what's missing and what's not  
5       clear to us yet is what cadence is that going to  
6       take and who's participating in that, and what's  
7       -- when does a final determination get made for  
8       that that we've reached the end stop point, and  
9       not that it's an ongoing discussion for each area,  
10      that we come to final determinations, call it  
11      done, and then move on to others.

12              CHAIRMAN O'MALIA: All right. I think  
13      those are all great comments to solving number  
14      one, fledgling market, who makes the decision, who  
15      else is going to be involved, do the gap analysis.

16              I think there -- maybe if Greg  
17      representing FIA and Carl with ISDA thoughts about  
18      what your respective organizations can do on this.  
19      We'll come back to you in a minute, but give you  
20      some thoughts.

21              Now, the second bubble is "Track data  
22      quality issues." Do you believe that we have



1 given you all the direction you need and you are  
2 of a similar mind on all of this and to track  
3 data, kick out errors? I don't remember who  
4 mentioned the process. I think it was Steve?  
5 Yeah, you had mentioned kind of -- no, Pierre  
6 mentioned a kick out after -- work with the  
7 industry for six months, and after that then start  
8 rejecting.

9 MR. LAMY: The initial period of time  
10 has led the participant to know that is sending it  
11 the right way, and then kick it back.

12 CHAIRMAN O'MALIA: Yes. So is everybody  
13 -- have we been clear about what we expect for  
14 tracking data issues and validation with the SDRs?

15 MR. TUPPER: I think these recent  
16 meetings have been very helpful. To us, maybe we  
17 had the benefit, you know, of operating an  
18 exchange in compliance, so when we built out our  
19 SDR, we felt we pretty early on what the  
20 Commission wanted to with that data. And I think  
21 after meeting with John's team, and the end result  
22 is that an SDR, you have an obligation to take in

1 data that will allow the Commission, one, to track  
2 transaction level data in an aggregate manner, and  
3 then, two, to be able to generate positions. And  
4 if you're receiving data that you can't do that  
5 with, then you haven't fulfilled your obligation.

6 So I think the end result is once we  
7 have to start building to these reports, that will  
8 really come to light as to who good data quality  
9 and validation.

10 CHAIRMAN O'MALIA: Do you have a sense  
11 -- each of you have kind of a screening process in  
12 which you can reject bad data coming into your  
13 SDR?

14 MR. LAMY: Yes, we do.

15 CHAIRMAN O'MALIA: CME does?

16 MR. THURSBY:: We do.

17 CHAIRMAN O'MALIA: DTCC?

18 MR. CHILDS: We do. I would suspect  
19 that the standards are different, but we do.

20 CHAIRMAN O'MALIA: Okay.

21 MR. DURKIN: Absolutely we would expect  
22 we would have that.

1                   CHAIRMAN O'MALIA: Okay.

2                   MR. DURKIN: And it's within our  
3 environment today for a lot of other reasons that  
4 we would have those risk tolerances and quality  
5 assurances around the data.

6                   CHAIRMAN O'MALIA: John, do you have a  
7 sense of whether they're uniform?

8                   MR. ROGERS: I have a sense that they're  
9 not.

10                  CHAIRMAN O'MALIA: Okay.

11                  MR. RIEDEL: I'm not saying anything  
12 about which one is, you know, better or anything.

13                  CHAIRMAN O'MALIA: So the last one is  
14 prove information to the Commission on data  
15 quality trends by submitter. Is that some of the  
16 bilateral discussions? Have you been -- have we  
17 been having some of these things that we -- we're  
18 having a better sense, and I guess why we've honed  
19 down to 22 points?

20                  John, do you have a time frame when --  
21 it says "The CFTC must set the course of action  
22 for consistency in data." So what is our course

1 of action, and what is our time frame on this?

2 MR. ROGERS: I think that we're on our  
3 way right now, so, I mean, I think if it comes  
4 down to the question -- I mean, it's difficult to  
5 answer the question, you know, when is all the  
6 data good enough kind of a thing. So, I mean, I  
7 think it is a continual process, and what we've  
8 been working towards is the notion of how can we  
9 track what is coming in that is acceptable and  
10 what is rejected, not again making a value  
11 judgment as to, you know, which regime is the  
12 better of the bunch.

13 But we've implemented operational  
14 reporting to give us a sense of that. We've had  
15 conversations with the SDRs about reaching back to  
16 the submitters to work through data issues. And I  
17 think that's going to be an ongoing process. So I  
18 would say that it is already underway, but I think  
19 the proof is going to be as we get these reports,  
20 we should be able to see a trend of issues going  
21 down.

22 And right now I still think we have work

1 to do to get the reporting where we want to see it  
2 by submitter. And I would think that that should  
3 not -- I mean, I would ask the SDRs the question  
4 about that. But I would not think that that would  
5 take a long time.

6 And then we need to be trending -- doing  
7 a trend analysis on this data to see if we are  
8 making progress. I don't think you really ever  
9 get to a zero state with any data, but you want to  
10 be making sure that you're moving in the right  
11 direction. I would expect it to go down because  
12 we have just started up a new system, and people  
13 are going to have to adapt their existing systems  
14 to feed into the new SDR repositories.

15 CHAIRMAN O'MALIA: When is that going to  
16 happen?

17 MR. ROGERS: So I'm going to throw that  
18 over the other side of the table. I guess -- I  
19 mean, I would say that we already have reports on  
20 -- operational reports on transactions, what we're  
21 accepting, what we're rejecting. I think that  
22 there is going to be further discussion about

1 harmonization around what is the appropriate level  
2 of acceptance or rejection. I don't think that  
3 we're necessarily going to get to the same place  
4 across the board, but I think we'll find perhaps a  
5 balance there.

6 The thing that I would throw across the  
7 table is if we're talking specifically about the  
8 report that shows you acceptance and rejection by  
9 submitter, that's a report that we have not seen  
10 yet, so that would be something that would have to  
11 be produced by each SDR. It would be a new  
12 requirement. So the question would be --

13 CHAIRMAN O'MALIA: I'm not interested in  
14 a new requirement, whether they -- I want the  
15 data. We don't -- you know. I understand we got  
16 to validate whether they're accepting good data or  
17 not and to create a new requirement when they  
18 haven't -- you know, we haven't given enough  
19 information to fill the current requirements. I  
20 want to get the good data. What is the process to  
21 get there?

22 MR. ROGERS: I think it's to continue to

1 do all the things that we've described, to work  
2 on, you know, starting off with the 22 fields to  
3 be having the SDRs reach back to the submitters,  
4 to do the things that Chris, Bruce, and Jonathan,  
5 and Greg, for that matter, you know, mentioned in  
6 terms of looking for standards, seeing if they're  
7 being applied, reaching back to the submitters to  
8 get the quality of data.

9 The thing that I was specifically  
10 reacting to in response to your question, though,  
11 was --

12 CHAIRMAN O'MALIA: Validation.

13 MR. ROGERS: Yeah. How are we measuring  
14 the quality of the validation that's happening?  
15 It's one thing to reach back to them, but we need  
16 to have a view into is the situation getting  
17 better. And that's the thing that is feedback  
18 that we need to get.

19 MR. DUMARK: I would say we have a  
20 compelling reason to make sure the data that we're  
21 getting, not just as an SDR, but as a data and  
22 analytics company, to make sure it's of quality.

1           So we know that there's an existing law  
2           out there to report on timely submitters, but in  
3           terms of our own internal controls, we want to  
4           know submitters that are submitting information  
5           that's not of good quality. And so, we absolutely  
6           will be tracking that from an operational  
7           perspective.

8           MR. ROGERS: And I would expect that  
9           each SDR has a similar driver, and the only thing  
10          that I would add to that is we would like to see  
11          that as well, because we would like to see -- to  
12          address the issue of data quality, we'd like to  
13          see, you know, real measures that show that the  
14          quality is increasing. Us having -- you know, we  
15          talk about transparency in a variety of different  
16          aspects. Us having the transparency into that  
17          will help us have assurances that the quality is  
18          on the rise. And if not, then we can discuss what  
19          we're doing about that on a very specific level.

20          CHAIRMAN O'MALIA: Michael and then  
21          Larry.

22          MR. ATKIN: Yeah, just a point of



1 clarification that might make it easier. So there  
2 are various types of standards that exist.  
3 They're not the same, and they're causing a lot of  
4 confusion.

5           So I'm going to suggest that there are  
6 four steps in this chain that we have to address.  
7 The first one is the original contract between the  
8 counterparties defines the data concepts, and  
9 that's precise as drafted by the counterparties,  
10 no matter bespoke the contract.

11           The language to express those concepts  
12 is a standard for meeting. It's semantic. And I  
13 know we manage it. That's an ontology. The  
14 mechanism to transmit those standards is a  
15 message, and there are format standards, like FITS  
16 and FPM, that are used. So the format standard is  
17 not the same thing as the contractual or  
18 definitional standard, but they can be aligned,  
19 and they can be met.

20           It's the translation of those concepts  
21 in the contract or your 22 data points that need  
22 to be translated into the standard language. That

1 has to be separated from a calculation process or  
2 a derived data formula. That then is a map to a  
3 standard format, and that's the objective. You  
4 can't short cycle that process, and right now  
5 we're kind of missing that language ontology  
6 translation process to align the meaning of the  
7 data that's transmitted in those format standards  
8 when it is possible to do. And maybe that's the  
9 kind of new direction that you need to head.

10 CHAIRMAN O'MALIA: Larry?

11 MR. TABB: I want to reinforce, I think,  
12 something that Superna said. And you've been  
13 talking a lot about validation and validation is  
14 incredibly important, but you can't forget about  
15 process, too. And so you have to define the  
16 process, or else you wind up kind of like, you  
17 know, the European take where you can kind of  
18 report anywhere, and people report twice, and you  
19 wind up with a process that you're not sure you  
20 get everything, but you think you reported  
21 everything, but you can't really find it.

22 And so you really need to define the

1 process, and that's actually going to be hard  
2 because that might actually impact, you know, the  
3 competitive nature of those guys over there.

4 CHAIRMAN O'MALIA: Greg?

5 MR. WOOD: Yeah. There's just one thing  
6 I can add onto that. If you look at, like, the  
7 evolution of trading, and it doesn't quite apply  
8 in the same way to reporting. But you come across  
9 multiple standards. Everyone has their own  
10 standard for doing something. And over time, you  
11 end up with a best of breed. And really, it takes  
12 an evolutionary process to actually work out the  
13 kinks of certain approaches and to standardize on  
14 the same approaches across different formats.

15 I think the problem we have here is we  
16 don't have the time to go through that  
17 evolutionary process. So you have to bring  
18 together multiple standards and try and get our  
19 best of breed with guidance from the end consumer,  
20 which is ultimately the CFTC, and of the  
21 regulators to then hopefully bring together these  
22 competing standards into something that is going

1 to be workable.

2 Now, there's no reason why you can't  
3 have differences in approaches, which certainly  
4 today is what each of these companies are  
5 proposing, their business proposition. But we --  
6 I think the message here is we need to work  
7 together to close the feedback loop from both the  
8 end user of the data, the end user of the swap on  
9 the asset managers, and the providers of the data  
10 towards what's going very quickly to get that  
11 standard together.

12 MR. THURSBY:: And if I may, I would  
13 hearken back to some of the comments I shared in  
14 the beginning, which is I think that's -- if  
15 you're looking for a place to maybe solve it a  
16 little better, it is between the end customer, and  
17 the Commission, and the SDR providers. It's the  
18 recurring SDRs and one end customers. There's  
19 plenty of precedent of taking data in, doing the  
20 transformations that are necessary to represent it  
21 in a way that is most consumable by the  
22 Commission. And I think that's something that,

1       you know, we could do more rapidly than trying to  
2       move, you know, a marketplace.

3                   And I would also call back to a comment  
4       I made, too, about not to try to avoid, you know,  
5       the hard work that has to be done for end user  
6       reporting that will persist beyond the emergence  
7       of SEFs, but the SEFs and their reporting does  
8       present a unique opportunity to try to solve for  
9       what I think is a fairly widespread issue, that we  
10      can consolidate down to a far fewer number of  
11      participants. And I think that that's something  
12      that we have an opportunity now to learn from how  
13      end user reporting has gone and move to SEF  
14      reporting in advance of that happening, and make  
15      sure that the reporting that we'll get out of SEFs  
16      that will come online are consistent with what our  
17      expectations are.

18                   So I think if we can learn something  
19      from the experience we've gone through thus far  
20      and move that forward to the next phase, I think  
21      we would, you know, find a lot of benefit from  
22      that, and then still continue the end user work,

1       you know, in parallel.

2                   MR. CHILDS:  If I may just add to the  
3       last comments as well.  We're making this sound  
4       like it's, you know, kind of one validation that  
5       applies to all.  We've got five different asset  
6       classes here, and we run the gamut from  
7       electronically executed to bespoke trades.  The  
8       level of standardization and the level of  
9       validation that you can actually apply is  
10      different based on that continuum.  So it may not  
11      be -- it may not just be one SDR versus another  
12      SDR.  It's the type of trades that you're trying  
13      to report on and the amount of activity that's  
14      required on that different continuum of trades is  
15      something that we all need to continue to work.

16                   As I say, the stuff that's  
17      electronically executed, cleared -- a confirm is  
18      pretty standard right now, and that comes to the  
19      point about the fed getting involved in the credit  
20      world.  The other end of the continuum is not so  
21      standard at the moment, and we need to continue to  
22      work on that.

1                   CHAIRMAN O'MALIA:  Supurna?

2                   MS. VEDBRAT:  I think, you know, hearing  
3                   what everybody has to say, you know, we all agree  
4                   that aggregation of this information will need to  
5                   take place.  So as we determine what's the best  
6                   place for that aggregation to happen, if, you  
7                   know, cost benefit analysis is also about  
8                   integration, you know, that will be helpful.

9                   CHAIRMAN O'MALIA:  Anyone else?

10                  MR. DURKIN:  Commissioner, I mean, in  
11                  the past you've successfully utilized working  
12                  groups for -- pardon me?  Did I --

13                  CHAIRMAN O'MALIA:  You just stole my  
14                  thunder.

15                  MR. DURKIN:  I'm sorry.  You know, I  
16                  mean -- well, it's worked with this group.  So if  
17                  we, you know, might get some collaboration and  
18                  apparent -- you know, obviously everybody wants to  
19                  work towards the same common goal.  And at the end  
20                  of the day, nobody wants to make it difficult in  
21                  any way, shape, or form for the Commission to be  
22                  able to consume the data.

1                   It seems as though there can be a way to  
2 understand what is it exactly that the Commission  
3 is trying to be able to retrieve from that  
4 information. The SDRs are the best experts to  
5 figure out how can they present that in a way  
6 that's consumable to the CFTC and give them a  
7 timeline.

8                   CHAIRMAN O'MALIA: Go ahead, Bart.

9                   COMMISSIONER CHILTON: I'm just curious,  
10 Mr. Childs. So I think it's a reasonable to ask  
11 us, you know, what's our priority. But as a  
12 registrant, you're supposed to give us the  
13 information to come into compliance. How do you  
14 think you could come into compliance? On what  
15 sorts of things could you come into compliance  
16 with quickly to meet the mandate of Dodd-Frank?

17                   MR. CHILDS: Well, I think we're already  
18 compliant. If you ask our customer base, they're  
19 reporting the fields of information that's  
20 required under the rules. We are receiving data  
21 every single day. We are providing that through  
22 to the Commission. And, you know, we conducted



1 portal access the other day. So we are compliant.

2 The question is, though, is to the  
3 extent that we're all compliant sitting here, and  
4 everybody is receiving data or reporting that  
5 data, is it actually the data that you want to be  
6 able to do your job? So it probably meets the  
7 rules, and all of our participants would say that  
8 they're reporting exactly the information that was  
9 requested of them.

10 COMMISSIONER CHILTON: So there's  
11 nothing that you think that can do that would be  
12 easier than what you're doing already. I do think  
13 that, you know, this conversation was a perfect  
14 conversation from that perspective. There's  
15 clearly stuff that we need to do collectively as  
16 an industry to help the Commission get to where it  
17 wants to get to, to help global regulators get to  
18 where they need to get to. That's across all  
19 SDRs.

20 But we will argue that we're compliant  
21 for our customer base.

22 COMMISSIONER CHILTON: Thank you.

1                   CHAIRMAN GENSLER: I thought I'd say we  
2 do appreciate that DTCC as of yesterday, and I  
3 think it was just yesterday as a portal, and maybe  
4 we can look inside. So that's, you know, it's all  
5 a work in progress. I don't know if you're  
6 compliant yet, but it's a work in progress.

7                   I mean, this is not an easy task to take  
8 an industry that was opaque and make them  
9 transparent both to the public, as was pointed out  
10 through Part 43, and to regulators through Part  
11 45. And today is an enormous help, I think, to  
12 the Commission, and to John, and to all of you to,  
13 you know, try to keep this journey going towards  
14 greater transparency.

15                  CHAIRMAN O'MALIA: Well, per Bryan's  
16 suggestion, we'll pull together a team. But I  
17 think -- I was just talking to John, and the  
18 effort to continue to work on a bilateral basis  
19 with the SDR is important. But it is clear that  
20 we need to make sure that we do this in concert so  
21 we're all working together so you can disseminate  
22 that.

1                   What we were discussing a little bit  
2                   here was who are the right submitters to have in  
3                   the room, and to make sure that that's an  
4                   effective tool. And I think we're interested in  
5                   having the right people and to make sure that this  
6                   is a very manageable process.

7                   I think, Chris, you pointed out it's  
8                   important to do a GAP analysis, but it's also  
9                   important to -- ultimately the Commission needs to  
10                  make a decision, and you all can talk about it,  
11                  and consensus will be very difficult. But we need  
12                  to make a decision, but based on some of the input  
13                  that you all are providing and working with the  
14                  submitters dealing with the submitters directly in  
15                  order to make sure that they have, you know, they  
16                  can comply with this, do some analysis about the  
17                  most efficient cost-effective way to get the data  
18                  that we need.

19                  And I think ultimately we'll all be  
20                  better served by that. You'll be in a better  
21                  spot. The SDRs will be fully compliant, and we'll  
22                  have the data we need. So everybody wins in that

1 situation. But obviously a lot of conversations  
2 have to happen, so John and I were going to work  
3 on to make sure -- a solution so we have the right  
4 staff in the room working with the right SDRs and  
5 the right participants. And we'll try to figure  
6 that out and do that immediately and not -- this  
7 isn't months. This is within weeks. So we'll  
8 continue to work with that. We'll obviously work  
9 with DMO to make sure that we're following the  
10 rules as they wrote them.

11 Rick, I don't know if you want to  
12 mention anything for the good of the -- otherwise,  
13 we're going to go to break.

14 All right. We're going to just do 10  
15 minutes. We're already over again, so thank you.

16 (Recess)

17 CHAIRMAN O'MALIA: Okay. The next  
18 presentation we have is from Tradeworx, and they  
19 are a technology firm that has won a contract to  
20 provide the SEC's Division of Risk Strategy and  
21 Financial Innovation, Division of Trading and  
22 Markets with an equity and equity option market

1 data collection and an analysis system that  
2 combines to data services, applications, and  
3 related databases, and provides the SEC staff with  
4 the same speed, ease, and reliability of data  
5 collection and analysis that is available to the  
6 most sophisticated of market participants.

7 Now, the reason I've asked them to come  
8 here is to -- once we get our data sort of out and  
9 we're able to use it, this is the potential. This  
10 is the value that we will have at the end of the  
11 day. This is something we will be able to use  
12 going forward. So I've asked Mike to come in with  
13 -- and his team at Tradeworx to give us some  
14 insight. And since we're over time, you know,  
15 bear with Mike as he tries to fly through this  
16 thing. And if you have any questions, ask him  
17 afterwards.

18 MR. BELLER: Thank you, Commissioner,  
19 and thanks to the Commission for giving us this  
20 opportunity to present. I'm going to go really  
21 quickly today. I know we're behind time, and a  
22 lot of important information has been transferred

1       today. But I think it'll be helpful to give you  
2       just a quick picture of what we've done, how we've  
3       helped the SEC accomplish their mission, and  
4       possibly give a vision of how we might be able to  
5       -- the Commission may be able to reach the same  
6       sort of visibility in the future as this project  
7       you're embarking upon proceeds.

8                   A quick background on Tradeworx. We  
9       were founded in 1999 as a financial technology  
10      company. We provide the fastest  
11      commercially-available trading platform in U.S.  
12      Equities, which currently processes about five  
13      percent of daily U.S. equities volume, both from  
14      trade, which is trading operations, and a group  
15      extremely demanding institutional traders. And we  
16      provide the MIDAS analytics platform for  
17      government and private use to the Securities and  
18      Exchange Commission for visibility into the  
19      equities and options markets.

20                   I'm just going to take you back to May  
21      6th, 2010, the flash crash. What you see is a  
22      graph of the evolution of S&P 500 throughout the

1 course of the day, and you see a big dip around  
2 2:20 -- 2:40 in the afternoon. How bad was it?  
3 Spy plunged 4.7 percent in three minutes, and the  
4 S&P recovered 5.4 percent in the next three  
5 minutes.

6           During that day, three billion equities  
7 messages were transmitted to markets, and 300  
8 gigabytes of equities market data was created,  
9 millions of messages per second in the peak  
10 message rate. And to a regulator, there's a  
11 challenge here: How am I going to make sense of  
12 all this?

13           One question a regulator would  
14 definitely want to ask in this case is how did  
15 liquidity in the marketplace evolve during the  
16 flash crash? What does it take to answer this  
17 question? You've got to analyze every price tick  
18 across 5,000 plus stocks and possibly half a  
19 million options, billions of data points. Is this  
20 is an impossible task?

21           Well, here's the answer. What you see  
22 here is a graph with a number of stocks trading at

1 a penny spread at each time throughout the day.  
2 It's superimposed on that S&P 500 graph. But the  
3 green line shows what essentially can be viewed as  
4 a proxy for liquidity in the market. And you can  
5 see that there's a big dip in liquidity at the  
6 time of the flash crash. So this would be  
7 important information for a regulator to be able  
8 to see, but it could be very difficult to get  
9 them.

10 Without the appropriate type of system,  
11 it could take weeks, if not months, to accomplish  
12 this. But with the type of system -- with a  
13 system like MIDAS, it can all be done in two lines  
14 of code and take not weeks, not months, but around  
15 2.8 seconds to answer that question.

16 How do we do this? It starts with a  
17 data collection network. We have to collect the  
18 data at the market data centers, in our case, for  
19 minimum latency and for the best quality. There  
20 are six data centers, four in New Jersey, two in  
21 Illinois.

22 Collecting data in 15 different



1 protocols, millions of messages per second. Just  
2 to give a sense of scale, we heard talk about an  
3 hour ago about essentially 40, 50 million messages  
4 being collected in a week. Go give a sense of  
5 scale, the equities and options markets, we're  
6 looking at 40 to 50 million messages in a typical  
7 busy minute, so it's a lot of data.

8 We've got to capture, we've got to  
9 store, and we've got to analyze. And I'm just  
10 going to take quickly into each of these steps to  
11 give you a sense of what can be done.

12 Capturing, it starts with those six data  
13 centers, and let's drill down on an individual  
14 data center. Inside a data center, each of these  
15 data centers has a matching engine, one or more  
16 matching engines. In this case the Carterette  
17 Data Center has the NASDAQ matching engine, and  
18 lots and lots of racks of equipment, a lot of air  
19 conditioning, a lot of heat and cold blowing  
20 around. And inside the matching engine, of  
21 course, you've got all the books. It matches all  
22 the trades. It generates feeds. And individual

1 traders here represented by a Tradeworx computer,  
2 for example, might send an order and receive data  
3 feeds and executions from the matching engine.

4           It takes very, very fat pipes to collect  
5 this much data, so we have 10 gigabit or even 40  
6 gigabit cross connects into these matching  
7 engines. And all of this data is collected in  
8 NASDAQ's proprietary protocol. So inside the  
9 Tradeworx rack here, we have to have a feed  
10 handler, which normalizes the data. It takes in  
11 the raw data. It produces the normalized data.  
12 The normalized data would go into trading servers  
13 of Tradeworx and other customers of Tradeworx and  
14 subsidiaries technologies who are trading based on  
15 that data. But it's also stored for later  
16 analysis.

17           The conversion is fast and robust. The  
18 conversion is performed in a microsecond to go  
19 from raw to normalized, and all while processing  
20 millions of messages per second. But that's not  
21 the whole problem because we've got six data  
22 centers, 13 different matching engines -- NASDAQ,

1 BATTALION'S, EDGX, ICE, CME, NYSE, et cetera, et  
2 cetera. And we need to collect all that data, and  
3 it's a lot of data.

4 We discussed some of the scope, but we  
5 also should bear in mind that each of these  
6 exchanges is speaking a different protocol, so  
7 it's a different language. It would be like if  
8 you had your fixed ML and you have your other  
9 protocols for reporting swaps, but you also had 13  
10 other protocols. So there is a big normalization  
11 problem going on here. There's also a problem in  
12 that it's very important to have very accurate  
13 time on the data, because the clocks in each  
14 system will drift relative to each other.

15 So here you see that at the NASDAQ, you  
16 has some precise time, but in each of these other  
17 places, there's some other view of time, and we  
18 have to -- then the problem is compounded by the  
19 distance between the data centers. So we make use  
20 of global positioning system, the same system  
21 that's used to help you find your way from place  
22 to place using your iPhone or what have you. And

1 we use it to lock time precisely to each location  
2 and eliminate the synchronization problem.

3 Then networking. We have to have very  
4 fat pipes between each exchange. And for minimum  
5 latency between New Jersey and Illinois, we even  
6 have a microwave link because it's much lower  
7 latency than the available fiber lines. But the  
8 point is that we can produce a complete and  
9 accurate and precisely timed picture of the  
10 markets at each location at any moment of the day  
11 down to the microsecond.

12 Now let's focus a little bit on storage  
13 because we talked about how much data that the  
14 Commission has to collect and has to analyze. And  
15 we have a similar problem on a larger scale in  
16 terms of volume in equities. Let's take a look at  
17 that Tradeworx rack where we were collecting the  
18 data. And what we have to address is, if we're  
19 going to store all this data, do we want to store  
20 it in each of these data centers? These data  
21 centers are very expensive and have very limited  
22 space because each of these data centers are

1 specialized to manage the exchange or to hold the  
2 exchange that's at the location, and to hold  
3 everybody else who wants to interact with that  
4 exchange at the same location. And so the space  
5 becomes limited and it becomes very expensive.

6 Another problem with it is if somebody  
7 -- in, for example, the SEC, or the CFTC, or a  
8 customer of Tradeworx, or a subsidiary thesis  
9 wants to access this data, they would have to be  
10 physically located in the same data center to  
11 access it.

12 Our solution to this is to move to the  
13 cloud. Cloud computing is a relatively new  
14 concept. I would say that the concept really was  
15 broken open in, say, 2007 when Amazon web services  
16 was born. Amazon basically took its retail  
17 infrastructure for managing its retail business  
18 and decided to make that infrastructure available  
19 as a service to other people. When it did that,  
20 it opened sort of a new front in computing where  
21 it is no longer necessary for somebody who wants  
22 to build out a set of servers or a set of storage

1 to do so by obtaining space, and then buying  
2 equipment, and then hiring people to put that  
3 equipment in, and manage that equipment. Instead,  
4 you can leave that all to the cloud provider, for  
5 example, Amazon. And when you want servers, you  
6 simply run a command or bring up a web interface,  
7 and servers are automatically spun up. Because  
8 their infrastructure is so large and so scalable,  
9 however much resource you might need, it's still  
10 small compared to what they have.

11 Advantages of the cloud: Low cost,  
12 scalable computing, as I mentioned, and easy  
13 collaboration. So it's easy to share huge data  
14 sets.

15 Tradeworx was an early adopter adopting  
16 the cloud, the Amazon web services cloud,  
17 immediately after it was created in '07. What we  
18 do is we take our data that's at these five --  
19 these six data centers. We chunk it, compress it,  
20 and transfer it into the cloud, and then the cloud  
21 magic happens. Let's talk a little bit about that  
22 magic.

1           The data is collected in the data  
2           centers, transferred into the cloud, placed in a  
3           large scalable database, transferred into data  
4           servers, which filter and catch the data. Then  
5           when, for example, a Tradeworx analyst wants to  
6           use the data, that analyst can log into an  
7           analysis server, and queries go out, filter data  
8           comes back, beautiful graphs come back, everyone  
9           is happy.

10           Now, what happens when we have  
11           additional data sets, additional users? Because  
12           we're using the cloud, we simply put those data  
13           sets in the scalable storage of the cloud. We  
14           don't have to make a big capital investment. We  
15           don't have to have a long planning cycle. We just  
16           demand the storage and it's there for us. We fire  
17           up more data servers. Our analysts come in. We  
18           fire up more analytic servers. And all of this  
19           just interacts with each other in one seamless  
20           way.

21           I'm going to go -- again, trying to go  
22           as quickly as possible. Focus for a moment on

1 analysis. The data can be analyzed on multiple  
2 levels. At the highest level is a graphical order  
3 book viewer, which lets you view the depth of book  
4 at any -- to any level of detail, single exchange,  
5 multiple exchange, simultaneously, time stamped to  
6 the microsecond. You can move forward, move  
7 backward through time watching the market evolve.  
8 You can answer questions like, visualize the order  
9 book dynamic surrounding a flash crash. See how  
10 locked cross markets are formed and are dissolved.

11 But if that visual representation is not  
12 what you need, but you need a statistical  
13 cross-sectional view of the data, you can drill  
14 down into an interval data research platform,  
15 which looks at the data on a one second or a tenth  
16 of a second or a millisecond basis, and lets you  
17 cluster and partition the data. It lets you do  
18 cross-sectional analyses and lets you interface  
19 with, for example, tools you might have on your  
20 desktop, like Python or R or SAS.

21 And finally, if you need -- and using  
22 that type of system you could answer a question



1       like, on a typical day, does spy lead e-minis, or  
2       do e-minis lead spy?

3                    If you wanted to go down to the next  
4       level and actually examine the market data on a  
5       tick by tick level, we have the tick data research  
6       platform, which includes a pattern recognition  
7       capability and a state-of-the art multi- exchange  
8       simulator. So you can from the highest level to  
9       the lowest level, and there's always a tool for  
10      that level.

11                   Now, let's take a look at we helped out  
12      the Securities and Exchange Commission with their  
13      data issues. It stats again with all this data  
14      being collected in Tradeworx's network and  
15      transferred up into the cloud. Along comes the  
16      Securities and Exchange Commission, and they need  
17      access to this data. But it is a petabyte of  
18      data. It is an enormous amount of data. It would  
19      fill racks and racks and racks of computers.

20                   And to move that all into the Securities  
21      and Exchange Commission's data center, well, let's  
22      just say that I don't think this project would've

1       happened if we had to do that.  Instead, what we  
2       did was we created a private area within the cloud  
3       specifically for the Securities and Exchange  
4       Commission because it wouldn't do for the  
5       Securities and Exchange Commission necessarily to  
6       be using servers inside the Tradeworx cloud.  
7       Sorry, I don't have a pointer, so I can't point.  
8       The Securities and Exchange Commission has very  
9       specific security restrictions and limitations.  
10      They want a moderate system.  They have various  
11      standards that they must meet.  And we have to  
12      comply with those standards if we're going to  
13      provide anything to the Securities and Exchange  
14      Commission.

15                 So we created within the Amazon web  
16      services using their security tools a virtual  
17      private cloud set up specifically to the SEC's  
18      demanding security standards.  Then we moved --  
19      began to transfer our data into that cloud, spun  
20      up data servers specifically on behalf of the SEC  
21      caching and filtering the data.  Now SEC users can  
22      log in to analysis servers, make requests from the

1 data, get responses, and, boom, get graphs in 2.8  
2 seconds.

3 I think a couple of points I want to  
4 make here. First of all, the deployment that was  
5 possible because of the cloud was remarkable in  
6 both its speed and its cost. We were able to do  
7 this from the time we got going on the contract to  
8 about four months before all this data was in the  
9 hands of the Securities and Exchange Commission  
10 and available for their analysis. And the total  
11 cost -- while it's true that building out this  
12 infrastructure in the first place did cost over  
13 the years Tradeworx certainly tens of millions of  
14 dollars, we're able to provide this capability to  
15 the SEC extremely cheaply, on the order of around  
16 \$2 million a year for access to this information,  
17 which would just be impossible if we hadn't been  
18 able to take this very high-performance technology  
19 we've developed over the years and then make it  
20 available in the cloud to the SEC.

21 Because of the scalable nature of the  
22 cloud, the SEC can also add their own data sets,

1 and they don't need to do a lot of capital  
2 investment or infrastructure planning to make that  
3 happen.

4 So in conclusion, I do want to say that,  
5 you know, the MIDAS system has been a really a  
6 roaring success at the SEC. Many more users have  
7 jumped than we expected, accessing the platform  
8 from all over across the Agency. Greg Berman has  
9 said that this basically propels the SEC from zero  
10 to 60 in one fell swoop. And Elisse Walter,  
11 Chairman of the SEC, has said that MIDAS is really  
12 becoming the world's greatest data sandbox.

13 You know, I want to conclude by saying  
14 the Commission is clearly facing a massive pool of  
15 data, and the Chairman just a few minutes ago has  
16 expressed a desire to be able to swim in that  
17 data. And, I guess, maybe the Chairman of the SEC  
18 views it as a sandbox, and the Chairman of the  
19 Commission is in favor of swimming pools. But  
20 either way, the -- we believe that the similar  
21 tool set of financial big data analytics deployed  
22 in the cloud can address this issue in a very

1 cost-effective manner and give the Commission what  
2 it wants in terms of the ability to really rip  
3 through that huge amount of data you're about to  
4 have available to you and make sense of it in a  
5 very rapid manner, and exploratory, and  
6 interactive manner.

7 Thank you, and I'm happy to take any  
8 questions, Commissioner. It's up to you whether  
9 there's any time.

10 CHAIRMAN O'MALIA: I think we're going  
11 to reserve the questions, but I really appreciate  
12 you guys coming in and providing us kind of some  
13 perspective about what ultimately is possible once  
14 we get our data pool or sandbox in order and fully  
15 utilize it.

16 So let me turn now to our final panel,  
17 and this is a discussion of the Technology  
18 Advisory Committee. You all are the best and  
19 brightest in this field, so I just want to have a  
20 discussion with everyone here about their thoughts  
21 on the events of April 23rd, because shortly after  
22 1:00 p.m. That afternoon, hack on the AP Twitter

1 feed with an estimated two million followers  
2 seemed to initiate \$100 billion move down, which  
3 recovered five minutes later.

4 The S&P dropped 11 points, .6 percent.  
5 The Dow dropped 144, down one percent. And the  
6 CME also witnessed drops of similar one percent  
7 fall.

8 Now that Twitter hacking is a good  
9 example of the challenges we face on a daily basis  
10 from a variety of new electronic sources and the  
11 inputs that have an instantaneous impact on an  
12 unprecedented scale. The fact that a billion  
13 dollars in value can be erased from investments is  
14 very disturbing. So what I wanted to figure out  
15 and what we thought we'd have a discussion about  
16 today is your thoughts on it, and think about  
17 different things about what the right --  
18 appropriate regulatory response is.

19 How do we deal with these scrape and  
20 trade algorithms that automatically read  
21 electronic messages and trade? What about the  
22 time and responses that occur? I mean, it moved

1 down very quickly, it came back very quickly.  
2 What do we need to think about that? Did the  
3 market respond as intended? We have CME here, we  
4 have ICE here, two of our exchanges in this  
5 market. We'd like to understand what happened  
6 there.

7 We had obviously May 6th, we saw a far  
8 bigger drop, and I think Mike highlighted that in  
9 his recent presentation. So what does it mean to  
10 our markets and what happened in our markets? You  
11 know, I've asked Brian if he'd make a few comments  
12 about that, but let me -- before I get to Brian,  
13 let me see if my fellow commissioners would like  
14 to make any comments about their observations or  
15 just ask any questions. So, Mr. Chairman?

16 CHAIRMAN GENSLER: I will, but I'm going  
17 to let Bart go first because I know he's up  
18 against time.

19 COMMISSIONER CHILTON: What I want to  
20 say is sort of what I talked about in my opening  
21 statement. But, you know, I don't want to go  
22 overboard with some, you know, super zealous

1 regulatory thing, so I'm curious whether or not  
2 you all think that there's any sort of due  
3 diligence from the registrant perspective.

4 I mean, think about if maybe, you know,  
5 a large investment bank, for example, if they were  
6 hacked and put out a false report -- you know,  
7 crude oil is going to go to 150 or 200 or  
8 something. But think about this hack attack, if  
9 it was done in concert with other news services.  
10 Now, we don't regulate news services, but for the  
11 folks that have -- that are trading, is there  
12 something that we should do in addition to what we  
13 already have? So, for example, you know, our  
14 false reporting, 6C1(a), our false reporting  
15 standards. It's not just for intentional giving  
16 information out that may be false and move  
17 markets, but it's for reckless. There's a  
18 reckless standard there. So is that something we  
19 should look at?

20 I really don't know the answer, but I'm  
21 curious when it's appropriate to hear what you all  
22 think.



1                   CHAIRMAN GENSLER: I'm interested in  
2                   what you have to say. I look at this and I think  
3                   there are operational risks. As I said earlier,  
4                   the Financial Stability Oversight Council, which  
5                   I'm honored to be on, identified this as one of  
6                   the seven themes just last week in our annual  
7                   report, operational risk and technology, and that  
8                   happens when somebody can hack into a system or  
9                   whether there's just human error that a bunch of  
10                  trades are put into a system. And over the last  
11                  18 months, we've had numerous reminders of these  
12                  operational challenges, mostly in the securities  
13                  world, not in the futures world. But, you know,  
14                  we're not immune from the same issues of  
15                  operational issues.

16                  In this circumstance, there's also false  
17                  reporting that hacked into a system, and so I'd be  
18                  just interested in feedback, whether there's  
19                  anything that the CFTC should be doing in terms of  
20                  having -- to help assure the public that your  
21                  systems, whether you're an exchange, a  
22                  clearinghouse, an intermediary, are robust and

1 resilient against what we know to be cyber attacks  
2 or otherwise.

3 CHAIRMAN O'MALIA: Bryan?

4 MR. DURKIN: Thank you. I mean, first  
5 of all, just taking the MNES&P as an example,  
6 during that five- minute time period, the market  
7 actually traded from 1573 down to 1557, and then  
8 it retraced back up to 1573, as you alluded to, in  
9 five minutes. That was a one percent move in the  
10 marketplace.

11 And as you know, we have a number of  
12 controls that we have in place to deal with  
13 aberrant movements in the market, and those are  
14 really calibrated very much mirrored towards a big  
15 drop or gap in market performance itself. We did  
16 not see that at all in the context of the  
17 movements that we experienced that day. And so  
18 there was a great deal of liquidity as the market  
19 was breaking, and it was -- while it was rapid, it  
20 was orderly in terms of tick per tick trading  
21 occurring on the downside, with some movement  
22 upwards, a continued downside, and then a retrace

1 back up.

2 So throughout that whole period, there  
3 was never a gap or a, you know, a huge aberration  
4 in terms of the market itself being able to  
5 respond to those movements. I mean, obviously the  
6 market did respond to news, and once that news was  
7 corrected, you saw the market also responded  
8 accordingly.

9 MR. VICE: I think our markets had a  
10 similar experience. The types of brakes or speed  
11 bumps, whatever you want to call it, functionality  
12 in the system, to arrest spikes. It's similar to  
13 CME. It's really geared toward more shorter-term  
14 births, particularly in the absence of sufficient  
15 liquidity. So given that this happened over a  
16 longer period of time, none of those -- none of  
17 that functionality kicked in.

18 I think as I step back, you know, being  
19 in this industry for 15 years or so, I think when  
20 I first started learning the business, most of the  
21 people I learned it from had a very kind of purist  
22 attitude in terms of, you know, as a market

1 operator, you should intervene as little as  
2 possible, you know. Let the market find its  
3 price. And I think, you know, as I started to  
4 have some gray hairs, I think we're in a world  
5 where that is increasingly, increasingly not true.  
6 And as the exchanges, we've built functionality,  
7 as we've described here, many times, both of us,  
8 as have most exchanges to deal with those type of  
9 short- term spikes.

10 I think, you know, when I look at these  
11 things, like the Twitter incident, I think we're  
12 probably tilting at windmills if we try to imagine  
13 all the different ways that bad orders or bad data  
14 could get fired at us. We have to just insulate  
15 ourselves from regardless of what the cause of it  
16 was. I think we need -- they're all going to have  
17 various types of -- there's a finite type of  
18 profile generally, and we need to have an answer  
19 for all those. And I think the market -- everyone  
20 in the marketplace is at a point now where they  
21 would prefer intervention and a little longer  
22 period for the market to find its level on

1 legitimate information if it can have fewer of  
2 these types of spikes and less severity when they  
3 do occur.

4           So I suspect there's more work for us to  
5 do. We'll probably continue to build more of that  
6 type of functionality, whether it's a very  
7 short-term spike or something that's more  
8 prolonged. But I think that would be my  
9 suggestion as far as where exchanges would  
10 continue to direct their resources and effort as  
11 opposed to trying to -- working with -- alone or  
12 with the Commission to root out all of the  
13 different types of bad practices, or even good  
14 practices that are poorly implemented on the  
15 various types of traders out there on the other  
16 end of the trading systems.

17           COMMISSIONER CHILTON: So, Chuck and  
18 Bryan, I mean, the market was resilient. That's a  
19 good thing. It went down and it came back up.  
20 But, I mean, people did lose money. I mean, it's  
21 not like people had stop loss orders in. You  
22 know, if the price went down on whatever it was,

1 they may not have gotten back in. Now a lot of  
2 cheetahs, lot of HFTs may have been in on the  
3 downside in getting back.

4 But my question is more like, should we  
5 explicitly require under our false reporting to  
6 include social networks? I mean, it seems to me  
7 it's a confluence of if you're a registrant and  
8 you have a Twitter that you're using, and Twitter  
9 today just said expect more of these things. And  
10 how they get in is so simple, I mean, we all see  
11 it. It's this spearfishing where, you know, it's  
12 like I send something to Commissioner O'Malia, and  
13 he thinks, oh, it's Bart, and he clicks on it, and  
14 then they're in.

15 And by the way, we've had something  
16 similar happen even here. So, I mean, I'm not  
17 just saying this is, like, bad companies or  
18 anything. I mean, it happens in government.  
19 Heck, it happened with the FOMC minutes. So, you  
20 know, nobody is immune to this stuff.

21 But unquestionably, whether or not we  
22 should have some sort of specific requirement

1 perhaps under our false reporting that says if  
2 you're reckless and not protect having supersized  
3 cyber security or something else that would allow  
4 your systems to be hacked, then you could  
5 potentially, you know, be penalized. I'm not  
6 saying we should. I don't know. But that's my  
7 specific question. And I don't know if you -- if  
8 Bryan or Chuck has a view on it, but I'm  
9 interested in other folks, too.

10 CHAIRMAN O'MALIA: Evelyn?

11 MS. FUHRER: Thank you. You know, in  
12 thinking about, like, the Twitter attack, I mean,  
13 one of the things that seems to be the common  
14 thinking is that it was just a hack, you know.  
15 Just a hack out of Syria, whether it was  
16 malicious, some kids playing, or, you know,  
17 hackers trying to outdo each other, you know, we  
18 don't know.

19 But I think to the question at hand and  
20 the question whether or not we should apply  
21 regulatory dictates, I think we have to think  
22 about the pure hacks and whether our people use

1 these types of techniques to actually try to  
2 manipulate the market, okay? There's one thing,  
3 you know, to penalize somebody if they don't have  
4 the right level of cyber security. I mean, you  
5 know, I'm very involved in these kinds of issues,  
6 and personally I think that, you know, there's  
7 constantly going to be a tax no matter what people  
8 do. And in my way of thinking, this is very  
9 analogous to where we were 20 years ago with  
10 disaster recovery, you know.

11 We have come to a point where there was  
12 a realization in the marketplace. Things are  
13 going to happen. Terrorist threats are going to  
14 happen. Floods are going to happen. You have to  
15 have disaster recovery. I think that's where we  
16 are now in the area of cyber security. I think  
17 we're going to come to recognize that there are  
18 going to be attacks. Things are going to happen.  
19 We have to have alternatives to deal with this.

20 And here specifically again, you know,  
21 to my point about I would be more concerned if  
22 people are maliciously spearfishing or attacking



1       because even if the markets are resilient -- go  
2       down three minutes, go up three minutes -- if  
3       people are trying to manipulate the market, they  
4       could be making a ton of money like you said in  
5       that particular time.

6                     Here, you know, there are people who --  
7       smart people who made money, but it's probably not  
8       -- I mean, they're probably not the same person  
9       who hacked the system. So I think we need to be  
10      careful about how we look at this and really think  
11      through all the possibilities.

12                    CHAIRMAN O'MALIA: Supurna and then  
13      Michael.

14                    MS. VEDBRAT: You know, this is  
15      obviously a very difficult problem, you know, to  
16      be able to solve for. But, you know, one thing  
17      that I'd just like to discuss is as we break it  
18      down into its different components. One is the  
19      source of information, so the source of  
20      information, you know, happened to be Twitter and,  
21      you know, whether that's used as a reliable source  
22      of information to drive a trading strategy that's

1       questionable in itself. So that's, you know, the  
2       source here was hack.

3               The other is that information caused,  
4       you know, movements in the market, you know, which  
5       could be, you know, various different forms that  
6       may have triggered signals for trading. You know,  
7       now those trading signals, you know, they reacted  
8       to the movement in pricing, which could've been,  
9       you know, good or bad information. And you can't  
10      really figure out a way in which to say that,  
11      okay, these signals were good, that they're going  
12      to react to changes in the market.

13              So, you know, as we try to solve for it,  
14      you know, we do have to keep those two components  
15      separate because the second one, you know, it is  
16      all algorithmic trading. It is high frequency  
17      trading. And, you know, we want to be mindful  
18      that we don't in any way harm that end of the  
19      business because of erroneous information, you  
20      know, whether it's Twitter or somewhere else, you  
21      know, driving, you know, the markets to react.

22              CHAIRMAN O'MALIA: Michael?

1           MR. GORHAM: Yeah, two things. One is  
2 historical, and in the 18 years that I sprinted  
3 the CME, there were a number of times where there  
4 were rumors. In fact, I think it wasn't uncommon  
5 for the President to be assassinated a couple of  
6 times a year. So these rumors started --

7           CHAIRMAN O'MALIA: Rumor. In  
8 rumorville.

9           MR. GORHAM: Oh, in rumor. Sorry. You  
10 know the history. So the point is I don't know of  
11 any case -- it wasn't my job at the time, but I  
12 don't know of any case that those rumors were ever  
13 tracked down. And Bryan might know something  
14 about that.

15           But the second is that -- well, my point  
16 there is people will always try that -- in those  
17 days it was always for profit that they were  
18 trying to do it. Second, but speaking, Mr.  
19 Commissioner, to your point, the -- I guess what's  
20 not clear to me is would you want the ability to  
21 go after AP or Twitter in this kind of case if  
22 there was --

1                   CHAIRMAN O'MALIA: No. It would not  
2                   only be somebody that we have jurisdiction over,  
3                   so you would say, you know, should an investment  
4                   bank, should somebody that trades in our markets  
5                   have a heightened level of cyber security in place  
6                   to avoid having -- because the information that  
7                   registrants may -- if they're hacked in, it may  
8                   mean a lot to the market. We can't control -- I  
9                   can't control, you know, Twitter as a corporation,  
10                  but I might be able to -- we might be able to deal  
11                  with a market registrant. I mean, I think we  
12                  could deal with a -- we may have the authority  
13                  under 6C1(a) now, but I don't know that it's  
14                  specific enough.

15                  And since this is a new issue and we're  
16                  just getting it on our radar because of the hack  
17                  attack, it seems to me that's why we should  
18                  consider what we do.

19                  MR. GORHAM: So you think nothing that  
20                  we could do would've prevented what just happened,  
21                  but you're just thinking more broadly about the --  
22                  okay. Got it. Thanks.

1                   CHAIRMAN GENSLER: I think -- I mean, to  
2 my eyes, was you said, there's false information  
3 whether it's a rumor about the President or other  
4 rumors that will be here 100 years from now as  
5 well. But to me, I use this term -- it's kind of  
6 boring -- "operational risk." But it's a bit of  
7 an arm's race between hackers and bad actors, and  
8 I will include hackers with the bad actors. Oh,  
9 my god, now they're tweeting about me saying  
10 that's not good maybe.

11                   And so it could be a hacker. It could  
12 be a governmental or a terrorist organization, you  
13 know. It could be anything out there that just  
14 wants to disrupt the flow of commerce here in the  
15 U.S., whether it's false information or even  
16 trying to get into a clearinghouse system, a  
17 trading system, FINRA system, or an intermediary  
18 system. And that's what's so -- it's just  
19 reminding, to me, this event, as to this bit of an  
20 arms race of how you build firewalls, how you  
21 build appropriate protections at the large  
22 financial institutions that exchanges

1 clearinghouses and the like.

2 We don't regulate AP or Twitter, but I'm  
3 just saying that's one of the reminders I take  
4 from this. But Bryan seems to -- I'm sorry.

5 MR. DURKIN: I'm just -- without getting  
6 into any proprietary or confidential information,  
7 I just want to assure the Commission that the CME  
8 group has a very robust global information  
9 security program. We recognize the  
10 responsibilities that we have as a marketplace,  
11 and the fact that we have a global network that  
12 extends itself to, you know, virtually 100  
13 countries throughout the world. Having a robust  
14 information security and risk management system in  
15 place 24 by seven is a top priority to us.

16 We're very, I think, conscientious in  
17 communicating with your team here in terms of our  
18 efforts and progress in that regard.

19 CHAIRMAN O'MALIA: We will go with  
20 Irene, Larry, Cliff, and then I think Steve had  
21 something.

22 MS. ALDRIDGE: Thank you. I think from

1 a regulatory standpoint, one thing that may be  
2 useful is to actually track persistence of  
3 entities that trade on similar events, like  
4 Twitter hacks, because there it's fairly -- I  
5 wouldn't say "simple," but it's possible to  
6 demonstrate some sort of an intent. So if the  
7 same entity trades and persistently benefits from  
8 something like the Twitter hack, then you can make  
9 a case that potentially they're doing it or  
10 they're involved somehow with malicious activity.

11 CHAIRMAN O'MALIA: Larry?

12 MR. TABB: I look at this as a, you  
13 know, a couple of different issues. I think, you  
14 know, first, you can't just look at Twitter, you  
15 know, because people are starting to mime  
16 Facebook, and, you know, they're digging down in  
17 the web. I forget exactly how long ago, but  
18 wasn't it IBM's corporate earnings were posted  
19 early, and somebody got a hold of it, you know,  
20 and traded before it was supposed to get released?

21 There are these things that are  
22 happening all the time, and there are lots of

1 folks mining it, so you can't just look at  
2 Twitter. People are pulling information from  
3 everywhere. And so whether it's true or it's not  
4 true, people are going to be mining the stuff and  
5 trying to discern issues, so that's -- I think you  
6 got to take that out. I don't think you're going  
7 to be able to stop that.

8           Then you've got the whole issue of  
9 market manipulation, people putting out fraudulent  
10 data. That's illegal to begin with. So the  
11 question then becomes is how do you track that  
12 down, and maybe that gets to, you know, Menage and  
13 Tradeworx, and trying to get a better data  
14 platform to be able to find, you know. What Irene  
15 said, how do I find out who's profiting, and maybe  
16 that's a way to look backwards and see who's doing  
17 it.

18           And then you've got the security  
19 infrastructure, you know, the futures and  
20 securities infrastructure, which for most folks  
21 that I know, you know, it's on all private  
22 networks. Now that's not to say that I can hack



1 through an FCM and then, you know, trade through  
2 the, you know, the FCM to get into the exchange,  
3 but there needs to be best practices and support.  
4 And I think the industry has done a pretty good  
5 job on the security side of keeping that secure.

6           So I'm not a big proponent of doing a  
7 whole ton more because I'm not sure that, you  
8 know, you've got news. You're not necessarily  
9 sure if it's a rumor or not when people are  
10 trading this down. It's only the point where it's  
11 going to be determined that it's not true that it  
12 starts going back up. And, you know, do you all  
13 of a sudden put, like, three-minute pauses every  
14 tick or something like that to say, well, is the  
15 information that Irene is trading on, is it right  
16 or not? You know, I don't know.

17           I think it's really more to do with  
18 ensuring that the integrity of the infrastructure  
19 is good. I think that's the biggest thing that we  
20 can actually focus on, not what people are trading  
21 on and if the information they're trading on is  
22 reliable, you know.

1                   CHAIRMAN O'MALIA: Cliff?

2                   MR. LEWIS: We had some experience or I  
3 had some experience with the way you guys reviewed  
4 the Commission staff reviewed security  
5 arrangements in the context of a designated  
6 contract market approval. And I would say that  
7 you did a good job. It's probably sensible to go  
8 back and look at it as to whether the core systems  
9 are secure. But, you know, banks have to do with  
10 this with the fed all the time.

11                   It all comes down to who on your staff  
12 has access to critical systems. Is part of this  
13 you go through the process of what they call  
14 ethical hacks where you bring in some guys who are  
15 sort of shaggy that need a bath, and they try to  
16 break the system? And everybody in the financial  
17 services industry does that.

18                   That said, I think the key thing here  
19 was something the Chairman alluded to, which is  
20 the extent to which this goes to a different level  
21 than merely for profit and goes to the level of  
22 state-sponsored terrorist activity. And I think

1       that's a totally different kettle of fish, and I  
2       don't think -- I think it's fair to say that the  
3       systems that commercial enterprises can put in  
4       place would not be expected to be necessarily  
5       sufficient to a concerted attack, say, by the  
6       Chinese government.

7                 And, you know, it sounds like a Clancy  
8       novel to talk about this, but I would encourage  
9       whether it's the board that the Chairman is  
10      talking about or the Commission to worry very much  
11      about that. I think that's a really big, big  
12      deal, and complacency is not smart about this.  
13      You know, as a platform operator, you get service  
14      attacks all the time, you know, thousands a month,  
15      but this is a different order.

16                And the third thing I'd say is, you  
17      know, really what you got to come back to, and I,  
18      you know, I'm not arguing this, but I've known  
19      those that have. The old days -- I'm looking at  
20      Chris -- you know, when you'd have a limit, you  
21      know, price movement limits in markets, you know,  
22      whether or not because of the state-sponsored

1 possibility, or, frankly, if the Twitter thing had  
2 been true, what sort of price movement, if there  
3 had been an explosion at the White House, would  
4 have been a reasonable movement?

5 I mean, I can't say, but I think it's  
6 something that that's -- you can argue a lot about  
7 what government is for. This is something  
8 government is for, to figure that out.

9 CHAIRMAN O'MALIA: Steve, yeah.

10 MR. JOACHIM: I'm not going to try and  
11 torpedo everything everybody else said. But I  
12 think that we have to keep our eye on the ball in  
13 terms of what the problem set is, and the problem  
14 is a moving target. One thing we know is  
15 technology is evolving at an incredibly fast pace,  
16 and it's becoming actually more decentralized.  
17 And the ability of one individual actor to create  
18 havoc has grown dramatically. I think if we focus  
19 on the information flow, I think we're going to  
20 lose track of what the real problem is.

21 The thing that keeps me up at night are  
22 account intrusions. There are so many points of

1 entry into the environment today that a bad actor  
2 who can step into a weak player -- we're only as  
3 strong as the weakest link we've got -- could  
4 ultimately create significant havoc in the  
5 marketplace. And I think we as regulators need to  
6 keep our eye on that on a regular basis, always  
7 trying to find where those weakest points are and  
8 focusing on those to be sure that we are looking  
9 to find ways to close those loops.

10 I don't think it's information. I think  
11 it's much more -- we're much in danger of a rogue  
12 trader or a rogue individual executing a  
13 tremendous number of transactions in a very short  
14 period of time in a way that potentially could  
15 have deleterious effect on the broad-scale  
16 marketplace.

17 CHAIRMAN O'MALIA: Thinking of any  
18 special event in recent --

19 MR. JOACHIM: I hope not. I try to  
20 ignore those.

21 CHAIRMAN O'MALIA: Chris?

22 MR. HEHMEYER: Just one last thought.

1 It is true the rumor thing is illegal, and we've  
2 talked about, whether it was a wheat embargo or  
3 the mad cow disease. One thing that's, I think,  
4 breathtaking is how fast the machines can now  
5 react, and the ability to distribute information  
6 can travel so much faster than just in the hallway  
7 at the Board of Trade. And so that's what's  
8 breathtaking about it.

9 And the challenge for you all, and so  
10 much of this could be in the data. The challenge  
11 is that fast doesn't necessarily mean illegal, and  
12 that's a challenge because it's on the frontier of  
13 these technologies. And so it's a challenge for  
14 all of us. Thank you.

15 CHAIRMAN O'MALIA: Bryan?

16 MR. DURKIN: Just to reiterate, the  
17 industry and the exchanges in particular have  
18 taken a number of steps to prevent the types of  
19 movements that I think a conversation is carrying  
20 on into now: Velocity logic, stop logic. I mean,  
21 there's been a number of controls that we have put  
22 in place over the past two years to prevent those

1 types of movements, and the market would  
2 automatically stop. That was not the case in this  
3 situation.

4 CHAIRMAN O'MALIA: Well, that's easy --  
5 interesting because a lot of reactions -- because  
6 it's an automated. I think somebody mentioned it  
7 was an automated reaction. It moves quickly. Big  
8 news in the market. But yet this -- in this  
9 instance, it went fairly -- relatively slow in the  
10 microsecond trading environment that we're used  
11 to. So what do you see in the market? Was it a  
12 different set of participants? Anybody want --  
13 anybody have any comments that -- I think you want  
14 to stay away from it, Bryan. But Larry?

15 MR. TABB: Well, it was a Twitter feed,  
16 so it wasn't a registered, you know, AP secure  
17 line direct feed or Reuters, you know, or  
18 Bloomberg, you know, authorized, you know. People  
19 weren't paying for it. So, you know, trading off  
20 of Twitter is actually something pretty new, and  
21 there aren't a ton of folks doing it. So because  
22 it didn't -- you know, if it would've come through

1 the Dow Jones, you know, secure high speed, you  
2 know, news feed, I'm sure it would've had a much  
3 more severe reaction.

4 CHAIRMAN GENSLER: Can I just ask? Are  
5 people on the Dow Jones feed technology scraping  
6 the information, looking for words, and then  
7 having algorithms that trade off of key words?

8 MR. TABB: Yes.

9 CHAIRMAN GENSLER: That was a yes. But  
10 you're saying they're not yet doing that over on  
11 the Twitter feed?

12 MR. TABB: Twitter is much more  
13 difficult. First of all, some of the more news  
14 feed oriented things they actually have  
15 elementized news feeds, so, you know, you know  
16 it's an earnings release. You know it's very  
17 structured for machines to read this stuff. And  
18 even some of the more -- you know, the broader  
19 things are more structured, so they're used to  
20 being read.

21 Twitter, I don't know if it's you. I  
22 don't know if it's your kid. I don't know if



1       it's, you know, someone who doesn't know anything.  
2       I have to really try to understand, you know, who  
3       it is, what they're saying, what's the sentiment,  
4       is it positive, is it negative, what's the  
5       context, you know, let me back test that.

6                So if would've tweeted that same thing,  
7       it would've had no impact. It was an AP feed,  
8       hence far more people were reading it. But it's  
9       still fairly new in terms of how do I think about  
10      this and is it important or not.

11               CHAIRMAN GENSLER: Whereas just I'm  
12      doing the education. But whether it's Dow Jones  
13      news feed or some of the other --

14               MR. TABB: Well, it pays -- they pay big  
15      money for those feeds, so --

16               CHAIRMAN GENSLER: Paid feeds, a  
17      Bloomberg feed. There were Bloomberg people here  
18      earlier.

19               MR. TABB: Absolutely.

20               CHAIRMAN GENSLER: Those feeds are being  
21      scraped by computers, or ready by computers, and  
22      then algorithms trade off of them.

1                   MR. TABB: And because they're more  
2 secure, they're more known, they've got -- you  
3 know, they've got years of back testing that they  
4 can look at the same kinds of things and determine  
5 what's the reaction. It's much easier to start  
6 developing quantitative analytics and what should  
7 I do if this happens, whereas Twitter, it's all  
8 over the place.

9                   And as I said, because AP is AP, you  
10 know, people are trying to free ride off their --  
11 you know, off the news feed. So it's one step  
12 above most of the Twitter stuff, but people are  
13 starting to look at this.

14                   CHAIRMAN GENSLER: Thank you. That's  
15 helpful.

16                   MS. FUHRER: I have another comment. I  
17 actually think we got lucky, okay? And the reason  
18 I'm saying that it was a hack. It was one feed,  
19 okay? But now that it's out there that AP was  
20 hacked, if there would be a concerted effort, and  
21 multiple news sources were reporting the same  
22 thing, I think we would've had a different result,

1       because if you have a non -- besides the fact  
2       that, you know, how much value should we give  
3       Twitter and so on and so forth -- I agree with  
4       everything that's been said -- it was also not  
5       corroborated.

6                 So as people are watching all the news  
7       feeds that they're getting immediately through the  
8       computer, if it's trading, or individuals that are  
9       trading would see that it's an outlier and, you  
10      know, probably not true.

11                And so I think that's important because  
12      most of the disasters, the real disasters, that  
13      happen is there's multiple bad things happening at  
14      the same time. So if this could've been  
15      corroborated and different people had a concerted  
16      effort to hack into and send out analogous  
17      messages over different Twitter feeds for  
18      different corporations, I think we would've had  
19      different results.

20                CHAIRMAN O'MALIA: Keith, and then we'll  
21      go to John.

22                MR. FISHE: Sure. I just wanted to add

1 something to what Larry said. So the Dow Jones  
2 feed that he's talking about can go directly into  
3 an automated trading system, but it's usually for  
4 data announcements or economic numbers that come  
5 out. I don't think that this particular example  
6 is something where someone scraped and traded off  
7 Twitter, and that's really also hard to do in more  
8 legitimate news services like Dow Jones or any of  
9 the other wires because your text analysis is not  
10 an exact science.

11 And if you honestly want to bet your  
12 bank on the kind of errors that could come up in  
13 that, you know. One person writes one thing one  
14 way, and then puts in a comma in the next time and  
15 it means something completely different.

16 So in this particular case, there was  
17 actually a pretty good lag between the Twitter  
18 feed message and the trade that actually moved the  
19 market, so it's hard to see that that was a, you  
20 know, scrape and trade activity.

21 CHAIRMAN O'MALIA: John?

22 MR. LOTHIAN: There are people out there

1       who are creating multiple Twitter IDs to magnify  
2       their -- the messages that they have about  
3       political things, about market things, about  
4       whatever. When the MF Global situation happened,  
5       I created an MF Global hashtag, and would look at  
6       anything that would have the MF Global name in it.  
7       And it was like watching a slot machine it was  
8       going by so fast. And many of the tweets were the  
9       same tweets that were, like, being robotically  
10      sent out to the marketplace, re-tweeted.

11                See this all the time. You see this a  
12      lot in the gold world. You see it a lot in the  
13      silver world, you know, tweeting for various  
14      blogs, their messages, trying to influence the  
15      things with, you know, the central banks are doing  
16      this or whatever it is. It's out there every  
17      single day what happened. It's just that in this  
18      case there were some people that acted on this,  
19      okay, as opposed to the market just being mature  
20      and, you know, enough to say I don't need to  
21      listen to that.

22                That being said, there's a company out

1       there called Social Media Analytics. They're now  
2       produced -- they're now -- they signed an  
3       agreement with NYC Technologies for distribution.  
4       And what they do is they take the Twitter feed in  
5       for a company, and they take all of the various  
6       tweets, and then they analyze them, and they come  
7       out with a reading that's a gradient kind of thing  
8       in terms of positive or negative. But they also  
9       look into, you know, the sources as to whether  
10      these are good sources, and also there's a  
11      qualitative aspect to it, not just a quantitative  
12      thing so that you can't just flaunt a particular  
13      company's, you know, out there and get a negative  
14      reading kind of a thing, okay?

15                 So in this case, I think that, you know,  
16      people that responded to a single tweet from AP  
17      and found out that it was false, you know what?  
18      They learned a valuable lesson, okay, and the  
19      market will teach you lots of different lessons,  
20      and they learned one. It only moved one percent,  
21      which is pretty good considering.

22                 And the next time they're going to go,

1 and they're going to go, hey, do you see this  
2 anywhere else, okay, before they press the button,  
3 okay? And when you have big events that have  
4 happened in the market, people call people and  
5 they go, what is your quote machine say? Mine  
6 says Dow is down 500 points, you know? I mean,  
7 that's what people do. They verify information.  
8 And if somebody is going to act on unverified  
9 information, you know, they're going to be taught  
10 a very difficult lesson by the market.

11 CHAIRMAN O'MALIA: Any further thoughts,  
12 comments? Well put, John.

13 Well, I want to thank everyone for  
14 coming out today. Long day, and very interesting  
15 issues. John, we have a lot of work to do on  
16 data, and we'll put together a team in a regular  
17 meeting process so we can get through all of these  
18 issues as quickly as possible, and cost-  
19 effectively, efficiently, all of these things, so  
20 everybody is able to comply quickly and we get the  
21 data that we need as expected, as provided in our  
22 rules. So wish us luck on that, right?

1                   So I want to thank all of my staff, Ali  
2                   and Shoenice, that helped out, our Commission  
3                   staff, Margie and the LO staff. And our AV team,  
4                   the guys that make -- keep the videos running,  
5                   Mike, and Gian, and Arc, and Wilbur. So thank you  
6                   very much for all of their help.

7                   And thank you for participating here  
8                   today. Thanks.

9                   (Whereupon, at 4:55 p.m., the  
10                  PROCEEDINGS were adjourned.)

11                  \* \* \* \* \*

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CERTIFICATE OF NOTARY PUBLIC

DISTRICT OF COLUMBIA

I, Carleton J. Anderson, III, notary public in and for the District of Columbia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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