UNITED STATES OF AMERICA

COMMODITY FUTURES TRADING COMMISSION

OPEN MEETING ON THE ELEVENTH SERIES OF

PROPOSED RULEMAKINGS UNDER THE DODD-FRANK ACT

Washington, D.C.

Thursday, January 26, 2011
PARTICIPANTS:

Commission Members:

GARY GENSLER, Chairman
BART CHILTON, Commissioner
MICHAEL V. DUNN, Commissioner
SCOTT D. O'MALIA, Commissioner

Presenters:

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PROCEEDINGS

(9:37 a.m.)

CHAIRMAN GENSLER: This is a public meeting of the Commodity Futures Trading Commission to consider issuance of proposed rulemakings under the Dodd-Frank Reform and Consumer Protection Act. I want to make sure before I go on, is Commissioner Chilton on the line?

COMMISSIONER CHILTON: I'm here, Mr. Chairman, yes.

CHAIRMAN GENSLER: That's a yes. Terrific. Today we're going to be hearing from the team on two related rules. One is a joint rule with the Securities and Exchange Commission which I understand they voted out yesterday, and that's reporting on investment advisers to private funds and certain commodity pool operators. For the public, sometimes you think of these as hedge funds but it's private funds and what we here over here at the CFTC call commodity pool operators and commodity training advisers, on a new form and
that form is PF. Also a related rule, one here
and not joint with the SEC is on commodity pool
operators and commodity trading advisers and this
is to be consistent with the joint rule and some
other important matters for us.

Before we hear from staff, I'd like to
thank Commissioners Mike Dunn, Jill Sommers, Bart
Chilton and Scott O'Malia for all their thoughtful
work in implementing this Act, and welcome members
from the public and market participants not only
for their listening but also for their comments on
these rules if we were to move forward. I want to
remind the public that we do have additional
meetings scheduled for February 11 and February 24
I believe as we normally do starting at 9:30.
We'll post one week before those meetings the
subjects of this meetings. I believe today is our
eleventh meeting on the Dodd-Frank Act.

With that, staff led by Kevin Walek will
comment on this after we get other Commissioners'
thoughts on this. I think I'm going to turn to
Commissioner Dunn.
COMMISSIONER DUNN: Thank you, Mr. Chairman. I want to thank everyone for joining us today in what looks to be inclement weather here and I'm certainly hopeful that our colleague Commissioner Chilton can get back from New York. This is an important meeting regarding the implementation of the Dodd-Frank Act and today's meeting will address proposed rules regarding reporting by investment advisers to private funds, commodity pool operators and commodity trading advisers in amendments to the compliance obligations of commodity pool operators and commodity trading advisers. The proposed rule regarding reporting by investment advisers is a result of collaborative efforts on the part of the Commission Securities and Exchange Commission. Today's proposed rule requires investment advisers to provide certain information to the SEC and the CFTC enabling better monitoring of emerging risk to the financial stability of the United States on a system-wide perspective. Information collected would be shared with the Financial Stabilization
Oversight Council for use in monitoring such risk. I look forward to public comments on this proposed rule.

The proposed rule regarding the compliance obligations of commodity pool operators and commodity trading advisers provides for new data collection for CPOs and CTAs consistent with that required under the Dodd-Frank Act. I also look forward to the public's comments on the proposed rule particularly in regard to whether there are additional risk metrics or market factors that the Commission should require CPOs to employ.

As I've mentioned in previous open meetings, the CFTC today faces a severe budget crisis. At our current funding level, the Commission is under serious strain. The lack of staff and resources necessary to both implement Dodd-Frank and continuing to fulfill our pre-Dodd-Frank duties under the Commodity Exchange Act, without additional funding the strain will only become worse in July when much of Dodd-Frank
goes into effect. The lack of staff and resources leaves the Commission with a very hard choice as to how to use our limited resources to enforce both Dodd-Frank and the Commodity Exchange Act.

From the offset of this rulemaking process I have expressed my concern that our budget crisis would move us from a principle-based regulatory regime to a restrictive regime. Without additional funding we cannot acquire the human and technical resources for optimal regulatory oversight. I fear the results will be a restrictive regulatory regime that will have a negative impact on both the futures and swap industries in the United States.

Mr. Chairman, I would like to once again thank staff of the CFTC for all of their hard work in regard to these very important rules. Their dedication to their important work during this difficult time is what government service is all about and I salute them.

CHAIRMAN GENSLER: Thank you,

Commissioner Dunn. I appreciate the salute to
staff because they are really putting in long
hours in their thoughtful and excellent work.

Usually I turn to Commissioner Sommers who is
representing this Commission ably at international
meetings I think in Brazil, so that I'm going to
turn to Commissioner Chilton.

COMMISSIONER CHILTON: Thanks, Mr.
Chairman. Given the weather both in D.C. and here
in New York, it makes me thing that these Part 4
rules have been so helpful in disclosure over the
years that they protected people from being
victims of a blinding snow job. Today's rule is
more about transparency, both the rules are about
transparency, and that's critical. When I talk
with people and I say what the Dodd-Frank law is
all about, the thing I put paramount among all of
that is transparency. Kevin has done a great job,
the SEC has done a great job on this and I commend
them all.

The last little point I wanted to make
is this discussion that all of us continue to have
amongst ourselves my colleagues and the public
about the funding. A lot of the things that we're
hearing now are really symptoms of a larger
problem. I think that the Chairman has done a
great job with this challenging budget situation
that we're involved in. If you think that
Congress would give us the authority to regulate a
large portion of the $600 trillion OTC market,
nobody would imagine that they wouldn't give us
the resources to actually do that. So given where
we are, we're I think we're doing exactly the
right things. There are little idiosyncratic
things that will pop up here and there, but they
are all symptoms of a larger concern which is we
can put these rules in place, we can have them on
the books, but without the additional resources we
won't be able to enforce them or oversee the
markets like Congress instructed us. So I think
we need to be creative and think out of the box
about how we deal with this dilemma. I'll be
talking a little bit later about that today, but I
think all of us know that there are things that
need to be done. Otherwise, without the
enforcement and the oversight we could be back
where we were 2 years ago when we saw this
economic calamity take hold. Thank you, Mr.
Chairman, and I appreciate all the work of
everybody. Thanks.

CHAIRMAN GENSLER: Thanks. Good to see
you on the video. Commissioner O'Malia?

COMMISSIONER O'MALIA: Thank you very
much. We have before us today two related
proposed rulemakings that address reporting
requirements for commodity pool operators and
commodity trading advisers. I want to thank the
team, Kevin, Amanda, Daniel and Eileen, for their
very hard work and thoughtful efforts on this
proposal.

It is my understanding that the
substance of these two proposals reflects a great
deal of coordination with both domestic and
international regulators, consultation with the
Financial Stability Oversight Council and
discussions with the NFA, so that I'm grateful for
the efforts to coordinate those efforts.
I'm pleased to be able to support the proposed rulemaking that in part rescinds certain exemptions from the registration and reporting requirements for CPOs and CTAs. In September of last I wrote in support of similar changes proposed by the NFA to Commission Rules 4.5. At that time I noted certain registered investment companies were offering a series of de facto commodity pool interests yet claiming exclusion under the regulations of 4.5. This resulted in some registered investment companies offering futures-only investment products like futures mutual funds without become subject to CFTC oversight. I continue to support the repeal of certain exclusions to the registration requirements for CPOs and CTAs so that we can close the regulatory gap that allows some registered companies to offer futures-only products outside of the Commission's jurisdiction especially its antifraud authorities.

I noted that the team has taken the opportunity with this proposal to ask several
questions of the industry. I counted no fewer
than 45 specific requests for comment in this
proposal and I appreciate the team's efforts to
listen to industry as they craft this rulemaking.

I'm also pleased to support the proposed
join rulemaking with the SEC. The rulemaking will
adopt certain reporting requirements required of
Title IV of the Dodd-Frank Act and I think the
team has done a great job to make commonsense
proposals especially related to the treatment of
entities registered by both Commissions. I'm
eager for the industry to provide feedback on the
proposal and I look forward to the discussion
today. Thank you very much.

CHAIRMAN GENSLER: Thank you,
Commissioner O'Malia. Before we get going I want
do two administrative things. One is out of an
abundance of caution we noticed this meeting 7
days in advance and I'm told that's in compliance
with the government's Sunshine Act, but apparently
the Federal Register didn't put it in the Federal
Register. We did comply with the Sunshine Act,
but just in an abundance of caution, I'd entertain
a motion that we determine the Commission business
and importance of the issues we're addressing
necessitates holding this meeting today just in
case because it wasn't in the Federal Register.

COMMISSIONER DUNN:  So moved.

COMMISSIONER O'MALIA:  Second.

CHAIRMAN GENSLER:  All in favor?

GROUP:  Aye.

CHAIRMAN GENSLER:  Are there any
opposed?

COMMISSIONER CHILTON:  That's fine with
me on the motion.  I did want to make a quick
comment on this because this issue has come up and
I don't know if you want to expand on it too.  I
don't want to slow us down too much.  But there
has been an issue in that we've been getting
emails lately about a delay in our proposal on
position limits saying that the 60-day comment
period is being delayed by the agency and I know
that's not the case, that we did some technical
corrections as we do on all of these rules.  The
Federal Register is actually a separate agency that doesn't have anything to do with the CFTC other than we are one of their clients and when we give these rules to the Federal Register there is a backlog and sometimes they don't get printed on time. Lots of people have been emailing lately, and just like this example where it wasn't noticed perhaps when we would like it, we don't make that call all the time and I want to alert people that there is nothing nefarious going on, that the CFTC isn't delaying the comment period, we are merely in queue to get published.

CHAIRMAN GENSLER: That's absolutely correct. In fact, in this circumstance we did notice this meeting, it's just that the Federal Register then published it a day or two later. On our rules, I think on average, and people can correct me, the Federal Register has been publishing them somewhere 7 to 10 days after our meetings. We would like them earlier, but the Federal Register is doing a professional job and I'm sure they're dealing with not only our
publishing, but things that are to be published throughout the government. I think that on the position limit one we put it on our website because of the interest just as we do with everything even though it might be in the Federal Register several days later. David Stawick, our secretary, is shaking his head yes.

MR. STAWICK: Our standard procedure, Mr. Chairman, is that when a rule is sent to the Federal Register, my office forwards that to the Office of Public Affairs and it's put on the website.

CHAIRMAN GENSLER: Great. One other administrative matter is that Commissioner Sommers who is representing us down in Brazil as I said is unable to join us today. She has requested that she be permitted to vote by limited proxy for all votes taken at this meeting, a procedure that we have utilized in previous meetings, and to that end I request unanimous consent to permit limited proxy voting for the votes subsequently taken in this meeting. Without objection so ordered.
With that, Kevin, Amanda, Daniel, Ananda or anybody else who gets pulled to the mike, the floor is yours.

MR. RADHAKRISHNAN: Thank you, Mr. Chairman. I'm going to hand it over to the excellent team that did the work on this proposal. Kevin?

MR. WALEK: Thank you, Ananda. Thank you, Mr. Chairman and Commissioners.

I would be remiss if I didn't add a few people's names to the list. The team was a little bit larger than the four that Commissioner O'Malia mentioned. We also had on the team Adrianne Joves before she went to Commissioner O'Malia's staff on our team. We also had Carl Kennedy from the General Counsel's Office. And last but not least of the people who weren't mentioned, I'm sorry, I have two more, we had Barry McCarty from the Division of Enforcement and we had Jake Preiserowicz from the Division of Clearing and Intermediary Oversight so that we had a very good team in this operation. I would also be remiss if
I were not to thank our colleagues over at the 
SEC. In my 34 years of government experience, 
this has been the most collegial interagency 
effort that I have ever been involved with. In 
fact, we even have one of the members of the SEC 
team in the audience today who worked with Dan on 
preparing the data-collection instruments go give 
us moral support or to cheer us on and I think 
that's indicative of the type of work effort we 
had as a joint SEC-CFTC team.

With respect to the specific 
presentation today, we are presenting to you for 
your consideration two Notices of Proposed 
Rulemaking. As you all have noted, the first 
Notice of Proposed Rulemaking is the joint 
rulemaking and this is the joint SEC-CFTC 
rulemaking to collect data for dual registrants of 
greater than $150 million. Some day they probably 
they will be greater than $150 billion too, but in 
this case $150 million. There is a tiered 
approach and we'll talk about that more later, but 
there is a tiered approach between those entities
that are smaller pools at the $150 million level
and those that are greater than $1 billion.

Then the second Notice of Proposed Rulemaking as was noted in several of other presentations earlier by the Commissioners is to deal with certain CFTC compliance issues to make a more level playing field, to put light on to what were previously dark markets and to in fact ask parallel questions and provide parallel information between similarly situated types of investment vehicles. Specifically, the Notice of Proposed Rulemaking is probably of most concern to those here at the CFTC, we have a provision to reinstate trading criteria for registered investment companies claiming exclusion from CPO definition under Regulation 4.5. This was what Commissioner O'Malia mentioned was NFA's proposal earlier that we are carrying forward. In the proposal we have a recession of the exemption from CPO registration under Regulations 413(a)(3) and (a)(4). These two sections are commonly referred to as the de minimis and the sophisticated
investor equivalents on our side.

The third item that we have contained here is a revision to Regulation 4.7 so that CPOs may no longer claim the exemption from the requirement that an exempt pool's annual report contain certified financial signatures.

Interestingly enough, in this context with the 4.7 entities it's been our information from looking at the actual filings that over 80 percent of the 4.7s were getting certified annual reports anyway which was due to their investors wanting the certified annual report so that we're really only providing that portion to a very small group of even the 4.7 entities.

We also have included in that second notice a provision to modify the participant qualification criteria of Regulation 4.7 to incorporate the SEC's Accredited Investment Standard by reference rather than by direct inclusion of its terms. What was happening was that if the SEC were to change the terms, we would have to change our regulation and would have to
reregulate, but by doing a cross-reference, if
they change theirs, the cross-reference applies
and carries through that change that the SEC may
have made so that it doesn't require us to
coinstantly modify our regulation.

We also have included a requirement that
all persons claiming exemptive or exclusionary
relief under Regulations 4.5, those remaining
sections of 413 and 414 to confirm their notice of
claim of exemption or exclusion on an annual
basis. One of the issues that may come up if you
ask questions about specific numbers, I may have
to give you an answer that my best guess is
because of the way our notice process has worked
in the past. Our notice processes indicated when
someone is eligible for the exemption but it never
tells us when they leave so that as a consequence
we're not sure of all the entities that have left
or what the total size of that population is.

Last but not least in the second notice,
we have a provision to amend the risk disclosure
statement that must be included in the CPO and CTA
disclosure documents to describe certain risks
related to swaps transactions. This is to bring
that risk disclosure statement for CPOs and CTAs
in line with the rest of the Title VII actions
that have been happening as we've been proceeding
through this series of Dodd-Frank rulemakings.
With that, the team and I will be happy to
entertain any questions you may have.

CHAIRMAN GENSLER: Thank you, Kevin and
team. I support both of the rules and I'll have a
statement for the record, but I think what this
importantly does is bring more transparency to the
regulators, to the Securities and Exchange
Commission primarily on their responsibilities but
also the CFTC and the members of the Financial
Stability Oversight Council. I think the intent
of Congress as I understand it was to get this
information for systemic risk monitoring and
systemic risk reporting. I believe the SEC even
calls it systemic risk reporting. Somebody from
the SEC was here but I don't want to put them on
the spot. So I think that that's very good and
there will be important information.

I think it's also good that we bring ours in line because I under the joint rule, Kevin, a question, the joint rule is for those investment funds or private funds that are either solely regulated by the SEC and in addition that are jointly regulated with us. Is that correct?

MR. WALEK: That and greater than $150 million.

CHAIRMAN GENSLER: Thank you for that.

So that anybody over $150 million that's either solely regulated by them or jointly with us?

MR. WALEK: That is correct.

CHAIRMAN GENSLER: But our companion one is on what we call pool operators or commodity pool operators and advisers who might only be regulated by us who are 150.

MR. WALEK: That is correct.

CHAIRMAN GENSLER: And that is why we have these companions.

MR. WALEK: That is correct.

CHAIRMAN GENSLER: I think that's very
good that it's consistent. My question is somewhat on the numbers. I don't expect you to have the exact number at your fingertips or maybe you do, but how many private funds would call under the category where they would have to comply with this? I know there are two levels, over a billion dollars and over $15 million, if you have that type of information.

MR. WALEK: Our rough estimates in that area where somewhere slightly around 200 of our entities were likely to be filing the Form PF, the joint form. That does not however include what our guesstimate might be of those 413(a)(3)s which is the de minimis exemption that might come back into both registration with the SEC and us and as a consequence be captured. That number again going back to the fact that we don't have the filing of who still is or isn't exempt under 413(a)(3), I've made rough guesses anywhere from 1,000 to 5,000.

CHAIRMAN GENSLER: The 200, is that the over a billion or is that over the $150 million?
MR. WALEK: That's the over a billion.

CHAIRMAN GENSLER: Amanda?

MS. OLEAR: I think it was 150.

MR. WALEK: I'm sorry, it is above 15. Amanda is correct.

CHAIRMAN GENSLER: Commissioner Dunn?

COMMISSIONER DUNN: Thank you, Mr. Chairman. I want to commend our staff on working very closely with the SEC and with IOSCO. I know that Commissioner Kathleen Casey at the SEC has worked very hard on harmonizing this type of information through the IOSCO survey and getting that information and to me gives a great deal of hope that we can have harmonization of our regulations internationally.

I'd like to pursue a little bit, Kevin, on what you just talked about, that the proposed rule requests comments on whether any entities that have previously claimed exclusion under Section 413(a)(3) and (a)(4) should be exempt from compliance with the proposed revision. Should the Commission consider other de minimis exemptions?
If so, what should that criteria be for such de
minimis exemptions?

MR. WALEK: That is something that the
team has not talked at length about. It has come
up in a couple of conversations with other
Commissioners as well. I think that it may be
appropriate to consider another de minimis level,
but clearly the way things are structured right
now we felt it was better rescind 413(a)(3) and
then through the collection of answers to the
question get a better sense of what would be. In
fact, I think at one point this morning I was
talking with someone about the possibility of
making another additional change to that question
in the document to ask specifically would be that,
to take your language and insert it into what we
already have asked and make it part of the
release. I think you'd have to have unanimous
consent to do so, but we would be happy to
entertain such an amendment to the document.

COMMISSIONER DUNN: I'll let me
colleagues think about that a little bit. I don't
wants to force anything on them.

CHAIRMAN GENSLER: Thank you for

Robert's Rules of Order. I'd like to ask for

unanimous consent. I think that we already have a

question on this de minimis, but that we add some

language that staff works with legal assistance

that asks the public if we were still to have some

de minimis, what criteria would be most

appropriate. I think that's the spirit of

Commissioner Dunn's question.

MR. WALEK: Consider it done.

COMMISSIONER DUNN: Thank you. Now as

is my want to do, I turn to the Division Director

and ask do we have staff to consider these

requests?

MR. RADHAKRISHNAN: Staff that will be

looking at the information flow are these

excellent people right here so that if you're

asking do we need more, the answer is yes.

COMMISSIONER DUNN: If there are going

to be 200 to 250 or so requests, I'd like to know

what's it going to cost us and what is it we're
not going to be doing when we're doing this?

MR. RADHAKRISHNAN: I'm not sure how

people. I think I may have asked for an

additional 10 people, I need to check on that, to

do this and other information. This is the

Managed Funds Unit and I think that what I'd asked

for is an augmenting so that the Managed Funds

Unit gets to 10 people so that we could discharge

the responsibilities that the Commission may

decide that we need to do. If they're going to be

concentrating on the new responsibilities, then

unfortunately something will have to give and it

may be with current responsibilities that we may

not be able to discharge with alacrity. We take

pride on discharging all of our responsibilities

and sometimes the issue is which do we get to

first.

COMMISSIONER DUNN: I would forewarn you

that when it comes time to a final rule, I'll want

some concrete information.

MR. RADHAKRISHNAN: Sure.

COMMISSIONER DUNN: Mr. Chairman, were
you going to interject something?

CHAIRMAN GENSLER: Go ahead.

COMMISSIONER DUNN: We are asking for additional information and it's pertinent to know what are we doing with that information. A good part of this is going to be FSOC and I would ask you what's the intention of the FSOC with this additional information?

CHAIRMAN GENSLER: As a member of the FSOC, I don't think I could speak on behalf of all of the members, but as I understand it, the information that comes to us is to assist in monitoring for systemic-risk issue and making recommendations on that and that the investment adviser and private fund area is one that Congress gave the SEC and CFTC this joint authority to address that systemic-risk reporting. So I think that's why in this case even though Congress said the over $150 million size to have reporting, they've tiered it to a greater than a billion dollars because it's about systemic risk largely.

COMMISSIONER DUNN: Just for public
knowledge, where do we see the breakdown of these hedge fund advisers coming from? How much are in the U.S., how much under the FSA and then other entities that are regulated like Hong Kong?

MR. WALEK: At our last meeting that we had in Rome with the TFUE, Task Force on Unregulated Entities, the estimate that the group was working with by throwing numbers around is probably 95 percent of these private funds that some people like to call hedge funds lie within the jurisdiction of the United States.

COMMISSIONER DUNN: Thank you.

CHAIRMAN GENSLER: Thank you, Commissioner Dunn. Commissioner Chilton?

COMMISSIONER CHILTON: Thanks, Mr. Chairman. Kevin, I think the Chairman was asking this question about the numbers of folks, but I know that we're talking about NFA being the custodian here of some of these records but that still is going to have an impact on our budget too. Correct? Do you have any comments on that?

MR. WALEK: As Ananda was alluding to,
and I don't know what the out years were, but we
already had budgeted for this year three
additional staff which we are unable to get at
least at this time because of the budget
situation. Those persons we were hoping would be
the persons working in concert with the NFA once
this rule became final to make sure that the data
was being collected in the manner most conducive
to our needs as well as integrated with the
information being collected by the Securities and
Exchange Commission so that they could be packaged
in a logical fashion.

The good news in that picture is that,
yes, the NFA is part of it and we have worked with
NFA staff over the years with the data collection
already of most of the information for CPOs and
CTAs and they have done an excellent job in that
area, and this is an expansion in fact of a data
collection which was already called PQR that NFA
instituted and collected for the first time this
last March so that we're expanding upon that
collection. I think at the very least the data
can be used for purposes of honing in on and improving their selection of candidates for examination, but also by their experience they can work with us in coming up with quick and easier ways to package the information.

Is it a perfect answer? No. I think Ananda's answer of the needing of staff is the perfect answer. But after 34 years in government and watching the budgets go up and down, this is my third instance where I've seen something like this happen in my career and amazingly staff gets us through it.

COMMISSIONER CHILTON: Good folks. The other thing I had was a comment and it follows-up on what Commissioner Dunn was saying about the exemptions or asking about the exemption. I think the comments are going to be real important here. As we know, we saw a FOIA exemption repealed by Congress, the SEC's FOIA exemption repealed by Congress, so we need to make sure we get it right and I think you've done a great job here but we'll look forward to the comments. Thank you, Mr.
Chairman.

CHAIRMAN GENSLER: Thank you,

Commissioner Chilton. Before I go to Commissioner O'Malia, as to the numbers of my earlier question, if you can turn to page 77, and the pagination of the one I printed out might be different, of the Joint Rule. It's in the middle of the Paperwork Reduction Act stuff. Again because of the pagination when you print, it's the Joint Rule with the SEC. It has burden hours and how many hours it takes to fill out the forms and 10 hours to fill out this and 3 hours to fill out that. Then at the end, again I may have a different page pagination, it says, "Assuming that there are 2,180 smaller private fund advisers, 200 large hedge fund advisers, 80 large liquidity fund advisers and 300 large private equity fund advisers," and then it goes on, my question again with this in front of me, is large private fund adviser meaning large over a billion or large over 150? Amanda?

MS. OLEAR: Over a billion.
CHAIRMAN GENSLER: Over a billion,
because there was a little back and forth. It's
the 200 to maybe 300 that are over a billion, and
it's a greater number that's over the 150 maybe?

MS. OLEAR: I think the numbers that
Kevin mentioned earlier, the 200 that he was
referring to were the joint registrants and those
were $150 million. The 200 large hedge funds that
are mentioned in the sentence that you just read
would include SEC-only funds.

CHAIRMAN GENSLER: I see. There's the
joint and the SEC only.

MS. OLEAR: Right.

CHAIRMAN GENSLER: There's a coincidence
in the numbers.

MS. OLEAR: Exactly.

MR. WALEK: Because the numbers are
coincidental, that was my reason for my making the
error and thank goodness Amanda had that already
parsed out.

CHAIRMAN GENSLER: But in essence when
you combine the SEC and us together, this page,
the numbers I just read, is a good estimate
together, this 200 to 300 that are over a billion?

MS. OLEAR: Right. Those are good
numbers that you just read that would cover the
joint registrants and the SEC-only registrants.

CHAIRMAN GENSLER: That's right. Again
it's an estimate.

MS. OLEAR: Right.

CHAIRMAN GENSLER: Sorry. Commissioner O'Malia?

COMMISSIONER O'MALIA: No trouble. Will these forms be filed electronically?

MR. WALEK: Yes.

COMMISSIONER O'MALIA: Perfect.

MR. WALEK: In fact, with Mr. Bartel here from the SEC and Dan, they can both tell you that when they tried to take the electronic form and turn that into hard copy, that's when it grew to so many pages, because when it's in electronic form online a lot of that is pull-down menus, but you can't show a pull-down menu on a hard copy.

COMMISSIONER O'MALIA: That's off of the
NFA. Right? That's all FNA generated?

MR. WALEK: The PQ will be collected through the NFA's electronic system that already exists, but for certain large entities there will be additional information from what they're currently doing. With the form that they go to, they are already familiar with how to get onto the system and how to fill out that first portion of it. One full schedule out of the three schedules is already in existence.

COMMISSIONER O'MALIA: Bless the NFA.

Let me ask you a couple questions on Rule 4.5. What type of risks do you believe are present when we don't fill the regulatory vacuum that's left without the modification in this proposal?

MR. WALEK: I think that there is some argument, and Dan has worked very closely on the 4.5 issue with the NFA as well and he may want to add to this, but I think in my mind the largest vacuum that is filled is that the SEC themselves up through the Chairman's level has indicated to us that we have a better knowledge of
the commodities done by the 4.5 entities, the mechanisms involved, the nature of the leverage involved, and as a consequence we have more of the knowledge to regulate them correctly. With it just being an SEC registrant only, that would be the vacuum.

COMMISSIONER O'MALIA: My next question is what is the SEC's opinion of this, but you've solved that for me so that I'm fine. Thank you very much for the hard work.

MR. WALEK: I probably have divulged something I shouldn't have.

COMMISSIONER O'MALIA: I was going to ask you the question anyway.

CHAIRMAN GENSLER: I also want to ask for unanimous consent to adopt a question proposed by Commissioner Sommers regarding 4.5 I think. I don't know if this has been pre-walked around, so I'm going to read the question, "Currently in our role, not the joint role, we have this issue of 4.5 and there's a question that already exists that says, additionally, the Commission is
soliciting comment regarding implementation of the changes to 4.5. Then it would have an additional question that asked, what issues should the Commission consider with the respect to the ability of registered investment companies to comply with the disclosure document and reporting delivery requirements, recordkeeping and related fund performance disclosure requirements under Part 4?" I'm asking for unanimous consent, and not hearing objections we'll add this question from Commissioner Sommers from Brazil or here. Did I properly entertain a motion before we asked our questions? I've messed that up. I'll entertain a motion to accept the staff recommendations issued proposed rules and I'll do the joint one first on the joint rule.

COMMISSIONER DUNN: So moved.

COMMISSIONER O'MALIA: Second. That's the motion. These unanimous consents, do I have to do them again? No. Good. Mr. Stawick, call the roll.

MR. STAWICK: Commissioner O'Malia?
COMMISSIONER O'MALIA: Aye.

MR. STAWICK: Commissioner O'Malia, aye.

Commissioner Chilton?

COMMISSIONER CHILTON: Aye.

MR. STAWICK: Commissioner Chilton, aye.

Commissioner Sommers?

CHAIRMAN GENSLER: For Commissioner Sommers, I have a proxy, is aye.

MR. STAWICK: Commissioner Sommers, aye by proxy. Commissioner Dunn?

COMMISSIONER DUNN: Aye.

MR. STAWICK: Commissioner Dunn, aye.

Mr. Chairman?

CHAIRMAN GENSLER: Aye.

MR. STAWICK: Mr. Chairman, aye. Mr. Chairman, on this question the yeas are five, the nays are zero.

CHAIRMAN GENSLER: Thank you. We'll be sending that to the Federal Register. Do I hear a motion on the second staff presentation?

COMMISSIONER DUNN: Motion to approve.

COMMISSIONER O'MALIA: Second.
CHAIRMAN GENSLER: Do I need to do about
the unanimous consents that I did early? No.

MR. STAWICK: Commissioner O'Malia?

COMMISSIONER O'MALIA: Aye.

MR. STAWICK: Commissioner O'Malia, aye.

Commissioner Chilton?

COMMISSIONER CHILTON: Aye.

MR. STAWICK: Commissioner Chilton, aye.

Commissioner Sommers?

CHAIRMAN GENSLER: Commissioner Sommers,
aye by proxy.

MR. STAWICK: Commissioner Sommers, aye by proxy. Commissioner Dunn?

COMMISSIONER DUNN: Aye.

MR. STAWICK: Commissioner Dunn, aye.

Mr. Chairman?

CHAIRMAN GENSLER: Aye.

MR. STAWICK: Mr. Chairman, aye. Mr. Chairman, on this question the yeas are five, the
nays are zero.

CHAIRMAN GENSLER: Thank you. With
that, too, we'll send it to the Federal Register.
I might need to do what I normally do which is something about technical amendments. I'd ask for unanimous consent that whatever that technical amendments particularly to get these questions that were raised by Commissioner Dunn and Commissioner Sommers be accepted. Without objection, that will be so moved.

Before we seek to adjourn, I think Commissioner O'Malia wanted to say something about the TAC Advisory Committee.

COMMISSIONER O'MALIA: Thank you, Mr. Chairman. Obviously due to the weather forecast here in Washington, it would probably be a bad idea if we bring everybody here and let them be stuck here for the rest of the week so we're going to postpone the TAC Advisory Committee tomorrow from 1 to 5 o'clock for a date in early February. We're still working on coordinating everyone's schedules, but we've let the participants and the members know so that they can accommodate their flight and train changes and hopefully not get stuck here if the weather is as bad as they're
predicting. So we'll reload this for as soon as possible. We'll be talking about the issues related to implementing Dodd-Frank, what do we need to think about, how are we going to physically hook this up, under what timeframes and at what cost.

There will be a lot of interesting discussions in New York earlier this week and we have some really great people presenting on that to talk about giving us thinks to think about in implementing this thing. We're also going to have a report by Dr. Gorham on the Subcommittee on Pre-Trade Functionality and doing a survey of the best of the best to figure out what we're going to do going forward. We obviously want to reload that as soon as possible and tackle those issues in early February.

CHAIRMAN GENSLER: I think I can speak for all of the Commissioners that we look forward to hearing from Dr. Gorham's report. I know that we'll probably have to put his report in our comment file because we have live proposed rules
for dedicated contract markets and for swap
execution facilities that those comments might be
very informative for and maybe for other areas as
well. With that I'll entertain a motion to
adjourn the meeting.

COMMISSIONER DUNN: So moved.

COMMISSIONER O'MALIA: Second.

CHAIRMAN GENSLER: All in favor?

GROUP: Aye.

CHAIRMAN GENSLER: Are there any
opposed? The meeting will be adjourned. I think
our next public meeting will be February 11.

(Whereupon, at 10:21 a.m., the
PROCEEDINGS were adjourned.)

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CERTIFICATE OF NOTARY PUBLIC

DISTRICT OF COLUMBIA

I, Stephen K. Garland, notary public in
and for the District of Columbia, do hereby certify
that the foregoing 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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Notary Public, in and for the District of Columbia
My Commission Expires: May 31, 2014