existing regulations and to specifically remove them if they were regarding certain financial instruments. The Commission has completed the required review of its regulations and has identified seven instances of references to credit ratings, five of which were regarding those financial instruments. Today, we are proposing removing these five references and reliance to credit ratings. This rule addresses two of those references in Regulation 1.49, which limits the types of banks in which futures commission merchants and derivatives clearing organizations may place customer funds, and 4.24, which requires commodity pool operators to disclose to their customers where they are putting customer money. The other actions we are taking today regarding rule certifications in Part 40 and investment of customer funds in Regulation 1.25 and 30.7 will address the remaining instances of credit ratings.

[FR Doc. 2010–27555 Filed 11–1–10; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15 and 20

RIN 3038–AD17

Position Reports for Physical Commodity Swaps

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing reporting regulations that are reasonably necessary for implementing and enforcing aggregate position limits for certain physical commodity derivatives. As a result of recent legislative reforms, the Commission may adopt regulations establishing aggregate position limits for designated contract market ("DCM") physical commodity futures contracts and swaps that are economically equivalent to such contracts. The Commission currently receives, and uses for market surveillance purposes, including position limit enforcement, data on large positions in all physical commodity futures and option contracts traded on DCMs. However, there is no analogous reporting structure in place for economically equivalent swaps, which until recently were largely unregulated financial contracts. The Commission's proposal would require position reports on economically equivalent swaps from clearing organizations, their members and swap dealers. Notably, the proposed regulations also include a sunset provision. The sunset provision would render the regulations ineffective upon the Commission's issuance of an order finding that operating swap data repositories ("SDRs") are capable of processing positional data in a manner that would enable the Commission to set and enforce aggregate position limits.

DATES: Comments must be received on or before December 2, 2010.

ADDRESSES: You may submit comments, identified by RIN number, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments.
- *Agency Web Site: http://www.cftc.gov.*
- *E-mail: Swaps.Reporting@cftc.gov.*
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedure established in CFTC regulation 145.9 (17 CFR 145.9). The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Acting Deputy Director, Market Surveillance, (202) 418–5452, *ssherrod@cftc.gov,* or Bruce Fekrat, Senior Special Counsel, Office of the Director, (202) 418–5578, *bfekrat@cftc.gov,* Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Economically Equivalent Swaps

A. Background

The Commodity Exchange Act ("CEA or Act") of 1936,[1] as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"),[2] includes provisions imposing clearing and trade execution requirements on standardized derivatives as well as comprehensive recordkeeping and reporting requirements that extend to all swaps, a defined term in CEA section 1a(47). New section 4a(a)(2) of the CEA, as introduced by section 737 of the Dodd-Frank Act, charges the Commission with promulgating regulations, as appropriate, to limit the amount of positions, other than *bona fide* hedge positions, that may be held by any person with respect to commodity futures and option contracts in exempt and agricultural commodities[3] traded on or subject to the rules of a DCM within 180 and 270 days, respectively, of the legislation's enactment on July 21, 2010. New section 4a(a)(6)(A) of the Act requires Commission-set position limits to apply aggregately across DCMs to contracts that are based on the same commodity. The exempt and agricultural commodity futures and option contracts for which the Commission may consider position limits are listed in proposed regulation 20.2 ("20.2 listed futures contracts" or "20.2 contracts"). The list in proposed regulation 20.2, however, is non-exclusive and preliminary. Should the Commission propose regulations to establish position limits, it may decide not to propose position limits for all of the 20.2 listed futures contracts or, alternatively, may decide to propose

[1] 7 U.S.C. 1 *et seq.*

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, *Public Law* 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov./LawRegulation/OTCDERIVATIVES/index.htm.*

[3] Section 1a(20) of the Act defines the term "exempt commodity" to mean a commodity that is not an excluded commodity or an agricultural commodity. Section 1a(19) defines the term "excluded commodity" to mean, among other things, an interest rate, exchange rate, currency, credit risk or measure, debt or equity instrument, measure of inflation, or other macroeconomic index or measure. Although the term "agricultural commodity" is not defined in the Act, CEA section 1a(9) enumerates a non-exclusive list of several agricultural-based commodities. The Commission will consider the issuance of a notice of rulemaking proposing a definition for the term "agricultural commodity" in October of 2010. Although broadly defined, exempt commodity futures contracts are often viewed as energy and metals products.

position limits for futures contracts other than the 20.2 contracts.

Similar to CEA section 4a(a)(2), new section 4a(a)(5) of the Act charges the Commission with establishing position limits, including aggregate position limits, as appropriate, for swaps that are economically equivalent to DCM contracts in exempt and agricultural commodities with CFTC-set position limits. The definition of the term "paired swaps and swaptions" in proposed regulation 20.1 attempts to recognize a readily identifiable and partial set of swaps and swaptions (for ease of reference, collectively "swaps") that could potentially be considered as economically equivalent to 20.2 listed futures contracts.

As discussed in more detail below, proposed regulation 20.1 defines paired swaps, and hence economically equivalent swaps, in two ways. First, paired swaps are defined as swaps that are directly or indirectly linked to the price of one or more 20.2 listed futures contract. Second, paired swaps are defined as swaps that are based on the price of the same commodity for delivery at the same location(s) as that of a 20.2 listed futures contract, or another delivery location, with substantially the same supply and demand fundamentals as the delivery location(s) referenced by a 20.2 listed futures contract. The paired swap definition's second part therefore proposes to include swaps that are settled to a price series that is not based on, but is nonetheless highly correlated to, the price of a 20.2 listed futures contract.

B. The Necessity of the Proposed Regulations

New section 4a(a)(5) of the Act provides that position limits for economically equivalent swaps be developed concurrently with position limits established for DCM contracts in exempt and agricultural commodities. In order to have the ability to enforce market-specific and aggregate position limits for the relevant DCM contracts and economically equivalent swaps, the Commission would require positional data for DCM contracts and economically equivalent swaps. The Commission currently obtains DCM futures and option positional data under parts 15 through 19 and 21 of its regulations,[4] which derive their statutory authority in significant part from sections 4a, 4g and 4i of the CEA. In contrast, the Commission has limited access to swaps positional data. In this regard, the Commission receives positional data on swaps that are significant price discovery contracts ("SPDCs") under part 36 of its regulations. Such contracts are executed through exempt commercial markets and typically cleared. SPDCs, however, do not encompass all economically equivalent swaps (as defined by proposed regulation 20.1 through the term paired swaps). SPDC positional data would therefore not supply sufficient information to the Commission to monitor all economically equivalent swaps for aggregate position limit violations, should such limits be adopted. Moreover, parts 15 through 19 and 21 of the Commission's regulations do not apply to uncleared swaps that may be SPDCs. To have consistency in reporting, regulation 20.2(a) would require SPDCs that are paired swaps to be reported under proposed part 20 instead of parts 15 through 19 and 21 of the Commission's regulations (which include position reporting regulations for clearing organizations and futures intermediaries that are analogous to those proposed herein).

The Commission also receives positional data for some swaps that are cleared by certain clearing organizations but not listed for trading ("cleared-only swaps").[5] This positional data is received from a limited number of clearing organizations, and depending on the contract and the clearing organization, does not necessarily provide disaggregated data on swaps held by non-clearing member counterparties. As with SPDCs, cleared-only swaps positional data would not supply sufficient data to the Commission to monitor for aggregate position limit violations across DCM contracts with CFTC-set position limits and economically equivalent swaps. To the extent that cleared-only swaps are paired swaps, regulation 20.2(a) would require reporting under proposed part 20 instead of parts 15 through 19 and 21 of the Commission's regulations.

The Commission notes that the Dodd-Frank Act also provides for the establishment of SDRs. Once established and operationally able to receive swaps data, SDRs would have the potential to serve as the Commission's primary positional data source. The Congressionally mandated deadline for establishing position limits, however, predates the deadline for Commission regulations for SDR registration. Thus, the position reports for physical commodity swaps contemplated by these proposed regulations would function as a transitional tool until SDRs are in operation and able to provide the Commission with swap positional data. If implemented in whole or in part, the Commission may determine to continue or discontinue the proposed reporting system once SDRs are operational.

CEA sections 4a and 8a(5), considered in tandem, provide the statutory authority for these proposed regulations. The Commission cannot fully effectuate the mandate of section 4a of the Act without an operational data collection system. In proposing these regulations, the Commission relies on its CEA section 8a(5) general rulemaking authority. Section 8a(5) authorizes the Commission "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this Act." For the reasons discussed above, the proposed regulations, in the Commission's judgment, are reasonably necessary to effectuate CEA section 4a as amended by the Dodd-Frank Act.

II. The Proposed Regulations

A. Listed Futures Contracts

Section 4a(a)(2) of the Act provides that the Commission shall set, as appropriate, position limits for exempt and agricultural DCM futures and option contracts.[6] The Act also provides that the Commission shall establish position limits, including aggregate limits, as appropriate, for swaps that are economically equivalent to futures contracts (and options thereon or options on commodities) with CFTC-set position limits. Proposed regulation 20.2 lists a broad set of futures contracts and options thereon which may be the subject of CFTC-set position limits. These 20.2 listed futures contracts can be divided into two categories. The first category contains futures contracts that have high levels of open interest and significant notional value (and certain

[4] Commission regulations referred to herein are found at 17 CFR chapter 1.

[5] *See, e.g., Order (1) Pursuant to Section 4(c) of the Commodity Exchange Act, Permitting the Chicago Mercantile Exchange to Clear Certain Over-the-Counter Agricultural Swaps and (2) Pursuant to Section 4d of the Commodity Exchange Act, Permitting Customer Positions in Such Cleared-Only Contracts and Associated Funds To Be Commingled With Other Positions and Funds Held in Customer Segregated Accounts,* 74 FR 12316, 12320 (March 24, 2009) (requiring reporting under parts 15, 16 and 17 of the Commission's regulations for cleared-only swaps).

[6] New section 4a(a)(2) by its terms also applies to options on physicals. With respect to options on physicals traded on DCMs, the current open interest levels in such DCM contracts on the commodities underlying the 20.2 listed futures contracts are minimal.

related contracts).[7] The contracts in this category are:

REFERENCE DCM CONTRACTS WITH HIGH OPEN INTEREST AND NOTIONAL VALUE (INCLUDING CERTAIN RELATED CONTRACTS)
Chicago Board of Trade ("CBOT") Corn.
CBOT Rough Rice.
CBOT Soybeans.
CBOT Soybean Meal.
CBOT Soybean Oil.
CBOT Wheat.
Chicago Mercantile Exchange ("CME") Feeder Cattle.
CME Live Cattle.
CME Milk Class III.
Comex ("CMX") Copper Grade #1.
CMX Gold.
CMX Silver.
ICE Futures US ("ICUS") Cocoa.
ICUS Coffee C.
ICUS Cotton No. 2.
ICUS Frozen Concentrated Orange Juice.
ICUS Sugar No. 11.
ICUS Sugar No. 16.
Kansas City Board of Trade ("KCBT") Wheat.
Minneapolis Grain Exchange ("MGEX") Wheat.
NYSELiffe ("NYL") Gold, 100 Troy Oz.
NYL Silver, 5000 Troy Oz.
New York Mercantile Exchange ("NYMEX") Cocoa.
NYMEX Coffee.
NYMEX Cotton.
NYMEX Crude Oil, Light Sweet ("WTI").
NYMEX Gasoline Blendstock (RBOB).
NYMEX Natural Gas.
NYMEX No. 2 Heating Oil, New York Harbor.
NYMEX Palladium.
NYMEX Platinum.
NYMEX Sugar No. 11.

The contracts in the second category, listed below, do not have high levels of open interest or represent significant notional values. However, based on feedback from inquiries posed to swap market participants relating to the size and level of activity in certain markets, Commission staff recommended their inclusion in proposed regulation 20.2.[8] Such contracts may serve as the pricing basis of a significant number of swap market transactions, thereby warranting some measure of Commission scrutiny.

ADDITIONAL DCM REFERENCE CONTRACTS
CBOT Ethanol.
CBOT Oats.
CME Butter.
CME Cheese.
CME Dry Whey.
CME Hardwood Pulp.
CME Lean Hogs.
CME Non Fat Dry Milk.
CME Random Length Lumber.
CME Softwood Pulp.
NYMEX Brent Financial.
NYMEX Central Appalachian Coal.
NYMEX Hot Rolled Coil Steel.
NYMEX Uranium.

B. Scope of Economically Equivalent Swaps

The Commission, through the definition of paired swap or paired swaption (for ease of reference, collectively "paired swaps") in proposed regulation 20.1, defines a subset of swaps that may qualify as economically equivalent to the DCM contracts listed in proposed regulation 20.2. Proposed regulation 20.1 identifies paired swaps (*i.e.,* economically equivalent swaps) in two paragraphs. The first paragraph of proposed regulation 20.1 defines paired swaps to include those that directly or indirectly are linked to the price of a 20.2 listed futures contract. This category includes swaps that are partially or fully settled or priced at a differential to a 20.2 listed futures contract. The following list provides examples of the types of swaps that are intended to be covered under the first paragraph of the proposed definition of paired swap.

1. *Directly linked to a listed contract*—A swap settled to the price of the NYMEX Heating Oil Calendar Swap Futures Contract is directly linked to a 20.2 listed DCM futures contract because the floating price of the futures contract is equal to the monthly average settlement price of the first nearby contract month for the NYMEX New York Harbor No. 2 Heating Oil Futures Contract.

2. *Indirectly linked to a listed contract*—The ICE WTI Average Price Option is indirectly linked to a 20.2 listed futures contract because the floating price of the swap references the ICE WTI 1st Line Swap Contract which in turn is equal to the monthly average settlement price of the NYMEX Front Month WTI Crude Futures Contract.

3. *Partially settled to a listed contract*—A swap settled to the Argus Sour Crude Index ("ASCI") (which also underlies the CME Argus WTI Formula Basis Calendar Month Swap Futures Contract) is partially settled to a 20.2 listed futures contract.[9] Because the ASCI index uses both a physical cash market component and the NYMEX WTI Futures Contract to establish the level of the index, it would partially settle to a 20.2 listed futures contract and would be a paired swap under the first paragraph of the proposed definition.[10]

4. *Priced at a differential to a listed contract*—The ICE Henry Physical Basis LD1 Contract is priced at a differential to a 20.2 listed futures contract because the settlement price is the final settlement price for natural gas futures (a listed 20.2 contract) as reported by NYMEX for the specified month plus the contract price.

The second paragraph of the proposed definition of a paired swap includes swaps that directly or indirectly link to, including being partially or fully settled or priced at a differential to, the price of the same commodity for delivery at the same location or locations as that of a 20.2 listed futures contract. As opposed to paragraph one, the second paragraph of the definition of paired swap looks to a swap's connection to the commodity underlying a 20.2 listed futures contract, and to the delivery locations with a nexus to those delivery locations specified in a 20.2 listed contract, as opposed to the price of the of the contract itself. Therefore, in contrast to paragraph one, the linkage is to the price of the underlying commodity and its physical marketing channels.

Under paragraph two, a paired swap would include swaps that are based on the same commodity[11] as that of a 20.2 listed futures contract but deliverable at locations that are different than a 20.2 listed futures contract's delivery locations, so long as such locations have substantially the same supply and demand fundamentals as that of a 20.2

[7] These contracts can function as anchors to many other DCM contracts and therefore directly or indirectly correspond to a substantial fraction of open interest for listed physical commodity derivatives. *See, e.g., Federal Speculative Position Limits for Referenced Energy Contracts and Associated Regulations,* 75 FR 4133, 4154 (January 26, 2010) ("January 2010 proposed regulations for major energy contracts") (showing the spoke contracts linked to the physically delivered NYMEX Crude Oil, Light Sweet futures contract).

[8] Staff tasked with assisting the Commission in developing the proposed regulations made this recommendation after meeting with or speaking to 23 outside parties, representing commercial end-users, commercial merchants, commodity-based swap trading arms of large financial institutions, futures exchanges, swap data service providers, and our sister financial regulators. *See http://www.cftc.gov/LawRegulation/DoddFrankAct/ExternalMeetings/otc_meetings.html.*

[9] The floating price of the CME futures contract is equal to the arithmetic average of the ASCI (1st month) outright price from Argus Media for each business day that the ASCI is determined during the contract month.

[10] For a description of the ASCI methodology, *see, e.g., http://web04.us.argusmedia.com/ArgusStaticContent//Meth/ASCI.pdf.*

[11] As provided in the Commission's January 2010 proposed regulations for major energy contracts, a commodity will be considered to be the same (for the purposes of reporting under this regulation) if such commodity has the same economic characteristics with respect to grade and quality specifications as those referenced by a 20.2 listed futures contract.

listed futures contract reference delivery location. The following list provides examples of the types of swaps that are reportable under the second paragraph of the definition.

1. *Same commodity with a delivery point that shares substantially the same supply and demand fundamentals*—An uncleared swap based on a NYMEX Columbia Gulf, Mainline Natural Gas Index Swap (Platts Gas Daily/Platts IFERC) Futures Contract provides an example of a futures contract which references an underlying spot market that is affected by substantially similar supply and demand forces as the pricing location to which the NYMEX Natural Gas Futures Contract references. In this case, the floating price of the NYMEX Columbia Gulf, Mainline Natural Gas Index Swap (Platts Gas Daily/Platts IFERC) Futures Contract is equal to the difference in the monthly average prices for Mainline Midpoint (Midpoint) and the Platts Inside FERC's Gas Market Report (Platts IFERC) Columbia Gulf Transmission Co., Mainline Index. This swap would be on based the same commodity as that of a 20.2 listed contract, but deliverable at a different location. The different location, however, shares substantially the same supply and demand fundamentals as the Henry Hub, which is the delivery location for the NYMEX Natural Gas contract. The swap's delivery location is in close proximity to the Henry Hub, and there is tight arbitrage between the two pricing hubs.

2. *Same commodity at different locations*—The NYMEX Transco, Zone 6 Natural Gas Index Swap (Platts Gas Daily/Platts IFERC) Futures Contract provides an example of a futures contract which references an underlying spot market that is interconnected with a spot market to which the NYMEX Natural Gas Futures Contract references. The floating price of the NYMEX Transco, Zone 6 Natural Gas Index Swap (Platts Gas Daily/Platts IFERC) Futures is equal to the difference in the monthly average prices for the Platts Gas Daily Transco, Zone 6 N.Y. Midpoint (Midpoint) and the Platts Inside FERC's Gas Market Report (Platts IFERC) Transco Zone 6 Index (Index) for the stipulated period within the contract specifications. The index price represents a natural gas spot market that is physically linked, via the Transco pipeline, to a spot market (Henry Hub) which is referenced by a 20.2 listed futures contract.

C. Reporting Under the Proposed Regulations

1. Reports by Clearing Organizations

Regulation 20.3 proposes to collect paired swap reports from clearing organizations. Clearing organizations are defined in proposed regulation 20.1 as persons or organizations that act as a medium between clearing members for the purpose of clearing swaps or swaptions or effecting settlements of swaps or swaptions. The intent of the definition, which is modeled on the definition used in Commission regulation 15.00 (the definitional section for the Commission's large trader reporting rules), is to apply the reporting regulations only to entities that perform clearing functions as clearing intermediaries and counterparties to each side of a swap for the purpose of clearing the trade. The proposed definition is intended to cover entities that are commonly known as clearing organizations, regardless of their registration status with the Commission. It is not meant to apply to financial institutions or parties to swaps that provide counterparties with financing, credit support, or hold collateral to facilitate or to ensure that payments are made under the terms of a paired swap.

Pursuant to proposed regulation 20.3, clearing organizations, for paired swap positions, would report the aggregate proprietary and aggregate customer accounts of each clearing member of that clearing organization. Proposed regulation 20.1 defines clearing member as any person who is a member of, or enjoys the privilege of clearing trades in its own name through, a clearing organization. The paired swap positions would be reported to the Commission as futures equivalent positions in terms of a swap's related 20.2 listed futures contract. Proposed Appendix A to this part provides several examples of the methods used for converting swap positions into futures equivalent positions. The proposed regulations would ask for reporting in futures equivalents because such conversions are made by entities that deal in swaps to effectively manage residual price risks by entering into 20.2 listed futures contracts. Reporting in futures equivalents would result in a measure of equivalency between positions in paired swaps and their related 20.2 listed futures contracts, and it would allow for the enforcement of aggregate position limits across futures and swaps should the Commission adopt such limits.

As required under paragraph (a) and (b) of proposed regulation 20.3, each clearing organization would submit to the Commission a data record that identifies either gross long and gross short futures equivalent positions if the record corresponds to a paired swap position, or gross long and gross short futures equivalent positions on a non-delta-adjusted basis if the data record corresponds to a paired swaption position. A data record (for the purposes of this rulemaking) can be thought of as a grouped subset of the overall set of reported data elements that communicates a unique (non-repetitive) positional message to the Commission.

Clearing organizations would be required to report a data record for each clearing member for each reporting day, which is defined in proposed regulation 20.1 as the daily period of time between a clearing organization or reporting entity's usual and customary last internal valuation of paired swaps or swaptions and the next such period. In order to provide clearing organizations with some flexibility in determining daily operational cycles that would coincide with their obligation to provide clearing member reports on a daily basis, the proposed definition would permit such cycles of time to vary for different clearing organizations, so long as the daily period of time is consistently observed and the Commission is notified, upon its request, of the manner by which a cycle is calculated. Data records would be reported electronically in a manner consistent with current Commission practice.

The positional data elements in paragraphs (a) and (b) of proposed regulation 20.3 would require daily reports for each aggregated proprietary account and each aggregated customer account, by each cleared product, and by each futures equivalent month. Each data record would indicate the commodity reference price with which each cleared product is associated. As defined in proposed regulation 20.1, a commodity reference price is the price series used by the parties to a swap or swaption to determine payments made, exchanged, or accrued under the terms of that swap or swaption. In addition, data records for swaptions would be required to be broken down further by expiration date, put or call indicator, and strike price. Proposed Appendix B to part 20 includes examples of data records that would be required of clearing organizations. The examples in Appendix B are provided to facilitate the public's ability to comment on these reports, and if adopted as part of a final rulemaking, increase a clearing organization's familiarity with the type of reporting the regulations would require.

In addition to reports for clearing members, clearing organizations would, pursuant to proposed regulation 20.3(c), be required to provide to the Commission, for each futures equivalent month, end of reporting day settlement prices for each cleared product and deltas for every unique swaption put and call, expiration date, and strike price. This second daily report would provide the type of information that is necessary to assign a weight to a trader's positions.

2. Reports by Reporting Entities

Proposed regulation 20.4 would require reporting entities to report proprietary positions in paired swaps and their paired swap counterparty positions. Proposed regulation 20.1 identifies a reporting entity as a clearing member or a swap dealer as defined in section 1a of the CEA and as subject to definitional changes that may be made through the issuance of Commission regulations.

The definition of reporting entity is intended to identify financial firms that regularly make markets in swaps, as well as divisions or subsidiaries of large commercial swap market participants that provide risk management services to other commercial entities in the normal course of their business operations. Proposed regulation 20.4 is intended to require reports from such financial firms and not from commercial end-users with swaps activities of limited scope. By requiring reporting from these large market participants, proposed regulation 20.4 could provide visibility into the majority of paired swaps trading activity without burdening commercial entities that may have less experience with compliance and reporting requirements stemming from the regulation of financial institutions.[12] The Commission solicits comment specifically on the proposed definition of reporting entity and the sufficiency of the market visibility gained by requiring reports only from a limited set of market participants.

Proposed regulation 20.4 would require reporting entities to provide the Commission with positional reports only if the reporting entities hold reportable paired swap positions. Proposed regulation 20.1 defines a reportable position as a position, in any one futures equivalent month, comprised of fifty or more futures equivalent paired swaps or swaptions based on the same commodity. This proposed level is calibrated to capture data on a sufficiently large percentage of paired swap positions and was arrived at after consultation with multiple market participants.[13] The Commission specifically requests comment on whether this reporting level is appropriate relative to the size of positions held by paired swap counterparties.

Once a reporting entity's paired swaps position meets or exceeds the fifty futures equivalent paired swaps or swaptions threshold, proposed regulation 20.1 defines all other paired swap positions held by the reporting entity (in the commodity that initially caused the reporting entity's positions to be deemed reportable) to be part of the entity's reportable position.[14] Clearing members and other reporting entities would follow the same procedure for determining if their proprietary positions or any counterparty positions are reportable to the Commission. As with clearing member reports that would be provided by clearing organizations to the Commission under proposed regulation 20.3, proposed regulation 20.4 would require paired swap positions to be represented and reported in futures equivalents. Without a common method of accounting for positions in swaps and futures, aggregate positions could potentially not be enforceable, should the Commission promulgate such limits.

To determine what to report under proposed regulation 20.4, reporting entities would separately consider proprietary positions, counterparty positions, and positions in controlled accounts. For each actual swap or swaption account that includes a paired swap or swaption in which the reporting entity is reportable, such entities would be required to provide for each reporting day a data record that either identifies long and short paired swap positions (if the record pertains to swap positions) or long and short non-delta-adjusted paired swaption positions and long and short delta-adjusted swaption positions (if the record pertains to swaptions positions). For uncleared paired swaps, the proposed regulations would require a reporting entity to use economically reasonable and analytically supported deltas.

As proposed under regulation 20.4, this information would be grouped separately by swap or swaption account that is a part of a reportable account, by futures equivalent month, by cleared or uncleared contracts, by commodity reference price, and by clearing organization, if the data record pertains to cleared swaps. Data records pertaining to cleared swaption positions under the proposed regulations would be further grouped by put or call, expiration date, and strike price. Uncleared swaption positions, however, would not be required to be grouped by put or call, expiration date, and strike price. The reports provided under proposed regulation 20.4 would also include identifiers for the commodity underlying the reportable position, the counterparties of the account and the 102S filing identifier, as described in more detail below, assigned by the reporting entity to the owner(s) of the account, as well as the controller(s) of the account. Proposed Appendix B to this part includes several examples of required records.

3. Series S Filings

Proposed regulation 20.5(a) would require a 102S filing for the identification of the direct owner or controller of a "reportable account" by the reporting entity holding or carrying the account. The 102S filing would consist of the "name, address, and contact information of the direct owner or controller of the reportable account" and a "brief description of the nature of such person's paired swaps and swaptions' market activity" (*e.g.,* whether it is an omnibus account for another broker or an individual account). The reporting entity is required to submit a 102S filing only once for each person associated with a reportable account.

Once an account holder or controller is reportable, the Commission may contact the trader directly and require that the trader file a more detailed identification report, a 40S filing. The Commission would require a 40S filing if a trader has become reportable for the first time and is not known to the Commission. A 40S filing would consist of the submission of a CFTC Form 40 "Statement of Reporting Trader." As the current version of Form 40 covers information on positions in futures and options, the trader would be required to complete the form as if the form covered

[12] The proposed definition of reporting entity includes an exemption from the definition of reporting entity for entities that are not commonly known as swap dealers.

[13] *See http://www.cftc.gov/LawRegulation/DoddFrankAct/ExternalMeetings/otc_meetings.html.*

[14] In order to verify that a reporting entity's paired swap positions are no longer above the threshold, the proposed definition of reportable position would also encompass positions in paired swaps held by the reporting entity on the first day after which the reporting entity's paired swap positions are no longer reportable.

information related to positions in paired swaps and swaptions.[15]

The 102S filings and the 40S filing together would allow the Commission to identify the person(s) owning the account or controlling its trading, the person to contact regarding trading, the nature of the account, whether the reported account is related—by financial interest or control—to another account, and the principal occupation or business of the account owner. The filings also would provide the Commission information on whether the account is being used for hedging cash market exposure.

Commission staff would use the information in these two filings to determine if the reported account corresponds to a new trader or is an additional account of an existing trader. If the account is an additional one of an existing trader, it would then be aggregated with that of other related accounts currently being reported. By properly identifying and aggregating accounts, Commission surveillance staff would be able to assess a trader's compliance with speculative position limits across futures and swaps markets, should the Commission adopt such limits.

4. Maintenance of Books and Records

Proposed regulation 20.6 would impose recordkeeping requirements on reporting clearing organizations, reporting entities, and persons with reportable swaps positions. Proposed regulation 20.6(a) would require clearing organizations to keep records of transactions in paired swaps or swaptions. Proposed regulation 20.6(b) would require reporting entities and persons with reportable positions to maintain "books and records * * * showing all records for transactions concerning all reportable positions." In addition, reporting entities and persons with reportable positions would be required to keep books and records on "transactions in the cash commodity" and its products and byproducts, and "all commercial activities" that are hedged in 20.2 listed futures contract, "or options thereon," or paired swaps and swaptions. These recordkeeping requirements are very similar to those in current regulation 18.05.

The recordkeeping duties imposed by proposed regulation 20.6 are to be in accordance with the requirements of regulation 1.31. Most pertinently, regulation 1.31(a)(1) requires that these transaction records be kept for five years, the first two of which they "shall be readily accessible." Such books and records "shall be open to inspection by any representative of the Commission."

These recordkeeping requirements would allow the Commission to have ready access to records that would enable Commission staff to reconstruct the transaction history of reported positions. These requirements would ensure that data records submitted to the Commission could be audited. In addition, these records would enable Commission staff to better reconstruct trading activity that may have had a material impact on the price discovery process.

The recordkeeping burden imposed by proposed regulation 20.6 is not anticipated to be high. These requirements are not unlike the recordkeeping requirements imposed by Congress in new CEA section 4r(c)(2) on all swap market participants, and by the Commission on those entities with reportable futures accounts under the existing recordkeeping provision of regulation 18.05.

5. Form and Manner of Reporting

Proposed regulation 20.7(a) provides that the Commission would specify, in writing to persons required to report, the format, coding structure, and electronic data transmission procedures for these reports and submissions. The purpose of this provision would be to provide notice on how the Commission would determine the means by which the part 20 reports are to be formatted and submitted.

6. Delegation of Authority

Proposed regulation 20.8 delegates certain of the Commission's proposed part 20 authority to the Director of the Division of Market Oversight and through the Director to other employee or employees as designated by the Director. The delegated authority extends to: (1) Issuing a special call for a 40S or 102S filing; and (2) providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under proposed part 20. The purpose of this delegation provision is to facilitate the ability of the Commission to respond to changing market and technological conditions for the purpose of ensuring timely and accurate data reporting.

7. Sunset Provision

Proposed regulation 20.9 includes a sunset provision. The sunset provision would render the proposed regulations ineffective and unenforceable upon the Commission's finding (through the issuance of an order) that operating SDRs are capable of processing positional data in a manner that would enable the Commission to effectively surveil paired swaps trading and paired swap markets. Proposed regulation 20.9 also provides the Commission with the authority to retain the effectiveness and enforceability of any requirement in part 20, such as the reporting of deltas for uncleared paired swaps or the reporting of paired swap positions in futures equivalents, should the Commission determine that such reporting is of material value to conducting market surveillance.

D. Solicitation of Comments

Pursuant to the Dodd-Frank Act, the Commission will refine the definition of swap dealer in CEA section 1a. The Commission solicits comments on whether it should delay the implementation of proposed part 20 to sixty days following a final Commission rulemaking further defining the term swap dealer. The Commission also specifically requests comments on any role self-regulatory organizations could play in gathering positional data on paired swaps. In addition, the Commission solicits comments on alternative approaches that may be employed to gather positional data on paired swaps.

III. Related Matters

A. Cost-Benefit Analysis

1. Introduction

Section 15(a) of the Act requires that the Commission, before promulgating a regulation under the Act or issuing an order, consider the costs and benefits of its action. By its terms, CEA section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or determine whether the benefits of the regulation outweigh its costs. Rather, CEA section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

CEA section 15(a) specifies that costs and benefits shall be evaluated in light of the following considerations: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission could, in its discretion, give greater weight to any of the five considerations and could, in its discretion, determine that,

[15] The Commission plans to revise Form 40 in the future so that the form would explicitly target information on paired swaps and swaptions positions as well as futures and options positions.

notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

2. Costs

As mentioned above, under CEA section 4a(a)(2), the Commission has been directed to establish position limits, as appropriate, on traders in certain physical commodity futures and swaps markets within 180 or 270 days of the enactment of the Dodd-Frank Act, for exempt and agricultural commodities, respectively. As explained in this release, the Commission lacks the information it needs with respect to paired swaps to be able to conduct surveillance for limits that may be established under CEA section 4a.

In developing these proposed regulations, the Commission has aimed to minimize the cost and burden associated with reporting positional data to the Commission. As discussed above, the Commission has tailored the regulations to conform to the market structure for cleared and uncleared paired swaps. The cost of proposed part 20 regulations would be borne by firms that are clearing organizations reporting under proposed regulation 20.3 and clearing member reportable entities reporting under proposed regulation 20.4. For such firms, the additional cost to implement a reporting system is expected to be minimal since the Commission understands these firms track their own and their counterparties' positions for risk-management purposes.

Although the Commission has proposed a reporting system for cleared paired swaps that resembles the large trader reporting system, the Commission proposes a structurally different reporting system for uncleared paired swaps. The structure of the uncleared paired swaps market is not as centralized as the cleared paired swaps market: There is no central counterparty that corresponds to a clearing organization in the uncleared paired swaps market. The Commission believes that swap dealers may be counterparties to a significant portion of the market for uncleared paired swaps and swaptions.

Accordingly, the Commission has proposed to require position reporting from swap dealers. These firms are to report their positions as well as those of their counterparties, provided that they are above the "reportable position" level. These firms have the creditworthiness to be able to negotiate a substantial swaps portfolio in paired swaps across many counterparties. As is the case for clearing member reportable entities, it is likely that creating or purchasing an information technology system that can present such a firm's net position exposures on a daily basis would not be an overly burdensome marginal expense, since the Commission understands swap dealers track their exposures for risk management purposes.

For counterparties that would be subject to the recordkeeping requirements of proposed regulation 20.6, it should be noted that these requirements would place new burdens (in terms of reporting and retaining information on cash market transactions) only on persons that are reportable solely in paired swaps. This is because recordkeeping requirements are imposed by Congress with respect to all swaps in new section 4r(c)(2) of the CEA. Likewise, counterparties that hold reportable futures positions (in addition to reportable paired swaps positions) are currently subject to existing recordkeeping requirements under regulation 18.05. Thus, the Commission believes that these additional burdens, in marginal terms, are not expected to be overly burdensome, given that firms collect information on their commercial activities in the normal course of business operations.

3. Benefits

As discussed above, implementing proposed part 20 would enable the Commission to monitor and enforce position limits, if established by the Commission, to diminish, eliminate, or prevent excessive speculation; to deter and prevent market manipulation; ensure sufficient market liquidity for *bona fide* hedgers; and to ensure that the price discovery function of the underlying market is not disrupted. By enabling the Commission to monitor compliance with position limits to address these concerns, the Commission would be better able to protect the price discovery process (CEA section 15(a)(2)(C)) and market participants and the public from the threats of excessive speculation and price manipulation (CEA section 15(a)(2)(A)).

In addition to providing increased market transparency through the reporting of paired swap positions to the Commission, the Commission would be better able to first, protect market participants and the public (CEA section 15(a)(2)(A)) and second, increase the efficiency and competitiveness of the markets (CEA section 15(a)(2)(B)). The extension of the Commission's surveillance activities to these paired swap markets would help ensure the integrity of these markets and thereby protect market participants and the public from disruptive trading, price manipulation, and the effects of market congestion. Further, with the extension, the Commission would be able to expand its Commitments of Traders report to include aggregate position data on the paired swaps markets, and thus, would provide the public, including market participants, greater transparency into the constitution of markets covered by the proposed part. This increased transparency may reduce the informational asymmetries in the paired swap markets and thereby improve the efficiency of the market and promote competition.

4. Conclusion

The Commission, after considering the CEA section 15(a) factors, finds that the expected incremental cost imposed by proposed part 20 is outweighed by the expected benefit. Accordingly, the Commission has determined to propose part 20. The Commission invites public comment on its cost-benefit considerations. Commenters are also are invited to submit any data or other information that they may have quantifying or qualifying the costs and benefits of proposed part 20.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires Federal agencies, in proposing regulations, to consider the impact of those regulations on "small entities." [16] The proposed regulations detailed in this release would affect organizations including registered derivatives clearing organization ("DCOs"), clearing members (many of whom would be registered with the Commission already as futures commission merchants ("FCMs")), swap dealers, and persons who have reportable paired swaps positions and otherwise have not been reportable based on futures positions.

The Commission has previously determined that DCOs [17] and FCMs [18] are not "small entities" for purposes of the RFA. As noted above, a reportable paired swaps position would include 50 or more paired swaps positions in a futures equivalent month. The Commission notes this threshold is higher than the minimum 25 contract reporting levels in effect for futures positions under regulation 15.03. Previously, the Commission had determined that the reporting levels in regulation 15.03 would not affect small

[16] 5 U.S.C. 601 *et seq.*

[17] 66 FR 45604, 45609 (August 29, 2001).

[18] Policy Statement and Establishment of Definitions of "Small Entities" for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18619 (Apr. 30, 1982).

entities.[19] The Commission does not believe that entities who meet the proposed larger quantitative threshold would constitute small entities for RFA purposes.

Accordingly, the Commission does not expect the regulations, as proposed herein, to have a significant impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed regulations would not have a significant economic impact on a substantial number of small entities. The Commission invites the public to comment on whether the entities covered by these proposed regulations should be considered small entities for purposes of the RFA.

C. Paperwork Reduction Act

1. Overview

The Paperwork Reduction Act ("PRA") [20] imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. This proposed rulemaking would result in new collection of information requirements within the meaning of the PRA. The Commission therefore is submitting this proposal to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for this collection of information is "Part 20—Position Reports for Physical Commodity Swaps" (OMB control number 3038–NEW). If adopted, responses to this collection of information would be mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. OMB has not yet assigned a control number to the new collection for proposed part 20. The requirements of new part 20 are not currently covered by any existing OMB control number.

The Commission is submitting this proposal to OMB for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11.

As noted earlier, in section 737 of the Dodd-Frank Act, Congress amended section 4a of the CEA to require the Commission to establish, as appropriate, aggregate position limits for futures contracts traded on a DCM and for economically equivalent swaps. Pursuant to new section 4a(a)(2)(B) of the CEA, Congress mandated that the Commission set these position limits within 180 days of enactment of the Dodd-Frank Act for exempt commodities and 270 days for agricultural commodities. In order to enforce regulations establishing position limits for economically equivalent swaps, the Commission has determined that it first needs to establish the reporting regulations proposed herein. Given the short timeframe in which the Commission must determine whether to set position limits under the Dodd-Frank Act, the Commission has determined that it needs to adopt a swaps reporting system on an expedited basis to comply with the statutory deadline contained in new section 4a(a)(2)(B) of the CEA.

2. Information Provided and Recordkeeping Duties

As a result of the Dodd-Frank Act, new part 20 proposes putting into place reporting requirements for "clearing organizations" and "reporting entities" and recordkeeping requirements for these firms in addition to firms that become reportable because of a reportable paired swap or swaption positions. Accordingly, the Commission is seeking a new and separate control number for reporting from "clearing organizations" and "reporting entities" (collectively "respondents") and recordkeeping for firms that become reportable because of a reportable paired swap or swaption position operating in compliance with the requirements of proposed part 20. Upon OMB's approval and assignment of a new control number specifically for the collection of information and recordkeeping requirements of proposed part 20, the Commission intends to submit the necessary documentation to OMB to enable it to apply a new OMB control number exclusively for part 20 reports.

Proposed part 20 would result in the collection of information on "paired swaps and swaptions" positions as defined in proposed regulation 20.1. Specifically, proposed part 20 provides for three new kinds of reports:

1. Under proposed regulation 20.3, swap "clearing organizations" would provide daily reports of relevant position and clearing data.

2. Under proposed regulation 20.4, "reporting entities" would produce position reports on a daily basis on their own and individual counterparty accounts. Within this class of "reporting entities," there are two categories of "reporting entities:" (a) "clearing members" and (b) "swap dealers" that are not clearing members. The former category, "clearing members," would include many firms that are currently registered as FCMs with the Commission. The Commission estimates that a total of 180 swap dealers transact in physical commodity swaps and thereby may be reporting entities under proposed part 20 (clearing members and non-clearing members combined).

3. Finally, under proposed regulation 20.5, all "reporting entities" would submit identifying information to the Commission on new reportable accounts through a 102S filing.

In addition to creating these reporting requirements, proposed regulation 20.6 would impose recordkeeping requirements for (1) clearing organizations, (2) reporting entities, and (3) persons with "reportable positions" in the covered futures contract listed in proposed regulation 20.2 or "paired swaps or swaptions." Proposed regulation 20.6(a) would require clearing organizations to maintain "all records of transactions in paired swaps or swaptions" on clearing organizations. Proposed regulation 20.6(b) would require reporting entities and "persons with reportable positions" to maintain for all commodities in which it holds a reportable position "all records for transactions * * * in the cash commodity * * * [and] its products and byproducts" and in "commercial activities" underlying a hedge in a covered futures contract or in paired swaps or swaptions. These provisions extend those recordkeeping requirements currently applicable to those traders holding reportable positions in futures contracts, as currently found in regulation 18.05, to those traders holding reportable positions in swaps.

The Commission estimates that the recordkeeping requirements of proposed regulation 20.6 would not be overly burdensome. For the firms subject to the reporting and recordkeeping requirements of proposed regulation 20.6, it should be noted that these requirements are not unlike the recordkeeping requirements imposed by Congress in the new CEA section 4r(c)(2) of the CEA and by existing recordkeeping regulation 18.05. If a firm subject to these recordkeeping requirements was previously reportable due to a futures position in the relevant commodity above the "reporting level" (*see* regulation 15.03), then the proposed regulation 20.6(b) recordkeeping burdens would not be new, as that firm would already be subject to these requirements under regulation 18.05. If a firm becomes subject to the proposed regulation 20.6 recordkeeping requirements only because of a reportable swaps position (not because of a futures position above

[19] *Id.* at 18620 (excluding large traders from the definition of small entity).

[20] 44 U.S.C. 3501 *et seq.*

the reportable level) then the requirements contained in the proposal add only the duty to keep records on "all commercial activities that a reporting entity or person hedges" to the swaps-related recordkeeping duties imposed by CEA section 4r(c)(2). These additional burdens are not expected to be substantial, given that in the normal course of business firms would collect this information on their commercial activities.

The Commission estimates that implementing proposed part 20 would create a total annual reporting and recordkeeping hour burden of 79,503 hours across 705 firms. Based on a weighted average wage rate of $74.36,[21] this would amount to an annualized labor cost of $5.9 million. In addition, the Commission estimates that total annualized capital/start-up, operating, and maintenance costs [22] would amount to a combined $32.7 million. This overall total reporting and recordkeeping hour burden is the sum of estimated burdens for the three reporting categories and the three recordkeeping categories mentioned above.

Reporting burdens:

1. Proposed regulation 20.3 clearing organization reports would account for 938 of these annual reporting and recordkeeping hours. These hours would be spread across 5 respondents. Annualized capital/start-up, operating, and maintenance costs for all affected clearing organizations combined would be approximately $100,000.[23]

2. Proposed regulation 20.4 reporting entity reports would have two separate burden estimates based on the kind of reporting entity providing the report:

a. Clearing member (80 clearing member/swap dealers plus 20 clearing member/non-swap dealers) reporting entity reports would create an annual reporting and recordkeeping burden of 25,000 hours spread across 100 respondents. Annualized capital/start-up, operating, and maintenance costs for all firms in this category combined would be approximately $6 million.

b. Swap dealer non-clearing member reporting entity reports would create an annual reporting and recordkeeping burden of 37,500 hours spread across 100 respondents. Annualized capital/start-up, operating, and maintenance costs for all firms in this category combined would be approximately $8 million.

3. Proposed regulation 20.5 reporting entity 102S submissions would create an annual reporting and recordkeeping burden of 1,800 hours spread across 200 firms. Annualized capital/start-up, operating, and maintenance costs for all reporting entities combined providing these reports would be approximately $1 million.

4. 40S submissions by persons with reportable positions under proposed regulation 20.5(b) in paired swaps would create an annual reporting and recordkeeping burden of 165 hours and would affect 500 firms. Annualized capital/start-up, operating, and combined maintenance costs for all firms providing 40S filings would be approximately $4.5 million.

Recordkeeping burdens:

1. Proposed regulation 20.6(a) recordkeeping duties for clearing organizations would account for 100 of these annual reporting and recordkeeping hours. These hours would be spread across 5 firms. Annualized capital/start-up, operating, and maintenance costs to meet the recordkeeping requirements of proposed regulation 20.6(a) would be approximately $100,000 spread across all affected clearing organizations.

2. Proposed regulation 20.6(b) reporting entity recordkeeping duties would have two separate burden estimates based on the kind of reporting entity providing the report:

a. Clearing member (80 clearing member/swap dealers plus 20 clearing member/non-swap dealers) reporting entity recordkeeping would create an annual reporting and recordkeeping burden of 2,000 hours spread across 100 respondents. Annualized capital/start-up, operating, and maintenance costs for all firms in this category of recordkeeping reporting entities would be approximately $2 million.

b. Swap dealer non-clearing member reporting entity recordkeeping would create an annual reporting and recordkeeping burden of 2000 hours spread across 100 respondents. Annualized capital/start-up, operating, and maintenance costs for all firms in this category of recordkeeping reporting entities would be approximately $2 million.

3. Proposed regulation 20.6(b) recordkeeping duties for persons with reportable positions in swaps (these firms were previously not reportable) would create an annual reporting and recordkeeping burden of 10,000 hours spread across 500 firms. Annualized capital/start-up, operating, and maintenance costs for all traders in this category combined would be approximately $11.5 million.

3. Confidentiality

The Commission would protect proprietary information according to the Freedom of Information Act and 17 CFR part 145, "Commission Records and Information." In addition, section 8(a)(1) of the Act strictly prohibits the Commission, unless specifically authorized by the Act, from making public "data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers." [24] The Commission also is required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

4. Comments on Information Collection

The Commission invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burdens discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information would have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by e-mail at *OIRAsubmissions@omb.eop.gov.* Please provide the Commission with a copy of submitted comments so that all

[21] The Commission staff's estimates concerning the wage rates are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association ("SIFMA"). The $74.36 per hour is derived from figures from a weighted average of salaries and bonuses across different professions from the SIFMA Report on Management & Professional Earnings in the Securities Industry 2009, modified to account for an 1,800-hour work-year and multiplied by 1.3 to account for overhead and other benefits. The wage rate is a weighted national average of salary and bonuses for professionals with the following titles (and their relative weight); "programmer (senior)" (60% weight), "compliance advisor (intermediate)" (20%), "systems analyst" (10%), and "assistant/associate general counsel" (10%).

[22] The capital/start-up cost component of "annualized capital/start-up, operating, and maintenance costs" is based on an initial capital/start-up cost that is straight-line depreciated over five years.

[23] All of the capital cost estimates in these estimates are based on a 5 year, straight-line depreciation.

[24] 7 U.S.C. 12(a)(1).

comments can be summarized and addressed in the final regulation preamble. Refer to the Addresses section of this notice of proposed rulemaking for comment submission instructions to the Commission. A copy of the supporting statements for the collections of information discussed above may be obtained by visiting RegInfo.gov. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is most assured of being fully effective if received by OMB (and the Commission) within 30 days after publication of this notice of proposed rulemaking.

List of Subjects

17 CFR Part 15

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 20

Physical commodity swaps, Swap dealers, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR parts 15 and 20 as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 is revised to read as follows:

Authority: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

2. Revise the heading and introductory text in § 15.00 to read as follows:

§ 15.00 Definitions of terms used in parts 15 to 19, and 21 of this chapter.

As used in parts 15 to 19, and 21 of this chapter:

* * * * *

3. Add part 20 to read as follows:

PART 20—POSITION REPORTS FOR PHYSICAL COMMODITY SWAPS

Sec.
20.1 Definitions.
20.2 Covered contracts.
20.3 Clearing organizations.
20.4 Reporting entities.
20.5 Series S filings.
20.6 Maintenance of books and records.
20.7 Form and manner of reporting and submitting information or filings.
20.8 Delegation of authority to the Director of the Division of Market Oversight.
20.9 Sunset provision.
Appendix A to Part 20—Guidelines on Futures Equivalancy
Appendix B to Part 20—Explanatory Guidance on Data Record Layouts

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6c, 6f, 6g, 6t, 12a, 19, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

§ 20.1 Definitions.

As used in, and solely for the purposes of, this part:

Account controller means a person that by power of attorney or otherwise directs trading for an account.

Business day means "business day" as that term is defined in § 1.3 of this chapter.

Cleared product means a paired swap or swaption that a clearing organization offers or accepts for clearing.

Clearing member means any person who is a member of, or enjoys the privilege of, clearing trades in its own name through a clearing organization.

Clearing organization means the person or organization that acts as a medium between clearing members for the purpose of clearing swaps or swaptions or effecting settlements of swaps or swaptions.

Closed swap or closed swaption means a swap or swaption that has been settled, exercised, closed out, or terminated.

Commodity reference price means the price series (including derivatives contract and cash market prices or price indices) used by the parties to a swap or swaption to determine payments made, exchanged, or accrued under the terms of the contracts.

Controlled account means "controlled account" as defined in § 1.3 of this chapter.

Counterparty means, from the perspective of one side to a contract, the person that directly corresponds to the other side of the contract.

Futures equivalent means an economically equivalent amount of one or more futures contracts that represents a position or transaction in one or more paired swaps or swaptions consistent with the conversion guidelines in Appendix A of this part.

Open swap or swaption means a swap or swaption that has not been closed.

Paired swap or paired swaption means an open swap that is:

(1) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of any commodity futures contract listed in § 20.2; or

(2) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of the same commodity for delivery at the same location, or locations with substantially the same supply and demand fundamentals, as that of a commodity futures contract listed in § 20.2.

Person means any "person" as that term is defined in § 1.3 of this chapter.

Reportable account or consolidated account that is reportable means a consolidated account that includes a reportable position.

Reportable position means:

(1) A position, in any one futures equivalent month, comprised of fifty or more futures equivalent paired swaps or swaptions based on the same commodity underlying a futures contract listed in § 20.2, grouped separately by swaps and swaptions, then grouped by gross long contracts on a futures equivalent basis or gross short contracts on a futures equivalent basis;

(2) For a consolidated account (described in § 20.4(a)) that includes a reportable position as defined in paragraph (1) of this definition, all other positions in that account that are based on the commodity that renders the account reportable; and

(3) The first reporting day on which a consolidated account (described in § 20.4(a)) no longer in fact includes a reportable position as described in paragraph (1) of this definition (because on such day, the reporting entity's consolidated account shall be considered and treated as if it in fact included reportable positions as described in paragraph (1) of this definition.

Reporting day means the period of time between a clearing organization or reporting entity's usual and customary last internal valuation of paired swaps or swaptions and the next such period, so long as the period of time is consistently observed on a daily basis and the Commission is notified, upon its request, of the manner by which such period is calculated and any subsequent changes thereto.

Reporting entity, means:

(1) A clearing member; or

(2) Swap dealer as that term is defined in section 1a of the Act and any Commission definitional regulations adopted thereunder, unless determined otherwise by the Commission for the purpose of excluding entities that are not commonly known as swap dealers from the reporting requirements of § 20.4.

Swap means (other than a swaption) "swap" as defined in section 1a of the Act and any Commission definitional regulations adopted thereunder.

Swaption means an option to enter into a swap or a physical commodity

option included in the definition of "swap" under section 1a of the Act and any Commission definitional regulations adopted thereunder.

Swap or swaption account means an account for swaps or swaptions maintained at a clearing organization or reporting entity.

§ 20.2 Covered contracts.

(a) All paired swaps and swaptions, unless specifically provided otherwise, shall be reported pursuant to the requirements and conditions of this part and shall not be reported under parts 15 through 19, or 21 of this chapter.

(b) The futures and option contracts listed by designated contract markets for the purpose of reports filed and information provided under this part are as follows:

COVERED AGRICULTURAL AND EXEMPT FUTURES CONTRACTS
Chicago Board of Trade ("CBOT") Corn.
CBOT Ethanol.
CBOT Oats.
CBOT Rough Rice.
CBOT Soybean Meal.
CBOT Soybean Oil.
CBOT Soybeans.
CBOT Wheat.
Chicago Mercantile Exchange ("CME") Butter.
CME Cheese.
CME Dry Whey.
CME Feeder Cattle.
CME Hardwood Pulp.
CME Lean Hogs.
CME Live Cattle.
CME Milk Class III.
CME Non Fat Dry Milk.
CME Random Length Lumber.
CME Softwood Pulp.
COMEX ("CMX") Copper Grade #1.
CMX Gold.
CMX Silver.
ICE Futures U.S. ("ICUS") Cocoa.
ICUS Coffee C.
ICUS Cotton No. 2.
ICUS Frozen Concentrated Orange Juice.
ICUS Sugar No. 11.
ICUS Sugar No. 16.
Kansas City Board of Trade ("KCBT") Wheat.
Minneapolis Grain Exchange ("MGEX") Wheat.
NYSELiffe ("NYL") Gold, 100 Troy Oz.
NYL Silver, 5000 Troy Oz.
New York Mercantile Exchange ("NYMEX") Cocoa.
NYMEX Brent Financial.
NYMEX Central Appalachian Coal.
NYMEX Coffee.
NYMEX Cotton.
NYMEX Crude Oil, Light Sweet.
NYMEX Gasoline Blendstock (RBOB).
NYMEX Hot Rolled Coil Steel.
NYMEX Natural Gas.
NYMEX No. 2 Heating Oil, New York Harbor.
NYMEX Palladium.
NYMEX Platinum.

COVERED AGRICULTURAL AND EXEMPT FUTURES CONTRACTS—Continued
NYMEX Sugar No. 11.
NYMEX Uranium.

§ 20.3 Clearing organizations.

(a) *Reporting data records.* For each reporting day, with respect to paired swaps or swaptions, clearing organizations shall report to the Commission, separately for each clearing member's proprietary and customer account, unique groupings of the data elements in paragraph (b) of this section (to the extent that there are such corresponding elements), in a single data record, so that each reported record is distinguishable from every other reported record (because of differing data values, as opposed to the arrangement of the elements).

(b) *Populating reported data records with data elements.* Data records reported under paragraph (a) of this section shall include the following data elements:

(1) An identifier assigned by the Commission to the clearing organization;

(2) The identifier assigned by the clearing organization to the clearing member;

(3) The identifier assigned by the clearing organization for a cleared product;

(4) The reporting day;

(5) A proprietary or customer account indicator;

(6) The futures equivalent month;

(7) The commodity reference price;

(8) Long swap positions;

(9) Short swap positions;

(10) A swaption put or call side indicator;

(11) A swaption expiration date;

(12) A swaption strike price;

(13) Long non-delta-adjusted swaption positions; and

(14) Short non-delta-adjusted swaption positions.

(c) *End of reporting day data.* For all futures equivalent months, clearing organizations shall report end of reporting day settlement prices for each cleared product and deltas for every unique swaption put and call, expiration date, and strike price.

§ 20.4 Reporting entities.

(a) *Consolidated accounts.* Each reporting entity shall combine all paired swap and swaption positions:

(1) That are proprietary positions (swaps and swaptions to which the reporting entity is a counterparty), in a single consolidated account that it shall attribute to itself;

(2) That are positions directly owned by a reporting entity's counterparty, in a single consolidated account that it shall attribute to that specific counterparty; and

(3) That are positions under the direction of an account controller, in a single consolidated account that it shall attribute to that specific account controller.

(b) *Reporting data records.* Reporting entities shall report to the Commission, for each reporting day, and separately for each consolidated account described in paragraphs (a)(1) through (a)(3) of this section that is reportable, unique groupings of the data elements in paragraph (c) of this section (to the extent that there are such corresponding elements), in a single data record, so that each reported record is distinguishable from every other reported record (because of differing data values, as opposed to the arrangement of the elements).

(c) *Populating reported data records with data elements.* Data records reported under paragraph (b) of this section shall include the following data elements:

(1) An identifier assigned by the Commission to the reporting entity;

(2) An identifier assigned by the reporting entity to each swap or swaption account;

(3) A 102S identifier assigned by the reporting entity to the owner of such accounts;

(4) A 102S identifier assigned by the reporting entity to the controller of such accounts;

(5) The name of each owner of such accounts;

(6) The name of each controller of such accounts;

(7) The reporting day;

(8) The identifier for the cleared product assigned by the clearing organization (cleared only);

(9) The commodity underlying the reportable positions;

(10) The futures equivalent month;

(11) A cleared or uncleared indicator;

(12) A clearing organization identifier;

(13) The commodity reference price;

(14) A bi-lateral trade indicator;

(15) Long paired swap positions;

(16) Short paired swap positions;

(17) A swaption put or call side indicator (cleared only);

(18) A swaption expiration date (cleared only);

(19) A swaption strike price (cleared only);

(20) Long non-delta-adjusted paired swaption positions;

(21) Short non-delta-adjusted paired swaption positions;

(22) Long delta-adjusted paired swaption positions (non-cleared only, using economically reasonable and analytically supported deltas);

(23) Short delta-adjusted paired swaption positions (non-cleared only, using economically reasonable and analytically supported deltas);

(24) Long paired swap or swaption notional value (non-cleared only); and

(25) Short paired swap or swaption notional value (non-cleared only).

§ 20.5 Series S filings.

(a) *102S filing.*

(1) When a consolidated account first becomes reportable, the reporting entity holding or carrying the account shall submit a 102S filing, which shall consist of the name, address, and contact information of the direct owner or controller of the reportable account and a brief description of the nature of such person's paired swaps and swaptions market activity.

(2) A reporting entity may submit a 102S filing only once for each person, even if such persons at various times have multiple reportable positions in the same or different paired swaps or swaptions; however, reporting entities must update a 102S filing if the information provided is no longer accurate.

(3) Reporting entities shall submit a 102S filing within three days following the first day a consolidated account first becomes reportable or at such time as instructed by the Commission upon special call.

(b) *40S filing.* Every person who holds or controls a reportable position shall after a special call upon such person by the Commission file with the Commission a 40S filing at such time and place as directed in the call. A 40S filing shall consist of the submission of a Form 40, which shall be completed by such person as if any references to futures or option contracts were references to paired swaps or swaptions as defined in § 20.1.

§ 20.6 Maintenance of books and records.

(a) Every clearing organization shall keep all records of transactions in paired swaps or swaptions in accordance with the requirements of § 1.31 of this chapter.

(b) Every reporting entity or person with reportable positions shall keep books and records, in accordance with the requirements of § 1.31 of this chapter, showing all records for transactions concerning all reportable positions, including records for transactions in the cash commodity in which the reporting entity or other person is reportable, its products and byproducts, and all commercial activities that a reporting entity or person hedges by taking a position in the contracts listed in § 20.2 or paired swaps and swaptions.

§ 20.7 Form and manner of reporting and submitting information or filings.

Unless otherwise instructed by the Commission, a clearing organization or reporting entity shall submit data records and any other information required under this part to the Commission as follows:

(a) Using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission; and

(b) Not later than 9 a.m. eastern time on the next business day following the reporting day or at such other time as instructed by the Commission.

§ 20.8 Delegation of authority to the Director of the Division of Market Oversight.

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority:

(1) In § 20.5(a)(3) for issuing a special call for a 102S filing;

(2) In § 20.5(b) for issuing a special call for a 40S filing;

(3) In § 20.7 for providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(b) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this section.

(c) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

§ 20.9 Sunset provision.

(a) Except as otherwise provided in paragraph (b) of this section, the sections of this part shall become ineffective and unenforceable upon a Commission finding that, through the issuance of an order, operating swap data repositories are processing positional data and that such processing will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.

(b) The Commission may determine, in its discretion, to maintain the effectiveness and enforceability of any section of this part, or any requirement therein, in an order issued under paragraph (a) of this section, upon finding that such sections, or requirements therein, provide the Commission with positional data or data elements that materially improves the accuracy and surveillance utility of the positional data processed by swap data repositories.

Appendix A to Part 20—Guidelines on Futures Equivalency

The following examples illustrate how swaps should be converted into futures equivalents. In general the total notional quantity for each swap should be apportioned to referent futures months based on the fraction of days remaining in the life of the swap during each referent futures month to the total duration of the swap, measured in days. The terms used in the examples are to be understood in a manner that is consistent with industry practice.

EXAMPLE 1—FIXED FOR FLOATING WTI CRUDE OIL SWAP LINKED TO A DCM CONTRACT

Reference price	Daily official next to expire contract price for the NYMEX Light Sweet Crude Oil Futures Contract ("WTI") in $/bbl through the NYMEX spot month.
Fixed Price	$80.00 per barrel.
Floating Price	The arithmetic average of the reference price during the pricing period.
Notional Quantity	100,000 bbls/month.
Calculation Period	One month.
Fixed Price Payer	Company A.
Floating Price Payer	Company B.
Settlement Type	Financial.
Swap Term	Six full months from January 1 to June 30.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

NYMEX WTI trading in the next to expire futures contract ceases on the third business day prior to the 25th of the calendar month preceding the contract month. For simplicity in this example, the last trading day in each WTI futures contract is shown as the 22nd of the month.

Futures equivalent position on January 1

Total Notional Quantity = 6 months * 100,000 bbls/month = 600,000 bbls

1,000 bbl = 1 futures contract

Therefore 600,000 bbls/1,000 bbls/contract = 600 futures equivalent contracts

Total number of days in swap term = 31 + 28 + 31 + 30 + 31 + 30 = 181

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 1

Dates swap in force	Referent futures month	Fraction of days	Company A position (long) †	Company B position (short) †
January 1–January 22	February	22/181	73	73
January 23–February 22	March	31/181	103	103
February 23–March 22	April	28/181	93	93
March 23–April 22	May	31/181	103	103
April 23–May 22	June	30/181	99	99
May 23–June 22	July	31/181	103	103
June 23–June 30th	August	8/181	27	27
Total		181/181	601	601

† Contracts rounded to the nearest integer.

Futures equivalent position on January 2

Total Notional Quantity = Remaining swap term * 100,000 bbls/month = 596,685 bbls

1,000 bbl = 1 futures contract

Therefore 596,685 bbls/1,000 bbls/contract = 597 futures equivalent contracts

Total number of days = 30 + 28 + 31 + 30 + 31 + 30 = 180

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 2

[Example 1 continued]

Dates swap in force	Referent futures month	Fraction of days	Company A position (long) †	Company B position (short) †
January 2–January 22	February	21/180	70	−70
January 23–February 22	March	31/180	103	−103
February 23–March 22	April	28/180	93	−93
March 23–April 22	May	31/180	103	−103
April 23–May 22	June	30/180	99	−99
May 23–June 22	July	31/180	103	−103
June 23–June 30th	August	8/180	27	−27
Total		180/180	597	−597

† Contracts rounded to the nearest integer.

EXAMPLE 2—FIXED FOR FLOATING CORN SWAP

Reference price	Daily official next to expire contract price for the CBOT Corn Futures Contract in $/bushel through the CBOT spot month.
Fixed Price	$5.00 per bushel per month.
Floating Price	The arithmetic average of the reference price during the pricing period.
Calculation Period	One month.
Notional Quantity	1,000,000 bushels/month.
Fixed Price Payer	Company A.
Floating Price Payer	Company B.
Settlement Type	Financial.
Swap Term	Six full months from January 1 to June 30.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

Last trading day in the nearby CBOT Corn futures contract is the business day preceding the 15th of the contract month. For simplicity in this example, the last trading day in each Corn futures contract is shown as the 14th of the month. Futures contract months for corn are March, May, July, September, and December.

Futures equivalent position on January 1

Total Notional Quantity = 6 contract months * 1,000,000 bushels/month = 6,000,000 bushels

5,000 bushels = 1 futures contract

Therefore 6,000,000 bushels/5,000 bushels/contract = 1,200 futures equivalent contracts

Total days = 31 + 28 + 31 + 30 + 31 + 30 = 181

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 1

Dates swap in force	Referent futures month	Fraction of days	Company A position (long)†	Company B position (short)†
January 1–March 14	March	73/181	483	−483
March 15–May 14	May	61/181	404	−404
May 15–June 30	July	47/181	311	−311
Total		181/181	1,198	−1,198

† Contracts rounded to the nearest integer.

EXAMPLE 3—FIXED FOR FLOATING NY RBOB (PLATTS) CALENDAR SWAP FUTURES

Reference price	Platts Oilgram next to expire contract Price Report for New York RBOB (Barge) through the NYMEX spot month.
Fixed Price	$1.8894 per gallon.
Floating Price	For each contract month, the floating price is equal to the arithmetic average of the high and low quotations from Platts Oilgram Price Report for New York RBOB (Barge) for each business day that it is determined during the contract month.
Calculation Period	One quarter.
Notional Quantity	84 million gallons/quarter.
Fixed Price Payer	Company A.
Floating Price Payer	Company B.
Settlement Type	Financial.
Swap Term	Six full months from January 1 to June 30.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

NYMEX NY RBOB (Platts) Calendar Swap Futures Contract month ends on the final business day of the contract month. For simplicity in this example, the last trading day in each futures contract is shown as the final day of the month.

Futures equivalent position on January 1

Total Notional Quantity = 2 quarters * 84 million = 168 million gallons

42,000 gallons = 1 futures contract

Therefore 168 million/42,000 gallons/futures contract = 4,000 futures equivalent contracts

Total number of days = 31 + 28 + 31 + 30 + 31 + 30 = 181

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 1

Dates swap in force	Referent futures month	Fraction of days	Company A position (long)†	Company B position (short)†
January 1–March 31	April	90/181	1989	−1989
April 1–June 30	July	91/181	2011	−2011
Total		181/181	4000	4000

† Contracts rounded to the nearest integer.

EXAMPLE 4—CALENDAR SPREAD SWAP

Reference price	The difference between the next to expire contract price for the NYMEX WTI Futures contract and the deferred contract price for the NYMEX WTI Futures contract.
Fixed Price	$80 per barrel.
Floating Price	The arithmetic average of the reference price during the pricing period.
Calculation Period	One month.
Notional Quantity	100,000 bbls/month.
Fixed Price Payer	Company A.
Floating Price Payer	Company B.
Settlement Type	Financial.
Swap Term	Six full months from January 1 to June 30.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

NYMEX WTI trading in the next to expire futures contract ceases on the third business day prior to the 25th of the calendar month preceding the contract month. For simplicity in this example, the last trading day in each WTI futures contract is shown as the 22nd of the month.

Futures equivalent position on January 1

Total Notional Quantity = 6 months * 100,000 bbls/month = 600,000 bbls

1,000 bbl = 1 futures contract

Therefore 600,000 bbls/1,000 bbls/contract = 600 futures equivalent contracts

Total number of days = 31 + 28 + 31 + 30 + 31 + 30 = 181

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 1

Dates swap in force	Fraction of days	Applicable next to expire futures month	Company A position (long)†	Company B position (short)†	Applicable deferred futures month	Company A position (short)†	Company B Position (long)†
January 1–January 22	22/181	February	73	−73	March	−73	73
January 23–February 22	31/181	March	103	−103	April	−103	103
February 23–March 22	28/181	April	93	−93	May	−93	93
March 23–April 22	31/181	May	103	−103	June	−103	103
April 23–May 22	30/181	June	99	−99	July	−99	99
May 23–June 22	31/181	July	103	−103	August	−103	103
June 23–June 30th	8/181	August	27	−27	September	−27	27
Total	181/181		601	−601		−601	601

† Contracts rounded to the nearest integer.

EXAMPLE 5—COLUMBIA GULF MAINLINE BASIS SWAP (PLATTS IFERC) FUTURES

Reference price	The next issue of the Inside FERC's Gas Market Report ("Platts IFERC") Columbia Gulf Transmission Co. Mainline Index ("Index") and the next to expire NYMEX (Henry Hub) Natural Gas Futures contract final settlement price.
Fixed Price	$0.05 per MMBtu per month.
Floating Price	The Floating Price for each contract month will be equal to the Platts Inside FERC's Gas Market Report ("Platts IFERC") Columbia Gulf Transmission Co. Mainline Index ("Index") published in the table titled "Prices of Spot Gas Delivered to Pipelines" in the first regular issue of the contract month minus the NYMEX (Henry Hub) Natural Gas Futures contract final settlement price for the corresponding contract month.
Calculation Period	Monthly.
Notional Quantity	10,000 MMBtu/calendar day.
Fixed Price Payer	Company A.
Floating Price Payer	Company B.
Settlement type	Financial.
Swap Term	One month from January 1 to January 31.
Floating Amount	Floating Price * Notional Quantity * calendar days in the month.
Fixed Amount	Fixed Price * Notional Quantity * calendar days in the month.

NYMEX Henry Hub Natural Gas Futures Contract trading ceases three business days prior to the first day of the delivery month. For simplicity in this example, the last trading day in the futures contract is shown as the 28th of the month.

Futures equivalent position on January 1

Total Notional Quantity for each leg = 1 month * 31 days/month * 10,000 MMBtu/day = 310,000 MMBtu

10,000 MMBtu = 1 futures contract

Therefore 310,000 MMBtu/10,000 MMBtu/contract = 31 futures equivalent contracts

Total number of days = 31

FUTURES EQUIVALENT POSITION OF SWAP ON JANUARY 1

Dates swap in force	Fraction of days	Referent futures month	Company A position in Columbia Gulf Transmission Co. mainline natural gas (long) MMBtu	Company A position in NYMEX (Henry Hub) natural gas futures (short)	Company B position in Columbia Gulf Transmission Co. mainline natural gas (short) MMBtu	Company B position in NYMEX (Henry Hub) natural gas futures (long)
January 1–January 28	28/31	February	†††	−28	†††	28
January 29–January 31	3/31	March		−3		3
Total	31/31			−31		31

††† Note: Because there is no underlying position taken in a basis contract, for reporting purposes, only enter the futures equivalent contract quantities into the corresponding futures.

EXAMPLE 6—WTI SWAPTION (CALL)

Swaption Style	American.
Option Type	Call.
Swaption Start Date	Jan 1 of the current year.
Swaption End Date	June 30 of the current year.
Strike Price	$80.50/bbl.
Notional Quantity	100,000 bbl/month.
Calculation Period	One month.

EXAMPLE 6—WTI SWAPTION (CALL)—Continued

Reference Price	Daily official next to expire contract price for WTI NYMEX Crude Oil Futures Contract in $/bbl through the NYMEX spot month.
Fixed Price	$80.00 per barrel per month.
Floating Price	The arithmetic average of the reference price during the pricing period.
Settlement Type	Financial.
Swap Term	One month from July 1 to July 31 of the current year.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

NYMEX WTI trading ceases on the third business day prior to the 25th of the calendar month preceding the delivery month. For simplicity in this example, the last trading day in each WTI futures contract is shown as the 22nd of the month.

Futures equivalent position on January 1

Total Notional Quantity = 1 month * 100,000 bbls/month = 100,000 bbls

1,000 bbl = 1 futures contract

Therefore 100,000 bbls/1,000 bbls/contract = 100 futures equivalent contracts

Total number of days = 31

GROSS POSITION ON JANUARY 1

Dates swap in force	Referent futures month	Fraction of days	Company A position (long)†	Company B position (short)†
July 1–July 22	August	22/31	70	−70
July 23—July 31	September	9/31	29	−29
Total		31/31	99	99

† Contracts rounded to the nearest integer.

DELTA †† ADJUSTED POSITION AND FUTURES EQUIVALENT POSITION ON JANUARY 1

Date	August		September	
	Delta	Position	Delta	Position
January 1	.2	14	.2	5

†† Deltas should be calculated in an economically reasonable and analytically supportable basis.

EXAMPLE 7—WTI COLLAR SWAP

Swaption Style	American.
Swaption Start Date	Jan 1 of the current year.
Swaption End Date	June 30 of the current year.
Call strike Price	$70.00 per bbl.
Put strike price	$90.00 per bbl.
Notional Quantity	100,000 barrels per month.
Calculation Period	One month.
Reference Price	Daily official next to expire contract price for WTI NYMEX Crude Oil in $/bbl through the NYMEX spot month.
Fixed Price	$80.00 per barrel.
Floating Price	The arithmetic average of the reference price during the pricing period.
Settlement Type	Financial.
Swap Term	One month from July 1 to July 31 of the current year.
Floating Amount	Floating Price * Notional Quantity.
Fixed Amount	Fixed Price * Notional Quantity.

NYMEX WTI trading ceases on the third business day prior to the 25th of the calendar month preceding the delivery month. For simplicity in this example, the last trading day in each WTI futures contract is shown as the 22nd of the month.

Futures equivalent position on January 1

Total Notional Quantity = 1 month * 100,000 bbls/month = 100,000 bbls

1,000 bbl = 1 futures contract

Therefore 100,000 bbls/1,000 bbls/contract = 100 futures equivalent contracts

Total number of days = 31

GROSS POSITION ON JANUARY 1

Dates swap in force	Referent futures month	Fraction of days	Company A position		Company B position	
			Call	Put	Call	Put
July 1–July 22	August	22/31	70.97	70.97	−70.97	−70.97

GROSS POSITION ON JANUARY 1—Continued

Dates swap in force	Referent futures month	Fraction of days	Company A position		Company B position	
			Call	Put	Call	Put
July 23–July 31	September	9/31	29.03	29.03	−29.03	−29.03
Total		31/31	100	100	−100	−100

COMPANY (A) DELTA† ADJUSTED POSITION ON JANUARY 1

Date	August				September			
	Long call		Short put		Long call		Short put	
	Delta	Position	Delta	Position	Delta	Position	Delta	Position
January 1	.7	49	.3	−21	.7	20	.3	−8

† Deltas should be calculated in an economically reasonable and analytically supportable basis.

FUTURES EQUIVALENT POSITION ON JANUARY 1

Date	August ††		September ††	
	Long	Short	Long	Short
January 1	70	0	28	0

†† Contracts rounded to the nearest integer.

Appendix B to Part 20—Explanatory Guidance on Data Record Layouts

Record Layout Examples for § 20.3

The following example (in Tables 1, 2 and 3) covers reporting for a particular clearing organization. "Clearing Organization One" would report, for the 27th of September 2010, the following eleven unique data record submissions. Each data record submission represents a unique position, as indicated by § 20.3, held by a clearing member of Clearing Organization One. Paragraph (a) of § 20.3 broadly outlines the data elements that determine unique positions for reports on clearing member positions. Paragraphs (b) of § 20.3 present all of the data elements that should be submitted in reference to a particular data record for a particular clearing member (in Table 1). Paragraph (c) identifies data elements that would comprise end of day record data on cleared products (in Tables 2 and 3). Therefore, paragraphs (b) and (c) of § 20.3 present all of the data elements that should be submitted in reference to a particular data record. Paragraphs (a) and (c) are reproduced below.

(a) Reporting data records. For each reporting day, with respect to paired swaps or swaptions, clearing organizations shall report to the Commission, separately for each clearing member's proprietary and customer account, unique groupings of the data elements in paragraph (b) of this section (to the extent that there are such corresponding elements), in a single data record, so that each reported record is distinguishable from every other reported record (because of differing data values, as opposed to the arrangement of the elements).

(c) End of reporting day data. For all futures equivalent months, clearing organizations shall report end of reporting day settlement prices for each cleared product and deltas for every unique swaption put and call, expiration date, and strike price.

Because CFTC designated Clearing Organization One (in this example) currently has two clearing members, "Clearing Members One" and "Clearing Member Two." positions cleared for these two distinct clearing members would be subdivided.

In the following example it is assumed that the clearing member accounts are either proprietary or customer (but not both) and therefore data record submissions do not have to be delineated by these account types. However, if clearing members did have both proprietary and customer accounts, then a clearing organization would have to further subdivide these clearing member data records by these two account types.

Clearing Member One currently has five positions with multiple cleared product IDs and futures equivalent months/years, and therefore these positions also constitute separate data records.

Clearing Member Two currently has six positions with the following varying characteristics: Cleared product IDs; futures equivalent months/years; commodity reference prices; swaption positions that involve both puts and calls; and multiple strike prices. Accordingly, these positions must be reported in separate data records. An illustration of how these records would appear is included in Table 1 below. Clearing Organization One would also have to report the corresponding swaption position deltas, strike prices, expiration dates, and settlement prices and swap settlement prices. An illustration of these submissions is included in Tables 2 and 3 below.

TABLE 1—DATA RECORDS REPORTED UNDER PARAGRAPHS (a) AND (b) OF § 20.3

Data records	CFTC clearing org ID	Clearing org clearing member ID	Clearing org cleared product ID	Reporting day	Proprietary/ customer account indicator	Futures equivalent month and year	Commodity reference price
Data record 1	CCI_ID_1	CM_ID_2	CP_04	9/27/2010	C	Nov–10	NYMEX NY Harbor No. 2.
Data record 2	CCO_ID_1	CM_ID_2	CP_04	9/27/2010	C	Oct–10	NYMEX NY Harbor No. 2.
Data record 3	CCI_ID_1	CM_ID_2	CP_02	9/27/2010	C	Nov–10	NYMEX Henry Hub.
Data record 4	CCO_ID_1	CM_ID_2	CP_02	9/27/2010	C	Oct–10	NYMEX Henry Hub.
Data record 5	CCI_ID_1	CM_ID_2	CP_02	9/27/2010	C	Nov–10	NYMEX Henry Hub.
Data record 6	CCO_ID_1	CM_ID_2	CP_02	9/27/2010	C	Oct–10	NYMEX Henry Hub.
Data record 7	CCO_ID_1	CM_ID_1	CP_03	9/27/2010	P	Mar–11	NYMEX Light Sweet.

TABLE 1—DATA RECORDS REPORTED UNDER PARAGRAPHS (a) AND (b) OF § 20.3—Continued

Data records	CFTC clearing org ID	Clearing org clearing member ID	Clearing org cleared product ID	Reporting day	Proprietary/ customer account indicator	Futures equivalent month and year	Commodity reference price
Data record 8	CCO_ID_1	CM_ID_1	CP_03	9/27/2010	P	Feb–11	NYMEX Light Sweet.
Data record 9	CCO_ID_1	CM_ID_1	CP_01	9/27/2010	P	Mar–11	NYMEX Light Sweet.
Data record 10	CCO_ID_1	CM_ID_1	CP_01	9/27/2010	P	Feb–11	NYMEX Light Sweet.
Data record 11	CCO_ID_1	CM_ID_1	CP_01	9/27/2010	P	Jan–11	NYMEX Light Sweet.
NDR	Yes	Yes	Yes	Yes	Yes	Yes	No.

Data records	Long swap position	Short swap position	Put/call indicator	Swaption expiration date	Swaption strike price	Non-delta adjusted long swaption position	Non-delta adjusted short swaption position
Data record 1	0	5000					
Data record 2	0	2000					
Data record 3			C	7/29/2011	5.59	2000	0
Data record 4			C	7/29/2011	5.59	18000	0
Data record 5			P	7/29/2011	5.50	100	30
Data record 6			P	7/29/2011	5.50	900	270
Data record 7	5000	0					
Data record 8	5000	0					
Data record 9	429	1286					
Data record 10	2281	6843					
Data record 11	1290	3871					
NDR	No	No	Yes	Yes	Yes	No	No

Note: The bottom row of Table 1 indicates whether data elements for which any difference in one of the elements constitutes a reason for a new data record (NDR).

TABLE 2—EXAMPLE OF DATA RECORDS REQUIRED UNDER § 20.3(c) FOR CLEARED SWAPTION PRODUCTS

Data records	CFTC clearing org ID	Clearing org cleared product ID	Reporting day	Futures equivalent month and year	Commodity reference price	Swaption expiration date	Swaption strike price	Put/call indicator	Delta	Swaption daily settlement price
Data record 1	CCI_ID_1	CP_02	9/27/2010	Nov–10	NYMEX Henry Hub.	7/29/2011	5.59	C	.5	6.25
Data record 2	CCO_ID_1	CP_02	9/27/2010	Oct–10	NYMEX Henry Hub.	7/29/2011	5.59	C	.5	5.50
Data record 3	CCI_ID_1	CP_02	9/27/2010	Nov–10	NYMEX Henry Hub.	7/29/2011	5.50	P	.2	4.53
Data record 4	CCO_ID_1	CP_02	9/27/2010	Oct–10	NYMEX Henry Hub.	7/29/2011	5.50	P	.2	4.78

TABLE 3—EXAMPLE OF DATA RECORDS REQUIRED UNDER § 20.3(c) FOR CLEARED SWAP PRODUCTS

Data records	CFTC clearing org ID	Clearing org cleared product ID	Reporting day	Futures equivalent month and year	Commodity reference price	Swap daily settlement price
Data record 1	CCI_ID_1	CP_04	9/27/2010	Nov–10	C	20.35
Data record 2	CCO_ID_1	CP_04	9/27/2010	Oct–10	C	10.50
Data record 3	CCO_ID_1	CP_03	9/27/2010	Mar–11	P	15.00
Data record 4	CCO_ID_1	CP_03	9/27/2010	Feb–11	P	21.00
Data record 5	CCO_ID_1	CP_01	9/27/2010	Mar–11	P	17.50
Data record 6	CCO_ID_1	CP_01	9/27/2010	Feb–11	P	21.65
Data record 7	CCO_ID_1	CP_01	9/27/2010	Jan–11	P	12.50

Record Layout Example for § 20.4

In this example, "Reporting Entity One" would report for the 27th of September 2010, the following twelve unique data records under § 20.4. Each data record represents a unique part of a reportable position in the same commodity held by Reporting Entity One. Paragraph (b) of § 20.4 outlines the data elements that determine unique positions; paragraph (b) is reproduced below.

(b) *Reporting data records. Reporting entities shall report to the Commission, for each reporting day, and separately for each consolidated account described in paragraphs (a)(1) through (a)(3) of this section that is reportable, unique groupings of the data elements in paragraph (c) of this section (to the extent that there are such corresponding elements), in a single data record, so that each reported record is distinguishable from every other reported record (because of differing data values, as opposed to the arrangement of the elements).*

In the following example it is assumed that Reporting Entity One currently clears with one clearing organization and therefore the

data records do not have to be delineated by clearing organization. However, if Reporting Entity One did use multiple clearing organizations, then it would have to further subdivide its data submissions by each clearing organization.

Reporting Entity One currently has twelve positions with the following varying characteristics: account owners; account controllers; futures equivalent months/years; clearing organization cleared products; swaptions that were either cleared or uncleared; commodity reference prices; and whether the trade was entered into on or off execution facilities. Accordingly, these positions constitute separate data records. An illustration of how these records would appear is included in Table 4 below.

TABLE 4—EXAMPLE OF DATA RECORDS REPORTED UNDER § 20.4(C)

Data records	Commission reporting entity ID	Reporting entity client account number	102S Owner ID	102S Controller ID	Account owner name	Account controller name	Reporting day	Clearing org cleared product ID
Data record 1	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_04
Data record 2	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_04
Data record 3	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_04
Data record 4	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_04
Data record 5	CRE_ID_1	ACCT_3	CONTROL_2	OWNER_1	XYZ Corp.	FED Corp.	9/27/2010	CP_03
Data record 6	CRE_ID_1	ACCT_4	CONTROL_2	OWNER_2	WVU Corp.	FED Corp.	9/27/2010	CP_03
Data record 7	CRE_ID_1	ACCT_2	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_03
Data record 8	CRE_ID_1	ACCT_5	CONTROL_1	OWNER_2	WVU Corp.	ABC Corp.	9/27/2010	CP_03
Data record 9	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	
Data record 10	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	
Data record 11	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_01
Data record 12	CRE_ID_1	ACCT_1	CONTROL_1	OWNER_1	XYZ Corp.	ABC Corp.	9/27/2010	CP_01
NDR Uncleared	Yes	Yes	No	No	No	No	Yes	No
NDR Cleared	Yes	Yes	No	No	No	No	Yes	Yes

Data records	Commodity code	Futures equivalent month and year	Cleared/ uncleared indicator	CFTC clearing org identifier	Commodity reference price	Execution facility	Long swap position	Short swap position
Data record 1	HO1	Feb-11	C	CCO_ID_1	Platts Oilgram Price Report for New York No. 2 (Barge).	EX1	1989	0
Data record 2	HO1	Jan-11	C	CCO_ID_1	Platts Oilgram Price Report for New York No. 2 (Barge).	EX2	2011	0
Data record 3	HO1	Feb-11	C	CCO_ID_1	NYMEX NY Harbor No. 2	EX1	0	5000
Data record 4	CL	Jan-11	C	CCO_ID_1	NYMEX NY Harbor No. 2	EX3	0	2000
Data record 5	CL	Feb-11	C	CCO_ID_1	NYMEX Light Sweet	EX1	5000	0
Data record 6	CL	Feb-11	C	CCO_ID_1	NYMEX Light Sweet	EX1	5000	0
Data record 7	CL	Feb-11	C	CCO_ID_1	NYMEX Light Sweet	EX7	429	1286
Data record 8	CL	Feb-11	C	CCO_ID_1	NYMEX Light Sweet	EX1	1571	4714
Data record 9	NG	Nov-10	U	U	NYMEX Henry Hub	NOEX		
Data record 10	NG	Oct-10	U	U	NYMEX Henry Hub	NOEX		
Data record 11	NG	Nov-10	C	CCO_ID_1	NYMEX Henry Hub	EX1		
Data record 12	NG	Oct-10	C	CCO_ID_1	NYMEX Henry Hub	EX1		
NDR Uncleared	No	Yes	Yes	No	Yes	Yes	No	No
NDR Cleared	No	Yes	Yes	Yes	No	Yes	No	No

Data records	Put/call indicator	Swaption expiration date	Swaption strike price	Non-delta adjusted long swaption position	Non-delta adjusted short swaption position	Delta adjusted long swaption position	Delta adjusted short swaption position	Long swap or swaption notional value position	Short swap or swaption notional value position
Data record 1									
Data record 2									
Data record 3									
Data record 4									
Data record 5									
Data record 6									
Data record 7									
Data record 8									
Data record 9				2000	0	1000	0	111800000	0
Data record 10				18000	0	9000	0	1006200000	0
Data record 11	P	7/29/2011	5.55	100	30	20	6		
Data record 12	P	7/29/2011	5.55	900	270	180	54		
NDR Uncleared	No	Yes	No	No	No	No	No	No	No
NDR Cleared	Yes	Yes	Yes	No	No	No	No	No	No

Note: The bottom two rows in Table 4 indicate whether, for uncleared and cleared swaps and swaptions, data elements for which any difference in one of the elements constitutes a reason for a new data record (NDR).

Issued by the Commission this 19th day of October 2010 in Washington, DC.

David Stawick,

Secretary of the Commission.

Note: The following attachments will not appear in the Code of Federal Regulations.

Statement of Chairman Gary Gensler

Position Reports for Physical Commodity Swaps

October 19, 2010

I support the proposed large trader reporting rulemaking for physical commodity swaps. The Commission currently receives data on large

positions in all physical commodity futures traded on DCMs and uses it for market surveillance purposes, including position limit enforcement. With today's proposed rule, we would have an analogous reporting system for swaps.

The proposal would require position reports on economically equivalent swaps from clearing organizations, their members and swap dealers. This will enable the CFTC to receive such data until swap data repositories are in operation and capable of fulfilling the Commission's need for this information.

Concurring Statement of Commissioner Jill E. Sommers

Relating to the Commission's Proposal on Position Reports for Physical Commodity Swaps and Swaptions

October 19, 2010

I support this proposal to receive daily position reports for physical commodity swaps and swaptions because I believe it furthers our continued effort to expand transparency into swap markets and because I believe it is critical that the Commission receive this information as soon as possible. I recognize that this proposal is a precursor to the Commission moving forward with a proposal on the imposition of position limits. That said, my vote in support of this proposal today should not in any way be interpreted as expressing support for moving forward with the imposition of position limits by the deadlines set forth in Dodd-Frank.

In July and August 2009, the Commission held three public hearings to discuss imposition of position limits in energy markets. Five months later, in January 2010, the Commission issued a proposed rule imposing position limits in four enumerated energy contracts. I had grave concerns about moving forward with position limits on those four contracts, and accordingly voted against the proposal. My grave concerns about moving forward with position limits have not been eased, and in fact, have only been heighted by certain provisions of Dodd-Frank.

Section 737 of Dodd-Frank states that the Commission shall by rule, regulation, or order establish limits on the amount of positions, *as appropriate,* that may be held by any person. This section requires the limits to be aggregated across markets and related products and to be imposed within 180 days for energy and metals contracts, and 270 days for agricultural contracts.

In my view, no position limit is appropriate if it is imposed without the benefit of receiving and fully analyzing complete data concerning the open interest in each market. Only then is the Commission able to properly consider the size of each market and calibrate a limit that is appropriate for each market. Currently, the Commission does not have complete data and will not have complete data until swap data repositories are up and running and all swap market data is reported to swap data repositories or to the Commission. I believe that, optimistically, the earliest this reporting can happen will be by the end of 2011. Again that is an optimistic estimate.

Because of the 180 and 270 day requirements in Dodd-Frank, as we sit here today, the Commission is tentatively planning a November 30 public meeting to vote on proposed speculative position limits for exempt and agricultural commodities. Mind you, by November 30 the Commission will not have garnered any data from the proposed rule we are discussing today, because it, or some modified version of it, probably will not be effective in final form by November 30. In addition, by November 30, swap data repositories will still be at least one year away from operating. Even if the proposed rule we are discussing today were effective by November 30, it will not provide complete information sufficient to impose position limits.

Under these circumstances, when considering the imposition of aggregate position limits on exempt and agricultural commodities, I believe the Commission should find that imposing such limits is not appropriate in the absence of full and complete data and analysis on the open interest in each market. I believe it is a mistake to interpret the arbitrary 180 day and 270 day deadlines as somehow trumping the requirement that the Commission make an appropriateness determination before imposing any position limits.

This is an issue that I will be following closely, and I look forward to hearing the views of the public and market participants on this issue.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 39 and 140

RIN 3038–AD00

Process for Review of Swaps for Mandatory Clearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing rules to implement new statutory provisions enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act. These proposed rules apply to the review of swaps by the Commission to determine whether the swaps are required to be cleared.

DATES: Submit comments on or before January 3, 2011.

ADDRESSES: You may submit comments, identified by RIN number, by any of the following methods:

- *Agency Web Site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the established procedures in CFTC Regulation 145.9.[1]

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Special Counsel, 202–418–5096, *edonovan@cftc.gov,* Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[2] Title VII of the

[1] Commission regulations referred to herein are found at 17 CFR Ch. 1.

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov./LawRegulation/OTCDERIVATIVES/index.htm.*