

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION
SECURITIES AND EXCHANGE COMMISSION

JOINT CFTC-SEC STAFF ROUNDTABLE ON IMPLEMENTATION
PHASING FOR FINAL RULES FOR SWAPS AND
SECURITY-BASED SWAPS UNDER TITLE VII OF THE
DODD-FRANK WALL STREET REFORM AND CONSUMER
PROTECTION ACT

Washington, D.C.

Monday, May 2, 2011

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A G E N D A

Opening Statements by CFTC and SEC:

GARY GENSLER
Chairman, CFTC

MARY L. SCHAPIRO
Chairman, SEC

RICK SHILTS
Co-Moderator CFTC

ROBERT COOK
Co-Moderator SEC

JOHN LAWTON
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HEATHER SEIDEL
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BRIAN BUSSEY
SEC

PETER CURLEY
CFTC

JACK HABERT
SEC

Panel One: Process for Registering and Making
Operational Clearing Entities, Trading Platforms,
and Data Repositories:

CHRIS EDMONDS
ICE Trust

DAN MAGUIRE
LCH.Clearnet

SUNIL CUTINHO
CME Group

1 A G E N D A

2 LARRY THOMPSON
The Depository Trust & Clearing
3 Corporation4 LEE OLESKY
Tradeweb5 NEAL BRADY
6 Eris Exchange7 ADAM COOPER
Citadel, LLC8 JAMIE CAWLEY
9 Javelin Capital Markets, LLC10 RONALD LEVI
GFI Group, Inc.11 RAF PRITCHARD
12 TriOptima - triResolve13 GARY DeWAAL
Newedge USA14 CHRISTOPHER MORAN
15 Nomura Securities International16 WALLY TURBEVILLE
Better Markets, Inc.17 Panel Two: Process of Registering and Making
18 Operational Dealers and Major Participants:19 DAN ROTH
National Futures Association20 JOHN HORKAN
21 Bank of America Merrill Lynch22 JOHN GIDMAN
Loomis Sayles & Co.

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2 ATHANASSIOS DIPLAS
 Deutsche Bank

3 ALEXANDRA GUES
4 Barclays Capital

5 STEVE O'CONNOR
 Morgan Stanley

6 MATT PICARDI
7 Shell Energy North America

8 WALLY TURBEVILLE
 Better Markets, Inc.

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10 Panel Three: Connectivity and infrastructure
 Issues:

11 JOHN OMAHEN
 SunGard

12 JEFF GOOCH
13 MarkitSERV

14 R.J. CUMMINGS
 ICE Trust

15 PETER AXILROD
16 The Depository Trust & Clearing
 Corporation

17 SUNIL CUTINHO
18 CME Group

19 DOUG FRIEDMAN
 Tradeweb

20 RONALD LEVI
21 GFI Group, Inc.

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A G E N D A

STEVE O'CONNOR
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BlackRock Solutions

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Citadel, LLC

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P R O C E E D I N G S

(9:19 a.m.)

MR. SHILTS: If everyone could find -- take their seats and we'll get started. We have a busy couple of days. We're still missing a few panelists, but in any event, we'll get started.

Good morning, everyone. My name is Rick Shilts and I'm the director of the Division of Market Oversight here at the CFTC. I'm pleased to open this two-day joint CFTC-SEC public roundtable to discuss phasing the implementation of effective dates for final rules that will be promulgated under Title VII of the Dodd-Frank Act.

We have a full agenda that is designed to focus the discussion on the pertinent issues related to implementation. The discussion is divided into a number of panels, three today and four for tomorrow.

As you all know, the Dodd-Frank act brings the over the counter derivatives under comprehensive regulation. Standardized derivatives will be traded on transparent trading

1 platforms and cleared by regulated central
2 counterparties. There will be increased
3 transparency as information on swaps and
4 security-based swaps will be available to
5 regulatory authorities, and transaction data will
6 be available to the public on a real- time basis.
7 The overarching goal is to reduce risk in our
8 economy, which will greatly benefit the American
9 public.

10 The CFTC and SEC have issued proposals
11 in most of the rule-making areas. Here at the
12 CFTC, as of last Wednesday, we have substantially
13 completed the proposal phase of our rule-writing
14 to implement the Dodd-Frank Act.

15 The public now has the opportunity to
16 review the whole mosaic of CFTC proposed rules.
17 To facilitate comment on the regulatory scheme as
18 a whole, the CFTC reopened or extended the comment
19 periods for most of our Dodd-Frank proposed rules
20 for an additional 30 days.

21 In addition to requesting comment, on
22 the substantive elements of the proposed

1 rule-makings, both the CFTC and the SEC have
2 requested comment on how the various aspects of
3 the regulatory requirements should be phased in,
4 adopting effective dates for the final rules.

5 The specific purpose of the roundtable
6 panels today and tomorrow is to hear the opinions
7 and advice of diverse interests -- of persons with
8 diverse interests, experience, and points of view
9 on the sequencing of the implementation of the
10 various aspects of the legislation.

11 Under Dodd-Frank, the SEC and CFTC have
12 flexibility to set effective dates, as well as a
13 schedule for market participants to come into
14 compliance with the final rules. This flexibility
15 allows the commissions to tailor the timing of the
16 implementation of rule effective dates based on
17 factors such as the ability of market participants
18 to develop the systems, processes, and
19 capabilities necessary to comply with the new
20 regulatory requirements.

21 As a result, the commissions are
22 considering how to phase implementation. Areas

1 under consideration include the type of swap or
2 security-based swap, the asset class, the type of
3 market participant, timing related to the
4 development of needed market infrastructures, and
5 whether participants might be required to have
6 policies and procedures in place ahead of
7 compliance with policies and procedures by
8 non-registrants. In addition, effective dates for
9 certain rules may be conditioned upon other rules
10 being finalized, their effective dates, and the
11 associated implementation schedules.

12 Compliance also may need to be phased in
13 depending on whether an entity has been previously
14 regulated, or has not been regulated before. In
15 phasing effective dates, we are also considering
16 the interdependence of various rules.

17 In general, we hope to focus the
18 roundtable discussions on questions related to
19 compliance dates for the following: New rules for
20 clearing entities, the clearing mandate; new rules
21 for trading platforms such as swap and
22 security-based swap execution facilities; new

1 rules for reporting data for swaps and
2 security-based swaps, both to data repositories
3 and for real-time public reporting purposes; and
4 new rules for dealers and major participants.

5 As you may know, the staff put out --
6 the CFTC staff put out a list of concepts that
7 sets forth a framework for thinking about
8 implementation. A couple of the key aspects of
9 those concepts are that implementation would be
10 facilitated if effective dates are phased in over
11 time rather than all at once. This means that
12 certain rules or elements of these rules could be
13 implemented at different times, and that the
14 timing of implementation could vary depending on
15 such considerations as the type of product, asset
16 class, or type of swap.

17 Also, it seems to us that various market
18 infrastructures could be operational -- that is,
19 open for business -- before compliance with
20 various mandates is required. For example,
21 clearing organizations could be up and running to
22 accept swaps for clearing before the clearing

1 mandate is in place. And SEFs and other trading
2 platforms could be listing swaps for trading
3 before the trading mandate is in place.

4 Our goal is to help focus the discussion
5 today and tomorrow on the factors that should be
6 taken into account in coming up with the most
7 natural sequencing of rule implementation. Before
8 we begin, I'd like to thank the many distinguished
9 panelists today who have taken time out of their
10 busy schedules and agreed to participate on these
11 panels to discuss these important subjects. I'd
12 also like to thank the staffs of the SEC and the
13 CFTC for their work in planning today's
14 roundtables. Staff has been diligently reading
15 and analyzing the numerous comments received to
16 develop final rules that are consistent with the
17 legislation and take into account the issues and
18 costs to be borne by market participants to come
19 into compliance.

20 We look forward to hearing the thoughts
21 of the participants on the panels. The
22 roundtables will greatly assist us in crafting

1 implementation schedules and effective dates that
2 ensure appropriate implementation of the rules
3 required by the Dodd-Frank Act in the most logical
4 and cost-effective manner.

5 For the record, I would like to note
6 that all statements and opinions that may be
7 expressed and all questions asked by CFTC staff
8 are those of CFTC staff and do not represent the
9 views of any commissioner or the Commission
10 collectively. Also, I would like to reiterate
11 that the purpose of these panel discussions is to
12 address issues related to implementation, not the
13 substantive elements of any particular rule
14 proposal.

15 Staffs of both agencies have been
16 reviewing comments received regarding the
17 substantive elements of the rule proposals, and
18 will continue to consider comments in developing
19 final rules. Therefore, in order to ensure that
20 we are able to hear the opinions of all the
21 participants in all the panels schedules for
22 discussion today and tomorrow, I urge you to limit

1 your remarks to implementation issues and
2 considerations. We will remind panel participants
3 who stray too far from the important issues of
4 implementation and compliance.

5 Now, before I turn it over to my
6 colleague, Robert Cook, for opening comments, I
7 need to note some housekeeping items. I want to
8 point out that this is not the only opportunity
9 for interested parties to have input on these
10 issues. The CFTC has opened a comment file
11 whereby anyone can submit comments related to
12 implementation. The comment file will be open
13 until June 10.

14 Also, please note that this meeting is
15 being recorded and a transcript will be made
16 public. The microphones are in front of you.
17 Press the button and you'll see the red light.
18 This means you can talk. Speak directly into the
19 mic. When you finish, please press the button
20 again to turn off the mic. And also please
21 refrain from putting any BlackBerry or cell phone
22 on the table as they may cause interference with

1 our audio system.

2 And now, I'd like to invite Robert Cook
3 to make some opening remarks. Robert?

4 MR. COOK: Thank you, Rick. Good
5 morning. I'm Robert Cook and I am the director of
6 the Division of Trading and Markets at the SEC.
7 And I'm joined today by Heather Seidel, who serves
8 as associate director in the Division's Office of
9 Market Supervision.

10 It's my pleasure to join Rick in
11 welcoming you to this joint CFTC-SEC staff
12 roundtable on the implementation of rules to be
13 adopted by our agencies that would regulate the
14 clearing, trading, and reporting of swaps and
15 security- based swaps, as well as the
16 registration, business operations, and conduct of
17 dealers and major participants in swaps and
18 security-based swaps.

19 On behalf of the SEC staff, I'd like to
20 thank all of our distinguished panelists who are
21 here with us today to share their insights,
22 advice, and recommendations on this very important

1 topic. We are grateful to each of you for taking
2 time out of your busy schedules -- and in some
3 cases, for changing your schedules -- to be here
4 today. And we look forward to hearing your views.

5 I also want to thank the CFTC for
6 hosting this roundtable, and the staff at both the
7 CFTC and the SEC who have worked tirelessly behind
8 the scenes to make this roundtable a reality.

9 Before continuing, for the record I also
10 need to give our standard disclaimer that all of
11 my remarks and questions, and those of my SEC
12 colleagues participating in the roundtable over
13 the next two days, reflect only our personal views
14 and do not necessarily reflect the views of the
15 SEC, any individual SEC commissioner, or other
16 members of the SEC staff.

17 Our discussion today needs to begin with
18 the recognition that implementing the swap rules
19 is a substantial undertaking that presents
20 significant challenges for market participants,
21 including developing new operations, internal
22 systems and controls, technology infrastructures,

1 external connectivity, legal documentation,
2 trading conventions, and compliance regimes.

3 We are seeking to transition a large
4 existing market that developed outside the scope
5 of any significant regulatory restrictions or
6 requirements to a new paradigm of comprehensive
7 regulation. As regulators, we believe we have a
8 number of tools at our disposal to facilitate this
9 effort. For example, we can adjust the order in
10 which we adopt rules. We can adjust the sequence
11 in which the rules become effective, and when
12 compliance with them is required. And we can take
13 into account differences in products, asset
14 classes, market participants, and the development
15 of critical market infrastructures.

16 Our job is to sort through the
17 complexities and interdependencies and to
18 determine how best to use our tools so that the
19 transition will occur in a logical, integrated,
20 and cost-effective manner without causing market
21 dislocation or creating other unintended
22 consequences. Clearly, we need your help in this

1 effort.

2 Rick has done an excellent job in
3 summarizing the objectives of this roundtable, and
4 how we hope it will assist the agencies in
5 developing an effective implementation framework.
6 I want to add just a few brief remarks on where we
7 are at the SEC in terms of proposing our rules for
8 security-based swaps, and on some additional
9 implementation questions as to which we hope to
10 hear comment from panelists at this roundtable or
11 afterwards from interested parties.

12 First, although we at the SEC have
13 issued most of our rules related to security-based
14 swaps, unlike the CFTC we are still in the
15 proposal phase of our rule-making process. In
16 particular, we are working on proposing rules
17 regarding the substantive requirements for
18 securities-based swap dealers and major
19 security-based swap participants.

20 Once we have issued all of our
21 proposals, the staff will consider whether to
22 recommend providing an opportunity for interested

1 parties to comment on how all the pieces fit
2 together, just as the CFTC has done. But in the
3 meantime, we have not closed our comment files.
4 And we continue to welcome comments on our rules,
5 even if the formal comment period has expired, in
6 how they relate to each other and to the rules
7 that have been proposed by the CFTC. As a
8 practical matter, this means that you'll have at
9 least another month or two to comment on
10 everything we're doing as we complete the proposal
11 phase and before we adopt any final rules. We are
12 already studying very closely the comments that we
13 have received so far on the substantive aspects of
14 our rules.

15 Now as Rick mentioned, the purpose of
16 this roundtable is to address issues related to
17 implementation sequencing and timing, and not the
18 substantive elements of any particular rule
19 proposal. But we recognize that to some extent,
20 the choices we make regarding the substance of our
21 rules may affect your recommendations for how we
22 approach the implementation process. We think

1 that is the case. We would be interested in
2 hearing about it.

3 We also recognize that certain themes
4 that have emerged from the substantive comments on
5 our rules to date might inform how we proceed with
6 finalizing our rules. For example, one such theme
7 is concern over the international reach and
8 effectiveness of our proposed rules, including
9 with respect to the mandatory clearing
10 requirement, data reporting, SEF trading, and
11 dealer registration. We acknowledge this concern,
12 and the request for greater clarity in this area.

13 The SEC staff is actively considering
14 whether we can address these issues in the context
15 of our adoption of each separate rule that raises
16 international issues, or whether we need to
17 address these concerns through a separate release
18 focusing more holistically on all the
19 international questions that have been raised.

20 In the meantime, we would be interested
21 in hearing from each of the relevant panels about
22 the extent to which we need to take into account

1 international jurisdictional and harmonization
2 issues in considering our implementation
3 framework.

4 Another concern that has been raised
5 across a number of rule-makings is that
6 inconsistency between the regulations adopted by
7 the two agencies may impose unnecessary costs and
8 burdens on certain market participants and might
9 complicate or delay the implementation process
10 itself. Once again, we acknowledge this concern.
11 We have worked hard to coordinate with the CFTC
12 staff on our respective approaches to each of our
13 proposed rules, and we will continue to do so.

14 As we move toward the adoption phase, we
15 would especially welcome input on whether for any
16 particular rules, certain inconsistencies are
17 justified, or perhaps even required by meaningful
18 differences in the markets and trading
19 characteristics of the different products we
20 regulate. And if that is not the case, to what
21 extent do you value consistency over any
22 particular substantive result?

1 Similarly, given that the two agencies
2 are at slightly different phases in our
3 rule-making efforts, we would welcome comment on
4 potential implications or the markets. If the
5 agencies would move forward with adopting their

6 rules at different times, it's consistency in the
7 timing of rule adoptions as important as
8 consistency in the substance of those rules? How
9 important is consistency in the role compliance
10 states? Again, do different products have
11 different trading characteristics or market
12 infrastructure, such as the stage of the
13 development in terms of clearing, that might
14 warrant different implementation timeframes? Do
15 differences in market participants who trade swaps
16 or security-based swaps warrant different
17 approaches to implementation?

18 Finally, and with a view to next steps
19 after this roundtable, let me note that we
20 recognize market participants have important
21 decisions to make in determining how best to
22 allocate their resources effectively and build the

1 new regime for swaps contemplated by our rules.

2 A key input to these allocation
3 decisions, of course, will be how the agency
4 sequences the implementation of the rules. In
5 this regard, I would welcome comments on how we
6 can be most effective in facilitating the
7 efficient allocation and management of resources
8 over the coming years by market participants
9 consistent with the goals of Dodd-Frank. For
10 example, how useful would it be in terms of the
11 overall process for the SEC to set out a game plan
12 that describes with some specificity the order in
13 which we'll adopt our rules, the order in which
14 those rules would become effective, and so forth.
15 In other words, a roadmap for how we will get from
16 where we are right now to the world envisioned by
17 Dodd-Frank. Is such an approach practical? And
18 would it create any unnecessary delay? Or would
19 it ultimately help us to get to the end of the
20 implementation process more quickly and
21 effectively?

22 With that, let me again thank our

1 panelists for their participation. The insights
2 you bring will be extremely valuable as we move
3 toward the adoption phase of our Title VII
4 rule-making. And please remember that any other
5 interested party is welcomed and encouraged to
6 submit written comments related to the
7 implementation issues that we are addressing at
8 this roundtable.

9 These comments will be studied closely
10 by the staff and will help inform our approach to
11 the implementation of our rules. Like the CFTC,
12 the SEC has opened a comment file for this
13 purpose. You will find it -- you will find a link
14 for it on our website by going to the press
15 release announcing this roundtable.

16 And with that, I'll turn it back over to
17 you, Rick.

18 MR. SHILTS: Thank you, Robert. Before
19 I go through the agenda to start the first panel,
20 I see that Chairman Schapiro and Chairman Gensler
21 here, I wondered if you wanted to make any opening
22 remarks?

1 CHAIRPERSON SCHAPIRO: (inaudible)

2 CHAIRMAN GENSLER: I'll echo Chairman
3 Schapiro's comments to thank everybody on this
4 panel and the subsequent panels. This is really
5 important to the American public as we move
6 through the proposals and ultimately to the final
7 rules, hopefully later this year.

8 But the implementation to do this in a
9 balanced way -- get the job done the American
10 public expects, but also try to lower the cost and
11 burden so that it's done in a phased way will be
12 very helpful. Thank you.

13 MR. SHILTS: And thank you. As I said,
14 we have three panels scheduled for today. Our
15 first panel is entitled, Process for Registering
16 and Making Operational Clearing Entities, Trading
17 Platforms, and Data Repositories. It will run
18 from 9:30 to noon, when we will take a one-hour
19 lunch break. We may take a short break during
20 this discussion around 10:45.

21 Our second panel -- excuse me -- is
22 titled, Process of Registering and Making

1 Operational Dealers and Major Participants. It
2 will run from 1:00 to 2:30. And then our third
3 panel today is entitled, Connectivity and
4 Infrastructure Issues. It will run from 2:45 to
5 4:00 today. That will conclude the discussions
6 for today, and on both days we will try to end
7 around 4:00.

8 So let's get started with the first
9 panel. For panel 1, it will focus on
10 implementation issues related to the process for
11 registering and making operational clearing
12 entities, trading platforms, and data
13 repositories. Some concepts to be addressed
14 include issues related to entities being able to
15 be registered or provisionally registered, and the
16 time required to be operational and assume the
17 basic functions of a clearing organization, a SEF
18 or security-based SEF, or an SDR.

19 We want to hear views on the timing for
20 implementation of policies, procedures, rules, and
21 systems necessary to begin operations. Should the
22 timing phase in, recognize differences in asset

1 class, type of market participant, rule
2 dependency, or something else? What do we need to
3 consider effectively to harmonize the rule-
4 makings from both a domestic and an international
5 perspective?

6 And before we begin the discussion, I'd
7 like to go around the table and have everyone
8 introduce themselves and identify who they
9 represent. We'll go this way. John?

10 MR. LAWTON: I'm John Lawton, deputy
11 director, Division of Clearing and Intermediary
12 Oversight at CFTC.

13 MR. MORAN: Hi. Chris Moran, Nomura
14 Securities, global head of Fixed Income
15 Operations.

16 MR. TURBEVILLE: Wally Turbeville,
17 Better Markets.

18 MR. DeWAAL: Gary DeWaal, global general
19 counsel, Newedge.

20 MR. PRITCHARD: Raf Pritchard,
21 TriOptima.

22 MR. LEVI: Ron Levi. I'm representing

1 GFI Group and the WMBA.

2 MR. CAWLEY: James Cawley, CEO of
3 Javelin Capital Markets.

4 MR. COOPER: Adam Cooper, chief legal
5 officer, Citadel.

6 MR. BRADY: Neal Brady, CEO Eris
7 Exchange.

8 MR. OLESKY: Lee Olesky, CEO of
9 Tradeweb.

10 MR. THOMPSON: Larry Thompson, general
11 counsel, Depository Trust and Clearing
12 Corporation.

13 MR. CUTINHO: Sunil Cutinho. I lead the
14 operations systems and infrastructure team for the
15 CME Clearinghouse.

16 MR. MAGUIRE: Hi, I'm Danny Maguire. I
17 represent LCH.Clearnet Group.

18 MR. EDMONDS: Chris Edmonds from ICE
19 Trust.

20 MS. SEIDEL: Heather Seidel, associate
21 director, Division of Trading and Markets at the
22 SEC.

1 MR. SHILTS: Okay. Thank you to
2 everyone. And now to start off with the first
3 question, I'll turn to John.

4 MR. LAWTON: Good morning. For clearing
5 entities, trading platforms, and data
6 repositories, registration and development of
7 applicable rules and procedures would have to be
8 completed before compliance with those rules and
9 procedures by market participants could be
10 required. This suggests a two-step process where
11 market infrastructures are required to be
12 registered and have in place their rules and
13 procedures before market participants are required
14 to use those infrastructures.

15 If the commissions were to follow this
16 approach, how quickly could each type of
17 infrastructure be open for business? And what are
18 the implications of following this sort of
19 two-step approach.

20 Let's start the discussion with the
21 clearinghouses, then move to the trading
22 platforms, and then move to the data repositories.

1 So if someone from one of the clearinghouses could
2 open it up.

3 MR. CUTINHO: We have a Dodd-Frank
4 compliant clearing service for our energy
5 commodities, credit default swaps, and interest
6 rate swap asset classes. We've been operational
7 for credit default swaps since December of 2009,
8 and for interest rate swaps since October of 2010.

9 We feel that we have an open clearing
10 service. We have an API, we are connected to
11 three platforms right now. There are several that
12 are currently certifying to the platform.

13 In terms of clearing members, we have 13
14 clearing members for both the CDS and the rate
15 asset class. Our clearing members have been
16 operational since the time of the launch. They
17 are also continuously testing with customers. We
18 have cleared both dealer and customer trades.

19 As I said before, we are already
20 registered with the DCO -- as a DCO with the CFTC,
21 and we have -- and we are providing reports to the
22 CFTC on a daily basis on both the trade level as

1 well as the portfolio margin.

2 MR. EDMONDS: I think when we look at
3 the opportunity that faces us as an industry as a
4 whole -- and John, specifically to your question
5 -- you know, the impact of the changes while we
6 all have compliant operations today, the question
7 is, can we be compliant tomorrow? And you know,
8 Intercontinental Exchange has a number of
9 different clearinghouses, a number of different
10 asset classes. I just happen to focus on the one
11 on CDS.

12 I think the industry is asking, you
13 know, regardless of what day you start, give us a
14 date. Tell us who is impacted. Tell us what's
15 impacted, and let us figure out how. And you will
16 hold us accountable to that over time of whether
17 or not we're complaint to your comment about the
18 rules and how they're written.

19 The difficulty for us -- and the comment
20 was made by Robert in his opening statement -- is,
21 how do we allocate those resources? And where do
22 we start? And right now, it's a little bit like

1 watching an election process and the polls come
2 in. And one day we're going this path, the next
3 day we're going this path. At some point in time,
4 we have to make a decision and allocate those
5 resources.

6 And certainly for ICE trust
7 specifically, as Dodd-Frank deems our operation,
8 which is currently a limited purpose trust vehicle
9 or a depository institution, will be deemed a DCO
10 come July. You know, we're compliant within the
11 DCO rules as they exist today, but there's a lot
12 of uncertainty about what exists tomorrow. And
13 the sooner we get there, the better.

14 So if I had, you know, some magic wand
15 or somebody gave me the opportunity to influence
16 the person with the magic wand, you know -- tier
17 one, the phasing approach? I don't see how -- you
18 have no other choice than to go in a phasing
19 approach. My only advice is, let's get started.

20 It's the uncertainty, I think, that's
21 challenging the market, whether it's clearing
22 members, end users, clearinghouses, execution

1 platforms, SDR. It's all about when do we jump
2 off the bridge together? The sooner the better.

3 SPEAKER: I also think that -- to Chris'
4 point -- that the phased approach should
5 definitely be done by asset class. Because
6 there's many different individuals around the
7 table that actually have different processing and
8 piping. And phasing in by asset class, I think,
9 would be the best approach.

10 MR. MAGUIRE: On behalf of LCH Group,
11 first of all, I'd just like to thank both of the
12 commissions for inviting us here to represent our
13 views over the next two days.

14 And going to John's question, we as a
15 group really split this into probably four
16 categories or four sections. In terms of what are
17 the impediments for us as a registered DCO to be
18 able to offer all of these services across the
19 group.

20 At a high level we look at the
21 international alignment on regulation. I'll jump
22 into detail shortly. The second one would be

1 around rule compliance and our internal governance
2 and policy approval. Because we have to navigate
3 that through various committees and boards. There
4 are risk perspectives in there as well. And then
5 finally, the operational, technical scalability
6 side of things. So we sort of see it in four
7 categories.

8 Just jumping into the international
9 side, we think it's critical that the rule-makings
10 are aligned with the international standards.
11 Being a little bit selfish, specifically, with the
12 EU given we have as CCPs both in the euro zone and
13 the UK and here in the States.

14 Also, we have a product mix that spans
15 both across the CFTC rule-making and, likewise,
16 the SEC jurisdiction as well. So we think it's
17 absolutely critical that the risk management
18 requirements between those agencies are very well
19 dovetailed as best possible.

20 And then also, when we look at the CCPs
21 such as our limited and assay entity, which is
22 based outside of the U.S., we think if we are

1 clearing on behalf of U.S. Entities 100 percent
2 should be subject to the U.S. rule- making
3 approach and home supervision. But for those
4 transactions and those entities that are non-U.S.
5 executing outside of the U.S. on the home rules,
6 they should be outside of the touch of the U.S.
7 regulation.

8 Moving on to the compliance and the
9 governance aspects. Inevitably when the
10 finalization of the rules is complete there's
11 going to be some changes required around, for
12 example, membership and the open access side of
13 things. Default management arrangements,
14 potentially around the -- you know, the
15 composition of risk committees, boards,
16 shareholder ownership, et cetera. None of those
17 things are trivial, although we understand and
18 accept that there will be change required around
19 those.

20 So for us, this is going to require
21 potentially member consultation, ballots,
22 shareholder votes, et cetera. And as I say, none

1 of those are trivial. We accept that we will go
2 through those. But those are not short things
3 that we have to do.

4 And finally as well, we have to get
5 approval from our local regulators as well as our
6 regulators here in the U.S. So as much as we like
7 to move those things forward as quick as possible,
8 there's a natural transition that you go through.

9 Just going on the risk standpoint, I
10 think something that's really come to the fore
11 here is the CCPs are going to become more and more
12 important. They're already important, but
13 systemically important, I guess, as we move
14 forward. And you've got to have supreme
15 resilience and security, and that's across all
16 different aspects. That's your risk management
17 framework, but that's technology as well and
18 operational processes.

19 So we think the phasing has got to be
20 realistic and achievable. We worry that if the
21 window is too small there's a huge amount of what
22 needs to be done via the FCMs. The CCP or DCO is

1 the clients, and all the other infrastructure
2 providers. So a small window is not ideal. We
3 fully support the idea of phasing. We're
4 relatively agnostic, although we obviously have
5 commercial buyers in there, but from an
6 implementation standpoint we're agnostic in terms
7 of -- to Christopher's point, which asset class
8 goes first or which part of the infrastructure
9 goes first. We just need to make sure we're
10 ready.

11 And I think the biggest elephant in the
12 room, for want of a better phrase, is around the
13 technical obstacles. Building out end-to-end
14 infrastructure for these products. We've got an
15 established clearinghouse, we have 50 percent of
16 the global interest rates, swap market going
17 through it. But these rules are game changing.
18 We're going to see higher volumes, smaller
19 transactions. So the 50 percent we've seen for
20 the last 10 years is probably going to be very
21 different as we move forward when we see the
22 finalization of the rules. So a lot of the

1 processing is going to change.

2 And we think, with all the end-to-end
3 testing and the sort of choreography between all
4 of the infrastructure providers around the table
5 in the room, it's not a trivial exercise. So we
6 have a patchwork quilt that we need to get
7 through. And we think, you know, that all of
8 these things suggest that a phasing approach is
9 definitely the right approach. And it needs to be
10 a reasonably wide window to make sure there aren't
11 any unintended consequences from rushing.

12 MR. SHILTS: If I could just ask a quick
13 question. And it -- we're going to have other
14 panels to kind of talk about some technology
15 infrastructure issues. But you talked about the
16 various other -- the window for getting rules and
17 processes and other things in place. Do you just
18 have any -- both yourself and others -- any
19 comments as to what the nature of the timeframe?
20 What are you talking about that would be realistic
21 in terms of an implementation schedule?

22 MR. EDMONDS: I think part of that's a

1 function on the magnitude of the final rules as
2 they come out, Rick. So it's a little bit
3 difficult. But I'll take one stab at it.

4 You know, if I think about the open
5 access requirement that Dan made mention of, you
6 know, we certainly have open access availability
7 today. But if I think about it as it relates to
8 swap execution facilities. Until we know the
9 magnitude of the changes from a risk perspective,
10 when are you going to guarantee the transaction?
11 Is the transaction guaranteed at the point of
12 execution? Well, if it's guaranteed at the point
13 of execution the lift that the clearinghouses will
14 have in order to submit or to accept that

15 information and give the response back to the
16 market participants is significant.

17 And you know, the more prescriptive you
18 are in the rules or the commissions are in the
19 rules, the more potential risk associates with
20 that -- is associated with that risk horizon or
21 that time horizon of implementing those risk
22 filters. But without those risk filters the

1 amount of danger that we as a CCP are taking at
2 that point in time is not a level that we've been
3 comfortable with in the past, and I think it would
4 be difficult going forward.

5 And that's not what we were looking to
6 accomplish as an industry. You know, the
7 legislation was not there to increase the risk, it
8 was there to decrease the risk over time and
9 increase that transparency.

10 So if we look at that without
11 establishing what the obligations of the DCO are,
12 the transparency requirements of the SDRs that
13 come around that. And then when you get to the
14 execution piece of it, how the execution
15 facilities plug into that infrastructure? I do
16 think when you think about sequencing that you
17 have to put it in that direction. Otherwise there
18 will be a number of unintended consequences that
19 you have to deal with, notwithstanding those that
20 may come voluntarily over time.

21 MR. CUTINHO: I think to add to what
22 Chris said, there are some rule changes that are

1 in progress. For example, segregation. Those we
2 do need a lot of time to analyze them.

3 In terms of risk monitoring in real
4 time, we feel that a clearinghouse should provide
5 real-time monitoring of risk at the member level.
6 And it should also provide its clearing members
7 the opportunity to monitor risk for their
8 customers. So, we believe -- so the service we've
9 built is real-time clearing service so that it can
10 respond in real time based on the risk or the
11 limits that we have placed on the system. So to
12 the extent that we can respond to the platforms or
13 market participants in real time, we believe that
14 the system will be safe.

15 Now it's not possible, as Chris pointed
16 out, to apply guarantees further upstream because
17 there are a lot of SEFs in place. And as a
18 clearinghouse, it's a point of convergence.
19 That's the place where all transactions end up.
20 So the best place to -- monitoring of credit and
21 monitoring of risk is at the clearinghouse.

22 MR. SHILTS: Do any of the other

1 participants -- sorry.

2 MR. MAGUIRE: Just from the LCH Group
3 standpoint, there's -- specifically to the
4 question around timing and what are the real key
5 things, I think it's pretty well understood by the
6 industry. There's obviously this gap between when
7 the rules are proposed and the finalization of the
8 rules. Until we have finality it's going to be
9 very hard to put a number or a date on that. So I
10 just echo CME and ICE's perspective on that.

11 But when I look at what are the key kind
12 of rules that we need some high level of
13 prescription and definition on, whatever they may
14 be, it's really around the risk requirements.
15 It's the account structure side of things for some
16 groups. Even across ECPs, we've got different
17 levels of capability around different types of
18 segregation. So, there's the account structure.

19 There's the governance and sort of board
20 composition and shareholder side of things. And
21 then, there's the open access -- the membership
22 requirements. Those, for us, are some of the key

1 items that we need finalization on.

2 Once we have a -- you know, a final
3 statement on that, it's going to be easier for us
4 to predict how far from that. But those are
5 probably the key points for us.

6 MR. THOMPSON: Hey, John. You mentioned
7 that some of us have some other views. We do.
8 And the order of implementation, I think, is key
9 to answer some of the other questions that you
10 just raised.

11 And I'd like to start it by saying we
12 should go back to front. Start off with the
13 implementation of the swap data repositories, then
14 on to your SEFs and to your CCPs.

15 You need the trade data to really make
16 sensible decisions about some of the other issues
17 that have been raised so far today. You need to
18 understand what the cleared open interest will be,
19 and the kind of liquidations that may give rise in
20 order to understand the extent and the
21 restrictions that ought to be put onto the
22 marketplace. And also, what the CCP liquidations

1 are going to look like.

2 Within each level of processing, the
3 implementation should be sequenced by asset class
4 from the most electronic to the least. So that
5 you would probably start with credit first and
6 rates, and so on in that order. Commodities
7 probably should be the last, given the high
8 percentage of end users to end user trades. In
9 fact, that it's less electronic in that respect.

10 To reporting. Regulatory reporting,
11 obviously, in our view, should be done first. And
12 the focus should be starting with a very granular
13 level of trade reporting and the flow of that. We
14 believe that at the very beginning, you have to
15 have very good rulebooks. Those rulebooks have to
16 be put in place before you can start all of that.
17 So that, you know, you have a very clear
18 understanding of what the rights and obligations
19 of all of the parties, you know what all of the
20 connections are, you know what all of the
21 reporting will be. And you got to make certain
22 that you get complete buy in by all parts of the

1 industry.

2 And from the SDR standpoint, in order to
3 get the best information you have to have all of
4 the trades reported to the swap data repository.
5 You cannot have cherry-picking going on. So from
6 our standpoint, if you want to look at it, let's
7 start with the back and build the back end so that
8 you have transparency to answer some of the
9 questions that I think have been fairly raised by
10 some of your other users.

11 MR. COOPER: If I can just make a
12 comment or two in support of some of these
13 comments that have been made.

14 First I think, critical to all of this
15 is there be a balanced and inclusive sort of
16 membership composition of the governance
17 committees that, as was mentioned earlier, will
18 need to sit down at the CCPs and make some of
19 these rules and hash through. I think this is an
20 initiative where all stakeholders need to be
21 fairly represented around the table in order to
22 have the most robust input.

1 A phased implementation and a rational
2 sequencing, of course, makes sense. And I concur
3 with Larry's view that there's tremendous data
4 that exists today that will help inform the asset
5 classes that can be phased first. And I would
6 suggest those for which the infrastructure already
7 exists today. We've heard, like with CDS and the
8 CME and rates products, there's much of that
9 infrastructure that's already built. And in
10 addition, that information will help inform what
11 participants are included in sort of the phase out
12 process.

13 The last point I'd make is that in the
14 context of the implementation and the sequencing,
15 I don't think that we need to do sort of a serial
16 back to front end, necessarily. I think, in fact,
17 we can multitask. And that a number of these
18 processes can proceed in parallel.

19 And the final point I'd make isn't in
20 connection with any kind of rational sequencing.
21 Let's just make sure that there are objective and
22 measurable milestones. With everybody around the

1 table -- there's on-boarding and there's testing
2 to ensure during the phase-in period that
3 everything is working just fine.

4 MR. COOK: Adam, can I just ask if you
5 could elaborate a little bit on your point about
6 multitasking and phasing and parallel? Can you
7 give us a little bit more color of what you have
8 in mind there?

9 MR. COOPER: I would suggest -- I mean,
10 I'm sort of responding and supporting Larry's
11 point that swap depository -- you know,
12 repositories are very useful. You know, instead
13 of doing it let's do it back end to front end.

14 There's a lot that can be done in terms
15 of establishing the integrity of the reporting
16 system and the information available in the data
17 repositories. Disseminating it to the market
18 while at the same time, for example, ensuring that
19 there's inclusive and sort of robust composition
20 to the membership and the risk management and the
21 other critical committees at the clearinghouses.
22 As the rules for compliance and segregation and

1 all of the necessary components for product roll
2 out are sort of being digested by the marketplace
3 -- these committees and user groups, advisory
4 groups, dealers, end users, you know, a variety of
5 the stakeholders -- can be actually rolling up
6 their sleeves, sitting down, and doing the hard
7 work.

8 Let's talk about, you know, getting the
9 agreements -- standard form agreements that the
10 industry will need in place at the same time that
11 we may be finalizing rules and identifying what
12 sequences of asset classes make the most sense.
13 We can put agreements in place, we can do a whole
14 bunch of work in terms of -- I know it's a later
15 panel -- connectivity of potential clearing firms
16 and CCPs can be undertaken. It's not reinventing
17 the world. A lot of this technology and a lot of
18 this infrastructure already exist. So let's take
19 advantage of it.

20 I think the key is in sort of
21 identifying milestones, you know. And criteria
22 that will measure success or failure or, you know,

1 need to work harder at this. And as an industry,
2 as a community of all stakeholders, you know, sort
3 of let's be critical about whether we're meeting
4 those milestones.

5 MR. BRADY: Yes, I just have a few
6 comments to, you know, support some of what Adam
7 said and some of the earlier comments. And also,
8 to Chris' point earlier.

9 I think there's a whole lot of readiness
10 out there. There's a lot of work that's already
11 been done. I mean, I think just from the trading
12 platform side, you know, there was a showcase here
13 where there was a number of platforms that showed
14 that a lot of investment has been made. There's a
15 lot of platforms already operating in this
16 marketplace that certainly need to be retooled and
17 fitted to meet the mandates of Dodd-Frank.

18 But I think the idea of a hard date, of
19 taking the uncertainty out and also providing that
20 -- you know, the game plan, the road map that was
21 mentioned, I think, would be very, very important
22 to really catalyze and focus the energy of the

1 industry. And I think there's a pretty broad
2 consensus that clearly this has to be phased. And
3 it would seem logical that you'd focus on the most
4 liquid contracts in the CDS indices and rates,
5 places where either they're already being cleared,
6 there are already platforms, there are
7 single-dealer platforms, multi-dealer platforms.
8 You know, platforms like Eris Exchange, which is a
9 futures exchange which trades a, you know,
10 standardized interest rate swaps. I think the
11 industry is ready to go and waiting for that hard
12 date.

13 The other point I would make is to say
14 that in this, I believe there needs to be a
15 certain amount of flexibility provided in the
16 process. You know, in Eris Exchange we were able
17 to apply for a DCM and were a company that -- you
18 know, a new start that was formed a little over a
19 year ago. The rest of the -- majority of the
20 players are already existing platforms and
21 organizations. I believe it's possible to put the
22 rulebooks and the correct, you know, documentation

1 in place if there was an approach that allowed,
2 perhaps, provisional registration. You know,
3 subject to meeting the -- what's put in the
4 rulebook and in the rules. And then watched over
5 closely. And there was an open for business date
6 of -- you know, it's been thrown around --
7 December 31. Get the registration done by then,
8 but then watch it over close. I think that would
9 be very, very useful.

10 MR. CAWLEY: Yes. I would like to echo
11 and agree with some of the comments Neal and some
12 of the other guys have said.

13 You definitely need to have a specific
14 date to which we can work towards. We need to
15 know where the goalposts are. That said, it seems
16 to make sense that you need to have some type of,
17 you know, graduation into the process. Wading
18 into it too tight and it creates a chaos, too long
19 and you have the manana effect where it never gets
20 done.

21 We also need to be mindful that we're
22 two and a half years past the financial crisis.

1 And that's, you know -- there has been
2 considerable infrastructure built by some in that
3 period that's ready to go. And there are others
4 who are quickly and deliberately moving towards
5 those goals as well.

6 So again, you need a date. You need a
7 period in which to graduate the market into that.
8 But you need to be mindful that if it is too long,
9 it could have negative consequences.

10 Talking about consequences, you need to
11 have negative -- you need to have some type of
12 carrot and stick. If you don't get -- if an
13 entity doesn't comply with in the given timeframe,
14 you know, what are the consequences? Are they
15 allowed to clear, are they allowed to trade? I
16 mean, you should really take a very black and
17 white view to that. You're either in and ready or
18 you're not.

19 MR. MORAN: And just on that -- on the
20 regulatory capital implications that would happen
21 in the event that you were not to clear certain
22 swaps. Because I think in doing so, that would

1 actually allow for dealers and clients to
2 understand what the implications are.

3 I think a lot of infrastructure has been
4 built. I think we're just waiting for that last
5 10, 15 percent to build out on certain things,
6 such as segregation. And a lot of the additional
7 functionality that needs to exist. But until we
8 have some clarity there, firms on the dealer and
9 client side are looking to allocate resources.
10 And right now, I think without having that date
11 and without having the regulatory capital
12 implications it's difficult to understand, you
13 know, what the penalties are for not clearing.

14 MR. TURBEVILLE: I think it's -- as the
15 one entity that's not going to profit or lose
16 particularly from how this comes off -- public
17 interest is our business.

18 One of the questions -- one of the
19 observations is that there's a lot of discussion
20 about you've got to phase, got to -- but also from
21 the public's perspective, the public doesn't
22 understand necessarily the differences between the

1 various organizations. For instance, clearing.
2 You're either clearing product now or as you
3 sequence additional product that you clear that's
4 in your control. So you can control how you phase
5 in your business or not.

6 It would seem to me that as we talk
7 about how to do this asset class by asset class,
8 or whichever plan is discussed, we need to really
9 talk about the sequencing in a three-dimensional
10 way. How does it work with matching data and
11 clearing? And it would seem to me that the focus
12 really has to more go to the matching side in
13 terms of sequencing and how that works. Because
14 the clearing side will operate -- will phase in
15 itself. And the data side would presumably as
16 well.

17 In terms of sequencing, what gets
18 matched out there and how it gets matched in the
19 market might be the way to think of it. And as
20 the leading indicator of how things get sequenced.
21 I just wonder if you think that's true. That's a
22 --

1 MR. EDMONDS: Personally I think I'd
2 disagree with you there, Wally. Because today
3 when we control out destiny we control our destiny
4 because there are commercial reasons and we make
5 the decision to allocate the resources that way.
6 The other side of the implementation of these
7 rules may not be in the same manner. And it may
8 be mandated -- it certainly seems like it will be
9 mandated that we are required to clear certain
10 products at certain points in time.

11 MR. TURBEVILLE: But only if you seek to
12 have them mandated, right?

13 MR. EDMONDS: Okay. So if I have a
14 business today and I'm clearing credit default
15 swaps and they're mandated to be cleared tomorrow?
16 And I need to expand that to five other pieces of
17 the credit default swap market, today I control
18 that timing. I may not control that timing
19 tomorrow. That's my point. (inaudible) or
20 jeopardize pieces of the business.

21 MR. CAWLEY: Can I ask a question? What
22 kind of timing are the commissions considering?

1 Are we looking at days, weeks? Or are we looking
2 at years or months?

3 MR. COOK: We thought you had it done
4 already.

5 MR. CAWLEY: Well, we're ready to go.

6 MR. COOK: I think that's really the
7 purpose of this roundtable, is to launch a
8 discussion about what is the reasonable timeframe.
9 Obviously we want to -- and how do we get there in
10 the quickest and yet most practical,
11 cost-effective way? So again, speaking for the
12 staff, we don't have a fixed -- on the SEC side,
13 we don't have a fixed timeframe in mind that we're
14 trying to get you to guess at or confirm. We
15 really want to hear what you guys think would be
16 the best way. How would you think about it if you
17 were in our shoes.

18 MR. SHILTS: And I guess just from our
19 standpoint, we did put out these concepts and did
20 throw out a date to say -- the end of this year.
21 So something, you know, that might be reasonable
22 or something to think about in terms of your

1 comments.

2 MR. CAWLEY: Well, I'll say, you know,
3 from where we sit as an execution venue hoping --
4 or expecting to apply as a SEF, you know, we're
5 looking at our clearinghouse counterparts and
6 connectivity into those. And then, you know, once
7 we get connectivity into those, you know, how
8 quickly can we get a trade confirm back with the
9 CME, with LCH, and with ICE and others.

10 We're certainly prepared and have the
11 capability to give a real-time, you know, trade
12 execution message to the CCP. We'd like to
13 receive that message back in real time. We think
14 that that goes a long way to trade integrity, and
15 you know, decreasing settlement risk in the
16 system.

17 MR. LEVI: The IDBs work every day with
18 many technologies and many protocols. And just on
19 your last point, we already have certain areas and
20 certain asset classes where we get more or less
21 real-time confirmation back from the
22 clearinghouse. Actually, commodities, what we

1 think is probably the one where there's the most
2 infrastructure as opposed to the least
3 infrastructure.

4 The point is that each asset class, each
5 market does have different protocols and does have
6 different technologies attached to it. It's very
7 important that we don't come out with a
8 one-size-fits-all regulation, and even timing for
9 when the rules come into place. We certainly
10 agree that a phased approach on an asset class by
11 asset class basis is the right way forward.
12 Although, once again, I would probably argue with
13 Larry as to which should come first.

14 Larry mentioned CDS as being the primary
15 mover. The issue with CDS is, at the moment it's
16 going to be -- there's going to be two sets of
17 regulation. So harmonization between the two sets
18 of rules is absolutely key. If you think of it,
19 those things are traded on a platform today with
20 an index price and a single name price. If we had
21 to develop two platforms with two different sets
22 of regulation, I think that would cause great

1 dislocation.

2 On the subject of dislocation and
3 harmony, it's important that there is harmony with
4 other international jurisdictions. It's very easy
5 for hot money, for hot liquidity to flow from one
6 marketplace to another. We've seen it in the
7 past. And I think that's a very real threat.

8 I'm not suggesting by any means that an
9 entire marketplace will up and leave, but the
10 marginal liquidity and the marginal trades will
11 certainly go to where the regulation is most
12 conducive to trade.

13 I did very much like Adam's suggestion
14 of standard form agreements. I think there's
15 going to need to be many of these between
16 clearinghouses and SEFs and users and
17 clearinghouses. And I think as soon as we can get
18 to work on some of those and set those, that will
19 help things greatly.

20 We've spoken about interim registration
21 of various parties. We believe a shelf
22 registration may well help things whereby there's

1 a fear, irrational or not, of being a SEF or being
2 a swap dealer or whatever else. And the fear is
3 that if you become a SEF when all your other
4 competitors are not SEF, you may lose out business
5 because it's so prescriptive it hurts your
6 business.

7 What we think may work is if we can
8 apply, we can be given registration. But then
9 it's up to us to activate it. Maybe you give us a
10 short window so that when the rules are right or
11 when everything else is ready we can push the
12 button and go.

13 MR. PRITCHARD: Hi. As a swap data
14 repository provider, I'd like to follow up on some
15 of Larry's points. But obviously as a swap data
16 repository provider we agree with that.

17 I think both the chairman and the
18 moderator started out by saying that the topic
19 today is really the sequence and the timing of the
20 rule-makings and their effectiveness rather than
21 the substance.

22 And I think we would agree that getting

1 the data collected into one place where it hasn't
2 been centrally collected before would be a huge
3 asset to the remainder of the process. And we can
4 see that, you know, a lot of the discussions later
5 are about phasing in by a different category, such
6 as asset class and type of market participant.
7 And I think a lot is known about the ODC swap
8 market. But it is also true that there's more to
9 be learned once we get this data in. We'll
10 definitely be learning more. And you know, some
11 of those categories refer to what you might think
12 of as the structure of the OTC swap market. And I
13 think, you know, there are other aspects to that.
14 You know, there's the customized standardized
15 dimension, there's buy side and sell side.
16 There's a level of market exposure, there's
17 bilateral versus centrally cleared, collateralized
18 versus non- collateralized. There's a huge amount
19 of information to be gathered, not just about the
20 line items but about the structure of the market
21 and the benefit of getting all that data into one
22 place and cleaning it a little and looking at it.

1 It's not to be underestimated, to the whole of the
2 rest of this process.

3 And so we strongly agree with Larry's
4 comments about benefit of putting relatively --
5 timing and sequence of swap data repositories up
6 the ordering.

7 As also, you know, just getting a cut of
8 the data, getting the noise out of the data,
9 cleaning up what is housekeeping events from what
10 are true price forming and risk events. Doing all
11 of that, an initial cut that, on the data, will
12 help answer a lot of these questions that are much
13 more substantive to the ordering.

14 MR. TURBEVILLE: Just to clarify, it
15 sounds like what both of you are saying is that
16 there's a sequencing associated with swap data
17 repositories. Which is getting the data in,
18 cleansing it or ordering it, and analyzing it.
19 Dissemination is maybe a next order event in terms
20 of -- which quite interests us is, how information
21 gets disseminated to the marketplace. But the
22 first stage in terms of data is capturing it,

1 looking at it, and making some sense of it. And
2 then dissemination is a next stage event.

3 MR. THOMPSON: Well, what I would say
4 is, what you have to have is the regulators have
5 to understand the qualities of the marketplace.
6 So regulator transparency into the market, which
7 is what I and what Ralph was just talking about,
8 are key to understanding that first. And then
9 making decisions by the regulators as to what
10 should be disseminated to the public clearly would
11 be something that they would then be in a position
12 to make.

13 But a lot of the decisions about the
14 qualities of the market, what should be cleared,
15 what is liquid, what is not liquid, how easily
16 you're going to be able to handle liquidations in
17 this marketplace, to go to the issues that Chris
18 raised earlier about what additional risks they're
19 taking on, the understanding of those things all
20 relate to having good data. And I would agree on
21 the issue of harmonization, that you not only need
22 harmonization among the commissions, which is

1 critical. But you also need international
2 harmonization.

3 This is a global marketplace. And the
4 information is going to come from many different
5 areas. We and the trade information warehouse
6 already receive data from 90 different countries.
7 And you want to continue that if you want to have
8 a view as to what the marketplace looks like. You
9 don't want to fragment that.

10 So it's critical that we look at the
11 issues of harmonization, not only among the
12 commissions but clearly among the international
13 standards. And therefore, you need to look at
14 what are the international standards that are
15 going to be governing this?

16 What I would suggest is, you look at
17 CPSS-IOSCO, where the SEC is co-chairing a group
18 looking at this very issue. They've come out in
19 May of 2010 with some preliminary standards. We
20 think those standards are very good. We think
21 those are the standards that should be met by at
22 least swap data repositories, if not other

1 clearing agencies that they'll be coming out with.
2 Because there's an international flavor that deals
3 with risk and those issues there. So, we would
4 suggest -- and by the way, we think the
5 commissions in that rule-making are taking into
6 account the CPSS-IOSCO rule-makings in what
7 they're coming out with. It's somewhere in the
8 details.

9 And what we would suggest is that what
10 you really want to do is, you want to get the
11 information flowing to you. You don't want to be
12 so prescriptive the first time around that the
13 information doesn't get to you because it's going
14 to take a long time to implement that exact rule.
15 That you come up with something that's general
16 enough where the information will get to you, and
17 then once you have the information and are able to
18 study it, then you can write a more specific rule
19 as you get closer to it. And we would suggest
20 that, you know, that is an approach that you might
21 want to take.

22 Thank you.

1 MR. SHILTS: Could I just make a
2 comment? And then a question related to that.

3 And I guess I would definitely agree
4 that for implementation of certain of the mandates
5 in Dodd-Frank, that having good information is
6 essential, whether it be for real-time reporting
7 or mandatory clearing or the trade execution
8 requirements. But I think what we're trying --
9 thinking about here is, is that necessary to be in
10 place before we go ahead. Kind of people talked
11 about a parallel path, and having procedures and
12 rules in place for registering for clearing
13 organizations or for SEFs to trade swaps. Not
14 necessarily to have the mandates in place, but to
15 provide some certainty -- as was mentioned about,
16 you know, everybody wants to get going and know
17 what's -- to try to minimize this time lag before
18 you have all the SDRs operational and the data in
19 place to have kind of on a parallel path where
20 entities can come in, be registered as clearing
21 organizations and SEFs for trading swaps, but not
22 necessarily the implementation of the various

1 mandates.

2 So, just thoughts on that.

3 MR. OLESKY: Yes, if I could just make a
4 comment on that. When it comes to the phasing and
5 timing of different things, I would echo what
6 someone said earlier about having some certainty
7 on these timelines is critical in terms of us
8 being able to efficiently allocate our capital.
9 But we think about phasing and timing at Tradeweb,
10 we break it into three groups. We have our
11 clients, we have our own technology, and we have
12 what we think is a registration readiness mandate.

13 And if we look at each of those three
14 components and we think about which one should go
15 first, which one can we be ready for as early as
16 the end of the year? We would agree that the
17 registration process is the one that could open
18 things fairly easily.

19 And I think in support of that, we think
20 that, you know, market participants will gain from
21 having that certainty as to who the SEFs are, who
22 the central counterparties are. And it will allow

1 this ecosystem to start to develop, too, from a
2 technology standpoint and a readiness standpoint
3 to tie into these central hubs. Because in a
4 sense, the SEFs and the central counterparties are
5 the hubs here, and that's the first thing to move.

6 When we look at our client readiness,
7 you really have to bring in -- and we're going to
8 talk about this later and the clients themselves
9 will represent it -- you're talking about clearing
10 readiness, really, is I think the big stumbling
11 block or the big challenge there. And that's on a
12 different path. And that, I think -- that's going
13 to take quite a bit longer.

14 Technical readiness for the SEF really
15 will be based on when we get finalized rules. So,
16 that's one -- it's hard to comment on not knowing
17 exactly what the final rules will be, but I think
18 that's a relatively easy thing once we know what
19 the rules are.

20 But just to reiterate, registration
21 readiness we think is something that could be in
22 the early phase.

1 MR. CAWLEY: Yes, I would echo Lee's
2 comments. Really the central hub is clearing and
3 execution together. And you need to get each one
4 of them up and running, and then you need to make
5 sure that they connect and that they comply with
6 the open access provisions of Dodd-Frank and so
7 forth. And leverage whatever technology
8 infrastructure may or may not exist, and then go
9 from there.

10 But I think the key really is -- with
11 all due respect to the SDRs here -- it really is
12 margin and clearing and then execution. Perhaps a
13 parallel track on trade reporting on a post-trade
14 basis. But really, the key here is linking the
15 clearinghouse to the SEF.

16 MR. DeWAAL: Just a quick comment.
17 Depending on the view of what open access is and
18 how diverse should be the number of clearing
19 brokers at clearinghouses, obviously it's very,
20 very important for firms like ours to know whether
21 we're even going to be invited to the game. So
22 for us it's critical to understand what the

1 membership requirement is going to be, so that
2 rules related to membership requirements are
3 obviously, to us, the most important thing.
4 Because if we're not invited we're not going to
5 invest in the technology. And I think as some
6 people have said, and you'll hear later on, the
7 devil is in the details. It's not quick and easy
8 and it's not cheap to hook up. The more SEFs, the
9 more decisions that are going to have to be made
10 by brokers like ours as to who to connect.

11 If there's a date that's relatively
12 quick, it's going to be very, very difficult to do
13 it. There was some suggestion before about
14 encouraging things before they were done. I think
15 that's a great idea. But again, to us first and
16 foremost, we need to have certainty as to whether
17 we're going to be invited to participate.

18 MR. MORAN: The only thing I'd add to
19 that is, I think -- obviously there's been a lot
20 of discussion around the connectivity and
21 clearing. The one part that I think we might have
22 overstepped is the legal entity aspect where most

1 firms -- especially in most of the bank holding
2 companies -- are derivative booking entities. So,
3 how does that actually come into play with
4 regulation of registering as a security swap
5 dealer from a foreign company, who actually -- how
6 that comes into play with derivatives that are
7 booked with non-U.S. counterparties within that
8 entity. And to be honest with you, that will
9 really drive a lot of inter-company trades and
10 between different affiliate trades. And it
11 becomes actually more of an issue around how we
12 actually manage our derivative books today. Most
13 dealers -- the derivative portfolios are managed
14 on a global booking basis.

15 MR. MAGUIRE: I think just going back to
16 the sequencing. I think you are sort of touching
17 on two of the key facets of Dodd-Frank here about
18 systemic risk reduction on one hand, but also
19 about fair open transparent markets as well. And
20 it depends what you're solving for first, I guess.
21 I decision needs to be made. I think we'd like to
22 solve for everything at the same time, but in

1 terms of sequencing it's not going to be easy to
2 sort of draw a line through that.

3 And I'm going to agreement with quite a
4 few people and disagreeing with quite a few as
5 well, I guess, on the SDR side. You get a picture
6 of what the data is. But I guess my question is,
7 what do you do with that, then? What do you
8 actually do with that if another Lehman defaults
9 or something along those lines happens again?
10 From the clearinghouse standpoint, by definition
11 we deal in good data as well. We have to have
12 good data because we risk managing the book. And
13 if there is a default of a client, a clearing
14 broker, or otherwise, we sit behind that data and
15 we risk manage it and we trade execute hedges on
16 why into position and put markets back to an
17 orderly state.

18 So, if you're solving for systemic risk
19 reduction, I think really the clearing mandate is
20 probably primarily the one to go with first.

21 Obviously, connectivity with all of the other
22 infrastructure providers. Whereas if you have

1 more of the fair open access, which I think we
2 have to solve for all of these things, is a
3 probably slightly different answer.

4 MR. COOPER: Can I just maybe try to add
5 a little more, I guess, flesh to the bones of what
6 this implementation would be?

7 First, just as to the SDR comment. I
8 don't want to forget, there's a lot of data that's
9 currently available -- historical data -- that can
10 easily be mined and be incredibly useful in
11 helping sequence and understand product classes,
12 participants, et cetera.

13 A couple of comments have focused on,
14 you know, we need to know what the rules are. And
15 we need to know what the data is. And of course
16 that's critically important. But the rules will
17 be finalized. I mean, thanks to the enormously
18 hard work of CFTC and SEC staff, I think we're
19 relatively close.

20 What we can start focusing on is a sort
21 of a T+ regime. T being date rules are finalized.
22 Even before rules are finalized, as I suggested

1 before, by side dealers, clearing members,
2 industry associations can sit down to try to
3 complete industry documentation. Standard form
4 templates. T, the rules are finalized. Everybody
5 can kind of leap into action, understand what they
6 need to be doing.

7 Within a day that might, you know, be T
8 plus 180, CCPs and others can work to implement so
9 that they're fully compliant with the final rules
10 that have been released. What does that mean?
11 Open for business. What does open for business
12 mean? It would be all the things that we've
13 talked about that Dodd-Frank requires. Open, non-
14 discriminatory access for clearing of trades,
15 real-time acceptance of clearing of trades, and
16 indemnity between clearing members. All of these
17 things can be done sort of between T and T plus
18 180.

19 During that same period of time, I would
20 propose, there could be publication of phase in
21 mandatory 1, sort of cleared products based on a
22 lot of the information we're able to mine from the

1 SDRs that exists right now as to what are the most
2 liquid instruments that have historically been
3 traded.

4 You can move towards, then, preparation
5 for kind of a voluntary clearing launch, if you
6 will, that would take place let's just say between
7 day 180 and day 240, where dealers and buy side
8 are permitted to voluntarily clear these products
9 to ensure testing and working to identify approved
10 clearing member -- enter into all required legal
11 documentation. Work to become, you know, fully
12 operational. All leading towards a mandatory
13 clearing date. And there may not be a big baying
14 one date for all products, but a phased in date
15 which, if we have sort of rule finalization by
16 July 13, could be as early as March 1, I propose,
17 2012 for mandatory clearing.

18 And whether or not those are the exact
19 dates and the exact sequencing -- this is sort of
20 not reinventing the wheel here. There is a way to
21 devise a project plan that is rational and
22 sequences things with all relevant stakeholders

1 around the table. And I think that's, in fact,
2 what the questions you're asking are driving
3 towards.

4 MR. TURBEVILLE: Can I just ask the
5 regulators a question? The way I understand it is
6 that with clearing and the mandatory clearing
7 thing that occurs, is that everything that's being
8 cleared now is being deemed to be submitted for
9 mandatory clearing approval one way or the other
10 -- deemed to be. And so there's a process that's
11 going to happen where the -- you'll decide whether
12 items are being -- are going to be mandatorily
13 clearable or not. Those items will have already
14 been cleared and the systems for clearing them are
15 going to be there.

16 When the mandatory clearing decision
17 gets made, what will happen is nature will take
18 its course and the rules will require a certain
19 kind of matching of buyers and sellers on those
20 instruments. So, a lot of this really does have
21 to do with registration and approval of rules and
22 getting rulebooks in place. And sequencing will

1 be perhaps more organic than has been suggested in
2 a lot of our discussions. And I'm sure, including
3 mine. I'm not saying I had it right.

4 But it just occurs to me there's an
5 organic element to this that will occur. Do you
6 see that to be sort of true?

7 MR. LAWTON: I think so.

8 MR. OLESKY: If it's okay, I wanted to
9 go back to a comment Robert Cook made at the
10 outset about the consistency of timing between the
11 agencies and how critical is it.

12 If we're talking now about sequencing in
13 and we put forward the idea that registration is
14 first, that's perhaps a first thing, year in kind
15 of thing. And you asked the question, how
16 important is it for each of the SEC and CFTC to
17 have the same timing? And I think that that is --
18 I mean, there's a lot of issues here, but that is
19 a very important issue in the event there's
20 differences.

21 So, if there's no differences, actually
22 timing is not as important. If there are

1 differences, timing is very, very important
2 because, you know, when you're running the
3 business and you have to decide, okay, do we
4 invest in this technology, do we get ready for
5 this structure, not having it happen at the same
6 time if there's differences makes it that much
7 more complicated to implement. And frankly, that
8 much more costly.

9 So on the timing between the agencies,
10 I'd say, you know -- we would be in favor of as
11 few differences as possible. But in terms of
12 registration, if it's the same, the timing is not
13 as essential. If there are some differences it
14 becomes a big cost factor and a management
15 challenge.

16 MR. LEVI: In terms of data for the SDRs
17 -- and back data that Adam mentioned. The WMBA
18 would be very happy to make our data available to
19 the potential SDRs.

20 I think you'll agree that the back
21 testing of that data will give us clues as to
22 which asset classes may go first, which contracts

1 would be available for clearing, how long that
2 that would take you. However, the flipside of
3 that is that it's important that once things are
4 made available for clearing that all the front
5 end, the trading -- the different trading
6 technologies and the different trading
7 methodologies -- get to start at the same time.
8 The worry would be that the clearinghouses that do
9 have the vertical silos push it towards themselves
10 first.

11 It's fairly important that the SEFs get
12 the same recognition and the same timing as the
13 DCMs.

14 MR. LAWTON: One question on the
15 clearing side. People mentioned a number of
16 different things that may raise issues, and I'm
17 wondering which aspect of the proposed clearing
18 rules probably creates the biggest obstacle to an
19 open for business date? Is it, for example, risk
20 management issues? Is it open access issues? Is
21 it client clearing issues? Is it connectivity
22 with other platforms issues?

1 Is there one? Or is there any sequence?
2 Which would you say is the hardest?

3 MR. EDMONDS: You know, for us I don't
4 think it's the rulebook. I don't think it's
5 getting the rules set. I mean, certainly once the
6 final rules are published by the respective
7 commissions I think we could respond very quickly
8 to that. I think there will be some time in
9 digesting that for the industry. I mean, a number
10 of participants today have talked about the right
11 documentation existing between clearing members,
12 CCPs, SEFs, you know, the governance structure
13 around that. But, you know, we can't even really
14 begin that in earnest until we understand the
15 magnitude of the proposed rules.

16 So assuming that we could get those
17 things done, certainly the risk management issues
18 and the level of prescription that you're going to
19 put around the risk management protocol could have
20 potential impact. Don't know yet because don't
21 know where we are on the final rules. Some of --
22 you know, we all have different flavors of it.

1 And we would all sit here and represent to you
2 that we are compliant and we are very happy with
3 the way we run the book and how we sleep at night
4 on that front.

5 If I look at the other client access
6 side, certainly I think it's been official for all
7 of the CCPs to have as many customers as possible.
8 So there's no lack of desire to open up that
9 universe to the largest group possible. However,
10 under what terms? What I mean under what terms
11 is, you know, again how prescriptive is that going
12 to be? Dan raised earlier the idea around
13 individual segregation and what that would mean,
14 Sunil as well. And understanding the impact of
15 that business.

16 I mean, certainly CCPs have developed
17 over time based on, you know, certain industry
18 protocol that existed, some borrowed from the
19 futures business, some borrowed from, you know,
20 prime dealer relationships that existed over time
21 to get to kind of the best in class. If we're
22 going to significantly impact that with the rule

1 piece, that then also has unintended consequences
2 potentially of impacting risk management
3 structures -- default waterfalls Dan raised
4 earlier -- you're talking about a magnitude of
5 change there that will take a little bit longer
6 time than something as simple as rulebooks and the
7 right level of documentation.

8 I don't know how we can give you a more
9 complete answer until we know exactly the level of
10 magnitude you're envisioning.

11 MR. THOMPSON: Again, though, it strikes
12 me that what you're talking about is information
13 and information -- data mining. Very much what
14 you mentioned earlier. That obviously there is a
15 lot of information right now that's available.
16 But there should be even more information that's
17 available, and with the development of the SDRs
18 and putting that in the proper sequence, you can
19 make the right decisions about what should be, you
20 know, the compromise together with the SEC, the
21 CFTC, as well as going to the international
22 regulators and making certain that they have the

1 same information available so that you don't have
2 a situation where you're going to have different
3 rules for different parts of essentially the same
4 clearer doing different things because there was a
5 lack of information and a lack of knowledge about
6 the risk tolerances and the risk structures of
7 that particular asset class.

8 So again, it goes to the issue of
9 putting the back first, developing that, making
10 certain that that information is rich, that
11 information is useful to all of the regulators,
12 it's in place, and that that can be put in place
13 relatively quickly. There's no doubt about that.
14 That from a standpoint of right now, we've been
15 working with buy side as well as sell side on a
16 structure. Where all of them would agree to --
17 you know, where that information would be
18 available to regulators not only here in this
19 country but obviously internationally as well.
20 Because it's a global marketplace.

21 To make certain that the right decisions
22 are made in a timely fashion, and that you don't

1 have a situation where a market player would not
2 necessarily be able to make the right decisions
3 about allocation of their resources because there
4 was wrong information that was given to them.

5 I just think it makes sense. I think
6 Ralph, you know, would agree with that point.

7 MR. CUTINHO: From the clearinghouse's
8 perspective, I think we want to make two points.
9 First is that when we decide to clear something we
10 are taking very informed risk management
11 decisions. So, a lot of things go into that
12 decision and an analysis of the liquidity of the
13 product. We also work with our member banks to
14 decide how the product will be liquidated, not
15 just by us but by the members themselves. If one
16 of their customers were to fail -- to the member.
17 So a lot of this analysis goes into deciding
18 whether a product should be cleared or not.

19 So, we don't believe that, you know,
20 data should be in an SDR before clearing has to be
21 done. Case in point as empirical evidence. So
22 interest rate swaps have been cleared for a while

1 right now. And we've also started providing
2 clearing services for clients. So, that's the
3 testimony. We have also sustained shocks from
4 Lehman, and a lot of other shocks over the last
5 seven to eight years, you know, clearing these
6 products.

7 In terms of what is the most challenging
8 for a clearinghouse? Operationally, I think we
9 are ready. We are ready to receive the trades, we
10 are ready to respond in real time.

11 From a risk management perspective, we
12 have risk management in place as well as a
13 waterfall process in place. We've come to the
14 CFTC for an approval for these products.

15 I think, as Chris pointed out, it's --
16 you know, the changes in the segregation model is
17 something that will affect the balance. So as far
18 as that is concerned, you know, we would need more
19 time to analyze those changes. And those could
20 have an impact on the margins or on the default
21 waterfall.

22 Thanks.

1 MR. MAGUIRE: From the LCH.Clearnet
2 Group's perspective, segregation is something that
3 we already lie with in Europe, so it isn't a
4 challenge for us to offer that. It doesn't really
5 change a great deal in terms of implementation for
6 ourselves.

7 But in terms of the key rule-makings
8 that are the biggest impediments, I think it's to
9 John's point. The DCO risk requirements, which is
10 all-encompassing, really. There's the member or
11 the open access to the membership requirements and
12 the associated restructuring and default
13 management processes around that. That's probably
14 the key thing for us right now.

15 And I think another thing, there has
16 been quite a thread throughout the conversation
17 around trade registration. And there's points
18 about real-time registration. I think if you
19 think about what the clearinghouses are supposed
20 to do, it's take risk out. It's reduce risk.

21 So we have an approach and a policy
22 whereby we take trades in, will confirm back to

1 the execution affirmation platform immediately
2 that would receive those that they're good trades.
3 But putting us on risk without calculating the
4 incremental risk, making sure the collateral is
5 covered, is not something we would advocate.
6 Maybe it's different from other traditional
7 markets, but we think we need to know what our
8 risk is and have it covered before we confirm it
9 back.

10 So, CCPs have got to work to compress
11 that time frame. But I wouldn't advocate
12 execution equals clearing, because that puts
13 clearinghouses at risk, essentially. And that's
14 not really the intention, I don't think, here.

15 MR. COOK: I'd like to tie some of the
16 comments about risk and needing clarity on some of
17 the rules of the road back to something Chris said
18 earlier about dealers needing to pick which
19 entities to book it.

20 So we've created a little bit of an
21 artificial distinction, just as a practical
22 matter, by dividing into two panels. You know, we

1 have this panel is mostly about SEFs and clearing
2 agencies and SDRs. And the panel to follow will
3 be more about dealers and major swap participants.

4 But I think Chris was making the point
5 that the dealers need to know maybe about what the
6 capital rules are, other rules are, to know which
7 entity they're going to use as a booking entity.
8 And I'd like to know whether -- and that, in turn,
9 could affect the rollout of clearing and SEFs.

10 I'd like to hear from both the clearing
11 side and the SEF side. If you're hearing that
12 when you talk to your clients about -- and
13 customers about the implementation phase in, and
14 if you agree that that is part of the puzzle that
15 we can't view the market infrastructures entirely
16 separate from the rollout of the dealer rules.

17 MR. CAWLEY: Yes. From a -- you know,
18 from a market intelligence standpoint, we hear
19 anecdotally all the time from customers who are
20 looking at CCPs right now and deciding where to
21 put their portfolio. And there seems to be, you
22 know, solid negotiation going on there, as one

1 would expect. But there is a disparity there.
2 And it needs to be cleaned up before you move
3 forward, certainly.

4 MR. SHILTS: Any other comments on that?
5 I'd like to turn to another topic. Is there
6 anything more on the clearing aspects?

7 MR. CAWLEY: Just one -- just to echo
8 what Gary DeWaal said earlier when it comes to
9 open access. I think the commissions really need
10 to define what open access means and how it needs
11 to be followed. Which FCMs can participate, which
12 FCMs cannot? What are the capital requirements?
13 What are the operational requirements that go
14 along with membership? And how they will affect
15 -- and how the clearinghouses are addressing
16 those.

17 But specifically, you know, open access
18 in terms of FCM participation. But also open
19 access in terms of workflow. It's really
20 important that we have symmetrical workflow where
21 trades are submitted as directly and as quickly as
22 possible from a SEF to a clearinghouse. So, you

1 know, what are the components that go into that?

2 And when I say symmetrical, I mean that
3 the SEFs submit both the buy side and the sell
4 side leg of any trade simultaneously to the
5 clearinghouse. That it doesn't get submitted by
6 one of the two parties on behalf of the second
7 party. It becomes very convoluted and becomes
8 very complex, which increases latency in the
9 system.

10 So again, being mindful of open access
11 in terms of participation. But also in terms of
12 open access in streamlining the workflows to
13 ensure that, you know, trade integrity is
14 maintained.

15 MR. SHILTS: Okay. I just -- the next
16 topic we wanted to talk about relates to some of
17 these same issues related to SEFs. And I'll just
18 tee it up kind of quickly and then we'll take a
19 short 10-minute break.

20 But as we discussed, I mean, there's a
21 clearing mandate and then there's a trading
22 mandate for a better term. And that would apply

1 to swaps that are -- the trading mandate would
2 apply to swaps that are subject to the clearing
3 mandate, that are then listed by either some
4 designated contract markets for commodity swaps or
5 the SEFs. And then those that the -- in the case
6 of the -- ours, that the CFTC has determined are
7 made available to trade. And then they would have
8 to be executed either on DCMs or SEFs under some
9 pre-trade transparency provisions. And we put out
10 various proposals, or they'd be in an order book,
11 or certain RFQ-type systems.

12 But before there is a trading mandate --
13 and I think the -- to kind of frame the discussion
14 is that we know that there's a number of entities
15 that are thinking about or developing systems to
16 become SEFs, to trade swaps. So that -- we want
17 to focus on in the next discussion is what types
18 of requirements, provisions, roadblocks are there
19 for these various entities to become open for
20 business or operational to trade swaps? Again,
21 kind of thinking about it in the context of if we
22 had a date of, say, the end of the year -- just

1 for something to think about.

2 Again, it's -- the focus on the
3 discussion will be on becoming operational to
4 trade swaps. It won't be to implement the trading
5 mandate, which has been discussed. May need
6 additional information to have determinations
7 about what swaps are mandatorily cleared. They
8 might be listed, we may need data from the swap
9 data repositories, or whatever. So it's, again,
10 to kind of focus on what's needed, what are the
11 roadblocks, what are the key things that need to
12 be in place to have open access? To have your
13 self-regulatory responsibilities, et cetera. What
14 would need to be done to be provisionally
15 registered? And then thinking about that longer
16 term, how much time would it take to become fully
17 compliant with all of the various requirements
18 that might be imposed to execute swaps in a
19 transparent way to meet the -- for those that are
20 subject to the mandatory trade execution
21 requirement?

22 So think about that. And then let's

1 just take like a 10-minute break. And hopefully
2 start maybe at 5 till 11? Thanks.

3 (Recess)

4 MR. SHILTS: If everyone could please
5 take their seats so we could get restarted?

6 Okay, as I kind of teed it up before we
7 took the break. Again, the question or the topic
8 we want to kind of focus on now is kind of what
9 rules or processes or minimum capabilities should
10 be in place before the agencies permit agencies to
11 operate as a SEF? At least provisionally. And
12 then, after that if there's a provisional
13 registration to how much time -- what are the key
14 issues that would need to be addressed before they
15 could come into full compliance with all of the
16 SEF requirements, including those related to the
17 trading mandate. So anybody want to start the
18 discussion?

19 MR. LEVI: We are open and operational
20 now with very many of the attributes that we
21 believe will be required to become a SEF. How
22 long it takes us to become compliant with every

1 regulation depends on what those regulations are.

2 I'll point again to the harmonization
3 question, both between the two regulatory bodies
4 and harmonization with international
5 jurisdictions. The rulebook is an important piece
6 for us. In order to provide a well thought-out
7 rulebook will take some time, and the danger is
8 also, once again, that there are differences
9 between the rulebooks of the different SEFs.

10 The WMBA has been in contact with many
11 other potential SEFs, and we feel that a common
12 rulebook or a CRO, a common regulatory
13 organization for our industry, may well solve
14 that. It's some way towards Adam's idea of
15 standardized documentation and a standardized
16 rulebook. So we think that would help.

17 Once again, depending on which asset
18 classes go first or which asset classes are
19 amongst the first phase will determine how long it
20 takes us. Sending data to an SDR is relatively
21 easy, and we could do that more or less -- well,
22 within 30 days, I would say.

1 The APIs, or the links with the
2 clearinghouses, are obviously very important and
3 those things do take time, depending on the
4 complexity of what's given to us.

5 MR. SHILTS: Could you just explain why
6 you think the asset class would matter in the
7 context of an entity that wants to operate as a
8 SEF? And see -- you know, they could decide what
9 swaps they're going to trade. So why -- I guess
10 I'm just -- if you could elaborate why you think
11 asset class would be relevant?

12 MR. LEVI: Because some asset classes
13 are pretty close to the regulation right now. In
14 my mind, commodities, as I was -- as I mentioned
15 before, are pretty close. A lot of it trades on
16 the screen. Nearly all of it is cleared at one
17 clearinghouse or another. We send our
18 confirmations either to ICE or to CME. So a lot
19 of it is done.

20 You could add a few finishing touches,
21 i.e., it has to go to an SDR as well, which is
22 what, as I say, is relatively easy. And you are

1 more or less in place. And a lot of those markers
2 do trade on a continuous basis. If you go to IRS,
3 where there's no real clearinghouse in the U.S.
4 doing any great volume, where it's still not
5 really traded on screen, that may take longer. If
6 you go to CDS, where there is certainly a
7 difference at the moment between the CFTC rules as
8 proposed and the SEC rules as proposed. That
9 those markets -- that the index market and the
10 single-name market are obviously very
11 interlinked. We have to get that right between
12 the two to try and develop for one market, and one
13 set of regulations, and another set of regulation
14 would be extremely difficult.

15 I say depending on asset classes because
16 some already have most things in place. And
17 others are coming from the wilderness, really.

18 MR. EDMONDS: Yes, Ron, I want to touch
19 on what you raised a little bit earlier about the
20 CDS market and how, you know, developing for two
21 different structures is potentially problematic.
22 At the end of the day -- if I could just modify

1 your statement just a little bit -- it's really
2 their one market. And the regulatory status is
3 making them two. And that regulatory status
4 making them two creates capital inefficiency,
5 which is problematic for the market.

6 And so I think if you'd be so kind to
7 let me amend your statement, it's really those
8 things that you're looking at to try to get the
9 most capital efficient ways that the market
10 behaves similar to the way it has developed over
11 time.

12 MR. LEVI: Chris, I'll happily take the
13 correction. It is one market, and the two
14 different sets of regulation will be problematic.
15 And once again, those are markets I think that
16 risk going offshore. That they're fairly easily
17 traded -- certainly the index market, I think,
18 could easily trade elsewhere.

19 CHAIRMAN GENSLER: Rick, I'm going to do
20 an audible here. Is the most important thing
21 portfolio margining, then?

22 MR. EDMONDS: As it relates specifically

1 to the CDS market, because --

2 CHAIRMAN GENSLER: Yeah, that's what I'm
3 asking -- I'm asking about credit default swaps in
4 between our core nation with the Securities and
5 Exchange Commission.

6 MR. EDMONDS: That affects governance,
7 that's going to affect risk requirements, that's
8 going to affect default waterfall management.
9 From a clearing to the CDS, absolutely that is the
10 biggest thing at the moment. How do we account
11 for it in class? Who trades single names versus
12 doesn't trade the other, potentially? How we
13 handle the registration of potential members --
14 that would be a very important piece, if not the
15 most important.

16 CHAIRMAN GENSLER: I'm sorry, so
17 portfolio margining is not the most important?

18 MR. EDMONDS: No, it is. I'm saying it
19 spans across all of the different other elements,
20 is the point I was trying to make.

21 CHAIRMAN GENSLER: All right, thanks.

22 MR. OLESKY: In terms of the limitations

1 -- going back to your question -- I think we look
2 at this -- we break it into two things. One sort
3 of process rules and the other is operational
4 rules. And on the process side of things,
5 rulebook, criteria, that sort of thing, we think
6 that's relatively -- that's the first -- that
7 should go first.

8 The operational --

9 MR. SHILTS: And would that be something
10 doable like by the end of the year?

11 MR. OLESKY: Yes, we think it is. We
12 think it is. Operational is a little different.
13 So you're monitoring surveillance, audit -- you
14 know, we haven't really done this before. So when
15 you get into the operational aspects, if we're
16 going to outsource that, if we're going to build
17 internal teams to do it, I think that will take a
18 little bit more time and investment. So we would
19 suggest process first, operational second when it
20 comes to this specific issue.

21 MR. SHILTS: And just as -- and in
22 response to your comments, and then for others,

1 what particular requirements or procedures or
2 oversight procedures should be in place to people
3 think to be -- say, to be provisionally
4 registered? I know you're saying that there may
5 be other things that may have to be phased in, but
6 do you have any thoughts on what should be in
7 place initially?

8 MR. OLESKY: I would stick with the sort
9 of rulebook criteria oriented things first. What
10 that does is, it sets up these hubs that are SEFs
11 or clearing corps -- whatever role you're going to
12 play -- for the marketplace as a place to
13 gravitate towards so that you've got -- because
14 there's hundreds and hundreds of clients out
15 there. There's going to be a more limited subset
16 of SEFs and clearing corps. And I think it allows
17 the market to identify who they're going to
18 develop to with technology and relationships and
19 clearing, et cetera, so.

20 MR. BRADY: Yes, I'd like to make just a
21 couple comments. What I think -- Lee mentioned,
22 you know, the sort of rulebook readiness and then

1 getting your own platforms ready and then clients
2 being ready. And, you know, we look at the world
3 in a similar fashion.

4 I think there's a general consensus here
5 that the rulebook side, the process side. It is
6 possible to get ready and open for business date
7 of the end of the year, particularly if there is a
8 provisional registration allowed and there's more
9 of a principles-based, you know, approach that's
10 applied.

11 Operationally, you know, our own
12 platforms. I also believe there's a high degree
13 of confidence that we can be ready. I mean, we're
14 a functioning DCM today with an RFQ based platform
15 and moving to a central limit order book platform
16 later this month. But I mean, the various
17 platforms here around the table are, I think,
18 ready to go. And with a date certainly, you know,
19 could be ready to go.

20 So then that leaves, you know, the
21 client readiness and to Adam's, you know, timeline
22 which we, you know, generally support the approach

1 of T plus 180. And then having a voluntary phase
2 in, we think that's important to test systems.
3 And then I think the question would become then,
4 you know, who comes next? And I think there is
5 enough data out there to look at the large clients
6 and sort of segment this and put the -- you know,
7 perhaps the mandates on the dealers and the large
8 clients first in the first wave. You know, I
9 think you're able to find -- and then perhaps
10 phase, you know, a tier two of clients. And we
11 can go into all the -- you have other panels
12 around particular issues faced by certain types of
13 buy sides.

14 But I think with that sort of reasonable
15 approach, knowing that we can get our own house in
16 order and then really focusing on the client
17 readiness and phasing that intelligently is very
18 important. And then, you know, with that
19 approach, you know, we're big proponents that the
20 trading mandate can come, you know, fairly closely
21 on the heels of the clearing mandate. And that
22 that trading mandate actually is what delivers a

1 lot of what Dodd-Frank is all about. It brings
2 more transparency and sort of price setting to the
3 clearing -- DCOs that they can risk manage those
4 correctly. And also brings, you know, other
5 counterparties to, you know, distribute out the
6 risk that's being held.

7 MR. OLESKY: If I could -- I agree with
8 everything Neal just said. I just want to add a
9 further clarification in terms of the rules.

10 One of the concerns we've had is, you
11 know, so much is going to be changing here in
12 terms of the liquidity in the market, the
13 participants, the way participants interact. We
14 would encourage both commissions to be flexible in
15 terms of our rule-making so that we can adapt to
16 those changes. Because we fully expect a lot is
17 going to happen, and we're not all going to get it
18 right from the very beginning.

19 So we are saying, a good place to start
20 is with the rulebook. Let's get that out there
21 and plant the flag. But recognizing that as
22 things transition into this new market environment

1 there's going to be change. And we would want the
2 flexibility or be able to have flexibility
3 available to us to adjust to that in terms of
4 different trading protocols, different business
5 models.

6 MR. COOPER: And I think that ability
7 for the trading platforms to evolve is really key,
8 and in fact will come the sooner we launch central
9 clearing. And good clearing -- that is with
10 straight-through processing and all the attributes
11 that really make for a robust platform. SEFs and
12 trading facilities will naturally be pulled along
13 in a way that is very, very efficient, and
14 supports the launch of the central clearing.

15 I think the key is that there be open
16 access through a wide variety of modalities and
17 execution facilities in order to foster
18 competition, to make the platforms even more
19 robust and meaningful. But again, the key is
20 launch central clearing first, the right kind of
21 good clearing, and the SEF sort of structure will
22 naturally, quickly evolve out of that.

1 MR. CAWLEY: Just from Javelin's
2 standpoint, I would agree with what Adam has said,
3 and others.

4 I think every venue here -- execution
5 venue -- has done test trades that are Dodd-Frank
6 compliant. We certainly did our first last
7 summer. And I think from the most part, I
8 understand that the technology is built and
9 procedures and operational readiness is moving
10 right along.

11 For us, where we sit right now is
12 connecting into all CCPs, which we currently do
13 not. Not for want of, you know -- we're just
14 waiting to see what the rules are coming down, and
15 we're negotiating to come in. We connect to some
16 and we'd like to connect to more.

17 So, the idea then of getting this done
18 in a fairly -- from an execution standpoint is --
19 you know, is in a matter of months, I have to be
20 candid. I agree with Adam's earlier comment
21 before the break, where he set a schedule of six
22 months. From an execution standpoint, I would

1 even argue sooner. We were certainly looking
2 towards July as the start date, with a fairly
3 tight graduating window in shortly thereafter.

4 But then again, it depends on what you
5 want on day one. Assuming you have open access
6 and assuming you got direct connectivity and
7 trading systems that comply in terms of
8 pre-imposed trade transparency.

9 You asked the question, well, what --
10 you know, notwithstanding, what rulebooks? You
11 asked the question what should the bare minimum be
12 for a SEF to go live on day one, and then
13 graduating it in. I agree with Lee's comment
14 earlier that rulebooks can run in tandem in the
15 background once we demonstrate some -- you know,
16 some degree of compliance and sophistication so
17 customers have a basic understanding of how we're
18 going to look.

19 One of the items, though -- it comes
20 back to, what do you want on day one vis-à-vis
21 trade certainty? And I know we're going to talk
22 about this on another panel. But if you come in

1 and say, well, we'd like to have real- time
2 connectivity from SEFs to CCPs and then, likewise,
3 from the CCPs back to SEFs, I've only heard
4 probably one CCP say that they're prepared to give
5 that real-time connectivity back.

6 We're certainly prepared from the SEF
7 standpoint to deliver a trade on a real-time basis
8 with the expectation or the hope that we get that
9 connectivity back. Now behind that, there's some
10 workflow issues that need to be addressed, and
11 certainly some technology that needs to be
12 addressed. Some of it may have been built with
13 certain CCPs, some of -- some CCPs may not have
14 it. And certain SEFs may not have it.

15 So it really comes back to what do you
16 want on day one? Do you want that real-time trade
17 acceptance and confirmation, or do you not?

18 MR. SHILTS: And I guess you'd be
19 suggesting that that be phased in? That would --

20 MR. CAWLEY: It depends on what your
21 timeframe is. Frankly, the technology exists
22 today and it's widely available in other

1 marketplaces. And it's certainly available with
2 certain CCPs here. And I know from the SEF
3 standpoint, you know, Javelin is prepared to offer
4 it. So if you're asking me if it be phased in, we
5 could deliver it in a matter of months, certainly
6 inside of three to six months.

7 So if you're going to say to phase it in
8 over six months, that's plenty of time. We would
9 even argue for sooner.

10 MR. COOK: Can I ask when you're talking
11 about, you know, the first phase being more
12 process and the second maybe being some of the
13 rules. So what actually is in the first phase? I
14 mean, what -- is it -- the rulebook comes later,
15 then what does it mean to have a phase one? What
16 actually would be included in that?

17 MR. CAWLEY: The ability to open for
18 business and then put a trade through. And make
19 sure it gets to the CCP. And in a very basic
20 sense. So, you know, right now although certain
21 firms are ready to go both on the clearing side
22 and on the execution side, I think the challenge

1 is the customer base right now is waiting for, you
2 know, the commissions to determine exactly what
3 margin is going to be. Both for cleared, and then
4 what the capital applied to uncleared trades,
5 importantly, is going to be. And I think if you
6 strike the wrong balance there, you might not --
7 you want to encourage trading and you want to
8 encourage clearing of swaps. So, I think you need
9 to have that addressed first before -- because you
10 can open for business and no one will show up,
11 because there's no reason to submit a cleared
12 trade.

13 MR. TURBEVILLE: Just a -- I think I
14 hear what you're saying and I want to make sure --
15 maybe it's the old lawyer in me coming out.

16 What you were actually saying was,
17 transact in accordance with the rules for
18 transacting cleared, mandated cleared
19 transactions? Match that way and get to the CCP
20 and get it cleared? So it's a qualifying match in
21 a qualifying submission to the CCP.

22 MR. CAWLEY: Yes, that's exactly right.

1 MR. TURBEVILLE: Specifically for these
2 guys.

3 MR. CAWLEY: You know, a qualified trade
4 being submitted and then being accepted.

5 But the notion is that, we can build and
6 we can invest in technology and infrastructure --
7 and as Lee and others have mentioned today, it's
8 tough to decide and allocate capital when you've
9 yet to define what some of the rules are. That
10 said, from where we sit strategically, you need to
11 determine what -- well, why would somebody submit
12 a trade for clearing if they don't necessarily
13 have to? So, you need to come in and say, well,
14 you have to. And what does that mean? You know,
15 what's the penalty -- I don't want to use the word
16 penalty. What is the margin for a clear trade?
17 What's the capital required for an unclear trade?

18 Are they being appropriately matched to
19 those trades? If they're not -- for example,
20 trading goes on every day right now, in a
21 bilateral sense, but they're -- you know, the
22 capital is not being applied in a uniform way,

1 obviously.

2 MR. TURBEVILLE: And the other thing
3 that's sort of interesting, it seems fairly
4 obvious is that there -- each element -- the
5 technological elements of all of this? They exist
6 out there. There's no requirement in this process
7 to invent cold fusion by any of these folks. The
8 steps all exist, they've been done. People have
9 managed to match transactions for years now, and
10 get them to clearing and back without harming the
11 environment or the planet.

12 So, all of those elements actually
13 exist. It just strikes me that the bigger issues
14 are associated with the rule side of it and the
15 certainty of how things are going to actually --
16 what requirements are going to be put on the
17 marketplace at a later date. So the systems are
18 out there, and given the right level of
19 investment, if you threw enough money at it you
20 could get all this stuff done, like, really fast.

21 MR. LEVI: I think we could do it very
22 quickly, but it depends on what the rules are. It

1 depends on how many changes we have to make. To
2 point out, once again, that the SEFs or the IDBs
3 that we are, at the moment -- there are many
4 different forms of execution. It's not just a
5 continuous bid offer-type screen. That there's
6 auction technology, there's voice broking, there's
7 very many different types. To try and stop all
8 that and go to just bid offer would harm the
9 market. It would greatly harm the liquidity.

10 It's really important that the rules
11 take that into account, and it's really important
12 that the rules have the flexibility built within
13 them that recognize that the markets are all very,
14 very different. Risk is paramount, but keeping
15 hold of some sort of liquidity, allowing the end
16 user the ability to hedge their risk is also very
17 important.

18 MR. TURBEVILLE: But I think one of the
19 important things is that there's been a lot of
20 discussion in the marketplace of ideas that
21 there's this huge cost to implement Dodd-Frank
22 generally and these matters generally. And you're

1 talking about a cost there which is a cost of, you
2 know, changing the market and having the market
3 adapt.

4 But on the other hand, I think that it's
5 worthwhile thinking about the fact that all of
6 these component parts exist out there. If you
7 threw enough money at them, you could get them
8 done really quick. Or you could pay it out very
9 slowly and it would take a long, long time. It's
10 sort of a -- that's sort of what the decision is,
11 is how much money the infrastructure providers are
12 willing to put into it.

13 From our perspective, since the Bank of
14 England said that the financial crisis costs the
15 world something between \$6 trillion and \$20
16 trillion in GDP, we think -- we're eager for it to
17 happen sooner rather than later, so we think that
18 putting money on it is a good idea. But in terms
19 of building something, building a structure, this
20 is not something outside the capability of
21 humankind to do and it's really a matter of what
22 resources you throw at it.

1 Other issues, like what you described
2 here, are sort of another kind of issue, which is
3 very important. Don't injure the market, do it
4 prudently. And it seems to me that in terms of
5 phasing, it's not building the structures or
6 getting it capable to go. It's judgment about how
7 you roll it out to make it sensible inside the
8 market.

9 MR. LEVI: It's not about the money,
10 because I think all of us here would spend as much
11 money as necessary to get things done. It's a
12 question of clarity of regulation and well thought
13 out regulation.

14 The last thing anybody would want would
15 be to have to change something, for it to work
16 very, very badly, and have to change it again. So
17 it's well thought out -- obviously, very well
18 thought out regulation and clarity is what we're
19 all after right now.

20 MR. OLESKY: If I could also add. I
21 don't think my shareholders would appreciate me
22 saying we'll spend as much as we have to. This

1 gets back to the certainty around the timeline.

2 To make informed decisions about how
3 much to spend, what to build, you really need that
4 timeline. Because we're running businesses here
5 and the issue is, what is the return? And if you
6 don't have a sense of, you know, with great
7 certainty -- because we're basically building
8 something new here. When will it all become
9 effective, I think, is a very important component
10 in the decision making for all of us. So it just
11 goes back to the certainty around timing.

12 MR. TURBEVILLE: And I think you make a
13 great point, which is from the perspective of a
14 given company that's an infrastructure provider,
15 your rational decision would not necessarily be to
16 get it done as fast as would be good for the
17 entire public. I think that's right.

18 I think regulators are the ones who are
19 interested in the broader public's interest, and
20 it's up to them to give the timeline. Otherwise,
21 rational decisions by companies like yours could
22 have this go for longer durations than would be

1 good for the entire public. So timeline, you're
2 absolutely right, is like essential. And I think
3 we need to recognize that while the market will
4 spontaneously grow, timelines in terms of when
5 things are required have to be very clear. And
6 that will inform you as to how much -- when you go
7 to your shareholders saying, we have to do this.
8 Do we want to do it? Yes, okay. We're going to
9 make this expenditure because we want to be in the
10 business.

11 MR. OLESKY: Right. It also helps in
12 prioritization. When you sit down to build
13 technology, you want to have as much of the
14 picture as you possibly can when you start to do
15 the architecture for something. So, you know, the
16 more certainty you have -- actually in addition to
17 having a certain timeline, the more certainty you
18 have, the lower the cost is going to be. Because
19 we all do this, and one of the challenges is, you
20 know, if you start to build something and then you
21 go back to your developers and say two months into
22 it, we have got to change this and this. Well,

1 that ends up becoming a much more expensive and
2 lengthy process.

3 MR. DeWAAL: You know, I hate to be the
4 old party pooper, but again unless I misread the
5 Commodity Exchange Act and Dodd-Frank, at the end
6 of the day these trades have to be processed on
7 behalf of customers through clearing brokers like
8 myself. And it's sort of odd that at this late in
9 the game we don't know whether we're going to be
10 participants or not. And that logjam needs to be
11 resolved, I think, relatively quickly.

12 I can tell you from some of the -- we
13 are members of all of the -- a lot of the swap
14 initiatives out there, whether they're the ones
15 that are novated as futures -- most of the ones
16 that are novated as futures -- and it's not an
17 easy task to hook up to these facilities. We need
18 lead time for brokers like ours that aren't
19 natural swap dealers. There's supplements to our
20 back office system that need to be acquired and
21 tested before we can make connectivity to the
22 clearinghouses, and ultimately to the SEFs. And

1 this isn't going to happen overnight.

2 And you know, I agree with you. You
3 know, I suppose if all the money was there it
4 could be spent and we could do that overnight.
5 But all the money isn't there and we can't do it
6 overnight. So, we need to have certainty as to
7 whether we're going to be allowed to become
8 members of the CCPs. And we need that as quickly
9 as possible, otherwise there's going to be a very,
10 very limited universe of clearing brokers.

11 MR. MORAN: Just touching-- I'm sorry
12 -- just touching on a lot of the comments that
13 have been made. I still think that we come back
14 to what Lee's point is around timing.

15 There are pipes and plumbing today that
16 allow us to clear in many of the clearing corps.
17 Most of the dealer community who has agreed to be
18 a central clearer, as an FCM for clients, have
19 built out that infrastructure. Or let's say, are
20 about 80 to 90 percent already built out.

21 What we're really looking for is timing
22 on when clearing will actually become a reality.

1 Today's market, on a bilateral basis, there's many
2 clients that do not post IM or independent amount,
3 however you want to call it. And that's the cost
4 of capital for them. So until there's regulation
5 that actually comes down that will say, you know,
6 this is the date that actually has to clear, it's
7 not -- my opinion, I don't believe it's actually
8 going to happen until that occurs.

9 And that's pretty evident in the open
10 interest that currently sits out there today on
11 the client side. So until those decisions and
12 regulation are put forth and the capital issues
13 that need to be addressed, I think clearing will
14 not become a reality until there's a certain hard
15 date and hard timeline.

16 MS. BRINKLEY: Chairman Gensler, did you
17 have?

18 CHAIRMAN GENSLER: It's just a question
19 for Gary. So you're referring to what we put out
20 last December about participant eligibility or
21 membership, that the clearinghouses would have to
22 accept somebody who's just less than \$5 billion in

1 capital and \$1 trillion swap book. Is that what
2 you're referring to?

3 MR. DeWAAL: Something like that, yes.

4 CHAIRMAN GENSLER: Yes, yes. Just, you
5 know. Well, you know what our proposal is and
6 we've gotten lots of comments on it. It's open
7 for comment, again, for 30 more days. So if --
8 you know, we'll hear broadly from the public.

9 I think the reason -- I can only speak
10 for myself -- the reason I supported that rule and
11 I think it's a good rule, I think it lowers risk
12 to the American public by broadening the
13 clearinghouses futures commission merchants. It's
14 worked very well in the futures world. It's not
15 that swaps are identical, but I think they can
16 learn from that, so.

17 MR. DeWAAL: And I think as you're
18 aware, we're not going to get the substantive --
19 the base here.

20 You've told me I can't get into
21 substantive comments, but obviously certainly --
22 you know, once that rule is enacted and then once

1 the clearinghouses respond to it, by formulating
2 specific rules that will give us the guidance we
3 need. You know, and it's not just firms like New
4 Edge. I mean, New Edge probably can meet most of
5 the eligibility requirements of most of the
6 clearinghouses today. But there are a number of
7 other firms that probably are on the cusp. And
8 you know, either we're going to have a broad
9 clearing system or we're not.

10 MR. LAWTON: Quick question for Gary,
11 follow-up. If those rules went final, how long do
12 you think firms would need -- firms that are on
13 the cusp --

14 MR. DeWAAL: When you said the CFTC
15 rules or then the rules articulated by the
16 clearinghouses for membership? Yes, I mean
17 obviously, once the CFTC rules are out, that would
18 certainly give an indication of where the world is
19 going to go. And then obviously, the devil is in
20 the details at the clearinghouse level. Then it's
21 a function of each firm and making assessments
22 about how to make connectivity. And I think

1 you'll hear later on over the next two days the
2 difficulty of making the connectivity
3 clearinghouse by clearinghouse and SEF by SEF.

4 I mean, one of the things that I think
5 about when I think about this thing just generally
6 is that, again, those who connect first will

7 clearly be in a predominant position. Obviously
8 this is an industry where liquidity shows
9 reluctance to move. You know, first in line tends
10 to have great benefits. You know, and if in fact
11 things look difficult and delay implementation and
12 then we move closer and closer to the starting
13 line and then everyone's allowed to participate,
14 the reality of life is the incumbents will
15 definitely have an advantage.

16 And again, that's your job to make the
17 public policy on that. But that's just the
18 reality.

19 MR. SHILTS: I'd like to ask a question
20 similar to the one John asked before about -- with
21 respect to clearing. And that is, for SEFs
22 becoming open for business operational, say for

1 example by the end of the year. You know, as
2 mentioned as a possibility.

3 And again, assuming that there isn't a
4 trading mandate in place so that the requirements
5 that the CFTC or the SEC may impose for how those
6 types of trades are executed, the pre-trade
7 transparency provisions -- that that doesn't have
8 to be in place, because it's presumed that there's
9 been no determinations about particular swaps
10 being -- having to be under the mandatory trade
11 execution provision.

12 So what do you view as being the key
13 roadblocks or things that need to be in place that
14 would prevent you from, say, being operational by
15 the end of the year? Is it any of the particular
16 core principle requirements? Or something else
17 that would be the most problematic?

18 And the other thing to touch on on that
19 is that, as you know, there's been a lot of
20 discussion about the self regulatory
21 responsibilities that SEFs would have to assume
22 because swaps are fungible and can be traded on

1 multiple venues. So are there particular issues
2 related to that characteristic of swaps which is
3 different from futures that would go into
4 determinations about being -- the ability to be
5 ready to be open for business?

6 MR. OLESKY: I think, Rick, getting to
7 the latter part of your question, it's the breadth
8 of our responsibility and the availability of
9 outside help that's still not clear. So, just as
10 an example, one of the things we're concerned with
11 is position limits or any area where we have
12 responsibility -- is it responsibility, as we like
13 to say, for our own classroom? Or is it
14 responsibility for the whole school? And if it's
15 responsibility for the whole school, we're just --
16 we have a lot of work to do, and I think we would
17 need some outside help. Because we can monitor
18 things happening on our own -- I'll speak for
19 Tradeweb -- on our system quite well and we can
20 run reports and we can have a team doing that.
21 But if we have a broader responsibility beyond the
22 classroom that is Tradeweb, I think it will be

1 more difficult.

2 And that kind of goes back to my earlier
3 points about the operational aspect of doing the
4 monitoring and surveillance coming after the
5 rulebook and the registration.

6 MR. EDMONDS: Yes, I mean, Rick, I would
7 say to Lee's point there are some unintended
8 consequences to that as well as it comes back into
9 the CCP. So, open access rule, I think we all
10 know what that looks like. And, you know, have an
11 opinion around that.

12 But we also have to make some judgment
13 on whether or not -- at least until some point in
14 time that these SEFs have been defined and blessed
15 that they meet the requirements required by the
16 individual commissions. As they're connecting, we
17 have to make capital allocations of who is going
18 to have the bandwidth. And there's a finite
19 amount of bandwidth of who's going to get here at
20 what point in time.

21 And as much as we're debating rules on
22 clearing, we also debating rules on the execution

1 piece. And we're all sitting here at a little bit
2 of a Mexican standoff and going, well, what do you
3 have? Or a game of poker, you know, there's some
4 bluffing going on. And we have to sort through
5 that in some form or fashion.

6 And the industry and a voluntary market
7 has done that for commercial reasons over time.
8 Now we're trying to deal with the prescription
9 coming forward, you know, that kind of takes some
10 of that toolset out of your hands.

11 But you know, no one can represent --
12 you know, regardless of the number of, you know,
13 very fine institutions represented in this panel,
14 no one can represent to you that they are
15 completely compliant as a Dodd-Frank SEF. It's
16 not there yet. And we have got to get there. So
17 when folks say, you know, gosh, you know, you got
18 -- Chris, you got to make sure that you are
19 compliant with the open access. I realize that.
20 You've got to make sure you're a SEF.

21 MR. CAWLEY: Chris is right. There's
22 clearly -- looks as if there could be a day one

1 and day two implementation, in terms of -- both
2 from the CCP side and also from the SEF side.
3 Chris is right.

4 You know, from the SEF standpoint no one
5 can go out there and say, well we're fully
6 compliant. Because we don't know what it is. So,
7 the sooner there's clarity and definition brought
8 to that, you know, I think the better we all are
9 and the safer the market becomes.

10 One of the other things to contemplate
11 as we consider, you know, day one and day two
12 events is -- and readiness really is -- and
13 certainly in terms of capital allocation and
14 resource constraints -- is we need to be also
15 mindful that there are competitive forces at work
16 if you allow -- if you set the baseline. They all
17 start in the same starting line, they all come
18 together. You know, let them, then, make their
19 own internal capital allocation decisions. And
20 let them, you know, succeed or fail based on those
21 decisions.

22 But be mindful that there is competition

1 in the marketplace, both with SEFs and also with
2 CCPs. And we shouldn't be looking to solve for
3 the weakest link in the chain, as well, to put
4 regulation implementation into some sort of
5 holding pattern waiting for the last guy to
6 implement. That makes us then captive to the
7 weakest guy in the system.

8 So, allow competition to flourish.
9 Allow us to compete with each other. Allow us to
10 work together to address issues that clearly
11 affect us all. But bring definition to some of
12 the basic -- to the base level as to where we're
13 going.

14 MR. TURBEVILLE: In terms of
15 understanding how things work, Chris, you
16 mentioned something that is kind of interesting
17 that I've heard before. You talk about limited
18 bandwidth? And I guess it would be good for folks
19 to understand that, because in terms of
20 competition to the extent that there's limited
21 bandwidth, that affects competition and the
22 potential for competition. And I'd like to

1 understand in terms of you guys, what do you guys
2 mean by that? What are the limitations, right, on
3 how?

4 MR. EDMONDS: So, let's -- one example.
5 Let's just say, hypothetically, we say that all
6 SEFs have to be connected to all relevant CCPs
7 under the open access requirement by July 18.
8 There are not enough days. And we -- because we
9 don't know what necessarily classifies as a SEF
10 today.

11 I mean, I get phone calls on a fairly
12 regular basis where some guy picks up the phone
13 and says, hey, I'm a SEF. You've never heard of
14 them, you know. You don't know where they are.
15 And they see an opportunity. And I'm sure they're
16 doing their best to seize that opportunity at the
17 point in time. And then there are other folks who
18 effectively operate what we all look at and say
19 and would probably under oath say, yes, that looks
20 like a SEF to me, in my opinion. They're all
21 going to be equal on the same day.

22 So without that phased in approach --

1 and there's some method to the madness, if you
2 will, of qualifying, well, are you or aren't you?
3 Step one. And then, you know, it has to go into,
4 you know, a compete for resources at that point in
5 time.

6 And at the same time -- sorry -- at the
7 same time, not all SEFs are -- their timeline of
8 connecting to the CCPs are going to be the same.
9 So there's going to be an alignment between the
10 resources of the SEFs looking to connect and the
11 resources of the CCPs allowing the connection
12 under the open access piece. And those don't
13 necessarily just by magic line up on the same day.

14 MR. TURBEVILLE: So you're talking about
15 just as a practical matter --

16 MR. EDMONDS: Practical matter --

17 MR. TURBEVILLE: -- given the, you know,
18 infinite number of SEFs out there, and may, in
19 fact, from your description may be getting toward
20 infinite in terms of number --

21 MR. EDMONDS: I think Chairman Gensler
22 is probably the best at making that market. So

1 I'm not going to take that away from him at this
2 point. So.

3 MR. TURBEVILLE: It's just impractical.

4 MR. EDMONDS: Yes.

5 MR. TURBEVILLE: So it's not bandwidth
6 in the sense of, you know, some technological or
7 strain -- it's just --

8 MR. EDMONDS: Hours and days --

9 MR. TURBEVILLE: Hours and days. Just
10 wouldn't work.

11 MR. MAGUIRE: It's resources. It's
12 purely resources. I think SEFs, SDRs, reporting
13 and reconciliation groups, consultancies on behalf
14 of clients, FCMs, clients, executing brokers --
15 it's kind of nice to be popular for once in my
16 life. But it is every day, as Chris says, there's
17 another SEF on the line. There's another
18 something coming up. So it's a true resource
19 issue. It's not there's anything else there.
20 It's we're agnostic to SEFs. We're agnostic to --
21 everybody is agnostic to each other at the moment,
22 I guess. But we are agnostic, it's just a

1 practical reality of implementing this stuff.

2 And I think it's practical reality of
3 implementing it safely and securely as well.

4 Because if this stuff goes wrong on any given day,
5 that's a real bad thing for everybody. So I think
6 we've got to have that in mind as well.

7 MR. TURBEVILLE: From the public
8 standpoint -- and just to -- then all that being
9 true, yes, it would seem to me that the real issue
10 here is transparency of your process to make sure
11 that things don't get into discussions about, you
12 know, who was fair to whom and that sort of thing.
13 Because these issues have been talked about as
14 recently as this weekend in The New York Times
15 about how -- to make certain that as transparent
16 as you guys can make your process? That's all to
17 the good in terms of implementing this thing in a
18 reasonable way without a lot of confusion and
19 fighting at the end.

20 MR. LEVI: I think it's possible that --

21 MR. SHILTS: Could we just have maybe
22 one or two more comments on the SEFs? Because

1 we'd like to turn and talk a little bit about the
2 swap data repository. There are some similar
3 issues.

4 MR. LEVI: Very sympathetic to the
5 clearinghouses. It's very possible that the shelf
6 registration or an interim registration of SEFs
7 would help them sort who the real SEFs are and who
8 the not-real SEFs are.

9 MR. CUTINHO: Just final comment on
10 that. I think we have some experience, actually.
11 While launching our services we had several
12 platforms actually try and connect to us. We
13 cannot speak to the rulebook issues of SEFs. I
14 think there are resources, there are resource
15 implications, and things like that.

16 But as far as speaking to connectivity
17 and supporting SEFs or on-boarding them, as long
18 as you have a very open API, a well defined
19 documentation, and a certification period we give,
20 typically, four to six weeks for a platform to
21 actually certify. So they go through different
22 workflows.

1 And this is done in concert with the
2 clients as well as clearing members. So that is
3 how the process works. It has worked two times,
4 and it continues to work today. Because there are
5 several entities that are trying to certify
6 through us.

7 There is a risk element to it.
8 Essentially we assess the SEFs and the clearing
9 members assess the SEFs as well, because it's
10 their clients that are trading on these entities.

11 So with all these checks and balances in
12 place, we are confident that we have a good
13 process to on-board SEFs, from an operational
14 perspective.

15 MR. SHILTS: Okay, thank you. And now
16 for just -- try to seek some comments on -- with
17 respect to similar concepts for swap data
18 repositories. And thinking about what policies,
19 procedures, rulebooks, whatever should be in place
20 for initial, say, provisional registration of
21 entities operating as swap data repositories.
22 Again, possibly thinking about the end of the year

1 maybe for certain asset classes.

2 So, what should we be looking for? For
3 SDRs to have in place to be, say, provisionally
4 registered? And then thinking about a timeline
5 for the various other requirements that would need
6 to be adopted, say, over time to -- before they
7 would get permanent registration as an SDR?

8 MR. THOMPSON: We would think that you
9 want to have a very strong rulebook from the very
10 beginning. We think already there have been a lot
11 of thinking done by regulators internationally
12 about what swap data repositories should look like
13 and what should be the baseline requirements. As
14 I mentioned earlier, the CPSS- IOSCO standards
15 that are already out there.

16 So, we would be very strong advocates
17 that membership requirements, BCP requirements,
18 all of that should be well in place well before
19 one begins any kind of provisional operation.

20 Again, to the point that you don't want
21 to be subject to your weakest link. You really
22 want to make certain, especially since the issue

1 of transparency is so important in this
2 marketplace. And in our view, given the
3 experience that we've had where if you have
4 transparency in the market on the part of
5 regulators and, hopefully, the public, some of
6 these other issues can be worked on to make a lot
7 more sense and put in place. But you clearly need
8 to have a very strong swap data repository system.
9 And we would advocate for very strong requirements
10 at the very beginning.

11 MR. PRITCHARD: Yes, I'd echo a lot of
12 what Larry says there. A couple of points to add,
13 I think.

14 In recognition of the global nature of
15 the OTC swap market, you know, we've operated a
16 repository for some time now and also a commercial
17 service that collects a huge amount of swap data.
18 We would think that that would, across the world,
19 support the case for recognition of foreign
20 registration as far as provisional registration
21 goes in order to speed up that process.

22 We're going to get on and talk about the

1 phasing of the data repositories in a moment. We
2 can wait for that. We can launch into that.

3 That was the only point I had about
4 registration.

5 MR. SHILTS: What other --

6 MR. THOMPSON: The one issue I did want
7 to highlight there is what Raf just mentioned, the
8 international issue here. And that is, obviously,
9 the issue of harmonization with not only just the
10 two commissions, the SEC and the CFTC, but
11 obviously with the EU. And at the moment, there
12 is a very troublesome provision in terms of
13 harmonization, which is the indemnification
14 provision which happens to be in Dodd- Frank.

15 We understand that that's part of the
16 law that has to be dealt with, but we did want to
17 raise that because that does lead to the
18 possibility of fragmentation in the international
19 marketplace.

20 MR. SHILTS: Assuming we -- the agencies
21 have some sort of a provisional registration in
22 place and that entities do -- various entities do

1 come in to be provisionally registered as swap
2 data repositories, with respect to be coming into
3 full compliance, what do people think are some of
4 the major issues that would have to be faced? Is
5 it the development of unique identifiers? Or
6 valuation? Or connectivity? Or whatever? What
7 would be the main drivers for getting into full
8 compliance? And what might be like a timeframe
9 for that?

10 MR. THOMPSON: The one thing I wanted to
11 mention -- and I think it was mentioned earlier in
12 the context of the clearing as well -- is that if
13 the rules are written in a general enough fashion
14 and a principle manner, then how the information
15 gets to the SDR would be something that we could
16 work on and then be able to better define later
17 on, as opposed to be overly prescriptive in terms
18 of what the rules are, in terms of how you want
19 the information delivered to you.

20 We think we can get the information
21 delivered to the commissions because of the work
22 that we've been doing already with both the buy

1 side and the sell side, well within this year.

2 And we think that information will be very rich.

3 We need to know pretty soon that we need
4 to start working on that. But we think that that
5 is a timeframe that is doable and that we and our
6 constituents would be ready to commit to.

7 MR. PRITCHARD: We would echo that
8 point. I think the repositories out there
9 currently collect a huge amount of data. We
10 collect 3.9 million outstanding life contracts and
11 rates.

12 And to Larry's point, I think how the
13 data gets to an SDR is less important than getting
14 integrity around the population. Getting that cut
15 -- the whole market and getting accuracy around
16 the data.

17 Also in terms of sequencing, you know,
18 as a software service provider we would observe
19 obviously that building real-time solutions is a
20 lot more critical and sensitive than building
21 daily batch solutions. And so in terms of getting
22 that first cut, it might make sense to prioritize

1 a daily batch snapshot of the market. And then
2 you get all that structural information that you
3 get that complete -- somebody said earlier,
4 getting the complete picture before you do the
5 architecture is important.

6 You get that complete picture on a daily
7 batch basis, then you could sequence the real-time
8 -- the more real-time sensitive parts of the
9 reporting requirements subsequent to that. And
10 that would put you in a good position to make good
11 decisions down the line.

12 MR. SHILTS: We understand that ISDA is
13 going out and looking at, I guess, RFPs or
14 whatever in the context of setting up additional
15 -- data repositories. Could someone kind of talk
16 about that and how that may intersect with our
17 adoption of regulations and the implementation?
18 That whole mechanism?

19 MR. THOMPSON: There is an ISDA process.
20 There was an ISDA process for credit, which we
21 have. There was an earlier ISDA process, my
22 understanding for rates. And because of

1 Dodd-Frank, I believe, they're going out and
2 requesting additional information.

3 You know, how that all intersects, you
4 know, is going to be something that the industry
5 is going to have to look at obviously very
6 closely. And I think both we and the industry and
7 whoever the winners are of the ISDA process would
8 obviously have to come to not only the two
9 commissions to get a full understanding of what
10 that process is, but obviously also has to play
11 into the international market as well and
12 understand what those requirements are.

13 We obviously believe that most of the
14 requirements are already, as I've mentioned
15 before, have been looked at from a broad
16 international standpoint. This being a global
17 business and generally reflected in the CPSS-IOSCO
18 documents. But the particulars of the ISDA
19 process is probably best left to ISDA to explain
20 and not us.

21 MR. SHILTS: I guess I was also
22 wondering -- I mean, under Dodd-Frank there's not

1 any restrictions on the number of SDRs per asset
2 class. So there can be more than one. And just
3 wondering how this -- your thoughts on how this
4 ISDA process and who might be selected for
5 particular asset class -- how that may -- does it
6 have any bearing on what we're doing? Or the SEC?

7 MR. PRITCHARD: What we can say, as a
8 software provider, we responded to the ISDA
9 process for the rate RFP a year and a half ago and
10 offered to provide the functionality that they
11 were seeking. And did that successfully, and have
12 implemented that. And that's the basis on which
13 our current rates repository operates. And we are
14 actively working now that the ambition of what has
15 been required has changed, to offer to provide the
16 rates repository at that new level.

17 But I think as Larry said, that's really
18 for -- a matter for ISDA. We're the provider of
19 the service, they talked to the regulators and
20 came up with a specification of what they were
21 asking for. And they asked the market for it, and
22 we as a service provider bid to provide that.

1 MR. CUTINHO: I think from a
2 clearinghouse perspective as well as our
3 intentions to become an SDR, we think that it has
4 to be a competitive market, just like clearing.
5 So we support Dodd-Frank Act in that perspective.

6 So we would like the flexibility to be
7 an SDR as well.

8 MR. COOPER: One thing to keep in mind,
9 I think, no matter how or whether the process
10 affects the implementation of SDRs, a ton of
11 information is being captured right now. Once we
12 launch central clearing, that information will be
13 readily available to the regulators and help
14 inform subsequent rollout of other rules and
15 regulations. And so, in and of itself,
16 implementation of these SDR rules should not be
17 the tail wagging the dog.

18 MR. THOMPSON: The only thing I want to
19 say in that regard -- and just so we're clear --
20 obviously everyone wants to make certain that the
21 information that Adam mentioned, which is already
22 there and which should be kept there, will be kept

1 there as long as there's no fragmentation in the
2 marketplace.

3 To the extent that there's
4 fragmentation, either because the commission rules
5 are not aligned properly or not aligned
6 internationally, there could be fragmentation.
7 And therefore, we would always want to work with
8 both the buy side as well as the sell side in
9 trying to make certain -- and with all other
10 industry participants to make certain that that
11 information is available to regulators,
12 internationally so that they can provide the
13 transparency into the marketplace so that you
14 don't have a situation that occurred prior to 2008
15 where that information was simply not available to
16 the marketplace and to the regulators to make
17 informed decisions about that place.

18 And right now, at least for a couple of
19 classes, they're in a much better position to be
20 able to see transparent into the marketplace,
21 especially the credit default swap, because of the
22 information that's being made available

1 post-Lehman. And actually during the Lehman
2 crisis, as you all know, we provided information
3 to regulators and to the public about Lehman that
4 actually quieted the market during that time
5 period.

6 We think that's extremely important
7 going forward. And to the extent that there might
8 be forces that fragment that market, that could
9 lead to systemic risk in that marketplace. And
10 that would not, I don't think, be the kind of
11 result that Dodd-Frank was looking for.

12 MR. MORAN: No, and I think just keeping
13 with that message I think, you know, obviously we
14 want to submit data to the repository not based on
15 necessarily jurisdiction, but based on our global
16 trading books.

17 And then, therefore, the local
18 regulators and our primary regulator can then view
19 that information in the same format and then have
20 conversations between each other. And therefore,
21 we're not duplicating efforts.

22 MR. COOK: Can I ask about the

1 dissemination of trade data? We haven't really --
2 I don't think we've heard any comments about where
3 people think that should fit in the process. And
4 I think it's an interesting question that may be
5 relevant across the different categories of market
6 participants here.

7 Can you speak a little bit to how you
8 would suggest we think about phasing in the
9 dissemination of trading? And of course, you
10 know, one of the perspectives we bring to bear on
11 this question is our -- from the SEC side is our
12 experience with TRACE and the development of
13 TRACE. And that did occur in a phased in way over
14 time. But also, there was a lot of concern
15 expressed by market participants about the speed
16 with which it was happening and whether that was
17 contributing or inhibiting liquidity in the
18 markets.

19 And I think we feel, over time, that
20 that experience has led to improved markets in the
21 fixed-income area. And would suggest that we need
22 to approach this area with a similar -- with some

1 degree of skepticism on the one had about concerns
2 over trade dissemination. But on the other hand,
3 sensitivity to the issues of moving too quickly
4 with blocked trades and the like.

5 But I would be interested in comments
6 from any of the panelists on the sequencing and
7 phasing of dissemination requirements.

8 MR. OLESKY: Well, I'll kick it off.
9 Certainly one of the main policy objectives here
10 is transparency. So, I think it's a really
11 important issue.

12 The first thing that comes to my mind
13 is, without knowing, you know, what the block
14 rules are and what the specific, you know -- what
15 the details are, it's very hard to be responsive
16 to that issue.

17 We have a commercial imperative where
18 we'll obviously follow whatever the rules are as
19 far as the transparency and dissemination prices,
20 but we'd also as a market data player would like
21 to be able to distribute our market data directly
22 to our clients, and through third parties if we

1 choose to.

2 So, we're going to do that right away.
3 We do that today, and we'll do it in -- you know,
4 once we -- if we get to be a SEF, we'll do it as
5 being a SEF. But I think the -- it's hard to come
6 up with that until you get a sense of -- I mean,
7 there's some general ideas in terms of how this
8 should work. But to be precise on timing is
9 difficult, not knowing what are the block rules.

10 And I think the other thing that we have
11 to keep in mind is the likely behavior is going to
12 change considerably over this period. So I guess
13 I'd be an advocate of really digesting this
14 information in this interim period, rather than
15 leading with, you know, we should do this, be
16 prescriptive, do this. Really learn, take in as
17 much information as possible, and then release the
18 transparency rules. I just think we'll be much
19 more informed, because things are going to change.

20 MR. TURBEVILLE: If you connect up that
21 kind of a process with the non-fragmentation
22 arguments and the rest, the concern is that once

1 it gets started the swap data repositories will
2 become juggernauts and will be dominant.

3 It would seem to me that the key
4 question on dissemination -- if that kind of
5 phasing occurs, is to be very, very clear about
6 what the requirements, ultimately, of
7 dissemination are going to be before you get stuck
8 with somebody. And in addition, not just
9 dissemination to the public, but what kind of
10 analytics SDRs are going to be required to do on
11 behalf of the regulators. To the extent that
12 you're going to depend on them for the regulators,
13 to make sure those standards are in place before
14 somebody gets embedded and can't be dislodged.

15 MR. BRADY: You know, from our
16 perspective I think the key to the dissemination
17 issue and the block threshold is also to retain
18 some amount of flexibility. I think there's a lot
19 to be learned looking at data today. But as Lee
20 mentioned, we're moving into a whole different
21 world where it's cleared and the market will trade
22 differently. Also, I just think it's an area

1 where the flexibility is key.

2 I mean, if you look at the key issues
3 facing platforms -- to kind of get back to the SEF
4 discussion or a DCM that trades a Dodd-Frank
5 compliant, you know, type of swap -- you've got
6 the central limit order book, the RFQ, and the
7 block. I mean, sort of the good news is on the
8 central limit order book and the RFQ, the healthy
9 debate, you know, in the fall. And I think people
10 know roughly where things came out. If you just
11 take interest rate swaps, you know, to be very
12 specific. And the CFTC came out with a guideline
13 around the number of people that need to receive
14 an RFQ. You know, the central limit order book is
15 allowed but it's not mandated.

16 I mean, the other piece in this puzzle
17 that's missing is the block issues, or the
18 thresholds and the dissemination. I think the key
19 is to put a stake in the ground that it's coming,
20 that there is a threshold. But that will also be
21 looked at very carefully as we roll out this major
22 implementation.

1 I mean, on the DCM side we've benefited
2 at Eris Exchange from already having DCM
3 principles in place. And we've obviously filed an
4 application. We've looked at those three
5 different execution venues and been in dialogue
6 with the commission. I think the idea is to get
7 the guidelines and the rules out there and then
8 have this iterative process where the various
9 platforms and participants come and dial up with
10 you.

11 MR. SHILTS: Well, we only have a few
12 minutes left. And the one other area I wanted to
13 touch on with respect to the swap data
14 repositories is just thoughts on how the
15 implementation would be affected by asset class.
16 Because we know there's different levels of
17 development in the development of the SDRs by
18 asset class.

19 So I don't know if just anybody has a
20 couple of comments on that. Then we'll try to end
21 up close to being on time.

22 MR. CAWLEY: Certainly from where we sit

1 -- and I think it was mentioned at the beginning
2 of today's panel -- interest rate swaps, vanilla
3 swaps clearly qualify for a day one index right
4 behind that or on the same day. And the
5 constituents of the indices certainly as well.
6 And then it trails off from there over time, with
7 the 450 to 500-odd names that trade with America
8 today.

9 MR. PRITCHARD: I think following on the
10 comments that we made earlier, that I'd certainly
11 agree with that about interest rate swaps. But
12 also, generally, that in every asset class there
13 are going to be standardized and is going to be
14 customized. And the smarter prioritization, we
15 would suggest, would be to get with the daily
16 batch reporting of all the data as an early
17 priority. And then to add the -- to build on
18 that, once you get that complete population with
19 all the data that you want to capture on that in
20 the repository.

21 MR. THOMPSON: In that regard, obviously
22 from our standpoint we think credit is a very

1 obvious area since there's a lot of information we
2 already have on credit default swaps.

3 We would follow that probably with
4 rates. And then go and look at, you know, each
5 class in terms of its automation, because we think
6 that is the easiest one.

7 Ron mentioned that he thought
8 commodities were fairly automated, to the extent
9 that they are. And that would naturally follow.
10 So, we would follow it in that -- in those
11 footsteps.

12 The biggest issue, obviously -- and this
13 would, I think, actually be from the clearing
14 perspective -- is that the rules right now between
15 the SEC and the CFTC could make for some
16 differences that could be problematic. And
17 obviously, to the extent that this is a global
18 market, you need to look at harmonizing the rules
19 as well on the international regulators.

20 Thank you.

21 MR. SHILTS: Anyone for one last comment
22 before we close this session?

1 MR. EDMONDS: Rick, the only thing I'd
2 add to that is, you know, instead of looking at it
3 necessarily by asset class, the commissions may
4 want to look at it by the instruments that have
5 the greatest amount of liquidity. And, you know,
6 the trades that are happening there.

7 I don't know the value necessarily.
8 Arguments can be made both sides. If something
9 trades once a month, of having that data captured.
10 But something that's traded multiple times a day,
11 multiple times an hour, making sure that you had
12 that data first. And then as it begins to trail
13 out, maybe one way to look at it, instead of being
14 so focused on what asset classes go to it, maybe
15 it's something on the amount of liquidity being
16 there to stake your priority.

17 MR. SHILTS: All right. With that, I
18 want to thank all the panelists. I think it was
19 very informative. We're going to take a break, a
20 lunch break. We're going to come back at 1:00.
21 And I think some of the same people will be on the
22 next panels, too. So we look forward to that.

1 And again, thank you, everyone.
2 (Whereupon, at 12:02 p.m., a
3 luncheon recess was taken.)
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1 A F T E R N O O N S E S S I O N

2 (1:08 p.m.)

3 MR. COOK: All right, we'll get started
4 now, now that we have the mood all set. So,
5 welcome back to the afternoon session of our first
6 day of the round table on implementation. Again,
7 I'm Robert Cook, director of the Division of
8 Trading and Markets at the SEC, and Brian Bussey,
9 associate director in the Division's office of
10 Trading Practices and Processing joins me for this
11 second panel.

12 We got off to a good start this morning
13 and I look forward to additional dialogue and
14 insight this afternoon on implementation issues.
15 The first panel this afternoon will focus on
16 dealers and major participants. As the agenda
17 indicates, some of the areas we will cover in this
18 panel will be the timing of the registration
19 process, the time necessary to implement policies,
20 procedures, rules and systems necessary to begin
21 operations as a dealer or major participant, the
22 timing of compliance with business conduct and

1 other requirements, and international timing and
2 coordination issues.

3 In addition, we will discuss whether
4 requirements should be phased in by asset class,
5 type of market participant, or other factors.

6 As I mentioned in my opening remarks
7 this morning, the SEC is still in the process of
8 proposing substantive requirements for dealers and
9 major participants with the exception of trade
10 verification and acknowledgment requirements,
11 which we proposed in January. Nevertheless, we
12 look forward to input we receive today as we move
13 toward proposing various rules in this area in the
14 coming months.

15 Before we begin the panel, let me ask if
16 we could just go around again and have everyone
17 introduce themselves and, again, you'll need to
18 push the red button in front of you to turn your
19 mic on.

20 MR. O'CONNOR: Hi, I'm Steve O'Conner,
21 Morgan Stanley.

22 MR. PICARDI: Matt Picardi with Shell

1 Energy North America.

2 MR. TURBEVILLE: Wally Turbeville,
3 Better Markets.

4 MR. LAWTON: John Lawton, DCIL CFTC.

5 MR. SHILTS: Rick Shilts, director of
6 the Division of Market Oversight at CFTC.

7 MR. BUSSEY: Brian Bussey, associate
8 director, Trading Practices and Processing at the
9 SEC.

10 MR. ROTH: Dan Roth, National Futures
11 Association.

12 MR. HORKAN: John Horkan, Bank of
13 America, Merrill Lynch.

14 MR. GIDMAN: John Gidman, Loomis Sayles.

15 MR. DIPLAS: Athanassios Diplas,
16 Deutsche Bank.

17 MS. GUEST: Alexandra Guest, Barclays
18 Capital.

19 MR. SHILTS: Just quickly, I was told
20 that they're having some difficulty hearing
21 people, so maybe if everyone, including myself,
22 gets a little closer to the microphones when they

1 speak. Thank you.

2 MR. COOK: Great, thanks. And again
3 we'd like to extend our gratitude to all the
4 panelists for joining us today and we look forward
5 to your input on the topics before us.

6 So, unless you have anything further,
7 Rick? I'll ask Brian to kick it off with the
8 first question.

9 MR. BUSSEY: Thank you, Robert. We had
10 a bit of discussion this morning about looking at
11 the bigger picture and how the various rulemaking
12 streams should fit together and we didn't talk
13 much about the topic of today's -- or of this
14 panel, which is where the dealer and major
15 participants registration and substantive
16 requirements should fit into the overall
17 implementation of the Title VII requirements, so
18 I'd like to start off with kind of this broad
19 question of where the panelists think that
20 registration and substantive requirements for
21 dealers, I think in the first instance, and then
22 participants in the second instance should fit

1 into the overall major categories of Title VII.

2 MR. PICARDI: I guess I'm willing to get
3 started. Maybe from the perspective of someone
4 that's not entirely certain if the organization I
5 work for is a dealer or a large end user and
6 certainly trying to figure that out and the reason
7 I was willing to get started is because that's one
8 of the threshold issues we need resolved and
9 certainly with the definition of swap coming out
10 and having the recent opportunity to comment on
11 the swap dealer definition, when you see how that
12 looks and how our organization is affected and
13 then if we have to restructure to accommodate it
14 or to be able to participate in the markets in
15 effective ways is real important to us, and we
16 probably come at this a little differently than
17 some of the other participants around the table
18 because we've never been subject to prudential
19 regulation before.

20 So, for us, we're probably at the end of
21 the train because we're probably the (inaudible)
22 folks, even though we've been in these markets and

1 have some experience with setting up some of these
2 systems, we come at this with less experience in
3 this arena dealing with capital requirements and
4 things -- the new capital requirements and things
5 like that.

6 So, from our perspective we feel that
7 once those definitions are resolved and the
8 institutional items that were discussed this
9 morning that can take place in parallel, because
10 we do envision no matter what happens, being
11 (inaudible) that participates on those platforms.
12 Having those resolved first will help the
13 regulators get a lot of, first of all,
14 transactions cleared, and secondly, getting the
15 reporting part of the aspect on getting SDR set up
16 will help us because then we can look at the world
17 and go, if we're a dealer, what's not being
18 cleared, how do we need to go about doing it. But
19 in terms of balancing your look to get things
20 implemented and dealing with organizations like
21 ours, we think getting those issues resolved, a
22 process that helps us figure out how to structure

1 ourselves, process the figures out, you know, that
2 lets us then determine how to register, and then
3 one that lets those organizations in parallel get
4 set up will help the commissions also meet the
5 requirements of Dodd- Frank in an economic manner
6 and maybe more expeditiously.

7 MS. GUEST: I think just to add to the
8 complexity of what he's saying, from my
9 perspective there are an awful lot of our clients
10 who were hearing something similar from the -- you
11 know, lots of phone calls. Are we a swap dealer?
12 We're not really sure what are we, and that
13 there's a lot of uncertainty out there from
14 entities who aren't even necessarily sure that
15 what they do is deal in swaps. And there are some
16 complex contractual arrangements that don't
17 involve ISDAs, not always obvious what the nature
18 and character of that instrument is. And it's
19 important for us to know who it is that we're
20 dealing with and what category to put them in
21 because of course there are other things that then
22 flow from that.

1 So, I think the registration is
2 obviously something that has to come early, but I
3 think we -- our view is that not everything,
4 necessarily, has to apply on day one and that you
5 can look at some kind of provisional registration.
6 The theme that you might hear me repeat, because I
7 think it sort of underlies almost everything that
8 we think about this topic, is that for almost any
9 piece of the implementation there's really a
10 three-stage process. Stage one is your sort of
11 beta phase or your voluntary compliance phase or
12 your risk-free trial period, we've called it in
13 some contexts, and then you'd sort of have a
14 trigger that moves you into phase two. Phase two
15 is mandatory but with accommodations. Those
16 accommodations might mean that not -- say, for
17 example, in this context -- not all of the rules
18 and things have to kick in on day one. There may
19 be some that I can't comply with on day one, but
20 it would be okay for me to tell you, hey, by the
21 way, I can't comply with this on day one for the
22 following reasons. Some of the kinds of things

1 we've talked about with the commission previously
2 are, for example, technology issues where I have a
3 risk management system that sits in one part of my
4 organization, I want to leverage that to be able
5 to use that risk management knowledge, expertise,
6 and technology as I get this set up.

7 There may be reasons in some of the
8 business conduct standards why I can't do that. I
9 think that would be something that would be
10 reasonable to compromise to allow me to leverage
11 that because we want to be able to do this, as
12 people observed earlier, in this sort of really
13 safe and sound and practical manner.

14 I think once you kind of have everybody
15 in substantial compliance you can then look at the
16 reasons why people haven't been able to comply so
17 far. They may suggest accommodations that you
18 need to carry through, they may suggest issues
19 that are sort of fundamental issues that you might
20 want to even look back and tweak the rule, and
21 then you can move to phase three. Phase three
22 would be full compliance for everybody.

1 But if you sort of think about it in a
2 phased way like that within the phasing, we think
3 that's helpful.

4 MR. O'CONNOR: I would just add that, I
5 mean, there's a lot of talk about when the mandate
6 will apply and when everybody has to have
7 everything done before the curtain comes down. I
8 think as important is having systems and market
9 infrastructure open and available for use, and so
10 I think -- and so, therefore, early registration
11 is important, so I would imagine that you would
12 want certainly the banks and dealers to register
13 as soon as possible.

14 Having said that, we -- you know, a
15 choice of legal entities is one challenge for
16 dealers. I mean, there are banks within our
17 corporate structures, FCMs, swap dealers, all of
18 which would be subject to the nuances of the final
19 rules once they're out, so I think one
20 prerequisite for registration is the dealers, the
21 FCMs knowing exactly what legal entities they will
22 be using and filing the appropriate registrations.

1 MR. DIPLAS: I think that's the key
2 issue in what you asked originally. It's not a
3 question for some of us whether Morgan Stanley or
4 Deutsche Bank or Barclays or whoever is going to
5 be a swap dealer. But the issue is which legal
6 entity we think that organization is going to be
7 that swap dealer, perhaps for selling product or
8 not and the discussions, I think, that we have --
9 as we have seen from our experience with other
10 dealers, there are pretty convoluted discussions
11 taking place internally that we're just starting
12 to understand that some of it, I think, we have
13 pretty good knowledge by now in terms of how the
14 rules will come out. Some of them are quite up in
15 the air and those actually might determine those
16 choices. Capital rules are very important from
17 that perspective and also the coordination with
18 some of those that have also dealt by the
19 Prudential regulators or not because also we're
20 going to be using non-banking entities, so the
21 greater (inaudible) probably would become the most
22 relevant constraint. And having that information

1 as soon as possible obviously is going to guide
2 some of these decisions.

3 The second thing about -- in the case --
4 let's say for now we made the wrong decision and
5 we have to back track, we have to be cognizant of
6 the lead times associated with actually rebuilding
7 infrastructure or repapering docs, especially
8 talking about moving existing trades and having to
9 maintain risk-balance books.

10 MR. TURBEVILLE: That all sounds pretty
11 rational but it's a huge difference between talk
12 about phasing in things because this morning the
13 discussion was all about integrating a lot of
14 different operations, multiple sets, and various
15 layers, talking about which subsidiary is the
16 optimal one for an integrated international bank
17 to use is sort of a different issue, a different
18 kind of issue. And it strikes me -- you can react
19 to it, but it strikes me as that's less persuasive
20 in terms of why something should be phased in or
21 not. It's one thing if you've got to fit lots of
22 pieces together, it's another if you're trying to

1 optimize the subsidiary within your large
2 international group to do transactions.

3 MR. DIPLAS: Well, it's not simply
4 optimizing, but also understanding what is
5 appropriate based on how some of these roles look.
6 Some (inaudible) might not be appropriate. It's
7 not a matter of being optimal, it's a matter of
8 being actually accurate.

9 When it comes to phasing if I want to
10 take a step back, our (inaudible) to phasing is
11 that probably it would be guided by six underlined
12 principles. One is to provide enough time for the
13 market infrastructure and the operations to catch
14 up and do this appropriately so we cause no harm,
15 i.e., no market disruption. The second would be
16 to prioritize data reporting to regulators so they
17 can have informed future rule-making. The third
18 would be to phase in the requirements depending on
19 the market participant and the asset class. The
20 fourth would be to figure out within an asset
21 class which actions are going to reduce systemic
22 risk the most and prioritize those. The fifth

1 would be to allow time for adequate testing, and
2 that's what Steve touched on, to ensure that the
3 actual infrastructure is appropriately built to
4 withstand that change that's taking place. And
5 the sixth is that we sequence -- different
6 regulators sequence rules appropriately to ensure
7 that actually market participants, either within
8 the same asset class or that might be delayed in
9 the phasing, et cetera, find the same treatment.

10 Give an example for the latter, when
11 we're talking about if the prudential regulators
12 come out and say the capital rules or the margin
13 rules for non-clear transaction are X and X is
14 (inaudible) versus the cleared ones, but we have a
15 market participant such as the (inaudible) asset
16 manager that cannot comply on time and has a
17 two-year lead time, that participant would be
18 unfairly penalized.

19 So, having that kind of coordination,
20 from our respect, is extremely valuable.

21 MR. HORKAN: And I would sort of add on,
22 you know, as Athanassios said, lots of

1 infrastructure work, lots of things that we'll
2 have to do that clearly we'll want to optimize,
3 but that's clearly not necessarily the main
4 objective of the regulators. But the implications
5 in terms of signing up clients and documenting, I
6 don't think there's any way to minimize how much
7 effort that's going to be. And it's more than
8 just throwing resources at it, and perhaps John
9 can speak to it, but he's going to sign up all his
10 clients and then we have to sign up with them and
11 then link up all with the other participants that
12 we talked about this morning. That's just a large
13 amount of documentation that is required and, you
14 know, hopefully later we'll also talk about
15 standard forms to help maybe implement that in a
16 more efficient manner.

17 MR. GIDMAN: And, you know, before we
18 know how long it's going to take to get to the end
19 line, what the appropriate sequencing or phasing
20 would be, we need to find a common starting point.
21 And I think Matthew's comments at the outset
22 about, you know, are you an end user, are you a

1 dealer, or are you both, you know, which legal
2 entities within your organizations would best be
3 appropriate, I think there's a general sense of
4 lack of clarity on the part of many types of
5 market participants about what exactly the
6 definitions will be such that we can all
7 collectively determine what the right sequence and
8 what the right phasing would be from a practical
9 standpoint.

10 And in the cases of an institutional
11 asset management firm, you know, is the major swap
12 participant at the advisor level, is it at the
13 fund, is it at the ERISA account, or at the other
14 account? Is it at the entity level or the
15 beneficial owner? These are all questions that we
16 need certainty before we can determining what the
17 right sequencing should be.

18 MS. GUEST: I think just to add
19 complexity to that, if you look at an
20 international fund structure, there are still some
21 open issues with respect to how those entities are
22 going to be treated and where CFTC's or SEC's

1 jurisdiction lies. And we were more enlightened
2 now than we were at the beginning of last week
3 about what a swap is, but I'm not sure we're more
4 enlightened about which swaps, in the
5 international context, necessarily count. So, to
6 an extent, I may have the same problem Matthew has
7 where I don't know some of my entities whether or
8 not they are or aren't dealers that would be
9 required to register. So, it's not just an
10 optimization exercise, it's identification of
11 which ones would have to.

12 MR. ROTH: Can I just mention, there's a
13 logistical element to the registration process,
14 too, that I just wanted to mention because in its
15 registration rule release, the commission raises
16 the possibility of delegating a portion -- all or
17 a portion of the registration process to NFA. And
18 if that process is in fact delegated to NFA,
19 there's two components to it. One is just
20 processing the application itself, and that's,
21 frankly, not that hard for us. We had to make
22 certain programming changes to our web based

1 registration system, but we've already done that
2 to accommodate the new categories of registration.
3 We can process the applications tomorrow if that's
4 what the commission decided.

5 The second part of it, though, and the
6 trickier part of it for us, is the 4s submissions,
7 because the commission proposed that you can
8 receive a provisional registration, an applicant
9 can receive a provisional registration upon the
10 filing of the application that is in good order,
11 but that as the 4s requirements become
12 implemented, firms then have to make their 4s
13 submissions to presumably NFA so that we can
14 determine whether those 4s submissions are in
15 compliance with the commission's rules.

16 That process is going to be trickier.
17 We need to know when those final -- once those
18 final rules are adopted, we can finalize the
19 development of guidance for our staff that's going
20 to be reviewing the 4s submissions, but we can't
21 really finalize that process until the rules are
22 in their final form. But in addition to

1 developing the guidance, we're frankly -- for
2 certain of these areas may be somewhat familiar to
3 us but for other areas we're going to have to go
4 outside of NFA and bring talent into NFA that's
5 not currently in-house to review those 4s
6 submissions.

7 So, you know, our thought was that as
8 the rules become implemented and as the 4s
9 submissions start coming in, I think it could take
10 NFA certainly six months from the date the rules
11 are adopted in their final form until we're really
12 ready to review the 4s submissions.

13 MR. LAWTON: Hey, Dan, follow-up. Which
14 particular 4s submissions do you think you're
15 ready now and which parts do you think you're --

16 MR. ROTH: You know, I would think,
17 John, our thought on this is that the submissions
18 regarding the bilateral, the non cleared stuff, is
19 going to be more foreign to NFA than the cleared
20 materials. So, I think we're going to need
21 outside help on all of it, but the 4s submissions
22 regarding business conduct rules with respect to

1 the non cleared transactions, I think, would be an
2 area where we would feel a particularly acute need
3 to go outside of NFA and bring that talent in.

4 MR. BUSSEY: Just kind of summing up
5 what I think I was hearing, a concern about
6 definitions and about the rule set that will apply
7 to dealers and major participants, but I didn't
8 hear anyone talk about any of the other streams.
9 So, am I to take it that, you know, SDRs,
10 clearing, all the other components of Dodd-Frank,
11 do not -- can go before the registration and
12 substantive requirements for dealers?

13 MR. GIDMAN: I think, you know, that
14 what I believe is that the definitions are the,
15 you know, the important starting point for all
16 participants, and that once we have those
17 definitions, then we can begin the process of
18 identifying what reasonable phasing and sequencing
19 would be, and particularly when we're looking at
20 complex relationships with multiple sub accounts,
21 different regulated entities and different capital
22 and corporate structure it becomes very important

1 to have clear rules of the road as we start on
2 this process.

3 The technical difficulty, the time to do
4 things, you know, we're all highly regulated
5 entities. Our biggest firms all have significant
6 infrastructure, but we need to make sure that, you
7 know, there's open access for those participants
8 that are not the largest and that there's an open
9 architecture to all of the new facilities that are
10 coming online.

11 MR. COOK: I think within the stream of
12 rules around participants, I think you mentioned a
13 couple of predicates to deciding which legal
14 entity you would use. So, let's say we have the
15 definitions in place, and you mentioned capital,
16 maybe some of the SEC requirements, is there
17 anything else that stands in the way of figuring
18 out which legal entity you want to use?

19 MR. HORKAN: I would just say sort of
20 the implications from an international perspective
21 are quite critical and harmonization with
22 international regulators is critical. I think

1 this is a great first step for harmonization here
2 with what we can control in the U.S., but we all
3 run pretty global businesses. Our infrastructures
4 are set up mostly globally and, you know, managing
5 that dimension around legal entity is something
6 we're actively trying to understand.

7 MR. PICARDI: I would add that I think
8 also from our perspective how affiliates will deal
9 with each other and the rules around that would be
10 important from our perspective.

11 MS. GUEST: And just at a more mundane
12 level, I think operationally there can be some
13 complexity just with different time zones
14 depending upon which entity and how the time
15 frames work, may have systems that currently, say,
16 in Asia, that wouldn't be appropriate to put in
17 Asia, I might need to move those systems to a
18 different jurisdiction to comply with some of the
19 timing requirements depend. So, there's just a
20 few mundane things like that that we will need to
21 think about internally but that take time again.

22 But, again, that's time to get to full

1 compliance, I don't think that we couldn't
2 provisionally register if that didn't necessarily
3 mean that the full panoply of the proposed rules
4 and regulations applied at that instance. If it's
5 a phased in process then I think we could
6 provisionally register and if we had to switch out
7 the entity, we could switch out the entity and we
8 could get ourselves to full compliance over a
9 period of time.

10 MR. DIPLAS: With respect to phasing,
11 though, I mean, our expectation is that we would
12 have to make those decisions quite early. We
13 expect that the dealers will be the first ones to
14 be captured no matter what, how the rules look,
15 and we expect to -- there is more (inaudible)
16 probably around the major swap participants
17 exactly as to how many they are, who they are, and
18 how much infrastructure built they will have from
19 their standpoint.

20 We expect to, if we look at the main
21 kind of themes that we're looking here between
22 clearing and execution, you -- most dealers --

1 basically right now we have to make probably one
2 fundamental choice with respect to clearing, i.e.,
3 do they use one entity as a clearing member or
4 two? Some people will make the choice to use an
5 FCM just simply for client business and probably a
6 banking entity for the principle side of the
7 house. Some of them might choose to actually take
8 that entity and use it as a client of the FCM.
9 So, I think you're going to see these two flavors
10 basically and we've heard kind of things from both
11 sides talking to other dealers. And some of them
12 might backtrack actually at this point so I'm not
13 -- but that is probably the major decision.

14 In terms of the execution, the same
15 thing will happen. For now most of the execution
16 around swaps happens to be sitting on the banking
17 side of the house. There will be similar systems
18 that have to be built on the FCM side and that's
19 probably most of the time that the dealers will
20 have to dedicate in infrastructure build simply
21 from just starting themselves if, say for example,
22 their execution in the beginning just for dealer

1 trades. The build, of course, is similar, but in
2 large scale when it comes to the client whether
3 we're talking now the client clearing or client
4 trading, et cetera.

5 MR. GIDMAN: You know, I think one of
6 the concerns that you could have is that there's a
7 rush on the part of market participants to comply
8 and to build out infrastructure, but there's a
9 significant distance between the most technically
10 sophisticated and the largest players and those
11 that are not. And when we look at mutual funds
12 and similarly organized funds, ERISA accounts, and
13 pension plans of government employees, there's a
14 wide difference between the technical capabilities
15 of those participants from the top to the bottom,
16 but many of those participants need the same
17 access to market facilities and to markets as the
18 very largest. They need access to swaps in order
19 to manage their risk, in order to match their
20 pension, income, and assets with liabilities, and
21 to efficiently gain access to markets. And we
22 want to make sure that as there's a rush to build

1 this infrastructure that there continues to be
2 open access to these markets for all participants
3 regardless of size.

4 MR. PICARDI: I would second John's
5 concern in our space. We deal with, both
6 physically and with financial instruments,
7 entities that have different levels of
8 sophistication and entities that are producers,
9 entities that are -- and not wholesalers, but true
10 smaller end users. And in our travels we've found
11 there's a wide range of understanding or even
12 awareness that when they introduce instruments in
13 the future they, you know, may have new regulatory
14 requirements and so it's important to make sure
15 that that gets out to the folks that we deal with.
16 But also the comment I heard earlier that's
17 important from our perspective is flexibility in
18 this process, and we feel that the commission
19 staff seems to have gotten that message in a lot
20 of the comments that we've participated in by
21 virtue of the concepts that have been raised here
22 and that's important to our sector.

1 MR. COOK: I think one of the concepts
2 that you guys had put out was that there may be a
3 difference in implementation for the registered
4 entities versus the other participants in the
5 market which seems to be what you guys are echoing
6 and supporting, is that right?

7 MR. DIPLAS: We thought that was very
8 helpful, actually. The concept document that came
9 out on Friday was very helpful in that respect.
10 And the comments that we have put forward in the
11 implementation plans that we gave to both the SEC
12 and the CFTC reflected the kind of reality that
13 basically different market participants are in
14 different states of readiness and, therefore,
15 there needed to be appropriate time to actually
16 build that infrastructure and we think that the
17 CFTC's proposal is very reasonable in that
18 respect.

19 MR. GIDMAN: We thought your themes and
20 your questions were exactly right. We thought it
21 was exactly the right perspective.

22 MR. LAWTON: With regard to

1 documentation of client accounts, what steps are
2 necessary to get client accounts documented both,
3 first, I guess, on the cleared side and then on
4 the uncleared side? And what kind of time frames
5 do you think we're looking at?

6 MR. DIPLAS: Well, talking to our
7 clients, we have seen -- I mean, depending on the
8 type of account, there are accounts, more or less
9 single entity accounts, which are probably easy to
10 document with, and there are the multi-hundreds of
11 thousands of accounts type entity that's actually
12 much more challenging. So, the same problem, of
13 course, that we face in actually signing
14 documentation with them they face it internally
15 themselves taking the same documentation to their
16 own clients.

17 To give the example of a large asset
18 manager that might have 2,000 accounts, then ask
19 the manager if he or she wants to go to 4 CCPs,
20 that means 8,000 documents, and if they want 10
21 dealer FCMs, that's 80,000 documents. These are
22 not boilerplate documents, clearly, they basically

1 have to be negotiated and they have to go back and
2 present to their clients and to the extent that --
3 if you think about it even in man hours or man
4 weeks or whatever, one client -- an attorney can
5 do 100 of these a week, which sounds pretty
6 aggressive, we're talking about 800 man weeks.

7 So, that's the kind of challenge they
8 face on their side. We face the same thing,
9 obviously, from our side. Now, we're, in general,
10 in the business of chasing clients o sign up as
11 many clients as possible and it's very strange to
12 be worried that too many will come at the same
13 time.

14 If you ask the dealers, most of them
15 have been chasing the same top 50 accounts, so
16 that space among the major dealers is probably 100
17 accounts. Now, Dodd-Frank is not talking about
18 100 accounts, it's talking about everybody, so I'm
19 trying to figure out how we're going to sequence
20 those. It's simply a bandwidth issue, not even
21 when we have no substantive disagreement about the
22 rules.

1 So, we think for some of these larger
2 and multi- thousand type accounts it would be --
3 they need 18 to 24 months simply to sign
4 documentation.

5 MR. GIDMAN: I'm not as concerned about
6 the top accounts. I think you guys will take good
7 care of them.

8 But there are about 157,000 mutual or 40
9 act or similarly organized funds in the United
10 States along with ERISA accounts and state and
11 municipal and federal pension plans. Each of
12 those, on average, has 7 managers and each of
13 those managed accounts may have 5 to 13 different
14 subaccounts for managing different parts of those
15 accounts. So, very soon you're getting up to 8-
16 to 10 million volume of accounts. Almost all of
17 them have very poor technical capability to be
18 able to comply with these requirements even though
19 in good faith, you know, they need access to those
20 markets and they need access to those facilities.

21 So, from a phasing standpoint, from an
22 industry resource standpoint, it's not an

1 insurmountable challenge, but it's a challenge.

2 MR. COOK: Can you just give us some
3 examples of what are some of the areas in which
4 their technology might get in the way of the rules
5 as least as you know them to be now?

6 MR. GIDMAN: When you look at
7 institutional accounts, typically an ERISA account
8 or a mutual -- an ERISA account is going to have
9 multiple managers. Each one of those managers is
10 responsible for one sleeve of that product set and
11 that product set or strategy may have overlapping
12 asset classes. They may all use swaps, but they
13 may use those through multiple custodians and
14 multiple other accounts and they really don't have
15 the ability to do any of the MSP tests to see
16 whether or not they fall under those guidelines.
17 Even though they're not even close to the
18 threshold there's uncertainty about whether or not
19 they would be required to do those tests on a
20 daily basis. They certainly don't have the
21 ability to look through or look across those
22 accounts that are at third parties, and many of

1 them don't have the technical capability, which is
2 why they hire third parties. They hire
3 consultants, they hire investment advisors, and
4 they hire multiple custodians or other service
5 providers.

6 MR. COOK: But it's about doing the
7 calculation to determine if you're an MSP that
8 you're talking --

9 MR. GIDMAN: The calculation is one of
10 the biggest things. When you look at kind of the
11 life cycle of a trade, what they almost all have
12 in common right now is connectivity to the DTC and
13 the Trade Information Warehouse, so about 98
14 percent of those entities connect in one form or
15 another to the DTC for trade information on swaps.
16 However, with regard to SEFs and clearing and
17 further up the stack, they don't really have the
18 technical capability to do that. And they have
19 the safe harbor to be able to conduct these trades
20 by any means of interstate commerce, and that's
21 what they do. You know, many of these trades are
22 done over the phone and really when we're talking

1 about bottom up or back to front, the one thing
2 that we really have in common at this point is a
3 single trade repository where at the end of the
4 day these trades, and through the lifecycle of the
5 trades, you know, there's a reasonable gold record
6 of it. We're concerned that, you know, there's
7 the potential of fragmentation in this market,
8 which would make it more difficult to bring these
9 records ever together.

10 MR. O'CONNOR: Sorry, just a couple of
11 things actually. I'll make another point on the
12 client side and then I'll talk to the uncleared
13 situation as well.

14 Wearing my ISDA hat, one thing we hear a
15 lot from the buy side asset managers is that in
16 addition to all of this stuff that John has just
17 been through, there's a huge education process
18 needed at every client to enable them to make
19 decisions as to whether to continue to trade or
20 not in a cleared space, and if they do, which CCP
21 to choose, which FCM, et cetera, et cetera, and
22 that process can't be underestimated and often

1 decisions need to be made that are then ratified
2 by boards (inaudible) client, then that board
3 might meet once a quarter or twice a year, and so
4 there's a time delay there just adding to what
5 John had said.

6 On the uncleared side, a typical large
7 dealer may have 20,000 derivative clients that are
8 typically executed under an ISDA Master Agreement.
9 Those master agreements often take months to
10 negotiate in the first place and they will all
11 need to be renegotiated. And the reasons for that
12 are to add extra provisions with regard to know
13 your client rules that are coming through
14 Dodd-Frank, so extra representations will be
15 needed there, the suitability representations
16 needed. There are new margin, collateral terms,
17 credit limits, that need to be imposed. And if
18 you -- you know, just trying to put some numbers
19 around this -- if you have 20,000 accounts and
20 there are -- you know, and it takes a day, let's
21 say, to renegotiate each one, which is somewhat
22 aggressive from the point of view of anyone who's

1 looked at these things, and there are 200 trading
2 days in a year, that's 100 man years' worth of
3 effort.

4 So, now you could say, that's 100 --
5 let's just have 100 lawyers do it in a year, but
6 then you get into, you know, a bandwidth concern
7 because those guys who would be renegotiating that
8 are the same people who are going to be writing
9 all the new policies and procedures and all the
10 other bodies of work that are going on at the
11 firms as well.

12 MR. TURBEVILLE: I would have thought
13 that a lot of the provisions, especially if you're
14 talking about corporate -- business conduct
15 provisions, are going to be standardized chunks of
16 language. That's the way the rules actually are
17 written to encourage the potential for
18 standardized chunks of language to make it as easy
19 as possible so that you don't have to sic a lawyer
20 on an individual client for, you know, 100,000 man
21 years of legal work.

22 MR. O'CONNOR: No, no, I agree with that

1 point and that's why I'm erring on the one-day per
2 agreement rather than three months, which is the,
3 you know --

4 MR. TURBEVILLE: I understand that.
5 There are some other things you were using, like
6 renegotiating credit limits. What is that?

7 MR. O'CONNOR: Well, no, the rules
8 published two weeks ago require margin --

9 MR. TURBEVILLE: Right.

10 MR. O'CONNOR: -- in the bilateral space
11 and/or credit limits. Most ISRA agreements with
12 end users outside of the institutional space don't
13 have an equilateral or credit limits right now.

14 MR. TURBEVILLE: Don't have any -- so,
15 Morgan Stanley actually foregoes credit on swaps
16 in an un-kept circumstance where you actually
17 extend credit to other people without any cap?

18 MR. O'CONNOR: All banks extend credit
19 through derivatives.

20 MR. TURBEVILLE: With caps.

21 MR. O'CONNOR: No. Well, the cap being
22 the ability --

1 MR. TURBEVILLE: To call for collateral.

2 MR. O'CONNOR: No, to continue to trade.

3 But generally, certainly in the corporate space,
4 most corporations when trading derivatives with
5 the banks don't have credit limits or collateral
6 agreements in the market.

7 MR. DIPLAS: I think it varies a lot
8 though, we need to eventually be doing it with the
9 type of client. Hedge funds have different
10 treatment, so leveraged accounts versus
11 unleveraged accounts have quite different
12 treatment to the extent that now the law will
13 require some of these entities to actually now
14 trade with different entities within our own
15 organizations, we have to redo that credit
16 analysis. If the cleared business will go with
17 entity A within Deutsche Bank versus the unclear
18 are going to entity B, those two entities will
19 face perhaps a different risk profile from the
20 clients and they will have to reevaluate those.

21 Also, the proposed rules say that, for
22 example, asset managers and levered accounts,

1 which until now might not have been paying initial
2 margins for uncleared transactions, all right, now
3 they will.

4 MR. TURBEVILLE: I understand that.

5 MR. DIPLAS: They will have to redo a
6 lot of this, so what Steve is talking about is
7 that you have to do a redo of all of those clients
8 and I think one-day is an extremely aggressive
9 timeline, frankly. I don't know anyone that will
10 do that. But --

11 MR. TURBEVILLE: I'm just -- it's
12 actually a big point because it got to be a lot of
13 discussion around the FDIC rules, but what I'm
14 trying to ask very specifically, and I'm just
15 interested academically, is it common practice of
16 U.S. banks to actually extend credit under
17 derivatives in un-kept amounts to corporations?

18 MR. DIPLAS: Different banks deal with
19 the clients' different ways. When Steve was
20 talking about extending limit -- I'm sorry,
21 extending credit, that doesn't mean that that
22 extension of credit is necessarily unhedged. We

1 might face corporate end user X at \$100 million,
2 just for arguments sake, in a derivative exposure.
3 Our job, and Steve (inaudible) and I have done
4 this in the past, was to actually go and hedge
5 that exposure. So, you might say, yes, I'm
6 extending it, but I'm also taking action to hedge
7 that exposure, and based on the cost of that hedge
8 I will price the transaction appropriately.

9 So, I think it sounds too simple to just
10 say they extend credit in an unlimited amount.
11 Nobody has unlimited credit.

12 MR. COOK: Chairman -- that's what I was
13 trying to get across is nobody has unlimited
14 credit.

15 MR. HORKAN: Well, and one challenge
16 we'll face is we'll have internal credit limits,
17 which I think is where you were trying to go, but
18 the requirement now is for us to set up collateral
19 service agreements with these end users that won't
20 actually be implemented. So, we have to go to our
21 clients and ask for them to sign a document that
22 they're not going to actually have to use based on

1 the rules and that's going to be a challenge for
2 us. Why are they going to want to waste their
3 effort and resources to deal with this?

4 MR. O'CONNOR: Yeah, and just to add a
5 bit more -- so, you can -- looking at a bank's
6 trading portfolio, you can broadly divide that
7 into two halves, the collateralized -- so, what I
8 mean is, variation and/or initial margin -- and
9 then the uncollateralized, and it's generally the
10 case that the hedge fund and leveraged accounts
11 will -- and other dealers, will be in the margined
12 category and corporations and governments will
13 typically be in the unmargined, and while the
14 banks have very robust procedures for managing
15 risk and observing actual exposure versus credit
16 limits, there are no provisions typically in the
17 documents that provide for collateral in that
18 uncollateralized sector.

19 CHAIRMAN GENSLER: I couldn't help but
20 ask Steve, it's not on that issue, it's the 20,000
21 clients, if I might. Though it wasn't put in the
22 CFTC staff concepts, if the lawyers were able to

1 tell us that we had a way to phase rules by the
2 size of your counterparty or the number of trades
3 they enter into or some measurement of -- are
4 there easy ways to take your 20,000 and his
5 20,000, and et cetera, and sort of say you've got
6 to get the more active documents done sooner, et
7 cetera, et cetera? I mean, does it sort of fall
8 into easy ways that are not capricious or
9 arbitrary and the lawyers would let us phase?

10 MR. O'CONNOR: I think ignoring that
11 last caveat --

12 CHAIRMAN GENSLER: The Administrative
13 Procedures Act --

14 MR. O'CONNOR: I think that there are
15 ways like that of analyzing business according to
16 trading volume or size of clients. So, to the
17 extent you could come up with some fair way of
18 capturing -- I mean, if you're asking can you get
19 to the 80/20 situation, I think, yes.

20 CHAIRMAN GENSLER: Yeah, I mean, how
21 many of those 20,000 do more than 5 transactions a
22 year or something? I mean --

1 MR. O'CONNOR: That's a good question.
2 Maybe 5- to 10,000.

3 CHAIRMAN GENSLER: But, I mean, there
4 may be ways --

5 MR. O'CONNOR: So, the numbers come down
6 pretty quick.

7 CHAIRMAN GENSLER: That might be a
8 helpful thing to learn more from the major dealers
9 if there's a way to -- that said, you know, the
10 top 1,000 customers are here, you know, for
11 instance, which might be -- would the top 1,000 be
12 95 percent of your business?

13 MR. O'CONNOR: It's probably 95 percent
14 of the systemic risk in terms of credit exposures
15 and --

16 CHAIRMAN GENSLER: So, I'm going to put
17 out a question and then I'll go back to my seat,
18 but just it would be helpful to know, you know,
19 that sort of whether it's the 80/20 rule, the
20 90/10 rule, but what number of counter parties
21 really gets a 90 or 95 percent of your book? And
22 then maybe there's a way to --

1 came up in the context this morning is, you know,
2 the idea of standards around product definitions
3 and client account numbers, LEIs, you know, that
4 is, in my former role, extremely difficult just
5 for one firm to manage all the different entities
6 that clients like John have. The ability for us
7 to do it as a community is going to be a wonderful
8 challenge that I think some of these SDRs, et
9 cetera, are looking to solve for, but I personally
10 would be of the opinion that, you know, that's
11 going to be after a lot of the execution of this
12 is implemented and it will require a rework which,
13 unfortunately from an efficiency model, is quite
14 unfortunate.

15 MR. DIPLAS: I think it's challenging
16 but it's actually also a very good opportunity
17 because actually the legal entity identified was a
18 kind of a static data problem that most firms
19 faced and created a lot of risk. To the extent we
20 have enough time to actually do it properly, I
21 think that's going to be some thing very positive
22 that's going to come out of this exercise.

1 MR. GIDMAN: It's one of the best things
2 to come out of this exercise.

3 MR. BUSSEY: We've talked, I think, in
4 two ways about distinguishing between similarly
5 situated entities. Chairman Gensler's suggestion
6 about differentiating between high volume clients
7 and low volume clients on the one hand, and then I
8 heard some praise for the CFTC staff approach or
9 proposed approach on distinguishing between, say,
10 a Loomis and a B of A or a Deutsche in terms of
11 size of financial intermediary. Can you talk a
12 bit about how we should think about competition in
13 both of the -- competition and fairness type of
14 issues if we go down the path of distinguishing in
15 those types of ways in our implementation? Or
16 not?

17 MR. O'CONNOR: I think there's a real
18 challenge there, so in other words, if you do look
19 to an asset manager that has, you know, thousands
20 of accounts and there is general agreement that
21 they need longer than to -- then go to the single
22 fund and say, right, you have three months. Is

1 that fair or not? And I'm answering your question
2 with a question, but that's the crux of the matter
3 and without -- perhaps the -- rather than
4 differentiating between asset manager and hedge
5 fund, for instance, perhaps more it should be,
6 what are those accounts that do pose the greatest
7 systemic risk or have the highest assets under
8 management or have the largest trading volumes,
9 and whether that account is a standalone or within
10 a money manager, maybe that is one way of phrasing
11 that.

12 MR. GIDMAN: Yeah, it may not be the
13 size or the type of entity, it's really from a
14 prudential perspective it's the types of
15 activities and the systemic risk that's introduced
16 by those activities.

17 MR. O'CONNOR: And I think -- sorry,
18 without putting words into your mouth, the other
19 thing we hear from asset managers within ISDA is
20 that because of their fiduciary responsibilities
21 it's hard if you set a target for them saying, you
22 have to have 50 percent of your account list done

1 by date X and then, you know, the rest can follow
2 six months later, how do you go about choosing
3 which -- who -- some might complain if they go
4 first and some might complain if they don't go
5 first.

6 MR. HORKAN: Yeah, I would suggest sort
7 of the principles of fair practice I think have to
8 be the starting point of all of this effort or
9 else, you know, there will be unintended
10 consequences. I think the things I heard this
11 morning were sort of the roadmap -- set a starting
12 point but have a long enough window for us to get
13 through the window and not have bottlenecks, and
14 importantly, you know, not have us have to
15 differentiate, you know, we're going to clearly
16 treat John the best, but not have us have to
17 differentiate amongst the 20,000 clients that
18 Steven mentioned and, you know, not have to, from
19 an operational perspective, differentiate these
20 clients, you know, for this interim period of time
21 which would then go away. That doesn't seem --
22 I'm not sure (inaudible) able to do it, frankly.

1 MR. COOK: Yeah, I think this is a
2 challenge. On the other hand, you know, we don't
3 want to have to wait until the very last client is
4 ready, right. I think this would be a good area
5 for people to think about some more and maybe
6 offer some suggestions in the comment file.

7 I wanted to ask also on the question of
8 documentation and redoing the documents, and
9 sometimes I think -- I'm not sure whether we're
10 talking about customers or accounts and you may
11 have 20,000 accounts, it doesn't mean you have
12 20,000 different documents, so you know, I think
13 the numbers can balloon up pretty quickly if you
14 don't talk about them the right way. But even
15 setting that aside, is there a role for industry
16 groups to help facilitate through protocols or
17 standard documentation some of this to help ease
18 the transition in a way that kind of tries to
19 strike the right balance? We're not typically in
20 the business of coming up with legal documents for
21 or between -- you know, contracts between market
22 participants, but it may be that these issues that

1 you're talking about are relatively common across
2 the relevant parties and could be susceptible to
3 some type of industry initiative to address them.

4 MR. O'CONNOR: Yeah, I think that --
5 yes, absolutely, if there are changes to master
6 agreements that are agreed upon between --
7 generally agreed upon between all constituents at
8 the market, then absolutely, and there's a history
9 here through the ISDA credit protocols where the
10 whole industry can move on the same day and that
11 becomes far more efficient. So, absolutely, that
12 will be a very useful tool for us. And the idea
13 there is the industry agrees on a structure and
14 then either -- well, generally by accessing a
15 website in some authenticated way, then that can
16 be deemed to be adopted in their agreements.

17 There will be some components, though,
18 that are subject to bilateral negotiations, for
19 instance, credit limits or collateral terms or
20 perhaps some of the reps and warranties that are
21 needed, but absolutely where there is an
22 opportunity to use a protocol, then ISDA will

1 absolutely be looking at that.

2 MR. DIPLAS: Yeah, I mean, an example of
3 that is there has been a lot of work that has
4 taken place recently in terms of creating a
5 standard give up agreement for cleared
6 transactions that's being done under the auspice
7 of the FIA and, you know, it has been -- it's a
8 complicated discussion, it's taken us a long time.
9 We're actually practically very close right now
10 having at least a standard agreement that people
11 don't have to actually go redraft every time they
12 want to phase a new account.

13 Now, as Steve said, there are variables
14 there. The agreement might be identical, but
15 obviously you have negotiated differently between
16 a \$10 million hedge fund and \$1 trillion asset
17 manager, but at least it saves us from all the
18 effort of redoing all -- the whole document every
19 time we talk to an account.

20 So, this is probably the most
21 significant development, I think, from that
22 standpoint.

1 MR. GIDMAN: The combination of the ISDA
2 agreements with the published rules of entities
3 such as the Trade Information Warehouse Deriv/SERV
4 provide a good framework but there's still a fair
5 amount of customization negotiation off of those
6 basis.

7 MR. COOK: Are there steps we can take
8 in our rules to help facilitate that type of
9 approach? I mean, obviously we need to -- once
10 the rules are out there, should they have things
11 in them like deadlines or other types of
12 milestones that could help force progress on this
13 if it doesn't happen on its own? Or incentivize
14 progress on this one?

15 MR. O'CONNOR: I would imagine that all
16 new rules will have deadlines on them, won't they?

17 MR. DIPLAS: I guess the deadline is the
18 mandate with incentivized to get things done way
19 before that. I mean, the approach that we have
20 taken as a marketplace has been to take an
21 approach where we're open for business at day X
22 and we mandate a certain practice by date Y, and

1 we can always discuss what is the appropriate gap
2 between those two or interval between those two,
3 but that's the approach we have been taking.
4 Clearly, even from a competitive standpoint among
5 other dealers, we actually want to get a lot of
6 these things done as quickly as possible so we can
7 actually go sell those services to clients.

8 So, that incentive is definitely there
9 and the dealers actually that can process a lot of
10 this quickly will have a competitive advantage.

11 MR. LAWTON: What distinction is there
12 between cleared and uncleared trades with regard
13 to the ease of getting your documentation in
14 order?

15 MR. DIPLAS: Well, the uncleared is
16 already there.

17 MR. O'CONNOR: Yes, but there are these
18 fixes that I mentioned. I think those --
19 negotiating those modifications to the bilateral,
20 I would propose, would be easier than getting
21 documents in place for clearing because that is
22 very new to the end users and to the FCMs and to

1 the clearinghouses themselves in terms of, you
2 know, client clearing within the OTC space. So,
3 I'd imagine that would be much more time consuming
4 than the changes in the bilateral space.

5 MR. DIPLAS: Also, from the standpoint
6 of the client -- some of the asset managers
7 mentioned, and again, we have actually heard
8 different asset managers take a different read of
9 this, some of them believe that some -- their
10 investment management agreement might have to be
11 redone because it didn't explicitly contemplate
12 the concept of cleared swaps, so they might have
13 authorization for swaps, but not cleared swaps,
14 which are considered to be a new entity.

15 As I said, we have two different views
16 on that one, but if that is the case for some of
17 them that would mean a serious kind of reeducation
18 effort with their own accounts before we even get
19 to the FCM type documents. I don't know, John, if
20 you agree with that one.

21 MR. GIDMAN: I think in almost all cases
22 it will effect the management agreements.

1 MS. GUEST: I think there's also
2 significant operational component to opening a
3 clearing account versus opening an OTC
4 relationship. I can negotiate an OTC relationship
5 and do a couple of trades and maybe that's fine.
6 In a clearing context the economics are very
7 different and I need to have a certain amount of
8 volume there to make it even worthwhile for me to
9 open that relationship to start off with. And so
10 because there are a lot of ongoing administrative
11 steps, you have to -- even just at the level of
12 sending out account statements and managing the
13 client funds, there's a very different series of
14 things that has to happen in opening that
15 relationship. So it's a lot more complicated and
16 takes a lot longer than even the sort of -- I
17 can't remember the timeframe, Steve, that you gave
18 for negotiating at ISDA, but it typically takes a
19 lot longer and the risks are different.

20 And I think also in the new world you
21 may have the clearing relationship happening in a
22 different entity than you have the non cleared and

1 depending on how some of the margin requirements
2 and capital requirements play out, you're going to
3 have some complexity around how you manage your
4 overall risk profile with that client. I think
5 it's further complicated by some of the conflicts
6 rules that the agencies proposed because I think
7 there's information I need to share to manage a
8 global relationship and global risk against a
9 global client with whom I may have both cleared
10 and uncleared on a global basis.

11 MR. TURBEVILLE: The folks that Matthew
12 deals with and I used to deal with a lot of those
13 same folks, a lot of those folks actually do a lot
14 of cleared business already so they were --
15 they're accustomed to them in some type of energy
16 -- in the energy field, a lot of them do cleared
17 transactions and uncleared transactions. I'm just
18 wondering how many people actually have existing
19 clearing capability that would otherwise -- that
20 do swaps, but they also are not unfamiliar with
21 the world of clearing because a lot of the people
22 I'm familiar with are very familiar with the world

1 of clearing.

2 MR. PICARDI: We deal with folks that --
3 well, we do clear a lot of transactions, but we
4 also deal with folks that don't clear and have
5 customized arrangements and so I think those would
6 be trying to think through how that would work
7 under this environment. Those would have to be
8 probably dealt with individually and be time
9 intensive because we also set up master netting
10 arrangements (inaudible) where we'd be netting
11 physical transactions against financials to try to
12 reduce any credit exposure we would have to those
13 entities, so thinking through what's going on, the
14 original question being, which might be easier,
15 clearing or unclear. Just thinking about -- off
16 the top of my head, the portfolio we see, probably
17 those uncleared more sophisticated arrangements
18 would be more challenging.

19 MR. TURBEVILLE: Yeah, but you do a lot
20 of transactions with people like Calpine and El
21 Paso and folks like that that also do an immense
22 amount of cleared business as well.

1 MR. PICARDI: Well, we do -- exactly,
2 yeah, no question we do a lot of that business as
3 well.

4 MR. BUSSEY: Can you talk a little bit
5 about the capital and margin rules across --
6 there's a number of regulators that are working on
7 capital and margin rules in this space, the CFTC
8 and us, obviously, and then also the prudential
9 regulators and how timing of the various rules
10 will impact -- timing of those rules will impact
11 the timing of overall registration and compliance
12 on the dealer side?

13 MR. O'CONNOR: Yes, so I guess now we
14 have the CFTC and the SEC that will have margin
15 rules but also the Fed and the FDIC. One
16 interesting question or observation that has
17 arisen post the publishing of the rules a couple
18 weeks ago is that from a timing perspective if the
19 Fed and the FDIC move to mandate collateral in the
20 bilateral space prior to the clearing mandate
21 crystallizing for clear trades, that could,
22 itself, accelerate clearing or put -- effectively

1 bring the timeline forward for clearing. And the
2 reason for that is that if a market participant is
3 trading bilaterally in a -- what is a clearable
4 product not yet subject to a clearing mandate,
5 those trades will be subject to variation and
6 initial margin according to Fed/FDIC rules, for
7 instance, and because those bilateral accounts are
8 spread across many dealers, then the amounts of
9 initial margin in the bilateral world would be
10 greater than if they were condensed through one
11 FCM into a clearinghouse for two reasons. One is
12 that you get the portfolio benefit and the other
13 is that the 99 percent 10- day bar prescribed is
14 typically higher than what a clearinghouse would
15 as well. So, there's a double whammy.

16 So, to the extent that you -- the CFTC
17 and SEC have a -- you know, give a certain period
18 before the window -- before the (inaudible) window
19 closes of a year or whatever the timeline is, if
20 the prudential regulators have a timeline in the
21 bilateral space that is sooner than that, that
22 could crystallize an acceleration of take up of

1 clearing prior to when your mandate actually
2 crystallizes.

3 MR. TURBEVILLE: And again, that's not
4 actually specifically a requirement of
5 collateralization. In the FDIC -- in the
6 prudential regulator's rules what they're saying
7 is, you have to treat it as if it was a credit
8 extension and set a credit limit associated with
9 the appropriate credit exposure you might want to
10 take to that party. So, I think what you're
11 saying, which I think is quite profound, is that
12 if you actually treat bilateral swaps and the
13 risks associated with them in a sensible, prudent
14 way. You actually would move that business into
15 the clearing context because it's more efficient
16 and less expensive, which I think is absolutely
17 accurate. And it's absolutely unfortunate that
18 we've gone this many years -- and excuse the
19 speech, short one -- without actually recognizing
20 the actual cost of counterparty credit exposures
21 that the FDIC and the prudential regulators have
22 actually forced people to do causing, in your

1 suggestion, this business to actually move into
2 clearing. Sorry about the speech.

3 MR. DIPLAS: It's a little bit more
4 nuanced than that though in the sense that -- just
5 to give a very simple example. Let's say that
6 based on the three- or five-day (inaudible), the
7 cleared margin would be 1 percent and the
8 uncleared with a 10-day (inaudible) is 2 percent.

9 MR. TURBEVILLE: Ten-day holding period.
10 It's not always the case.

11 MR. DIPLAS: No, no, I'm sorry. I'm
12 making up the number just to make the point here.
13 The point is that there is already, as you said,
14 the incentive to move that business to the cleared
15 world. So issue number one is, first of all, is
16 that the unclear trade is actually margined up
17 properly or margined in a way that's actually
18 intended to penalize, i.e., it's not risk
19 proportion.

20 Second issue is, if you, even though
21 you're willing to take your trade into the
22 clearing environment, that large asset manager,

1 though, might need two years, you're just going to
2 suffer the penalty without having the ability to
3 get the benefit of moving that transaction there.
4 So, that's why we're talking about the -- having
5 some synchronization between when these rules
6 become effective. That is very important, not
7 only here, but internationally.

8 MR. TURBEVILLE: And I understand the
9 effectiveness. I also understand that the 10-day
10 holding period versus a 3- or 5-day holding period
11 is a judgment call that's made with some rational
12 basis because you're doing a swap as opposed to
13 something that is cleared. So, we can debate
14 whether it's accurately calculated and we can also
15 debate whether the difference between 10 and 5 in
16 a given instrument makes any difference. I think
17 the general principle is a good one, which is --

18 MR. DIPLAS: We agree. Yeah.

19 MR. LAWTON: Question: With regard to
20 trades between a dealer and a financial end user,
21 it's a one-way requirement so there's clearly an
22 incentive for the end user to want to move into

1 clearing in that circumstance. What is the
2 incentive for the dealer in that circumstance?

3 MR. DIPLAS: Does it matter? I mean, if
4 the client wants to actually do a clear trade they
5 will ask for a clear trade. It almost doesn't
6 matter. The client makes the decision as to what
7 type of trade they want to do, so if they have the
8 alternative to clear that trade, it will make
9 economic sense for them to actually go that way.
10 I mean, I don't know.

11 MR. O'CONNOR: And typically the
12 financial end users have two-way variation margin
13 already and already provide initial margin to the
14 extent there's leveraged accounts. So, the
15 transition from bilateral to cleared, in that
16 sense, isn't great. In other words -- I mean,
17 it's a great thing, it's not a great change.
18 Sorry. And therefore, margin -- initial margin
19 may change a little bit, but typically the
20 variation margin is two-way already in the market
21 between financial end users and dealers.

22 MR. DIPLAS: Apart from the -- you

1 mentioned margin, but there is also capital on the
2 other side. I think one of the most important
3 kind of elements that's kind of out there lurking
4 a little bit is the work that is done under Basel
5 in terms of the treatment of the guaranty fund
6 contributions of clearing members. There is no
7 mention that this is supposed to take -- it's
8 going to take effect, obviously, in -- whatever --
9 one or two years, but the issue is that the
10 proposed rule is going to make it very punitive to
11 actually have large guaranty fund contributions.
12 So, if that proceeds as it has been shown, there
13 will be a huge incentive to go rework the actual
14 risk management at the CCP level and alter the
15 distribution between initial margin and guaranty
16 fund contributions.

17 In certain asset classes, probably it
18 doesn't make as much difference. In some of the
19 other asset classes, such as credits, especially
20 single name credit default swaps that have very
21 fat tails, i.e., large jump to default component,
22 that shift could be very significant, it could

1 basically change the ratio -- increase
2 tremendously the initial margin associated with it
3 in order to reduce the mutualizations for the
4 capital hit. So, this is, again, one of those
5 kind of the great unknowns that we are also trying
6 to figure out basically as we design that system
7 and also as we try to appreciate the benefit of
8 offering those services.

9 And obviously the same costs will be
10 passed to the clients as well.

11 MR. COOK: Can we ask about some of the
12 other operational requirements that would apply to
13 dealers and how you would suggest we think about
14 phasing in these? I'm thinking in particular of,
15 for example, about the business conduct
16 requirements, both external facing and the
17 internal risk management requirements and other
18 operational aspects of the rules set around
19 dealers. You know, what do you see as the
20 challenges in implementing those? What's going to
21 be -- is there -- anything jump out as being more
22 readily susceptible to implementation earlier?

1 What needs to come later? What are the roadblocks
2 to rolling out that regime?

3 MR. O'CONNOR: I think that the
4 challenge with regard to setting up the policies
5 and procedures to ensure compliance with the rule
6 sets is pretty significant. And in the concept
7 paper, I know that bank holding companies are
8 deemed to be pretty good at doing policies and
9 procedures so they can be, you know, the first
10 movers. And I would agree with that, but a lot of
11 the new rules aren't in existence in the bank
12 holding company world. A lot of the Dodd-Frank
13 requirements just isn't there in the bank holding
14 company world. So, there's just an enormous
15 amount of scoping and analysis and procedure
16 writing that needs to go on to cover all those
17 rules, and then systems for education and
18 monitoring compliance, et cetera, is all needed.

19 As to what components might be
20 implemented before others, perhaps that's
21 something we could get back to you with, do some
22 analysis for you, but, you know, on the client

1 facing side, the new business conduct rules are
2 around providing pre-trade information to clients,
3 et cetera, just is quite a -- I mean, that is
4 stuff that we are doing in our business but to put
5 a framework around that to ensure that that
6 happens on each and every trade does require quite
7 a build of all the aspects I just mentioned.

8 But I think it would be useful for us
9 all to do some analysis in terms of what could
10 possibly go before others from that point of view.

11 MS. GUEST: I think that's right. I
12 think you also may find that depending upon how
13 different institutions are structured and which
14 entity does what and just how things function
15 within the institution, you may find that although
16 generically it's easier for me to do it than it
17 will be for Matthew, it's going to be -- certain
18 things will still be challenging for me. So, for
19 example, as I mentioned earlier, something like
20 the risk management systems that sit within one
21 entity that I may want to use in my clearing side,
22 they may be licensed to that entity. There may be

1 something as simple as having to renegotiate a
2 license agreement and reestablish a whole -- that
3 same technology framework, duplicate it, and bring
4 it over to another entity. Those things will take
5 time, but it would be perfectly reasonable for me
6 to send you a note or whoever a note and say, you
7 know, by the way, this piece is something I'm not
8 going to be able to do for some period of time.
9 I'm working on it and we'll get there.

10 And that's why we were sort of thinking,
11 as I said earlier, about sort of a three-step -- a
12 day one, day two, day three kind of structure for
13 the implementation, so at day two I'm going to be
14 telling you what my challenges are and you're
15 going to then have a chance to see what they are
16 and determine, you know, are any of those things
17 that are going to be ongoing that we may need to
18 tweak the framework slightly for.

19 I think -- the other thing just to flag,
20 I mean, I think -- you said it earlier in the very
21 beginning, you can't underestimate, as Steve just
22 said, again, the challenge that we face from a

1 sort of compliance perspective. We have traders
2 who have been doing stuff for years and years and
3 they're used to picking up a phone and calling the
4 counterparty and doing a deal. Tomorrow they have
5 to start by saying, who is this counterparty? Is
6 this someone I can even talk to now? If it's
7 someone I can talk to, now I have to think about
8 what I can say to them and what I can't. And if
9 ultimately it's someone with whom I can negotiate
10 a deal, the way that I do it, the way that I book
11 it, the way that I report it, everything has now
12 changed. That's a huge educational effort and
13 it's one that's going to be extraordinarily
14 difficult to design a compliance and monitoring
15 program around.

16 So, we really need to do a lot of
17 education and training. We need to build a whole
18 new compliance program around what is essentially
19 new activity. And we have a lot of people who
20 have to relearn and I think there's going to be
21 some growing pains in there. And I think it's
22 going to be really important for us to work

1 closely with the regulators for you to understand
2 where we're seeing those growing pains as we go
3 along.

4 MR. TURBEVILLE: B of A, Merrill Lynch,
5 Deutsche Bank, Barclays, Morgan Stanley, you guys
6 are all clearly dealers, right? I mean, are you
7 guys working on it right now? Because, I mean, I
8 have no doubt on earth that all of you are going
9 to make the cut. You're big enough. So, wouldn't
10 you be working on all that right now and getting
11 all that stuff tamped down? For instance, the
12 whole issue of business conduct issues, right?
13 Educating those guys who would pick up the phone
14 and goof and call somebody and make a deal with
15 somebody they shouldn't be making a deal with.
16 Just a thought.

17 MR. DIPLAS: Well, yeah, but the "all
18 that" is not finalized yet, so whatever "all that"
19 that is, yes, we're going to work on it, but very
20 broadly, I think the distinction that Robert, I
21 think made was between kind of internal policy
22 procedures and the external business client facing

1 business conduct rules, that would be probably the
2 most accurate distinction.

3 The former we can probably deal with
4 much earlier, the latter, in our phasing
5 proposals, has been put more towards the end
6 because it will take the most substantive change
7 in infrastructure, compliance build, et cetera,
8 and also change the fundamental nature of the
9 relationship. It will also -- I mean, this is not
10 supposed to be a content discussion, but rather a
11 timing discussion, but also it has the potential
12 to change, to affect whether we can face certain
13 entities or not. That's a business model change
14 that's actually very fundamental. Some things
15 when it comes to sharing different models or
16 certain transactions, might also be something that
17 might have to be done at a market wide level
18 because it says (inaudible) verifiable. So, it's
19 much more a challenge in that segment that you
20 articulated basically, and we think it should go
21 towards the end.

22 MR. TURBEVILLE: I got it, I got it. I

1 understand, but I mean, you've been at like 500
2 roundtables, you're like one of the world's
3 experts in this stuff. I know. The fact is, 99.9
4 percent of everything -- 99.9 percent, that's an
5 absurd number, but it is a large percentage of
6 everything that needs to be done is already known
7 and you know that you're going to have to do it.
8 So, I would guess that -- what I'm trying to get
9 across is a lot of the information that's coming
10 this way is, god, there's all this stuff we have
11 to do. But the fact is I know you've probably
12 been working on it for months and will continue to
13 because you're really very efficient in sharp
14 outfits. All of you. So, I'm guessing that a lot
15 of this is -- I understand, this takes time, time,
16 time, but a lot of this has already been done and
17 it would be useful to these guys and for the
18 public --

19 MR. DIPLAS: Well, the issue is that
20 each one of these items in isolation would take
21 minimal time, but we're discussing about 1,000 of
22 these items all happening concurrently. So a lot

1 of this, as I said, even after we agree on the
2 rules and we have pencils down, still has a
3 certain time for implementation. That is the
4 challenge here, not whether you can do one of them
5 only.

6 MR. TURBEVILLE: No, I got that. I'm
7 not saying that. What I'm saying is that you --
8 that I would guess in reality you've been working
9 towards implementation for months already.

10 MR. HORKAN: Yeah, and I think it sort
11 of comes back full circle when (inaudible) said,
12 you know, at the beginning we talked about the
13 multiple legal entities that we're going to have
14 to look to do all these items for and I think we
15 are actively working on and we have lots of, you
16 know, history to be able to implement it. But we
17 have lots of different -- when definitions come
18 and we put our pencils down and we decide which
19 legal entities we're going to do, and we're going
20 to need legal entities for FCMs, for swap dealers,
21 and eventually we'll need it for a push-out
22 entity, we'll then have to implement it for all

1 those.

2 MR. TURBEVILLE: And my point is that
3 you've been equipped to actually think about that
4 for months and think about it now. I know
5 definitions just came out to some extent, but
6 there were no surprises and none of them affected
7 you, so --

8 MR. GIDMAN: But the key for sequencing
9 and phasing for all of us is to have clarity
10 around definitions so that we can take concepts
11 and make them concrete.

12 MR. BUSSEY: We have about 10 minutes
13 left. I just wanted to ask one close out question
14 on this and then touch very briefly on
15 international issues. And the close out question
16 is, outside of definitions, capital margin issues,
17 are there any substantive requirements that we're
18 doing rules on that will drive where you decide
19 where to do the dealer business? Or is it really
20 just capital -- obviously definitions, but then
21 capital and margin that will drive that and none
22 of the other substantive requirements? And I

1 guess it's picking up on something you suggested
2 early on in your statement, Alexandra.

3 MS. GUEST: Yeah, I think part of the
4 answer to that is probably going to go to your
5 next question, which is the international pieces
6 of it. Certainly in our case we've got a large,
7 complex institution. We do business globally with
8 global clients and these are global markets. So,
9 you know, how some of the other things play out is
10 going to be critical to, I think, the answer to
11 this question, unfortunately.

12 MR. BUSSEY: But putting aside the
13 international for just a moment, things like how
14 we do business conduct or the CFTC does business
15 conduct, how we do internal risk management stuff,
16 those aren't things that are going to drive your
17 decision where to place your business? I think
18 Gary wants to answer, so I'll let him.

19 CHAIRMAN GENSLER: I have a question
20 after.

21 MR. PICARDI: If I could, because that
22 is something that we've been thinking about, not,

1 you know, certainly the international piece is
2 important and capital has certainly been something
3 we look at in terms of the way we're structured,
4 but the rules so far as we've read it seems to be,
5 you know, something we can work with subject to
6 clarifying.

7 I think the bigger issues are some of
8 these other things that you mentioned, once we get
9 set up, you know, client communications that you
10 were talking about, dealing with special entities.
11 We sell physical commodities to municipalities.
12 Not only do we have a duty to tell them -- that
13 goes beyond even telling them maybe of a material
14 change that might affect the transaction, we have
15 a duty to act as an advisor at the same time we're
16 -- completely new role for the type of
17 organization that we have. So, those things are
18 certainly a concern for us.

19 What else -- oh, the chief compliance
20 officer, some of the duties that go with that are
21 going to be a challenge for us. When we define
22 how we want to set up our organization, do we have

1 enough dealing activity in it? How are we going
2 to staff it up? You know, maybe we don't and it's
3 not something we want to continue because all the
4 rules that go with that just don't make economic
5 sense. Real time reporting, that's another thing
6 that we've struggled with a little bit. All the
7 pre-trade information, recording -- setting up
8 recording, whose lines do we record if we have to
9 do that. These are things that we have some of
10 that from our trading days, but new people within
11 the organization will be subject to that.

12 So, there are issues, at least from our
13 perspective as someone coming at this a little
14 farther than the other players, that will make it
15 more difficult for us and that's why we recommend
16 a phasing approach that puts our type of
17 participant near the back end of full compliance.

18 CHAIRMAN GENSLER: I was just going to
19 mention on this capital point, and it may be that
20 it's not on the website yet, what we voted on last
21 week, but if you look closely at it when you do
22 get a chance to look at it, you'll see that at

1 least the CFTC's proposal is that capital is the
2 same whether it's in the bank or it's part of a
3 bank holding company, it's basically what the
4 prudential regulator is doing. So, at least
5 intent was to be neutral on which legal entity
6 within a bank holding company.

7 But you'll want to take a look at that
8 and so that issue may -- may go away, then again,
9 if we wrote -- you know, it's a proposal and
10 you'll have to see what the final is and things
11 like that.

12 MR. O'CONNOR: And I think, Brian, from
13 a bank perspective, the main rules are the ones
14 you mentioned, so capital margin definitions.

15 MR. BUSSEY: On international, I
16 understand there's a lot of interest in how the
17 SEC and CFTC are going to apply or potentially
18 apply rules to international activities, either of
19 local based entities or entities operating
20 overseas, but in terms of looking at the overall
21 landscape of what other regulators are doing
22 internationally, I think with possibly one

1 exception, I'm not aware of any other major
2 jurisdiction that's contemplating a swap dealer or
3 security based swap dealer type of regulatory
4 effort. In other words, if you look, for example,
5 in Europe, I think their focus is on clearing, on
6 SDRs, and on reporting, but they're going to be
7 using their existing scheme for regulating
8 intermediaries in this space and that they're to
9 contemplating anything as significant as what
10 Congress did last summer.

11 So, in terms of thinking about
12 international coordination issues in this space,
13 is it really just focused on what the SEC and the
14 CFTC decide on jurisdictional reach and so forth?
15 Or is there some other international component
16 that's involved here?

17 MR. O'CONNOR: I mean, ideally we would
18 like all rules to change on the same day and be
19 exactly the same, but we -- that's not the world
20 we're in. So I think Europe will -- the rules set
21 in Europe hopefully will be very similar to the
22 rules set in the U.S. There will be permanent

1 differences and I expect there will be timing
2 differences. But we -- I guess John or I are the
3 opposite to Athanassios and Alexandra in the
4 sense, you know, we're U.S. banks with foreign
5 branches and subsidiaries, and they're European
6 based. My hope would be that the playing field
7 would be level within each market and to the
8 extent that Europe moves or is moving to the same
9 place, then from an extra-territoriality point of
10 view, that those local regulators, to an extent,
11 they are moving towards the same or similar final
12 rule sets, I think that's an important fact
13 pattern that should be recognized.

14 MR. HORKAN: Yeah, I concur. Sort of
15 the level playing field is critical. You know,
16 we're all, for the most part, global entities, but
17 we are different in a lot of instances. You know,
18 we're clearly a U.S.-based firm, but we have lots
19 of subsidiaries and branches and how we deal with
20 international clients and how is that treated --
21 having the ability to be either subsidiaries or
22 branches, guaranteed or not guaranteed, you know,

1 making that not be a competitive disadvantage just
2 because we're a U.S.-based firm is clearly
3 something critical and it clearly affects our
4 client bases. I mentioned, you know, we, in
5 particular, deal with lots of corporations who are
6 end users and they'll deal out of multiple
7 jurisdictions as well and not limiting their
8 ability to leverage us as a counterparty because
9 we're competitively disadvantaged for some nuance
10 of the rule relative to a foreign dealer, I think,
11 is really important for them as clients.

12 MR. GIDMAN: And a key aspect of level
13 playing field is not only geography and
14 jurisdiction, but also that the vertical elements
15 of this marketplace has open access and open
16 architecture for market participants at various
17 levels in the stack.

18 MR. DIPLAS: I agree with the comments
19 made earlier. I think you'll hear comments from
20 both U.S. firms in terms of worrying about how
21 their foreign subsidiaries are captured here. You
22 will also hear from foreign firms in terms of how

1 -- whether, by being swap dealers here, all their
2 activity internationally is captured by U.S.
3 Regulators or not, and to the extent that they're
4 also different, that could present a problem.

5 So, I think as Steve said, we don't
6 expect the rules to be identical, we hope to have
7 harmonious rules and that's probably going to help
8 for most of these cases.

9 To the extent that they diverge, we have
10 sometimes even practical issues with facing a
11 certain client in terms of whether we're trade in
12 a certain jurisdiction or not. We might be in a
13 Catch-22 situation that either we would break the
14 U.S. law or the European law. That would be
15 pretty bad.

16 So, that's something we hope, basically,
17 to achieve. I think that's kind of the most
18 important element here. I mean, big picture,
19 we're moving along consistently, I think, with the
20 elements you articulate towards the reduce of
21 systemic risk are similar in U.S. and Europe, so
22 that part is encouraging. But kind of some of

1 these details and actually having -- working out
2 the nuances as to how far the reach of each
3 jurisdiction is, is actually something very
4 important.

5 The second part, which I think is
6 critical and was touched upon on the first panel,
7 is the issue of data and I think data
8 repositories. Again, we would encourage you to
9 have a cooperative agreement with other regulators
10 to ensure that for example the single report
11 (inaudible) we have started with works
12 internationally and that will give you a full
13 picture of the risk activity internationally.

14 We want to avoid fragmentation and
15 creating silos of data that would be
16 disadvantageous for both us and you at the same
17 time.

18 MR. GIDMAN: That's really the biggest
19 risk I think a lot of market participants see is
20 the danger of fragmentation. And starting with,
21 you know, a good solid foundation at the
22 repository would be helpful in building out the

1 rest of the infrastructure in a way that's
2 interoperable.

3 MR. COOK: Great. Thanks. With that I
4 think we'll bring this panel to a close, and,
5 again, want to thank our panelists for sharing
6 their time and thoughts with us today and we'll
7 take a 15-minute break and come back at 2:45 for
8 the last panel of the day on connectivity and
9 infrastructure issues. Thank you.

10 (Recess)

11 MR. SHILTS: If people want to start
12 taking their seats we can get going here in a
13 minute or two.

14 Okay, I think we'll get started with our
15 third panel today. This panel will address
16 various issues related to connectivity and market
17 infrastructures. We want to consider what changes
18 need to be made and the timing of these changes to
19 effect the necessary connectivity between and
20 among clearing entities, trading platforms, and
21 data repositories, as well as the need to effect
22 connectivity between and among the market

1 infrastructures and market participants. We'd
2 also like to explore the time and resources needed
3 to establish connectivity and either to modify or
4 build these new infrastructures.

5 Finally, we'd like to consider issues
6 related to the interrelationship of our final
7 rules and the timing and how they should be
8 sequenced or prioritized.

9 Before we begin, I think we'll go around
10 and introduce everyone on the panel. Again, I'm
11 Rick Shilts, the director of our division of
12 market oversight at the CFTC.

13 MR. CURLEY: Peter Curley from the
14 Division of Trading and Markets at the SEC.

15 MR. HABERT: Jack Habert, Division of
16 Trading and Markets, the SEC.

17 MR. CUTINHO: Sunil Cutinho from the CME
18 Clearinghouse.

19 MR. OMAHEN: John Omahen from SunGard.

20 MR. AXILROD: Pete Axilrod from DTCC.

21 MR. CUMMINGS: RJ Cummings, Inter
22 Continental Exchange.

1 MR. FRIEDMAN: Doug Friedman, Tradeweb.

2 MR. LEVI: Ron Levi, GFI Group,
3 representing the WNBA.

4 MR. O'CONNOR: Steve O'Connor, Morgan
5 Stanley.

6 MR. GOOCH: Jeff Gooch, MarkitSERV.

7 MR. COOPER: Adam Cooper, Citadel.

8 MS. BEARD: Kathryn Beard, BlackRock
9 Financial.

10 MR. LAWTON: John Lawton, Clearing and
11 Intermediary Oversight Division, CFTC.

12 MR. SHILTS: Just to get started, maybe
13 kind of a general question just to get responses
14 as to what steps related to connectivity
15 infrastructures would be required to establish all
16 the various necessary connections among clearing
17 entities, trading platforms, and data
18 repositories? Just kind of in a general sense to
19 get going.

20 MR. GOOCH: Do you want me to kick off
21 there? I think there's two types of work needed
22 to be done. I think one is building physical

1 connectivity and I think as you have mentioned on
2 some of the previous panels, yeah, in certain
3 markets we're largely there, most of the major
4 players in the credit markets, the interest rate
5 markets are connected up. Certainly we have most
6 of the CCPs connected to those networks and
7 increasingly most of the execution platform
8 (inaudible) as well.

9 I think if you look at the requirements
10 in the draft rules that are out at the moment,
11 they require more than connections. They actually
12 require a bunch of timeliness requirements, which
13 in themselves, I think, require business process
14 changes, particular the fund managers. So, I
15 think in terms of effort, the wiring is largely
16 there. There will be some tweaks needed, of
17 course. But it's really around how do you get
18 information into that network in an appropriate
19 timeframe. And there's a lot of practices at the
20 moment. You have fund managers entering
21 allocations on to trades later in the day, for
22 example, which are very difficult to comply with

1 when you need to have confirms in 15 minutes, or
2 clearinghouse entries in 15 minutes, which happen
3 at the fund allocation level. The need to take
4 very complex bespoke trades and put them onto
5 networks electronically within 30 minutes or
6 whatever the timeframe is, those are things which
7 are all possible but are very big changes. So, I
8 think, you know, the hard thing to do is to get
9 any information in the right timeframe. The
10 network itself, for some of the asset classes, are
11 largely there. For others like the foreign
12 exchange, it's got more work to do. You know,
13 they're in a very different place.

14 MR. CUTINHO: From the CME's
15 perspective, in terms of -- I'll echo what Jeff
16 had stated -- we have connectivity to several
17 platforms. We have an API. The API is
18 extensible, it can handle the asset classes, we've
19 demonstrated that. I think the most important is
20 timing. We do -- we can receive trades in real
21 time, we can respond in real time, but Jeff's
22 point is around allocations, so if those have to

1 be done in a timely manner, then it's based on
2 user behavior as well as platform support.

3 MR. AXILROD: Yeah, I guess I would say,
4 oversimplifying, everybody ought to be connected
5 to everybody and it's too easy to do to have that
6 be an excuse to delay implementation. And what I
7 mean by that is, when -- you know, it's a fairly
8 well established principle now that SDRs should
9 not be vertically bundled with anything else,
10 needs to be completely neutral as to where they
11 can take trades -- as to who can provide trades,
12 and essentially an SDR should take trades in
13 whatever manner any market participant who has the
14 reporting obligation wants them to take it as long
15 as it's compliant with the, you know, timing
16 provisions. And I think the same thing is true
17 for the market infrastructures. DCOs and SEFs
18 ought to be able to send trades to whichever in
19 the other horizontal part of the infrastructure
20 needs them according to client wishes, and I also
21 think they ought to be governed separately to
22 ensure absolute neutrality and no vertical

1 bundling. But it's too easy to put these
2 connections in to have them be a gating factor.

3 MR. LEVI: I think it's very nice to say
4 we should all be connected to everyone. I think
5 at each particular part of the equation that there
6 will be many participants, many new entrants. The
7 SDRs that we'll connect to first will probably be
8 the incumbents. There's obviously going to be
9 many new entrants and which ones we connect to
10 will be dictated to by our customers, which one
11 they direct us to. We're going to have to make
12 choices in order to reach whatever deadline is
13 made.

14 MS. BEARD: From a buy side perspective,
15 we have to connect to many different platforms.
16 And to adapt easily we'd like to see
17 standardization of technology so that messages,
18 infrastructure, and technology are the same to the
19 point that it is almost a plug-and-play, and it
20 will greatly eliminate the amount of time it will
21 take to connect up to these various platforms.

22 MR. O'CONNOR: And from a bank

1 perspective, I also -- I concur. And I think
2 there's going to be an enormous amount of data
3 flowing around the market and to the extent the
4 industry can work together on unique legal entity
5 identifiers, unique products identifiers, and
6 unique transaction identifiers, then that is going
7 to lay the groundwork for that flow of
8 information. And I agree on the open access point
9 that was raised before and was just raised again.
10 And I think that there should be unbundled access
11 at all layers to all parts of the infrastructure.

12 MR. COOPER: I would just echo all the
13 comments but add maybe an optimistic note on top
14 of that which is to say that all of this should be
15 capable of ready scalability, because very quickly
16 I think we will see that the volume and the flows
17 increased dramatically.

18 MR. CURLEY: And maybe just expand on
19 what you're saying, Steve. What work has been
20 done in connection with some of those protocols to
21 this point? You mentioned the legal entity
22 identifier. What other work is in progress there

1 at this point?

2 MR. O'CONNOR: I think we're at the
3 beginning of that process. I think legal entity
4 identifier, I mean, work streams are being formed
5 around the industry and we need to focus on that.
6 And I think that the product and transaction
7 identifier is somewhat lagging. I don't know
8 whether Jeff would add anything there.

9 MR. GOOCH: I think that the key thing
10 identified is a certain amount exists at the
11 moment. For example, I think we have about 25,000
12 entities on our system for the rates and credit
13 market. Most of those I'd have big codes
14 (inaudible) tend to use the (inaudible) or DTCC
15 warehouse identifiers we tend to use in the credit
16 market. So, mapping those to whatever the various
17 industry groups to choose as the official one is
18 relatively straightforward.

19 I think transaction IDs, again, TOW
20 issues those in the credit markets. We have
21 similar ones in the rates and equities markets.
22 We (inaudible) platform. I think that that can be

1 extended. It can map to some new format.

2 I think product identifiers is probably
3 the thing with the most work to do given the sort
4 of interaction between product identifiers and
5 public disclosure. That's quite a complex thing
6 to work through and I know (inaudible) been
7 thinking about that. You know, our view is we
8 will just carry and generate whatever is required
9 once the new rules are clear.

10 MR. CUMMINGS: I think one of the things
11 about any product identifiers is that regardless
12 of how this identifier ends up being generated or
13 what the source is, it's an industry group. Those
14 product identifiers, for instance in the credit
15 market, it's standard, it's the red ID. That ID
16 shouldn't come with license restrictions where
17 other counter parties are unable to obtain or have
18 to pay a prohibitive fee to get access to use that
19 ID and distribute it around the marketplace.

20 MR. O'CONNOR: Yeah, I'd agree with
21 that. And I think if there is too much insularity
22 or things of the nature RJ just described, then

1 you sort of get into a bespoke environment in
2 certain sectors of the market that doesn't allow
3 for interoperability in the future or fungibility.
4 For instance, if a client wants to change a
5 clearinghouse if the things are too bespoke around
6 one clearinghouse versus another, then that's
7 harmful to liquidity. And I think that to the
8 extent there is this bedrock that we all agree
9 upon of the identifiers, that that provides a
10 framework for more fungibility and that holy grail
11 of interoperability, which people talk about but
12 may be some way off.

13 MR. SHILTS: I have maybe a step back
14 for a moment. I mean, we're talking about
15 connections in various ways, but maybe just to
16 back up a minute, at least for me, to explain,
17 what exactly do we mean by establishing these
18 connections? Are we talking -- is it some sort of
19 like secure Internet connection? Or does it vary
20 depending on the different types of market
21 infrastructures and participants? And who does
22 this? How long does it take to get done? Are

1 there bottlenecks? I mean, just kind of more the
2 mechanics of that and what we should be focusing
3 on in implementation.

4 MR. GOOCH: Okay, I think there's one
5 area in the current rules, which are slightly
6 problematic. I think the CFTC and SEC have taken
7 different approaches to that in the rules. If I
8 grossly oversimplify your two positions, I think
9 the SEC have largely said, it doesn't matter how
10 it's done as long as the information flows to the
11 right place. I think the CFTC have laid out
12 relatively sensible ways of the information
13 flowing in particular cases but taking choice away
14 from participants. You know, I think given that
15 networks exist, people should be allowed to use
16 what exists or use something different if that's
17 better. I'm not here to argue one particular
18 model's merits over another. I think that's for
19 me and others commercially to make the case for
20 customers.

21 But I think the rule set should look at
22 it and say, things have to be connected, there has

1 to be some of the open access requirements people
2 have talked about, there has to be freedom of
3 information for certain IP, that all makes sense
4 to write rules about. And if we have a set of
5 rules like that, I think, you know, within the
6 existing networks and the options are being
7 created by people, you can deliver what's needed
8 relatively quickly.

9 If we start dictating different
10 solutions and different scenarios it, A, gets
11 quite complex, some participants, you know, around
12 this table would actively advocate some of those
13 new models and maybe they are commercially the
14 right solution and they'll win out in the
15 marketplace. Others will be prevented from
16 entering certain markets because they can't build
17 the infrastructure themselves, particularly some
18 of the new SEFs, I think Chris Edmonds mentioned
19 lots of new guys he's never heard of trying
20 (inaudible) SEFs. They're not in a position to
21 build lots of connectivity themselves, it's a
22 massive barrier to their entry to the marketplace

1 if they're required to. If they want to, fair
2 enough, they should be allowed to.

3 And the final thing I'll say is about
4 regulation of that connectivity and the SEC has
5 taken a view that how it's done they're not too
6 involved. They want to regulate that through
7 these new clearing agency structures. The CFTC
8 has gone down a different route, not regulating it
9 but being more prescriptive. I think some more
10 commonality there would make it easier to deliver.

11 MR. AXILROD: I think between
12 infrastructure providers, you know, direct
13 computer-to-computer links using nonproprietary
14 commercially available protocols should be fine
15 and people should not be limited to just one.
16 They should -- the infrastructure provider should
17 be able to support several or they probably
18 shouldn't be in the game.

19 With respect to connectivity to market
20 participants though it's a very different story.
21 You know, there -- as mentioned before, there are
22 thousands of market participants that access swap

1 data repositories at the moment. My lawyer isn't
2 here but I think the statute -- the Dodd-Frank Act
3 itself puts on a swap data repository a
4 requirement to confirm all information submitted
5 to it with both parties to the trade. There are a
6 lot of ways of doing it, but by far the vast
7 majority of actual market participants, as opposed
8 to, you know, the 92-2 rule again, they really
9 don't have the wherewithal to connect up CPU to
10 CPU, for instance, and there really needs to be,
11 for smaller participants, sort of a GUI or a
12 secure web connection or something that doesn't
13 take a lot of technology to hook up to.

14 And the other thing that people sort of
15 underestimate here, there has to be enough
16 customer service for these thousands of players so
17 when they see something submitted with their name
18 on it that's incorrect, they can switch it. And
19 if they've got a problem, you know, notifying the
20 repository, hey, this is incorrect, they've got to
21 have a number to call up, says I can't do this.
22 So there has to be a fairly large customer network

1 and a fairly large capability to do customer
2 service as part of that connectivity, both on the
3 customer side and, by the way, on the side of the
4 other parts of the infrastructure.

5 MR. FRIEDMAN: Yeah, I think that's why
6 you have to start the process first so you can
7 identify the players and so that the market
8 participants know who they need to connect to if
9 they're not already connected and not already
10 using their pipes and plumbing, and that way you
11 can sort of define the universe for the market
12 participants. And if those venues, the registered
13 entities -- SEFs, DCOs, SDRs -- are all working
14 with each other on a fair basis so that those
15 market participants have fair access to get to
16 those different -- whether it's DCOs or SDRs
17 through a SEF, they know where they need to work
18 -- who to work with if they are not already
19 working with them.

20 MR. CURLEY: And just to play that out a
21 little further, so are these types of technologies
22 the ones for the customers you were describing,

1 Peter, are these appearing now in the marketplace?
2 Are they starting to become available? Or are
3 there steps that are necessary --

4 MR. AXILROD: All of these connectivity
5 technologies that I've referred to and that I
6 think others have referred to, exist today and are
7 being used today by pretty much all market
8 participants, all participants in the swap market
9 as far as I know, or most of them.

10 MR. CURLEY: And this includes the GUIs
11 and these other more end user friendly type of
12 technologies?

13 MR. AXILROD: Yes.

14 MR. CURLEY: Good.

15 MS. BEARD: Yeah, but from a
16 connectivity perspective I would argue that it's
17 not as easy as everybody's making it out to be
18 simply because these protocols are out there.
19 They're not being used consistently across the
20 different platforms. So, it will be building a
21 new interface over and over and over again unless
22 we have consistency across platforms.

1 Secondly, much of the infrastructure
2 that is out there needs to work for all market
3 participants, so, you know, not a dealer-to-dealer
4 market. It needs to work for the buy side firms
5 as well as all market participants to be
6 efficient.

7 MR. OMAHEN: I would just reiterate a
8 little bit of what Kathryn said. Even if you have
9 a protocol like extensible markup language, that
10 it seems that is being used repeatedly, how it's
11 actually implemented can differ greatly between
12 clearinghouses and market participants. So, the
13 piping may be easy to establish, but making the
14 sense of the data going through that piping
15 remains, I think, a significant challenge.

16 MR. AXILROD: And to that I'd add,
17 that's correct. There really has to be sort of a
18 common, for the lack of a better term, messaging
19 protocol or messaging choreography where certain
20 messages get sent from one place to another at
21 particular timeframes and messages back to satisfy
22 various Dodd-Frank requirements. We've been

1 focused on the SDR end of that, and I think if
2 those are different from platform to platform,
3 it's going to be almost impossible for the market
4 participants to use them.

5 And also to Kathryn's point, the
6 payload, in other words, what's in the messages,
7 pretty much has to be common again or else the
8 market participants aren't going to be able to use
9 it. Now, it can be common -- if it's computer to
10 computer it's this payload, if you're using the
11 web it's a spreadsheet with this format, but,
12 again, if there's too much difference from
13 platform to platform it's just going to be a mess.

14 MR. SHILTS: But do you have any
15 suggestions or thoughts on how that could be made
16 better so that it doesn't create the delays you
17 seem to be suggesting?

18 MR. AXILROD: Well, maybe I can defer.
19 I mean, I think IDSA has done a very good job with
20 FPML and that sort of language to have a common
21 way of talking about most swaps. There are some
22 swaps that aren't covered. I think most providers

1 can take spreadsheet information and translate it
2 to FPML. I think it's largely there.

3 MR. CUTINHO: One of the things on what
4 we have done is when we launched a service for
5 interest rates, for example, we worked with ISDA
6 and the FPML group so if you look at the latest
7 spec, the risk API is a part of the spec. The
8 clearing flows are a part of the specifications so
9 I think this is -- we can solve these issues.

10 In terms of workflow, what we have done
11 is for platforms we have extended the workflow
12 we've already had to cross other asset classes,
13 just allowed the API to support different payloads
14 depending upon whether it's a listed derivatives
15 business or an over the counter business. So, we
16 do support an extensible API standard. I think
17 one of the most important things for us, or
18 learnings has been that working the industry
19 group, if we put a service out there, it will end
20 up in a very standard fashion as Kathryn has
21 explained.

22 MR. AXILROD: The one thing that isn't

1 there, but I know firms are working on, are the
2 sort of real-time reporting formats which are
3 smaller templates and I think it's fair to say
4 that for paper confirmed trades that are
5 non-standard, you know, there is nothing really
6 for the primary economic terms that's out there
7 and we may just have to sort of have a link to an
8 actual text image that you can read to get beyond
9 sort of the basic data. But I know that the
10 market participants, particularly those with heavy
11 reporting -- I guess it's everybody because if you
12 don't report you still have to verify -- are
13 working quite hard on developing a standard
14 real-time reporting template which is sort of
15 based on the CFTC proposed rules. And I think it
16 behooves all of us providers to support that
17 effort and use that template.

18 MR. GOOCH: Yeah, if I can continue the
19 (inaudible) just to keep Steve happy, I think it
20 would be a shame to move away from FPML at this
21 point. I think we have, you know, sort of on our
22 platform about 2,300 (inaudible) either sending

1 FPML or using spreadsheet conversions to generate
2 it; you know, about 98 percent of the credit
3 market; about 80 percent of the interest rate
4 market. So that produces a pretty solid base as a
5 common platform, as Kathryn mentioned to do
6 things. It would be a real shame (inaudible)
7 different SEFs, different DCOs, different SDRs all
8 creating different formats, everyone having to
9 connect to everybody. I think at the moment,
10 whether you do it through a neutral (inaudible)
11 like us or through our other providers, you know,
12 keeping that common (inaudible), I think is very
13 important.

14 MR. CUMMINGS: Just to add one
15 additional point. I mean, I think it's probably a
16 bad idea to be overly prescriptive in the
17 application language that we use for what amounts
18 to a relatively small amount of asset classes,
19 each one have a primary protocol that's in use,
20 widely accepted and adopted by the market
21 participants. What I will say is that for
22 commodities, for instance, FPML is not used at

1 all. It's 100 percent FIXML following on with the
2 experience in the listed futures markets.

3 So, to be prescriptive for a protocol at
4 this point is probably premature.

5 MR. SHILTS: What's kind of the timing
6 considerations we should have in terms of coming
7 up with these -- the industry coming up with these
8 protocols to facilitate reporting?

9 MR. CUMMINGS: Coming up with the
10 protocols? I mean, the protocols already exist --

11 MR. SHILTS: I mean, it's where they're
12 widely adopted and used.

13 MR. CUMMINGS: I don't know that the
14 adoption is much of a problem. I mean, if you try
15 and find a universal protocol to fit across all
16 asset classes, we'll be back here in about four
17 years trying to figure out how to get another
18 universal protocol to fit all asset classes. If
19 you lean more to the strengths of each asset
20 class, and the providers that are there and the
21 protocol that is widely being used, you're not
22 going to have a very long walk to get these

1 implemented, as Peter said earlier.

2 MR. GOOCH: I think coming back to my
3 earlier comments, I think the connectivity largely
4 exists, you know, there are things that have to be
5 changed, (inaudible) types added, but I think most
6 of that from a sort of central provider
7 perspective is on a six- to nine-month timeframe,
8 it's not years to fix that. The bigger change is
9 getting the small participants who have not
10 historically connected to connect and getting
11 everyone able to submit data within the timeframes
12 required. I mean, I think the 15-minute timeframe
13 creates rework for almost everybody. You know, if
14 we were at sort of four hours or something then,
15 you know, most dealers would be comfortably with
16 inside that without any problems at all. I think
17 it a little bit depends on how quickly, when we
18 can phase in -- how quickly people submit data
19 would pretty -- make life a lot easier. The basic
20 networks there -- though I would agree with RJ, I
21 think (inaudible) commodities and FX is slightly
22 different cases and maybe slightly different

1 decisions should be made there.

2 MR. AXILROD: I just want to pick up on
3 one of Jeff's points. In terms of timing, I don't
4 think market participants, although they can
5 correct me, can produce primary economic terms as
6 you've defined it any faster than they can produce
7 confirm information, so those will -- as a
8 practical matter, those will probably collapse
9 into each other just because of what's -- it's the
10 same information, so if a firm can produce one,
11 they can produce the other more or less.

12 MR. SHILTS: And Jeff, you said six to
13 nine months. I mean, what's -- could you repeat
14 that what you were talking about?

15 MR. GOOCH: I was basically looking at
16 -- I guess a company's job is to provide these
17 networks at the moment. If you need to tweak out
18 a network to add some of these extra message
19 types, send them through to the SDRs, you know, we
20 have most of the DCOs connected already, a little
21 bit more SEF connectivity, that itself is not a
22 major project. So, am I at the bottleneck in the

1 context of six months, maybe nine-month timeframe?
2 No. I mean, that's something that we can get done
3 relatively quickly.

4 Can everyone be connected to it in those
5 timeframes? Well, most people already are other
6 than sort of (inaudible), but are all of our users
7 in a position to submit all of the data that
8 quickly? Probably not given these issues of
9 pre-allocation. Many fund managers don't do
10 pre-allocations. Many of them do end of day
11 compliance checks to finalize allocations, for
12 example. There's some quite big business changes
13 some of those guys would need to make in order to
14 submit within the timeframes, so it's not that the
15 connectivity is the constraint but actually the
16 availability of the data in some cases. That, I
17 think, would take a lot longer but, you know,
18 listening to some of the earlier conversations
19 today, those participants may have that period of
20 time.

21 It would certainly, from my perspective,
22 a lot of the major dealers, once we define them,

1 probably do have most of the data available
2 relatively quickly. If we could sort of work down
3 the user list and the sort of financial players
4 and then sort of corporates, who are probably less
5 likely to have anything at the moment, you could
6 imagine some sort of phasing around that over a
7 more appropriate time period.

8 MR. CUMMINGS: Yeah, I would agree with
9 that. I mean, if you look at multiple SEFs
10 connecting up to a single DCO or maybe two DCOs in
11 some cases, aside from the work flow items that
12 Jeff alluded to, there's also additional rules
13 that I know are under consideration that a DCO
14 would have to impose upon SEFs. And their
15 conformance testing in order -- once connectivity
16 is available there's a relatively lengthy
17 conformance process. And one of the things that
18 DCOs are worried about with multiple SEFs
19 connecting to them is the issue of pre-trade
20 execution limits on the SEF itself. How does the
21 SEF inoculate itself against big market shifts,
22 large price moves, and not pass those into a DCO

1 and, in essence, shift the risk where those
2 entities are interconnected between each other?

3 MR. LEVI: We're also fairly worried
4 about the testing and you guys having enough
5 resources to get us up and running quickly. In
6 terms of risk limits, once again, we'll take our
7 lead from you. We have credit filters on most of
8 our systems. We can limit how much any particular
9 entity trades, so we're fairly confident we can
10 come up to scratch on that one once you tell us
11 what you need.

12 MR. CURLEY: And just to round that out,
13 what are the types of timeframes associated with
14 the testing between infrastructure providers that
15 you would anticipate?

16 MR. LEVI: I would say that six to nine
17 months would probably get us through most of it.
18 I think each connection would take -- depending on
19 the complexity and I'll stick my neck out --
20 between 6 and 10 weeks, but then you're going to
21 have to do quite a lot in parallel and you're
22 going to have to do some front ones before you do

1 some back ones and some back ones before you do
2 some front ones. So, I think Jeff's times, six to
3 nine months to tweak everything can get everything
4 in line, seems relatively fair.

5 MR. OMAHEN: I'd just like to add a
6 little bit here. I think we're really focusing on
7 transaction reporting here. There is an aspect to
8 this whole business post clearing, that is the
9 position keeping, position maintenance. You know,
10 that sector there is much less agile by comparison
11 for the transaction reporting side, and looking
12 from past initiatives that have taken place there,
13 such as the Option Symbology Initiative by the
14 OCC, the launch of security futures, these are
15 major projects that literally were multiyear
16 projects. They weren't in the range of six to
17 nine months, they were actually more one to two
18 years from inception to final go-live. So, you
19 know, in that sector you're talking about more
20 than just transactions, you're actually talking
21 about brining in additional data from
22 clearinghouses, you're talking about sending

1 positional data to regulators, and there's just a
2 lot more of that work to be done.

3 By necessity with a lot of the new asset
4 classes with cleared IRS, cleared CDS, these
5 systems increasingly depend on data and processing
6 from clearinghouses, so what you've also got is a
7 sort of increased interdependency of these systems
8 and increased data flowing between them all of
9 which is, as we discussed with transactions, not
10 necessarily standard between different
11 clearinghouses and providers and represents, you
12 know, a challenge because each has to be built
13 coded to and integrated often in existing clearing
14 infrastructure that is not necessarily, as I said,
15 the most agile and able to change.

16 MR. CUTINHO: The one thing we'd like to
17 add there is -- I agree with John here. We went
18 through an experience trying to launch both CDS
19 and rates with SunGard. It's important to keep
20 the back office infrastructure in mind. When we
21 say we are ready and in terms of our APIs being
22 open, that's where we are going. And we believe

1 that having a standard API at the back end for
2 both real-time reporting of trades to the back
3 office as well as end of day position keeping, I
4 think it's important to have standards, especially
5 for the back office vendors.

6 What is also very important is that now
7 we are seeing a lot more players in the
8 marketplace. A lot of derivatives players who
9 traditionally did not do bookkeeping for firms are
10 now entering the space and they have started to
11 certify, which is very encouraging. So, that is
12 what an open API will do, and especially if the
13 schema is widely available on the web and there
14 are no restrictions to actually certifying and
15 testing with a firm, then you will see a lot more
16 players coming into the marketplace.

17 MR. HABERT: Just a follow-up. You
18 mentioned the to 10 weeks to develop the
19 connections, what actually goes into that
20 connection if you can flesh that out? What are
21 the steps?

22 MR. LEVI: Once you build your API,

1 which probably takes you longer depending on the
2 complexity of your system, it's a question of
3 connecting one API to the other API, for example,
4 our SEF connecting to Sunil's DCO. It just takes
5 time for testing, takes time to check for
6 confliction, make sure everything runs smoothly.
7 It's not necessarily difficult, it just takes time
8 because it's a process. It's testing, mostly
9 testing.

10 MR. SHILTS: And is that all internal to
11 each entity that's being --

12 MR. LEVI: Well, you have to coordinate,
13 so if I said, I'm ready tomorrow to start, Sunil,
14 and he said, look, I'm really sorry, I can't get
15 you on until October, I have to wait for him.
16 See? The big issue with all of these things, with
17 all this interconnectivity, is having -- each
18 person having the time to connect to everybody
19 else. If there's 20 new SEFs, the buy side may
20 want to connect to some of those SEFs, but it's
21 when they have the time. It's the same with the
22 DCOs, it's the same with the SDRs. It's a

1 question of prioritizing which ones you're going
2 to work on and hoping that your counterparty has
3 time for you as well.

4 MR. FRIEDMAN: Yeah, and I think we're
5 already connected to CME and ICE and LCH and we're
6 clearing trades with them, it's just a matter of
7 tweaking or modifying the field so that if there's
8 new information that needs to be passed to each
9 other that that's done. But, you know, a lot of
10 that connectivity work is done, it's just a matter
11 of defining the rules and the fields that are
12 necessary to effectuate what needs to be
13 effectuated and tweaking those to get it right.

14 MR. AXILROD: I must say that a lot of
15 the testing just has to do with the number of use
16 cases and there's always many more than you think
17 even as -- you know, I'm just reporting a piece of
18 data from one place to another, you know, what
19 does the acknowledgement back look like or if
20 you're not using a guaranteed delivery process?
21 What happens if there's an invalid field? And
22 that's just pretty straightforward stuff. When

1 you have more processing as opposed to something
2 where a clearer might or might not accept the
3 trade, it gets more complicated and all of that
4 uses case testing sort of increases the time
5 exponentially as you get more and more use cases.

6 Having gone through this more times than
7 I care to remember, it just takes longer than you
8 think, especially since the whole industry has to
9 do it at the same time.

10 MS. BEARD: I would agree with that and
11 taking it even further upstream to SEF
12 connectivity, from the buy side perspective we
13 have started meeting potential SEFs and talking to
14 them about connectivity, and the lack of data
15 standards around the technology has forced them to
16 all develop their own specs in speaking to us and
17 they're not consistent and they don't have the
18 same data and they don't have the same workflow
19 associated with them, which would mean every SEF
20 that you connect to, you're going to have to build
21 a separate interface. And that's where we can get
22 ahead of the game and develop a standard protocol

1 for these SEFs so that we can improve the ease of
2 adaptability.

3 MR. SHILTS: And who would be developing
4 that standard protocol?

5 MS. BEARD: Well, to Jeff's point, I
6 mean, there's ISDA that can do it. You can form a
7 working group.

8 MR. GOOCH: Yeah, I mean, certainly, to
9 clarify my earlier comments, yeah, I'm very much
10 focused on post-trade, so the pre-trade stuff is
11 much more complex, issues of latency, fortunately
12 not my problem, but there's a lot of work to be
13 done there.

14 MR. LEVI: I would say it's fairly
15 difficult to have a standardized link in because
16 the functionality of each produce and each
17 technology is very, very different. Something
18 that one SEF can do may not be something that
19 another SEF can do. What do you do? Do you go to
20 the lowest common denominator and miss out on all
21 the huge development dollars that have been spent
22 in the past years to develop better technology?

1 It's a difficult conundrum.

2 MR. SHILTS: It sounds like, I guess,
3 one of the key concerns is that each -- whether
4 it's the clearing organizations, the SEFs or
5 participants, it's just devoting time from their
6 staffs to work with all these other parties that
7 they would be connecting to, and that would take
8 time.

9 Are there any other obstacles in terms
10 of hardware that has to be bought or just
11 something else that would be driving this?
12 Something we should be aware of that would affect
13 implementation? Something beyond the time spent
14 for each individual entity to have to go and work
15 with all the other entities?

16 MR. GOOCH: I think a little bit depends
17 how you choose to connect. If you want every
18 participant to connect directly to every other
19 participant, then you're going to get a lot of
20 hardware, a lot of dedicated lines, a lot of cost
21 built in. What tends to happen in most
22 marketplaces is you get middleware vendors

1 stepping in in the pre-trade space. People like
2 Ion are very active, Logiscape in the FX space,
3 there's a number of guys who specialize in that to
4 try to avoid that problem. In the post-trade set
5 there's ourselves, (inaudible), SunGard, there's a
6 bunch of others that tend to get involved. You
7 know, what tends to happen is people find the cost
8 of that network prohibitive. In certain cases
9 it's justified. Generally people end up with, you
10 know, a vendor stepping in to avoid all that cost.
11 You know, I think some flexibility in the rules to
12 let customers make their own choice around that, I
13 think, is what's needed and then people will find
14 the cheapest and most effective way of getting the
15 job done.

16 MR. AXILROD: I was just going to add,
17 the -- I mean, in a way, you know, the providers
18 sitting around the table are not going to be the
19 gating factor. Since every market participant
20 really has to be connected to at least one part of
21 this infrastructure, since every single trade has
22 to be reported to an SDR. And information has to

1 continue to flow about that trade over the
2 lifetime of that trade. In a way, if you want to
3 get this done quickly, the industry sort of has to
4 go student body left or student body right. If
5 half of them go one way, a third go another way,
6 and a third go some other way, I think the odds of
7 getting data sets that are complete and accurate
8 and where the integrity is reliable go down. And
9 so I think that's really -- since this is in a lot
10 of cases -- in some cases, as Jeff mentioned, a
11 lot of the work is done. The rates market is
12 about 70 -- what did you say? 80 percent
13 electronic already? -- it just happens to be in
14 markets, not at somebody acting as an SDR. Credit
15 markets 98 percent electronic. I think -- I don't
16 know what -- I think FX is next in terms of the
17 amount that is electronic.

18 But to the -- as long as they're in
19 place and everybody can -- you've got to get
20 everybody to use it the same way, you know,
21 several thousand participants globally, you can
22 make it. If they're trying to do it differently,

1 it's going to be a problem. So, leverage what's
2 electronic first and then gradually move back into
3 things that are more paper and really the best
4 thing I think that the regulators can do -- it's
5 not my job, but, you know, there was a lot of
6 pressure put on market participants to electrify
7 what was previously paper over the years. That's
8 paid enormous dividends and the more that
9 regulators can get market participants to
10 electrify what's electrifiable, the better off
11 you'll be and the better data you'll get.

12 MR. COOPER: It just seems to me also
13 I'm hearing that it is difficult, it will take a
14 long time, but nothing sharpens the mind like a
15 deadline. Right? So, with a date certain in the
16 sand, and the industry groups with all
17 constituents and stakeholders around the table,
18 I'm sure we can make great progress.

19 The other thing I would say is I think
20 that we can borrow from existing regulatory
21 regimes where reporting obligations are imposed,
22 in many cases, on the clearing firms. So, in

1 fact, it's not literally every single participant
2 in the marketplace at any given time has to have
3 complete scalable reporting obligations. I think
4 that there will be reporting parties who will be
5 responsible on behalf of their clients. Maybe the
6 clearing firms are the most natural candidates for
7 that. But I do think we can leverage, you know,
8 some of the kind of market structure that's being
9 developed to enhance and facilitate the build out
10 of these reporting regimes.

11 MR. CUMMINGS: I would agree with those
12 statements as long as it's by asset class. You
13 know, to say that we need a uniform protocol
14 across all SEFs, I think we need to focus on it by
15 asset class because surely the commodities space
16 is 100 percent FIXML. We do trade capture
17 reporting to the CFTC today in swaps, in FIXML per
18 your guidance. We've been working on that for
19 several years now, so to move to something that
20 isn't native to an asset class is probably a
21 mistake, if you want to get things done quickly.

22 MR. AXILROD: Yeah, I would second the

1 having the clearinghouse responsible for the
2 reporting requirement is what do you do for the
3 uncleared trades? So then you have to build
4 something different so therefore either the SDR or
5 the middle ware provider has to take over that, so
6 you might end up with two different models in the
7 market, which is probably not efficient.

8 MR. GOOCH: I think we can all argue the
9 benefits of different models. I think the best
10 thing is to have a set of rules that says it has
11 to be done then let the marketplace argue about
12 which is the most efficient. I think every asset
13 class might come to slightly different conclusions
14 to RJ's point and I don't think there has to be
15 dictated from the center the best topography for
16 it. What has to be dictated is what kind of
17 information, in what form or how quickly and where
18 it needs to go, and then we'll argue about our
19 different models and who can do the best job in
20 the next couple of years, and (inaudible) spent
21 lots of marketing dollars doing it, but I think
22 it's very hard to put one model and say that's the

1 best model for every asset class, everywhere, and
2 every type of user.

3 MR. CURLEY: Can I just expand on
4 something you had mentioned earlier too, the
5 lifecycle activity as well, and issues associated
6 with that or challenges associated with that that
7 need to be addressed in the context of the
8 connectivity?

9 MR. AXILROD: Yeah, I think some
10 preliminary work we've done with users both buy
11 and sell side have indicated that unless -- right,
12 let me back up. Most lifecycle events, if they're
13 confirmable, are reportable since confirm
14 information has to be reported. In any event, a
15 lot of them are price-forming events so they'd
16 have to be reported in real time, not all of them.
17 Unless trades, however, are cleared or what we
18 called gold record warehouse, in other words,
19 where there's a central record keeper that has --
20 whose records trump the internal records of the
21 firm's, I don't know that everybody has reached a
22 point of confidence, even for trades that don't

1 change very much, that if you built a position out
2 of an initial report and reports of all the post
3 trade events, you'd actually get it right just
4 because there are too many things that might
5 intervene, might not be reported.

6 I know that one of the things -- the
7 industry would like to get to that point, I think,
8 so the idea is that people would just report both.
9 I'll report you at the end of the day, I'll report
10 what I've got, I will also, in the middle of the
11 day, report all the events. The SDRs keep track
12 of both and if there are any discrepancies they're
13 noted and the firms deal with them or you get a
14 reason for them. And in the middle of the day if
15 you're looking at positions inter-day, for
16 regulatory reporting, all you can do is take the
17 -- all you can do is take the events that come in
18 and add the to whichever starting number you want,
19 whether it's the firm reported number or the
20 position built out of previous events.

21 MR. CUTINHO: I think a clearinghouse,
22 like today, does report to the regulator both the

1 end of day position and we also have events that
2 make up that position. So when there are events
3 like terminations or offsets, like netting, you do
4 see the trades that make up the final end of day
5 positions. So, you see the start of day position
6 and then the intervening trades and the end of day
7 position. So, we do that today for clear trades.

8 In terms of unclear trades, as Peter
9 pointed out, we can definitely show that
10 information. If we get all the events, if they
11 have confirmations, it's very easy to report on
12 the events.

13 MR. HABERT: Can I just pick up -- a few
14 have mentioned sort of the asset classes and doing
15 things by asset class and obviously in the first
16 two panels that came up a lot. So, say you
17 develop the connections right now and you get the
18 connectivity going, and we talked about rates and
19 credit, are you going to need to modify all of
20 that or tweak all of that as the new classes
21 either become required to trade -- I'm sorry,
22 required to be cleared or made available to trade

1 on a SEF? Is that going to require, you know,
2 another six months to get that all done or is it
3 going to be able to be done quickly because you
4 can have more general documentation at the stage?

5 MR. OMAHEN: I would say it's still
6 going to be work. Certainly some will be
7 leveraged so it won't be quite as much work as the
8 first time, but ultimately it's creating more
9 overall work but spacing it out in a more
10 manageable challenge. So, I do think that that --
11 I mean, from the post clearing vendor perspective,
12 I think that would be helpful, but we have to make
13 sure you understand that it is still a significant
14 effort even after the first one has gone live.

15 MR. GOOCH: I'd probably take a slight
16 different angle on that one. I think adding
17 clearinghouses or adding SEFs would then lead to
18 an ongoing process. To my mind, the six to nine
19 months gets you at a starting point where we have
20 a number of, you know, DCOs, CMEs, ICE, LCH, a
21 bunch of other that, you know, IDCG, et cetera,
22 you know, have all those guys all connected up.

1 Have that network, then you add new people as they
2 come along. I wouldn't see another six- to
3 nine-month period for an asset class once it's set
4 up. I think you want to do the work once, create
5 the connectivity, and have that evolve with the
6 asset class (inaudible) rather than having some
7 sort of future period.

8 I think there's a big difference though
9 between what should be available and what's
10 mandated. I think, you know, picking up from some
11 of the earlier panels, clearly the step where
12 everyone goes out, says I'm a -- whatever they
13 are, DCO, SDR, clearing agency, (inaudible),
14 whatever that happens to be -- and gets themselves
15 registered as what they need to be, and it would
16 be a later phase when you say to people, then,
17 therefore, you have to, you know, put your trades
18 on a DCL or to an SDR, et cetera. I think it's a
19 natural phasing to that. But that's probably not
20 about creating new connections but about reusing
21 that information. I would certainly say that, you
22 know, SDRs to my mind come first because you're

1 basically saying to people, conduct your business
2 in a certain way under Dodd- Frank, get yourself
3 registered, follow those rules, and now do things
4 which you think are useful.

5 If you want to clear straight away, you
6 should be able to clear because the DCOs are
7 available. If you want to use a SEF, use the SEF.
8 But at some point the government's going to step
9 in and say, even if you didn't want to do that,
10 we're going to make you do it. And the first
11 thing to make people do, in my mind, is they've
12 got trades they don't want to show to the
13 regulators, make them show them to the regulators
14 in the SDR. Then you should probably step in a
15 counterparty risk by making them clear them and
16 then you sort of interfere with how they conduct
17 their business by making them execute in a certain
18 way as a next stage.

19 But I would separate the two. Have
20 everyone available, have everyone connected, let
21 people use what's commercially sensible, then
22 start to step in and say, I know you didn't choose

1 to do this, but you must show us your trades, you
2 (inaudible) you risk certain trades, and then
3 (inaudible) how they actually conduct their
4 business day-to-day.

5 MS. BEARD: I would agree with those
6 comments as well. I think it's -- although it's
7 still work, it would still be less work to add
8 additional asset classes and it would also help --
9 we heard this in some of the previous panels, we
10 don't want a siloed or fragmented workflow
11 process. We'd like, you know, all aspect classes
12 even if they have specific nuances, and
13 additionally keeping that in mind as we move
14 forward, we don't want to retrofit into a process
15 that has already existed. We want to keep in mind
16 that we want to add additional asset classes.

17 MR. CUMMINGS: Yeah, I see it a little
18 bit differently. I mean, for an SDR, they're
19 going to be taking trades and lifecycle events,
20 you know, after they've already been registered in
21 a clearinghouse. So by definition, the SDR is
22 going to have to speak the language of the DCO,

1 period, on and on, going into the future until
2 these instruments roll off the board for offsets,
3 onsets, netting, deliveries, payments. So those
4 two languages are going to have to coexist per
5 asset class, maybe for multiple asset classes.

6 The SEFs will probably have to speak
7 that language as well for that asset class. So,
8 if a DCO is -- FPML, for instance the SDR is going
9 to have to be FPML. It won't necessarily be FIXML
10 or XML or some proprietary standard. The SEF is
11 going to have to register trades at the DCO as
12 well as report to the SDR. It's all going to fall
13 into line by asset class.

14 As an SDR wants to bring on new asset
15 classes that it didn't initially go out with, it's
16 going to have to speak the language of the new
17 asset class, which by definition is the DCO's
18 language of that new asset class if it's not the
19 same.

20 MR. CUTINHO: From a clearing
21 perspective, I think there are risk management
22 considerations to adding new asset classes to

1 clear, so not just operational. Even within an
2 asset class there are risk management
3 considerations if, you know, you're clearing swaps
4 versus options and swaps. So, those are separate
5 from the operational considerations.

6 Operationally, I think I would agree
7 with Kathryn. The workflow should not necessarily
8 change. The workflow should remain the same.
9 What would change is the payload and then there
10 are certain nuances of different types of
11 products.

12 MR. LEVI: I think just in response to
13 R.J., we would hope there would be more than one
14 DCO for each asset class. We've spoken about
15 interoperability and we hope there will be some
16 competition that will provide better service and
17 better value for the customer. To say it's just
18 one DCO and that DCO can dictate which protocol to
19 use, I think, is a -- at this stage is a little
20 bit much. We have to wait and see how that moves
21 forward.

22 MR. CUMMINGS: I think that's a fair

1 point. I wasn't intending that there would only
2 be one DCO, I'm just saying that the SDR
3 connecting to a DCO is going to have to speak that
4 DCO's language. Where there's one, two, three,
5 the burden falls to the SDR.

6 MR. AXILROD: Well, I think we're all
7 losing sight a little bit that all us providers --
8 this ain't our data. The data belongs to the
9 market participants, and it's the market
10 participants that ultimately have the reporting
11 responsibility by statute. Yes, they can use
12 agents, but using an agent doesn't get them off
13 the hook legally for their reporting
14 responsibility. So, what I think all of us
15 infrastructure providers ought to be doing is
16 viewing ourselves as having two constituents: The
17 market participants and the regulators. And our
18 function really ought to be, as much as possible,
19 making sure that the market participants can
20 themselves assure that the information you see is
21 as accurate as possible. And I think that's
22 really what should dictate the practice because in

1 every asset class there are likely to be multiple
2 clearers and many, many trades that are not
3 cleared and they will be of the same type. You
4 can't say that all trades of a certain type are
5 going to be cleared because there's end user
6 exemption, so forth and so on. And I think that
7 we should all be looking at you two guys -- or you
8 two groups of people as the clients and we're the
9 facilitators, at least from the SDR's point of
10 view. We're trying to take in data in the most
11 efficient way for the users, for the market
12 participants, and show it to you all, that's some
13 connectivity that we also need to have, you know,
14 online portals to the regulators, and show it to
15 you all in the most efficient way possible or in
16 the way you want to see it, and that's sort of my
17 view.

18 MR. CURLEY: I also wanted to introduce
19 the international topic a little bit and just ask
20 whether any of the things that we've talked about
21 to this point have different features when we add
22 an international component to the connectivity

1 questions.

2 MR. GOOCH: I think the biggest issue on
3 international is just the extra territoriality
4 issue that always comes up. And if you just take
5 us as an example, we have a U.S. entity and a
6 European entity. We have technology in both
7 centers and we largely divide by asset classes.
8 It's slightly simplistic, so we tend to do credit
9 in the U.S. and rates in London.

10 Now, that's fine, it works. Works
11 practically speaking, but then, you know, do we in
12 our London business have to register something in
13 the U.S. and does that now mean will the Korean
14 activity for their domestic market that goes to
15 that same platform is now subject to investigation
16 by the CFTC? Are they going to be happy about
17 that? So, I think some clarity around, you know,
18 what does it mean to be registered and what rights
19 does that give people? Can I create a U.S. shell
20 company to own my U.S. business that's regulated
21 that outsources the technology back to London? Or
22 do I have to move my data centers? Some of those

1 things could be quite large. I'm assuming we get
2 a very practical solution because if we don't, the
3 Europeans are going to ask for exactly the
4 opposite on the other side of the fence, you know,
5 all the credit stuff will be moved back to London.

6 So, I think, you know, the
7 internationality probably will be a non issue
8 because it will all get sorted out, but there is
9 that kind of nuclear winter scenario in the back
10 of everyone's minds that if everyone can't come to
11 some sense of accommodation, we're all going to
12 duplicate technologies and connections all over
13 the world and it's going to be slow and
14 horrendously expensive.

15 MR. AXILROD: Yeah, there is a
16 particular sort of technological operational issue
17 that goes like this: Right now people -- since
18 the U.S. is first, all of the who has what
19 reporting obligation and so forth is U.S.-centric.
20 When there's a trade between a U.S. person and a
21 non-U.S. Person, the U.S. person has the
22 reporting obligation.

1 Well, assuming -- you know, it's been a
2 bit controversial whether you should have one
3 repository per asset class. The flipside, I hope,
4 is not controversial, which is the same swap
5 shouldn't be reported to multiple repositories
6 because you'll never then -- even with U.S. Eyes
7 it's going to be very hard to untangle, you know,
8 what's the correct information, double counting,
9 all that stuff. Well, the European legislation is
10 undoubtedly going to be a mirror image of the U.S.
11 legislation, so you're going to have plenty of
12 swaps where the party with the reporting
13 obligation, if they're transatlantic swaps,
14 different parties are going to have the reporting
15 obligation depending upon the law that applies.
16 So, you're going to need to have a solution, a
17 reporting solution, that works in that
18 environment. To build one now that doesn't work
19 in that sort of environment, is just asking for
20 trouble about a year down the road.

21 That's very easy with trades executed on
22 electronic platforms are cleared because the

1 electronic platform or the clearer has the right
2 version of the trade. Where they are -- any part
3 of this process is bilateral and, you know, one of
4 the counterparties is supposed to report, you're
5 going to end up in a situation where both
6 counterparties have a reporting obligation under
7 some law and the process that you implement has to
8 be able to deal with that and make sure that
9 you're not double counting and that the regulators
10 know exactly what it is they're looking at.

11 MR. O'CONNOR: Yeah, and I would add one
12 flavor of problem you get when looking to the
13 international stages is the political angle and
14 it's certainly the market participants' view that
15 there should be one global SDR per product, if
16 that's achievable. And a way to deal with local
17 regulatory preference for domestic SDRs is to make
18 the global SDR information available to them on an
19 unencumbered basis as required subject to proper
20 agreement, because as soon as you get to multiple
21 SDRs per product, then you lose one of the primary
22 goals of the whole approach which is to give you

1 guys insight into the whole market. And with
2 multiple SDRs per asset class, you need to have an
3 SDR of SDRs, some form of aggregator that sits on
4 top of those which is getting very costly and
5 inefficient as well.

6 CHAIRMAN GENSLER: Can I just ask a
7 question? Because I know, Steve, you've raised
8 this in meetings upstairs, but I'm not sure the
9 statute agrees with you, even if we agreed with
10 you, because we heard earlier today that some of
11 the clearinghouses, I guess CME is going to apply
12 to be SDR, and I presume they might apply in the
13 same space that somebody else at this end of the
14 table is sitting. So, we might have
15 clearinghouses as well. What do you suggest that
16 we in the SEC do in that circumstance where --
17 they're competitors that want to both be SDRs?

18 MR. O'CONNOR: Yeah, so, I understand
19 the competition argument and everybody should be
20 welcome to try to win mandates in that space. The
21 way that ISDA organized itself is for each product
22 to set up committees that undertake a formal RFP

1 review of all, you know, anybody who wants to
2 propose, basically, and we think that's the way
3 forward to choose one per market. And competition
4 should be allowed, but the point I'm making is
5 that that will lead us down a road to, you know,
6 the fragmented SDR where you need then to create
7 some kind of -- you know, then you're having
8 another RFP, this is going to be the aggregator of
9 what's in all the local SDRs or the clearinghouse
10 A plus B plus DTCC aggregation questions.

11 So, it's -- I understand the question
12 and I think there's no elegant solution, but it's
13 a tricky one.

14 MR. AXILROD: Yeah, I might say, though,
15 that the market may work itself out, right. Just
16 because someone registers as an SDR, just like you
17 might register as a DCO, doesn't mean that people
18 are actually going to use you as an SDR, and while
19 DCOs can register as SDRs, I'm assuming -- maybe
20 I'm wrong -- that essentially vertical tying or
21 bundling isn't going to be allowed, you're not
22 going to be able to say, if you use my DCO you

1 have to use my SDR. At least DTCC was told that.
2 When we registered I realized -- when we became
3 regulated I realized that wasn't under Dodd-
4 Frank. But if that isn't allowed, then presumably
5 it's going to be up to the market participants to
6 use whatever SDR they want to use and the other
7 parts of the market infrastructure should be able
8 to direct those trades as the market participants
9 want because ultimately it's the market
10 participants that are going to have to have a
11 reconciliation and control process to the SDR to
12 make sure your data is accurate.

13 So, it may be, even if there are
14 multiple SDRs registered, that the market will
15 sort itself out fairly quickly. If that doesn't
16 happen, then you'll end up in this dilemma.

17 MR. CUTINHO: There are multiple
18 clearinghouses today, and they are reporting net
19 risk to the CFTC. So, I don't understand why
20 multiple SDRs would be an issue. So, as long as
21 we all follow the same API and reporting format,
22 we believe that the market should be open.

1 MR. AXILROD: I will point out, because
2 it is for sure a fact, that if you have multiple
3 SDRs, the public reporting of open interest will
4 in fact be overstated and misleading. Now,
5 somebody can pull all that together and work out
6 the net so it's not, but we shouldn't have a
7 public reporting system where you know for sure
8 that the open interest reporting is simply wrong
9 and misleading, and that's what's going to happen
10 if you have multiple SDRs that report open
11 interest and so forth to the public.

12 MR. LAWTON: Would there be a way that
13 both sides would have to report to a single SDR?
14 You could have multiple SDRs but not have the
15 different sides of a trade report?

16 MR. AXILROD: You would have to have
17 each -- in order to avoid that result you would
18 have to have each firm only report to one SDR,
19 which I think is impossible under the statute
20 because -- no, the statute doesn't address SDR
21 reporting, just clearing. So, it's not clear who
22 chooses.

1 MR. SHILTS: I wanted to go back to -- I
2 guess for a little clarity on something that was
3 mentioned a little bit earlier and there was the
4 discussion of the six- to nine-month timeframe,
5 but then there was also the discussion about all
6 the various entities who have to make arrangements
7 with all the other entities as far as getting
8 connectivity arrangements in place. So I guess
9 what I was wondering is this kind of an estimate
10 really realistic or should it be more framed in
11 the context of specific types of -- for certain
12 asset classes? And any further elaboration on
13 that would be helpful.

14 MR. GOOCH: Perhaps I should clarify
15 because I think I was the first one to --

16 MR. SHILTS: And six to nine months from
17 when?

18 MR. GOOCH: Okay. Let's start with the
19 easy part. I think six to nine months from when
20 the rules are clear. I think at that point you
21 can do it. The six to nine months in my mind were
22 around making the network itself compliant with

1 the rules. I don't think there's a lot of work to
2 be done but there would be some -- you know, you
3 could create fast changes to the rules that made
4 that a sure estimate, but I mean imagining they'll
5 be as the current drafts or they'll be slightly
6 easier to implement. So I think you can take that
7 core network and modify it in that kind of time
8 period. I think what you can't do is make
9 everyone in the industry ready to send the data in
10 the appropriate timeframe to that.

11 And secondly, I think the point that Ron
12 and others have made around testing, if you come
13 through a sort of middleware provider, everyone
14 tests the middleware once and then we connect out
15 to all their parties and that's very efficient
16 testing hierarchy. If you go for one-to-one
17 connections, then you have, in theory, you know,
18 tens of thousands all of which have to be
19 individually tested. You know, that's certainly
20 not a six- to nine-month project.

21 But to be clear I think I was saying,
22 yeah, from our perspective you could modify the

1 network in the center, have the DCOs, the SDRs,
2 the SEFs connected to that, which they already
3 largely are, in that time period and then
4 certainly if the major dealers were already
5 connected, you know, compliant for the bulk of
6 their business and then kind of work through.

7 I think the big thing around --
8 generally true about Dodd-Frank (inaudible) in
9 this case it's probably 80 to 90 percent of the
10 work comes from the weird edge cases and things
11 that people don't talk about, you know, taking
12 core transactions, making them available to SDRs,
13 available to the public, entering to clearing,
14 that's actually a relatively easy thing to do
15 because we've all spent four or five years working
16 out how to get it done. It wasn't easy five years
17 ago, but we've all worked through that and
18 delivered it.

19 Some of the new things that are being
20 added, you know, some of the bespoke trades, the
21 electronified, some of the collateral information
22 that's being asked for, that would be much tougher

1 to do and could take a lot longer, but if you kind
2 of focus on the things we always talk about at
3 these meetings, which as far as I can see is, you
4 know, 95, 99 percent of transactions available to
5 regulators, available for clearing, you know, the
6 ability to take them off a trading platform, that
7 is not such a big lift because we've all spent a
8 long time and a lot of money making that possible.
9 It wasn't cheap and it wasn't easy, but it has now
10 been done. It needs a little bit of tweaking,
11 maybe it does, maybe it doesn't once we see the
12 final rules.

13 And I think some guys around this table
14 are already heavily connected to that and can use
15 it. Some corporates are definitely not going to
16 be ready in six to nine months, but, you know,
17 some phasing around that, I think, would
18 definitely be appropriate.

19 MR. COOPER: I'd just like to emphasize
20 that last point. I think that's the point to
21 focus on, is that the products that we launch for
22 clearing right away are going to be the ones that

1 everyone's most familiar with, that are most
2 liquid, that are right there in the market and for
3 which the connectivity problems or issues we're
4 talking about are going to be relatively
5 straightforward as compared to the edge cases.

6 MR. O'CONNOR: And to be clear, the six
7 to nine months is to do with the messaging only,
8 right?

9 MR. GOOCH: Yes.

10 MR. O'CONNOR: In other words, to get to
11 -- there are many other things beyond messaging
12 that are important, right, to have clearing up and
13 running, you need risk margin segregation,
14 documentation, membership criteria, et cetera.
15 So, his six to nine, I think is just the messaging
16 network.

17 MR. GOOCH: Yeah, I'm not including the
18 million documents we talked about in the previous
19 panel. So, I do think that the network and
20 connectivity is the gating factor. The other
21 things are much more complex to achieve.

22 MR. LEVI: I pretty much concur with

1 Jeff. The six to nine months allows us to
2 redevelop or reengineer our systems to make sure
3 the APIs are up to scratch and to release them.
4 The connectivity, as we've mentioned, depends on
5 other people and we can't be held responsible for
6 what -- for the resources the other people give
7 us.

8 MS. BEARD: And I think, Jeff, that the
9 six to nine months -- and we'll use market as an
10 example, is for you to get your platform
11 compliant, but then it's to communicate to the buy
12 side who then has to develop after that or
13 possibly concurrently but to your protocol once
14 you're completed. So, it could be an additional
15 several months after the six to nine months for
16 market participants.

17 MR. GOOCH: Yeah, I think that's fair.
18 I think we could be ready in that time period.
19 You know, some firms will be ready at the same
20 point, some firms will require a little bit of
21 extra time. Some firms, you know, who do end of
22 day compliance checking, for example, have a

1 fundamental business change to make. I don't know
2 how long that will take them. That's not
3 something they're turning around that quickly.
4 Other guys like corporates, you know, there's a
5 whole education exercise (inaudible) and
6 spreadsheet uploads, but if they have a 15- or
7 30-minute requirement that's going to be quite
8 tough on them. So, I think there's definitely
9 some phasing beyond that, you know, very much
10 talking about that core network, getting kind of,
11 you know, the major dealers on board, I think, and
12 then working out, you know, educators later and
13 other participants.

14 MR. AXILROD: Yeah, I just want -- a
15 note of caution on the, you know, 95 percent of
16 the stuff is good and we should start clearing it
17 and all that. That's all well and good because
18 that's how clearing is supposed to work. You
19 bring stuff in and eventually bring more in. In
20 terms of reporting, I think it's kind of dangerous
21 to do it that way just because, remember, all the
22 AIG trades, if we did it that way, wouldn't have

1 been reported and in fact they weren't reported to
2 the Trade Information Warehouse because they were
3 bespoke and not electronically confirmed. It's --
4 I think it's very important, especially since a
5 lot of times it's the bespoke trades that are the
6 larger risk creating trades and not the
7 standardized ones, to start out with at least some
8 reporting of bespoke trades. Report what you can,
9 underline, direction, counterparty, notional, it
10 may mean nothing, but if it's -- because of all
11 the bespoke clauses, but at least if you see a lot
12 of large one-way positions building up, if that's
13 connected to the actual image of the paper
14 confirm, you can go in and read it and see for
15 yourself, but if you put that aside and say we're
16 just going to start with the easy stuff, you're
17 going to miss AIG were it to happen again.

18 MR. SHILTS: Okay, I think we're about
19 at 4:00, near the end. Does anyone have a final
20 comment?

21 MR. O'CONNOR: I have one comment and
22 this applies to all three panels, I think, today.

1 I think to the extent that the commissions could
2 try to publish a timeline that would be very
3 helpful to the industry both in terms of rule
4 finalization and effective dates for
5 implementation. I spend a lot of time working
6 with clients and the number one question on
7 people's minds is when is all this going to apply
8 to me. So, to the extent we can provide some
9 clarity to the market, I think that would be
10 greatly appreciated, and it can be in the form of
11 a draft timeline that's put up, you know, comments
12 are invited, but I think that will be very useful
13 to the market.

14 MR. COOPER: I guess I would just
15 conclude, you know, by echoing, yes, timeline is
16 very helpful. As I said before, nothing focuses
17 the mind like a deadline, but I don't think we can
18 end the day saying, geeze, there's a lot of hard
19 work, it's going to take a long time. I think
20 what we have to recognize is the tremendous work
21 that the SEC and the CFTC have done in
22 promulgating a lot of very, very complicated and

1 challenging rules. The market has a lot of
2 information. There is almost uniform alignment of
3 interest among most market participants to achieve
4 rapid and effective clearing as soon as possible.
5 So, I'd like to end the day on sort of an

6 optimistic note that the time to move forward is
7 now so we can begin that hard work and get it done
8 quickly.

9 CHAIRMAN GENSLER: Oh, I was just going
10 to thank everybody, and I'm sure Chairman Shapiro,
11 if she was still here, would thank everybody if I
12 can speak for her too. But it's been a terrific,
13 very informative day and we've got another one of
14 these days tomorrow, but thank you all for being
15 so gracious with your time and advice.

16 MR. SHILTS: Once again, thank you and
17 we have registration tomorrow and we begin the
18 four panels at 9:30 tomorrow, so thanks again.

19 (Whereupon, at 4:12 p.m., the
20 PROCEEDINGS were adjourned.)

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DISTRICT OF COLUMBIA

I, Irene Gray, notary public in and for the District of Columbia, do hereby certify that the forgoing PROCEEDING was duly recorded and thereafter reduced to print under my direction; that the witnesses were sworn to tell the truth under penalty of perjury; that said transcript is a true record of the testimony given by witnesses; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was called; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public, in and for the District of Columbia
My Commission Expires: April 14, 2011

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION
SECURITIES AND EXCHANGE COMMISSION

JOINT CFTC-SEC STAFF ROUNDTABLE ON IMPLEMENTATION
PHASING FOR FINAL RULES FOR SWAPS AND
SECURITY-BASED SWAPS UNDER TITLE VII OF THE
DODD-FRANK WALL STREET REFORM AND CONSUMER
PROTECTION ACT

Washington, D.C.

Tuesday, May 3, 2011

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A G E N D A

SHARON BROWN-HRUSKA
NERA Economic Consulting

GARY O'CONNOR
International Derivatives Clearing Group

Panel Two: Transaction Processing for Swaps and
Security-Based Swaps

GREGG BERMAN
SEC

CATHERINE MOORE
SEC

RICK SHILTS
CFTC

JOHN LAWTON
CFTC

RICK McVEY
MarketAxess

GEORGE HARRINGTON
Bloomberg, LP

HENRY HUNTER
MarkitSERV

JOHN OMAHEN
SunGard

YVES DENIZE
TIAA-CREF

MARTY CHAVEZ
Goldman Sachs

SHAWN BERNARDO
Tullett Prebon Americas

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A G E N D A

JAMIE CAWLEY
Javelin Capital Markets, LLC

PAUL CUSENZA
Nodal Exchange

GARRY O'CONNOR
International Derivatives

Panel Three: Implementation of Data Reporting and
Dissemination Rules

MICHAEL GAW
SEC

TOM EADY
SEC

DAVID TAYLOR
CFTC

RICK SHILTS
CFTC

MARISOL COLLAZO
DTCC

JEFF GOOCH
MarkitSERV

RAF PRITCHARD
TriOptima North America

R.J. CUMMINGS
ICE Trust

JIRO OKOCHI
Reval

BILL THUM
The Vanguard Group

1 A G E N D A

2 MERRITT THOMAS
Barclays Capital3
4 JIM MORAN
CME Group5 STEVE JOACHIM
FINRA6 SHAWN BERNARDO
7 Tullet Prebon8 WALLY TURBEVILLE
Better Markets9
10 KARLA MCKENNA
International Organization for
Standardization11 Panel Four: Considerations with Regard to End
12 Users13 JOHN LAWTON
CFTC14 RICK SHILTS
15 CFTC16 GREG BERMAN
SEC17
18 PETER CURLEY
SEC19 PETER SHAPIRO
Swap Financial Group20
21 WILLIAM DONOVAN
U.S. Steel Pension Fund22 HEATHER SLAVKIN
AFL-CIO

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A G E N D A

WALLY TURBEVILLE
Better Markets, Inc.

RUSSELL WASSON
National Rural Electric Cooperative
Association

JOSEPH GLACE
Exelon Corporation

SEAN COTA
Cota & Cota

JIRO OKOCHI
Reval

VERETT MIMS
The Boeing Company

SAM PETERSON
Chatham Financial

Also Present:

CHAIRMAN GARY GENSLER
CFTC

* * * * *

P R O C E E D I N G S

(9:35 a.m.)

MR. LAWTON: Good morning. Welcome to day two of the Roundtable on Implementation Phasing for Rulemakings under Title VII of the Dodd-Frank Act.

I'm John Lawton of the Division of Clearing Intermediary Oversight of the CFTC. I want thank again all of the panelists for participating, as well as thanking my colleagues from the SEC.

Before we get started, I should repeat a couple of points that were made yesterday for those of you who weren't here yesterday.

First, the purpose of this roundtable is to address issues regarding the sequencing of implementation. It's not to discuss the merits of any individual proposal. Staff in both agencies have been reviewing and will continue to review all the comments on the substantive issues related to each of the proposed rulemakings.

Second, I also want to point out that

1 this roundtable is not the only opportunity to
2 comment on implementation issues. The agencies
3 welcome written comments on these matters from the
4 members of the public.

5 Finally, I should just address quickly a
6 couple of housekeeping items. Please note that
7 this meeting is being recorded and a transcript
8 will be made public. Before speaking, please
9 press the button on the microphone and a red light
10 will come on. When you finish, please press the
11 button again to turn the microphone off.

12 Okay, now I'd like to turn it over to my
13 colleague, John Ramsay from the SEC, for a few
14 opening remarks.

15 MR. RAMSAY: Thanks, John. I don't have
16 much to say; I just, first of all, also want to
17 express my thanks to the staff of both agencies
18 for helping you put this together, including Kim
19 Allen, my colleague from the Division of Trading
20 and Markets to my left. We look at the clearing
21 mandate as at that heart of Title VII reforms, and
22 we recognize how important it is to the benefits

1 of central clearing that the mandatory clearing
2 determination in particular is introduced in a way
3 that appropriately takes account of the needs of
4 end-users, the capacity and capabilities of
5 clearing agencies, and the general market
6 environment as it evolves over time. It's really
7 a terrific group of analysts here, I'm very
8 impressed by the group we've assembled, and I look
9 forward to hearing what they have to say.

10 MR. LAWTON: Okay, let's get started
11 simply by going around the table and having
12 everyone introduce themselves.

13 MR. COX: Hi, my name is Mark Cox. I
14 work in the CME Clearinghouse and I run the
15 Clearing Solutions Group in New York.

16 MR. EDMONDS: Chris Edmonds, president
17 of ICE Trust.

18 MR. MAGUIRE: Danny Maguire,
19 LCH.Clearnet.

20 MR. DeLEON: Bill DeLeon, global head of
21 Portfolio Risk Management, PIMCO.

22 MR. BUTHORN: Joseph Buthorn, head of FX

1 Prime Brokerage, BNP Paribas.

2 MS. BRADBURY: I'm Darcy Bradbury from
3 the D.E. Shaw Group.

4 MR. O'CONNOR: I'm Garry O'Connor, IDCG.

5 MS. BROWN-HRUSKA: Sharon Brown-Hruska,
6 National Economic Research Associates.

7 MR. GREENBERGER: Michael Greenberger,
8 University of Maryland School of Law.

9 MR. PETERSON: Sam Peterson, Chatham
10 Financial.

11 MR. NICHOLAS: John Nicholas, Newedge,
12 USA.

13 MS. DONOVAN: Eileen Donovan, CFTC.

14 MR. LAWTON: Thanks, everyone. Okay,
15 yesterday's discussion basically focused on
16 infrastructure and market participants. Today's
17 focus is on transaction compliance. CFTC did hand
18 out a brief concept paper which identifies six

19 aspects of transaction compliance: The clearing
20 requirement, the trading requirement, real-time
21 public reporting, reporting to data repositories,
22 and swap dealer requirements, such as

1 documentation confirmation evaluation and position
2 limits. A theme that we like to see in today's
3 discussion would be the extent to which these
4 topics can be addressed in parallel with
5 sequencing within each group.

6 Okay, let's start out with a question,
7 basically sort of a broad question. What types of
8 sequencing makes sense for application of a
9 clearing mandate? For example, within a group of
10 swaps, should a mandate be phased in by the type
11 of market participant?

12 MR. DeLEON: Hi, this is Bill DeLeon. I
13 think it makes sense to have phase in of
14 sequencing by product type by both the products
15 that are being cleared, as well as the
16 participants. They're going to be various
17 different roadblocks associated with clearing in
18 terms of setting things up and infrastructure, and
19 it's important to realize that the ability of
20 different players in the market to achieve these
21 setup and infrastructure issues will proceed at
22 different paces. In addition to that, it's

1 important to note that one of the goals of
2 Dodd-Frank is to reduce systemic risk and by
3 starting with the larger players, who are more
4 capable, I think you'll get more risk reduction
5 and kinks out of the system.

6 So, starting with swap dealers then
7 major swap participants and then moving to
8 end-users, either high-risk or low-risk because
9 you'd find them in your rulings, would be the most
10 beneficial sequencing in terms of getting things
11 working and running. I think it's also important
12 to note though that you don't want to have too
13 much of a big bang effect where everyone is forced
14 to go on a certain date given some of the
15 implementation issues in terms of building the
16 pipes, getting accounts approved, and the
17 bottlenecks because if you think about how the
18 system works, if you look at the dealers, there's
19 a small, limited number relative to the number of
20 accounts in the system.

21 If you look at major swap participants,
22 we expect that to be a small number, and then

1 everybody else would be quite big. The issues
2 that are going to arise are if you try to funnel
3 all of the end-users in at once through the
4 clearing brokers and then through the CCPs, you'll
5 have massive bottlenecks and contention problems.
6 So, you'll need to have time for people to get
7 everything set up before you flip the switch and
8 say you need to clear. So, I think it does make
9 sense to sequence that, as well, in terms of
10 giving people at time to do that from that
11 standpoint, but it does make sense to answer your
12 question to sequence the different groups.

13 MR. EDMONDS: I would add to that and
14 agree most everything offered up. I would think
15 if you look at it not only from the legislative
16 intent but from the rule set, if we were to attack
17 this from the standpoint of what was most
18 systemically important first, I think that
19 encompasses what Bill put out as those who are
20 most prepared for it today based on size and
21 scope, then have a volunteer period for those who
22 want to be early adopters of that that are not

1 captured in that systemic realm that you made a
2 find in the rule set, and then finally end up with
3 the final mandate that everyone needs to meet at
4 some point in time. But I think the lessons we
5 learn not only by getting the biggest total
6 systemic risk into the solution first and then
7 those who volunteer to come along the way will
8 give us the right roadmap for any tweaks that
9 might be necessary as we move forward.

10 MR. NICHOLAS: I think one overriding
11 concern or issue that I think the agencies should
12 keep in mind when discussing sequencing and
13 particularly phasing in sequencing by market
14 participant is to be careful not to advantage or
15 disadvantage any particular types of participants.
16 I mean, I think to the extent that certain
17 participants or categories are permitted to get
18 into the mix earlier, customers will most likely
19 gravitate towards those type of entities. So, I
20 think it's important to keep the competitive
21 landscape in mind.

22 MR. MAGUIRE: Hi, Dan. Agree with both

1 Bill and Chris there on the participant side.

2 Talking more about the product side of
3 things in terms of how we see sequence or propose
4 the sequence mandating there, I think again, so,
5 yes, they were broken into sort of four different
6 kind of areas.

7 One is making our product distinction
8 one size doesn't fit all. So, you have to move
9 the credit markets where the trades were more
10 standard, maturity standard coupon so they're a
11 little bit more standardized, interest rate swap
12 market is a lot more idiosyncratic, so less
13 standard. So, I think the Commission has got a
14 tremendous job ahead of it in terms of defining
15 what is actually going to be mandated, and I think
16 over-prescription will allow for loopholes and
17 equally under-prescription may allow for
18 loopholes, as well. So, we need to be careful how
19 we define that.

20 Giving an example, we have probably over
21 50 percent of the local interest rate swap markets
22 for our system, and we've done some analysis

1 around that, and using just 9 standard fields on
2 there, an interest rate swap, we find that only 5
3 percent of those trades actually match all these
4 same economic fields. If we take more of those
5 standard fields that the further up the scope you
6 go, the less match you get. So, it's true that
7 the interest rate swap market is not standardized
8 in terms of what we see existing today.

9 In terms of the other aspects, we've
10 also got to consider, I think, the higher liquid,
11 higher volume type products first in terms of
12 reducing systemic risk, so liquidity and
13 participants are really a key part of that, and I
14 guess similar to the points made yesterday by
15 myself and others, we think it's important that we
16 tie in with a lot of the broader international
17 jurisdictions here to have a level playing field.
18 CPSS-IOSCO and I are coming up with legislation
19 rules, and we think as an organization it would be
20 a good thing if we're aligned across the different
21 jurisdictions to ensure that similar products are
22 offered in similar jurisdictions.

1 And then I guess, finally, we don't
2 necessarily want to -- I think there was another
3 point made yesterday, as well, around going as
4 fast as the slowest person. We think competition
5 and innovation in clearing should be welcomed to
6 get more onto the clearing platform. So, we want
7 to make sure that there are enough incentives to
8 all of the participants, ICMs, clients, DCOs that
9 as they bring new products safely to the market
10 for clearing that they're not stymied by maybe
11 being the only people that do that.

12 MR. O'CONNOR: I think with respect to
13 sequencing or fading in, I think it really, as
14 you've probably experienced with the discussions
15 that you've had with market participants over the
16 past 6 to 12 months that it's really the only
17 practical solution to getting this done. I think
18 that if we wait until we have the perfect solution
19 that covers all product for all people, we may
20 never get started because that's a very, very
21 heavy lift. So, I think it's sensible that we
22 think about phasing in. I think the phasing in by

1 product and phasing in by participant type make a
2 great deal of sense. I think that comments about
3 keeping competition open, I don't think there's
4 anything in your suggestion that would prevent
5 somebody from participating, whether they wanted
6 to be an early-adopter or not. So, I don't
7 necessarily see that as a risk with the phased-in
8 approach.

9 Now, we feel that within implementing
10 Title VII is a complex question, so nobody should
11 think that the answer wouldn't be complex, as
12 well, and I think that you need to be somewhat
13 nuanced with how you think about phasing in. So,
14 in addition to participant type and product type,
15 I think that it makes sense to give people hurdles
16 that they need to hit over time. So, in an
17 initial period, there's a certain floor in terms
18 of the percentage of your portfolio that you need
19 to contribute to clearing, and that grows over
20 time. I think that there are some significant
21 advantages in taking that approach in that we
22 heard yesterday that there is a lot of

1 infrastructure being built and there's a lot that
2 that infrastructure can do today, but as people
3 have already mentioned, there would be bottlenecks
4 if everybody tried to utilize that infrastructure
5 at once and that infrastructure is not yet at full
6 scale, despite the fact that many parts of it are
7 operationally ready.

8 So, if we begin by phasing in with a
9 percentage of people's portfolio, it allows us to
10 get started without stressing the current
11 infrastructure beyond its capability, and I think
12 it'll also give the industry the opportunity to
13 fully flesh out offerings. I think one of the
14 concerns about people with large portfolios of OTC
15 derivatives is the mandate and what it will
16 capture. So, you don't want to get into a
17 position where I have a large portfolio of OTC
18 derivatives, I mandated to clear a portion of
19 that, and the net result is that I have more
20 counterparty exposure at the end of it rather than
21 less. So, there are counterparty exposures
22 residual in my un-cleared portfolio that my clear

1 portfolio was previously offsetting. And I think
2 that if you phase in portions of portfolios, you
3 allow people to manage that process somewhat so
4 that they're not in position and you're giving the
5 industry to fully flesh out product offerings so
6 that when you do get to full mandate, more of
7 somebody's portfolio is available for clearing.

8 So, I think from our discussions, I
9 think there's industry support for that type of
10 approach, but, again, I think it's a complicated
11 problem that's going to be a complicated answer,
12 and we need to be phasing in definitely the only
13 way that the industry is going to be able to
14 achieve this on a timely basis, but I think we
15 need to be nuanced about how we approach.

16 MR. COX: I might use as a guide what
17 has already been cleared in an existing solution
18 for the major clearinghouses that credit clearing
19 for buy side and sell side has been in effect for
20 almost 18 months, interest rates are clearing
21 initiatives for major buy side participants and
22 sell side participants have been in effect since

1 October of last year, and both of those solutions
2 have been very deliberately and very thoughtfully
3 developed in collaboration with major participants
4 from both the sell side and the buy side. So,
5 maybe using that as a guide, you would meet
6 Garry's concerns about making sure that you keep
7 in mind competitive interest as you phase in the
8 mandate, but also making sure it's a deliberate
9 and thoughtful process about what's possible to
10 clear and what the impact would be.

11 MR. PETERSON: Just to follow-up maybe
12 on the concept of the competitive landscape and
13 how that ties into all of this, if people want to
14 offer any thoughts on dealing generally with the
15 issue of access, broader open access to clearing.
16 Both of our agencies in our various role proposals
17 to date have said a lot about, put a lot of
18 proposals relating to promotion of greater access,
19 and sometimes that's tied up with dealing with
20 potential conflicts of interest.

21 How do people see the connection between
22 a clearing mandate and the open access issue, or

1 to put it a different way, are there particular
2 markers or things that we should expect to see or
3 that the regulators should push the clearing
4 agencies to have in place before the clearing
5 mandate or clearing mandates begin? Does anybody
6 have any --

7 MS. BRADBURY: Yes, I guess as I listen
8 to the conversation about mandating and how to
9 phase that in, I come at it more from the
10 perspective that you've raised, which is we really
11 like access to clearing. I know there are a lot
12 of people who are very concerned about being
13 forced to clear. I think we actually have kind of
14 the opposite perspective, which is that we would
15 like access to clearing. And I worry when you
16 talk about phasing in by types of customers, for
17 example, or types of entities, people who are
18 ready to clear today and who would like to have
19 access once the rules are all established may be
20 disadvantaged and not be able to do that.

21 I mean, at the end of the day, clearing
22 your liquid swaps has advantages for customers. I

1 mean, we'll be able to compress trades more
2 easily, we'll have less counterparty risk, we'll
3 have fewer operational headaches. I mean, there's
4 a lot of advantages to central clearing for the
5 buy side, and I think we lose sight of that
6 sometimes because we're so focused on what we have
7 to make people do at the open of an access issue
8 is extremely important to us, although buy side
9 clearing is sort of theoretically available now.

10 It's actually used very rarely. There
11 are very few contracts that are actually open to
12 buy side participants, and so, I think opening up
13 a broader range of contracts for buy side
14 participants, once the margin rules are all kind
15 of sorted out, and, obviously, I think market
16 participants need some certainty about those
17 things, that will be tremendous advantage to us
18 because we'll all understand the rules and how
19 they'll work. And then the rules of operation and
20 things like portability of trades, all of those
21 kind of technical things that have to happen that
22 will really make it much easier for buy side

1 participants to participate. And we understand
2 not everybody is going to want to do that day one,
3 but if you phase it in by type of client, you may
4 actually impede access for people who are ready.

5 MR. GREENBERGER: Yes, I think the
6 question you posed about that there is a
7 distinction between free and open access
8 requirements that come from conflict of interest
9 and ownership requirements and the phasing in
10 issue. First of all, I want to say, generally,
11 I'm supportive of phasing in. I think this is an
12 answer to a lot of the complaints that this is all
13 moving too fast and people won't be ready. The
14 statute contemplates phasing in and I think
15 phasing in is important, and I endorse your
16 emphasis on that in the concept paper.

17 Secondly, I am concerned. I think you
18 have a tightrope to walk in that if you just let
19 you pose it in terms of who has rulebooks, who
20 have processes in place, if you just on day one
21 say, okay, these institutions that are ready can
22 go and wait for everybody else, I think that will

1 have an adverse, competitive impact that is
2 unrelated to conflict of interest and ownership.
3 I think you do have to give new entrants some
4 degree of time to catch up to the existing market.

5 I'm sympathetic to D.E. Shaw's concern
6 that some people are ready and want to get going.
7 But what the buy side is going to find out,
8 they're going to have very few competitive options
9 and an ability to compare pricing and competence
10 if you just start with the people that are ready
11 to go. I think the voluntary market that's been
12 established demonstrates that the clearing
13 facilities that get out first tend to dominate the
14 market, and so, whatever the ownership
15 requirements are, you've got a competitive
16 disadvantage. On the other hand, you don't want
17 to wait too long because you've got people who are
18 anxious to use the clearing and the more things
19 that are put into clearing eliminates systemic
20 risk.

21 The other thing I would say about this
22 idea that you're going to have bottlenecks and

1 overload is the transition rules in 723
2 contemplate that all existing swaps don't have to
3 be cleared and all swaps that are entered into
4 before the clearing rules are finalized don't have
5 to be cleared. Now, there may be voluntary
6 clearance of those things, but the clearance
7 requirements began after the rules are in place,
8 which I think is another reason why in this
9 tightrope walking you're going to do, there is an
10 importance to put the clearing in place.

11 Finally, I think this idea that
12 everybody around the world has to start at the
13 same time is going to be exactly the kind of delay
14 that D.E. Shaw is worried about. If we have to
15 wait, everybody's going to be waiting for each
16 other, and it's going to slow down the
17 implementation of these rules. My analysis is the
18 Dodd-Frank, while not adopted uniformly around the
19 world, has been a template for the European Union
20 and other regulators to decide how they're going
21 to operate. I think a lot of the European Union
22 agent regulators are looking to the CFTC on how

1 they're going to set this up. And I think both
2 the comprehensiveness of the CFTC's regulation as
3 well as its getting so much input from the markets
4 as to how this clearing facility should be set up
5 demonstrates to me that this will be a leader in a
6 regulatory market and we shouldn't wait around to
7 see what everybody else is going to do.

8 MR. BUTHORN: I just want to add a
9 couple comments. I'm extremely sympathetic to
10 that point of view. I think BNP is one of those
11 organizations that is trying to get into the
12 clearing business after not having had one for the
13 preceding period of time. For us and I think for
14 many banks, we oftentimes are the bottlenecks of
15 the process because we have very high threshold
16 for due diligence and documentation that we
17 oftentimes have to cross. And that combined with
18 many of the new rules within Title VII, in
19 particular business conduct and others, are making
20 that threshold higher, which is fine. We're
21 enthusiastic about doing that and we will. But
22 one thing I think to consider in terms of your

1 sequencing question is how can you, in effect,
2 simplify that burden so that we can accelerate our
3 implementation process?

4 And one way to do that, I think, is to
5 allow us to focus on certain classes of clients
6 first as opposed to others because if we're trying
7 to deal with the whole world, real money managers,
8 hedge funds, insurance companies, GSEs, it just
9 expands the problem that we're trying to solve,
10 whereas if we can focus on it from a (inaudible)
11 and due diligence perceptive one set of clients
12 first, we can relieve some of our internal
13 bottlenecks, accelerate implementation, and become
14 more competitive with banks that are very much in
15 that space already where we are currently trying
16 to catch up.

17 MR. DeLEON: I'd just like to comment on
18 a few of the comments here. While I agree with
19 many of them in concept, there are some things
20 that I think we have a slightly different view on
21 at PIMCO, and I think that are important to think
22 about in terms of phasing.

1 One of the things that have come up is
2 sort of the concept of phasing by dealer type, and
3 the issue associated with breaking it down further
4 than the three that have been defined by the
5 regulatory agencies is that there's a fiduciary
6 responsibility for each money manager or end-user
7 to treat all of its clients in a similar way. So,
8 prescribing percentage hurdles or different type
9 of cutoffs based on size is something that goes
10 against that generic rule that we have in our
11 fiduciary responsibility and creates a conflict.
12 So, as someone who's looking to clear and wants to
13 clear, we want the ability to decide when it is
14 best to clear, whether it's the beginning, middle,
15 or end, and being forced to do it other than by
16 the end date, it creates issues because you may be
17 favoring certain clients or disadvantaging
18 clients.

19 The other point that Darcy brought up is
20 there are a lot of commercial things going on
21 pre-Dodd-Frank that Dodd-Frank mimics or is
22 improving upon, so there are commercial reasons

1 for wanting to clear sooner than later, especially
2 for levered funds and for other vehicles.

3 For example, many levered funds or
4 certain accounts need to post what's known as
5 initial margin, which is standard in futures
6 clearing, and that would be in CCPs and is also
7 going to be mandatory for non-cleared trades after
8 the prospective date is set. A lot of hedge funds
9 and other players are forced to post initial
10 margin already. This is done on a unilateral
11 basis and not necessarily fully segregated or
12 mandated or controlled by a third party. The
13 dealers set what they think is initial margin,
14 which is always a fair statement because it's a
15 unilateral discussion. Moving those positions to
16 central clearing would be a benefit to many
17 players that have that situation and I think that
18 was Darcy's point, not just before, but there's an
19 incentive for those type of accounts, and PIMCO
20 has some of those, to want to move sooner or
21 later, as well.

22 And the only other thing I would add

1 about the sequencing thing, which hasn't been
2 brought up, is the fact that there's also now
3 rules proposed about at a certain date if things
4 are not cleared, you will need to post initial
5 margin on a unilateral basis for end-users to swap
6 dealers. As a result of that, there's an
7 incentive to want to clear sooner or be able to
8 clear sooner because that is, as Garry pointed
9 out, would create additional asymmetric,
10 counterparty exposure.

11 Now, there is the ability to create
12 tri-party agreements, but that's yet another
13 operational burden. And I just want to point out
14 that the sequencing needs to be thought about in
15 terms of if you're going to sequence products and
16 you're going to sequence groupings, we need to
17 make sure that all of the regulatory bodies agree
18 what the drop-dead date is and that it be after or
19 close to the end of all the products for posting
20 margin on non-cleared trades. Otherwise you'll
21 wind up with a race condition where you will need
22 to clear, otherwise you'll be posting these

1 unilateral margins.

2 MR. O'CONNOR: I think to avoid those
3 issues, the best thing that we can do is start
4 because the sooner we start, the sooner we can get
5 infrastructure in place that's going to allow your
6 fiduciary accounts to move on mass or leveraged
7 accounts to move once the clearing members are
8 able to support the offering.

9 So, I don't think it's easy, but I think
10 the hardest thing about doing anything is
11 starting. And I think that the phased-in
12 implementation that needs to be nuanced, the
13 phased-in implementation allows us to start.

14 MR. EDMONDS: I was going to head to
15 Darcy's comment regarding the products. We talked
16 a little bit yesterday on the panels around how
17 especially in the world of credit default swaps
18 it's the regulatory process that's ending up with
19 two separate structures and harmonizing those
20 things. I know it's consistent with not only the
21 intended legislation, but some of the work that
22 has been considered by the commissions. But

1 that's one example that we can't forget to Darcy's
2 point about making sure that there is adequate
3 capital efficient access to those products that
4 the buy and sell side both need.

5 CHAIRMAN GENSLER: Let me just give it a
6 shot because I wanted to ask something about
7 Bill's, but since there are a couple of things I
8 could probably -- one, credit default swaps and
9 portfolio margining. I would just say at least
10 the chair of the CFTC has clearly heard you not
11 just because of yesterday, but over the months. I
12 know some fellow commissioners are in the room,
13 too, and, so, they can come to their own views,
14 but I think that the SEC and CFTC, I hope, will
15 really be working hard on at least portfolio
16 margining and the credit default swap area where
17 because of jurisdictional divides over in this
18 building, we have some of the indices over in by
19 Union Station that would be the single names and
20 narrow base. So, I think a lot of work needs to
21 be done there and it would be helpful to get the
22 best input, and I'm not saying we're there yet,

1 but I think we've heard them on that.

2 I had a question though. Bill, you were
3 saying how to divide this up. Products are
4 somewhat dependent on how the clearinghouse has
5 come in. Under the statute, as I understand the
6 statute, it's really the clearinghouses that
7 submit to the CFTC or SEC products that they want
8 to clear. And of course the clearinghouses,
9 you're right, already are clearing significant
10 portions of the credit market, the rates market,
11 and even the energy markets. So, I suspect as we
12 finish our rules sometime maybe this fall of 2011,
13 that these clearinghouses will come in. And, so,
14 there is a question for them as to when they plan
15 to come in to start the 90-day public process.
16 That's products.

17 But my question for you, Bill, is
18 because I think the lawyers might agree with you,
19 it's hard for us to do percentages. They might
20 share your view even though it's not Garry's view,
21 but my question is: Did you have a view on the
22 three sort of buckets that we're in, the CFTC

1 concept piece? And it was put out there just to
2 get reactions, too, but sort of a first bucket

3 would be -- what was it -- dealers and hedge
4 funds, and maybe a next bucket was other financial
5 entities that don't do subaccounts, and then maybe
6 a third was the subaccount group who have hundreds
7 or thousands.

8 So, it's that phasing of those three
9 buckets, so to speak, all with the assumption, the
10 third concept in the 13 concepts was that the
11 clearinghouses when they're open for business had
12 to be open for business for everybody, that they
13 had to have access for everybody. So, it starts
14 voluntary and then the mandate is sort of these
15 three buckets, and I was curious where you were on
16 that. And then the clearinghouses might answer
17 when they think they're going to submit these
18 swaps for a public process.

19 MR. DeLEON: Thank you, Garry. Yes.
20 No, I agree with your concept of the fact that the
21 most important thing is that the exchanges be
22 ready and accept. And our view is that as soon as

1 exchanges are ready, end- users will move at their
2 own pace regardless of where they fall into any of
3 these buckets. And the CCPs should not be set up
4 to look at the definitions you've picked. They
5 should say either you want to clear and you're a
6 valid customer and you've met our requirements to
7 become a customer through an FCM or not, and it
8 doesn't matter what type you are.

9 So, I agree with you there, and I would
10 hope, yet again, as I think all the exchanges here
11 are trying to do, to have all the products ready.
12 So, that would help move things along, and then
13 the bottleneck will just be getting the account
14 set up. But I also agree with your concept of
15 focusing on the biggest types first, which -- and
16 then moving that along, but, obviously, they're
17 going to be the legal issues with forcing things.
18 And that's our concern is that we have a fiduciary
19 responsibility to look at our clients because once
20 we have a client, unless you have -- or the
21 legislation, let me be clear, the legislation has
22 set them as an MSP or a swap dealer, they sort of

1 just fall into this other category. So, we'll
2 have an incentive from a commercial basis to move
3 different type of account at a different rate.

4 CHAIRMAN GENSLER: But did you have a
5 view on the three, dealers and hedge funds first,
6 what was it, insurance companies? And maybe it's
7 leasing companies and the like that are not
8 Subaccount Land and Subaccount Land is people with
9 lots of accounts like yourselves and the big
10 mutual funds and so forth?

11 MR. DeLEON: Right. My view would be I
12 think that makes sense. I don't know if other
13 than the hedge funds which are MSPs, I don't know
14 if you can legislate it or you can force it, but I
15 think that that sequencing makes sense in terms of
16 reducing systemic risks and achieving the fastest
17 move. It's a question of, as I said, there's a
18 dichotomy between what makes sense for moving
19 things and wanting to focus on systemic risk
20 versus the fact that the way you've defined
21 things. And this is just the way the rules are
22 written and sticking with the rule that I'm not

1 allowed to comment on the rule. The way they're
2 defined, we can't force certain things. So, I do
3 agree with your view that makes sense from a big
4 picture, I just don't know if you can get the
5 lawyers to approve it.

6 MS. BRADBURY: I guess since the issue
7 of hedge funds being in one of the buckets, maybe
8 I could just pipe up and it's sort of important to
9 remember that we're not all the same, just like
10 all long-only managers are not the same. And I
11 think firms like ourselves who are very active in
12 the futures market are much more ready to enter
13 into a clearing of swaps because we have a lot of
14 the expertise, the infrastructure, the
15 relationships, the contracts. We're, I don't
16 know, 80 percent of the way there already, and so,
17 I would be hesitant. And maybe there's a firm
18 that only does credit and all they do is CDS and
19 they've never traded an exchange, traded -- so
20 they don't have the infrastructure.

21 I know when you created in the margin
22 rules these categories of high-risk financial,

1 don't like the name mind you, but leaving that
2 aside for just a moment, I think those buckets are
3 also a little difficult because they speak to
4 whether your capital-regulated or not, which seems
5 to me a little irrelevant in this context. So if
6 you feel you need to have some clear guidelines or
7 maybe there's a volume trigger if you have
8 X-amount of swaps or something like that, but I
9 also to kind of go back to an earlier point, I
10 think phasing in by asset class also might be a
11 useful way to think about it.

12 Interest rate swaps are by far and away
13 the largest part of the market. It's a market
14 that the dealers clear pretty routinely now, so
15 it's not like you have to make the dealers clear
16 interest rate swaps, they're already clearing
17 them. I think I have some numbers, but I have the
18 clearing agencies here, so I hesitate to use their
19 numbers, but, I mean, they're clearing hundreds of
20 thousands of these contract. These clearinghouses
21 exist for years, have been doing this for a very
22 long time, and it seem that just opening those up

1 might be a way to kind of get the whole thing
2 going. And, so, I guess if I were queen of
3 derivatives for a day, I might start with interest
4 rate swaps because I think there are a tremendous
5 volume of liquid contracts available, but we'd
6 love to clear everything, so I don't want to pick
7 favorites here.

8 MR. NICHOLAS: Getting back to John's

9 point about fair and open access, I mean,
10 obviously, that is a mandate of Dodd-Frank and a
11 key concern in terms of sequencing. I mean, I
12 think if you look at presidents in the securities
13 and futures world for the rollout of major
14 regulatory developments such as this one, it seems
15 to me that, in general, it's been done on a
16 product or asset class basis. I think that that
17 addresses systemic concern issues, while at the
18 same time preserving competition and fair and open
19 access, and that seems to be the way it's been
20 done in many cases.

21 MS. BROWN-HRUSKA: I would just add, and
22 maybe put some caution on those comments and in

1 some sense on the interest rate swaps. I mean,
2 we've worked a lot with pricing interest rate
3 swaps and cases involving them at NERA, and one
4 thing we've seen is an incredible amount of
5 diversity, and as Mark mentioned, idiosyncratic
6 terms. And it's not an accident that there's a
7 huge interest rate futures market that is
8 developed to complement that OTC product space.

9 And so, I would actually caution against the
10 assumption that IRS are amenable certainly as a
11 product class to clearing, that there's, in fact,
12 some staging within that asset class that is
13 recommended just from a logistics perspective.
14 And, again, I think this is a systemic risk area,
15 as well, because I think that if you move too
16 quickly on clearing, a mandate for clearing,
17 there's a lot of IRS and interest rate risk
18 management that may be deterred because you're not
19 set up to do the transactions in the sort of
20 prescribed manner.

21 So, I feel differently about CDS. I
22 think that CDS has really somewhat less diversity

1 overall. Certainly different characteristics in
2 terms of liquidity, but there is, I think, a real
3 good argument for moving forward on clearing and
4 self-execution there.

5 MR. O'CONNOR: If I could just comment I
6 guess back on the interest rate swap side of
7 things, so LCH.Clearnet today is clearing, we have
8 over 50 clearing members. We have short of \$300
9 trillion notional under management, of course many
10 different currencies, and every single day, every
11 single participant is collateralizing against our
12 pricing and our marks. So, actually moving to
13 clearing is actually you can counter that argument
14 somewhat and say moving to clearing out one price
15 rather than all the existing bilateral disputes
16 you see in the market today under CSAs, et cetera.

17 So, I think moving to clearing actually
18 in some ways helps price transparency and price
19 discovery and brings consistency to the market to
20 the extent that, tying with some of the other
21 comments, we've also seen quite a few
22 participants' approach is not just for new

1 business, but also looking to backload, as we call
2 it, lift their existing portfolios into clearing,
3 as well, for this exact reason, pricing to
4 actually get one single version of the truth
5 rather than having it there for bilateral
6 disputes.

7 And I think tying Michael, Garry, and
8 Chris' comments earlier, as well, around the sort
9 of bifurcation of the portfolios. The statute
10 says new trades and doesn't really say anything
11 about existing, but I think in practical reality,
12 bifurcating your option, but with your swap back
13 as a problem in the first instance, as Garry said,
14 if you then take your existing swap back, you're
15 new, and you're existing bifurcate that again,
16 portfolio managers like Bill and others are going
17 to have a difficult job managing all the rest
18 across all of their portfolios, which is split
19 into different buckets.

20 So, I think whilst the statute may say
21 only new business, I think the reality is you'll
22 see a lot of people looking to lift their existing

1 portfolios, as well, even though it doesn't
2 mandate that.

3 MR. DeLEON: Yes, and just to add to
4 that, and Daniel touch on this, I think while
5 there's a mandate to move certain products and
6 certain things, it should be kept in mind though
7 that certain products want to go with other
8 products.

9 So, for example, if you look at the
10 market now, there are several venues for clearing
11 interest rate swaps, and we can argue the merits
12 of all of them and they're all competitively-based
13 and they're all open access. There is no good
14 market right now for interest rate options. There
15 is no good clearing mechanism for any of that, and
16 if you look in many books where people will run
17 balanced books, moving only one part and not the
18 other, as Daniel pointed out and as Garry pointed
19 out, will create more and not less risk in the
20 system.

21 So, I would argue that if I had a choice
22 of being forced to move all my interest rate swaps

1 without my options or I could wait and move both
2 of them together, depending on my portfolio and
3 its construction, I might want to move them both
4 together as opposed to split because that would be
5 risk-reducing, not risk additive. So, I think
6 there's also a component of this which is while
7 you want to mandate certain things, there is going
8 to be a competitive pressure to move more products
9 that aren't mandated together.

10 For example, cross-jurisdictionally, if
11 I have a negative basis book or I have a CDS basis
12 book where I have a correlation book of index for
13 a single name, I'll have an incentive to want to
14 move both the single name and the single index
15 together because otherwise, yet again, I'll create
16 more risk and split risk than I would otherwise
17 because you'd have some stuff cleared. So that's
18 effectively one counterparty with initial margin
19 and then you'd have other stuff non-cleared with
20 different counterparties with or without margins.
21 So, you've now got no margining offset and no
22 positioning offset.

1 So, while we're talking about the
2 phasing here, which I think is important in terms
3 of forcing people to go, I think you need to
4 realize that there are going to be market
5 participants who will want to go faster on certain
6 products than the phase-in as things become
7 available.

8 MR. O'CONNOR: I think that comes back
9 to the point earlier, if we wait for the perfect
10 solution, we may never get started. So, I
11 appreciate that the phasing-in needs to be a
12 period of significant length, that everybody has
13 the opportunity to do what makes economic sense
14 for them, that they're not forced to do something
15 that doesn't make commercial sense. But and I
16 take the Chairman's point that percentages may not
17 work from a legal perspective, but you can achieve
18 something similar by managing the windows under
19 which mandates exist for different types of
20 products and different types of people. And
21 Bill's made a very good case for why some parts of
22 his business might want to move on at the end of

1 that process rather than some parts of his
2 business that might want to move earlier.

3 So, I think by managing those windows,
4 you can achieve something very, very similar and
5 something sensible that gets the ball rolling,
6 doesn't force people to do things that don't make
7 commercial sense and achieves a better clearing
8 result as a whole.

9 On your point about a comment period on
10 product, my understanding of the Act is that
11 clearing organizations that were clearing product
12 prior to enactment were grandfathered on that, so
13 we have, in fact, already make application for
14 those legacy products that we were clearing at the
15 time.

16 CHAIRMAN GENSLER: I think John should
17 go through or either Eileen, though I think you're
18 accurate, we still have the public comment period.
19 So, under a rule that Eileen Donovan and John can
20 describe, it might be worthwhile to talk about
21 that 90-day process.

22 MR. O'CONNOR: So, I was at risk of the

1 ball being in my court. I wanted to make sure --
2 I knew it was in yours.

3 CHAIRMAN GENSLER: Now it's in -- yes.

4 MR. O'CONNOR: Okay, very good.

5 CHAIRMAN GENSLER: They can describe it,
6 I think, right?

7 MR. LAWTON: First, to address the
8 grandfathered products, basically, we talked to
9 the clearinghouses because certain things, as you
10 mentioned, are deemed submitted and clearinghouses
11 have voluntarily given us information about the
12 things that are deemed submitted. And basically
13 the 90-day clock on those will start on July 15.

14 MS. DONOVAN: When the clock does start
15 running though, there will be another 30-day
16 public comment period on each group, category,
17 type, or cost of swaps, so the Commission is
18 posting for review. So, there will be another
19 comment period.

20 MR. PETERSON: Bill, I think you
21 anticipated maybe a question that I was going to
22 ask a little bit earlier with respect to CDS,

1 which obviously is a product class that is of
2 particular interest to those of us at the SEC.
3 Interested in sort of views as to the sort of CDS
4 index versus single name in terms of readiness for
5 clearing, readiness for clearing mandates, harking
6 to Chairman Gensler's point on portfolio
7 marginining. And I should say that I think those of
8 us at the staff and I think our colleagues at the
9 (inaudible) and the CFTC staff are both very
10 focused on the importance of making the
11 environment work for portfolio margining for CDS
12 in particular. The perception is that index
13 products are typically more liquid than single
14 names. Would it make sense to phase index
15 products first to the extent that they're
16 available in terms of clearing mandate or should
17 CDS be considered together?

18 MR. DeLEON: Unfortunately, the CDS
19 market, while due to the big bang and small bang
20 is much more homogenous than the rates market or
21 other markets in terms of structure. I think
22 going to Daniel's comments earlier, the CDS market

1 is much less homogenous along product lines
2 because you have a much higher bifurcation of what
3 is liquid versus what is illiquid. Obviously, if
4 you stick with index or you stick with certain
5 single names, they will be incredibly liquid,
6 highly-traded, frequently quoted structures. If
7 you move though to the non-standard dates in
8 single name or even in index, and then as you
9 start moving down the credit spectrum, you will
10 wind up with things that literally trade by
11 appointment or trade once or twice a week and some
12 of those are even less.

13 So, there's going to be an issue there,
14 and I agree that ultimately moving these to
15 changes will increase price transparency or reduce
16 the issue of price uncertainty, which leads to a
17 lot of disputes. And there are no dealers at this
18 table today, but I can tell you I have a lot of
19 disputes with some of those names. And that will
20 help reduce this because by being on an exchange.

21 So, I think you need to be careful about
22 the assumption that they're all homogenous, single

1 name versus index. However, I do think that you
2 could get a lot of risk reduction by moving index
3 first. But, at the end of the day, you want the
4 end date to be about the same because, ultimately,
5 you want to have the whole product, both single
6 name and index, and possibly tranches, which are
7 even less liquid, sort of finalize the same date
8 because you don't want to have the tale of certain
9 single names not being cleared.

10 So, I think that from that standpoint,
11 you could say index starts first, and, yet again,
12 you'd have the commercial opportunity to trade and
13 clear single names before the mandate kicks in.
14 But the end date is what's important, is you want
15 to have end dates coordinated where you say, okay,
16 on this date, everything needs to get cleared.
17 People will have the ability and desire to go
18 before, depending on what's in their book, what
19 they think their commercial makeup is, and what's
20 best for their clients in terms of collateral
21 management, what their view on the credit market
22 is, et cetera, but you want to have the end dates

1 coordinated, and I think that's the important
2 thing. Lots of people want to start before, and
3 that'll be a question of what's commercially best,
4 but the end date is what matters.

5 So, I would focus more on than that the
6 start date of these things, and I don't know if
7 you'll have the luxury of being able to delineate
8 start dates for different parts of the index of
9 the single-name market or you have to book that
10 together. I haven't focused on that with my
11 lawyers, but you probably have. But, clearly,
12 certain names that will trade more frequently, I
13 would want to see pushed before the less liquid by
14 appointment names.

15 MS. BRADBURY: Yes, I think the
16 single-name CDS that are components of the index
17 ideally would come at the same time. I think even
18 within single-name, I think the financial names
19 are the ones that tend to be traded the most.

20 I mean, for example, we would use those
21 essential as credit protection with our
22 counterparties. So, if there's a bank that's

1 holding a lot of the initial amount for us, we
2 have a big counterparty exposure to them a la
3 Lehman Brothers, and so, being able to make those
4 contracts clearable might be a very good thing.

5 The other interesting thing in CDS is
6 that as you bring in end-users, non-dealers, the
7 contracts that people will want to clear will
8 change a little bit. Dealers tend to focus more
9 on investment grade index, and there are many on
10 the buy side who use high-yield index CDS because
11 we might be trading distressed at or other things,
12 and we need to hedge those with the high-yield
13 index, and those are not currently a real focus on
14 the dealer side, so they're not as commonly
15 cleared. So, you will see some product evolution
16 as you bring in new participants to the
17 clearinghouse.

18 MR. MAGUIRE: Just speaking, hopefully,
19 on behalf of all of the clearing house, I will
20 risk that, it's all very interesting to hear about
21 these sort of lower-liquidity, slightly more
22 esoteric products coming into clearing. But I

1 think we just have to sort of have a sobriety
2 about whether they can be cleared from a default
3 standpoint, as well, or very well in a nice,
4 peacetime liquid market environment, but these
5 things change their characteristics during a
6 default kind of event. So, I think what we're
7 starting to see here is that the clearinghouses
8 aren't going to become more systemic and important
9 to the market.

10 Historically (inaudible) has been taking
11 liquid- commoditized, standardized type products
12 into a clearing environment. We're now sort of
13 flipping that on its head a little bit and
14 starting to think that clearing could make
15 products more liquid, standardized, and
16 commoditized. So, that's quite a structural
17 change, and I'm not sure we're there yet.

18 So, I think we just need to be balanced
19 in our view of what we bring in because the
20 worst-case scenario is we're left with an illiquid
21 single name or a very out- the-money swaption type
22 product in a default scenario that we can't get

1 our self. And I think that needs to be considered
2 soberly before we enter into going any further
3 down the future in these slightly more esoteric
4 products.

5 MR. EDMONDS: Yes, Dan, I would echo
6 your comments. I mean, there's certainly what
7 I'll call a lot of low-hanging fruit that can be
8 moved in. I mean, if you look at the voluntary
9 actions within the energy and commodity markets
10 and how that evolved over time, I mean, it
11 continued to grow, its confidence levels continued
12 to increase.

13 To Darcy's point about all the names in
14 the index, I mean, that's a capital efficiency,
15 and I don't want to words in Darcy's mouth, but
16 that's a lot to do with the capital efficiency
17 associated with that. And they can have the right
18 type of balance book, but as it relates to the
19 financial names from a regulatory perspective,
20 we're going to have to have a very honest
21 conversation about the wrong-way risk associated
22 with having pieces of the clearing names in the

1 index. But that's an exact product that a number
2 of the market participants want to have access to,
3 and that may not be the conversation that you're
4 prepared to have day one. So, that will take some
5 time.

6 MS. BROWN-HRUSKA: Yes, I think I agree
7 -- I mean, Dan, I think we agree fundamentally
8 because that's my concern, is that we don't get
9 the cart before the horse, and we make sure that
10 we allow -- I mean, the markets have really made
11 great strides in clearing in the interest rate
12 space and CDS spaces as you're really opening up.
13 And I think that, again, we want to make sure that
14 in some sense there is this sort of market-driven
15 process that we respect, that we take the signal
16 from. The asset managers who do have different
17 risk profiles, whose asset classes do represent
18 different degrees of counterparty credit risk,
19 some being quite low and in the interest rate
20 space some having a great deal of liquidity.

21 So, my caution would be consistent with
22 the volunteer period, consistent with the sort of

1 sequencing, especially in the areas where there is
2 not a lot of standardization and there is a great
3 deal of variance in the risk profile.

4 MR. MAGUIRE: I think it's gone back
5 onto the open access point, as well. From our
6 perspective, from my firm's perspective, we're
7 agnostic in terms of the sequence. I think those
8 first were, I think we can all say this: We're
9 open for business, we all want more clients and
10 customers, quite frankly, so I don't think we're
11 going to be prescribing dealers first, MSP second,
12 asset managers third or whatever. I think, for
13 us, the rules need to be finalized, then we can
14 get our ducks in a row, get everything finalized
15 from our perspective in terms of internal
16 governance and other regulatory bodies, et cetera,
17 but then open for business.

18 And I like the point Bill raised about a
19 mandate rather than a start date. That's quite a
20 neat way of dealing with it, and then having a
21 voluntary period.

22 MR. LAWTON: One quick comment and then

1 one question. I have to correct something I said
2 a few moments ago. Basically, for the
3 pre-existing, pre-cleared swaps, the DCOs, and we
4 have agreed that the clock would actually start
5 when our process rules final, which may or may not
6 be July 15.

7 And then with a question that follows
8 onto what Dan just said, if on open for business
9 the DCOs or clearing agencies were able to clear
10 clients at all levels, and, early on, there was a
11 mandate say for dealer-to-dealer trades, what
12 would be a practical timeframe to then extend the
13 mandates? So, you have voluntary clearing for
14 those end-users who are ready to do it and those
15 firms that were ready to accommodate it, and for
16 others, you'd have some time to get ready what
17 would be a time to transition into full mandatory
18 clearing across the product for all market
19 participants.

20 MR. DeLEON: I know Garry's not going to
21 like my answer, but we still think it's probably
22 18 months to 24 months to get everyone onboard

1 given the documentation issues associated with
2 opening that money accounts with that many
3 clearing organizations. There are just a massive
4 number of accounts that are involved if you think
5 about what's involved.

6 So, taking a simple example, if I want
7 to open 2,000 accounts, I need to have all my
8 possible counterparties open so that anywhere
9 between 8 to 12 or possibly 15 because I need the
10 best liquidity possible, I need at least 3
11 clearing brokers to clear, and then I have to do
12 that for each one of the exchanges I'm going to
13 use. So, just using the ICE, LCH, CME, and if we
14 did IDCG, right, that's four. So, you'd just do
15 that, and then you take the rest of the buy side,
16 that's the amount of documentation that needs to
17 get opened, and every client needs to get
18 approved. They have to do a KYC and all of the
19 accounts need to get set up, all the custodians
20 needs to set up the wire instructions. And that's
21 just not something you can flip the switch for
22 because there's legal negotiations involved, as

1 well as system work that needs to get done.

2 So, I'm just trying to say that not that
3 certain firms couldn't move incredibly quickly to
4 get that done, there's just a massive amount that
5 needs to get done, and you need to get people to
6 sign and negotiate documents. So, while everyone
7 at this table who is offering to do clearing, I
8 can tell you if I wanted to clear with them
9 tomorrow, it wouldn't be possible because I'd have
10 to go negotiate legal documents, I'd have to call
11 and get things set up, and just setting all that
12 up and getting everyone to focus is not a one-day
13 event, unfortunately. I would love it if they
14 would take our terms and say done, and we would be
15 done in a day, but, unfortunately, they have their
16 fiduciary responsibilities. So the commercial
17 terms we want may not be the commercial terms
18 they're willing to give, and that's not a negative
19 statement on anyone's part, it's just what's
20 involved.

21 So, to your answer, I think 18 to 24
22 months is probably the right answer, although I

1 know Garry would like it to be much shorter.

2 CHAIRMAN GENSLER: You're answering
3 (inaudible).

4 MR. DeLEON: Yes, I'm answering it as
5 someone who's managing hundreds of subaccounts,
6 and I'm just pointing out that even if I was
7 managing 20, I'd have to -- and you think about
8 how many hedge funds there are that manage between
9 5, 10, 20-something, and Darcy could speak better
10 to that, accounts, just the sheer numbers, because
11 they're going to have to call and negotiate with
12 everybody. So, there's just a bottleneck
13 involved, and it's not a bad-faith bottleneck,
14 it's just a physical bottleneck. And when LCH or
15 CME gets hundreds of thousands of account-opening
16 documents, they can't do that in a day. And I've
17 spoken to Mark about this in particular, and I can
18 tell you his response would be I'd love to open
19 200,000 accounts tomorrow for the rest of the
20 street, but I can't physically do it, and that's
21 the issue.

22 MR. GREENBERGER: Yes, I think that the

1 point that the Chairman's made with Bill is that
2 subaccounts, huge numbers of subaccounts can be a
3 deferred process. I must say 18 months to 24
4 months seems to me to be a very, very long period
5 of time to accomplish something that's supposed to
6 avoid systemic risks. While those subaccounts are
7 waiting, you're not going to have clearing and
8 you're not going to have capital requirements, et
9 cetera, et cetera.

10 The other thing I would say is your
11 discussion, you've listed four clearing
12 facilities. I think in terms of Dan's talk about
13 they'll be no anti-competitiveness, Dan's clearing
14 facility will be open to all comers is what I
15 understood he said. The issue isn't the
16 competitiveness or who gets access to the
17 clearing, the issue is how many clearing
18 facilities are there going to be. And I think one
19 of the heartening things about the discussion
20 today reinforces my gut instinct that clearing is
21 going to be a very attractive business and there
22 may be more than four that you'll want to look to

1 if time is allowed for other entrance to catch up.

2 And the further point I would make is
3 there will now be competition about the clearing
4 facilities, and it may not be PIMCO's interest to
5 take time to open accounts with every clearing
6 facility, but to listen to those clearing
7 facilities that are going to offer you better
8 terms. The negotiation process you talk about is
9 going to go much easier for PIMCO if you have a
10 larger number of clearing facilities trying to do
11 business with you than limiting it to the four
12 you've already mentioned.

13 MR. COX: I would just like to add that
14 I think it's very important that we stress that
15 there be a mix of participants for any start date
16 of mandatory clearing.

17 To Bill's point, I think the flip of
18 that is that the task of registering thousands of
19 accounts and taking on all this workflow is going
20 to be important. That's going to incentivize the
21 market if you have this mix of participants to
22 develop the clearing services to tailor those

1 clearing services to those type of participants.
2 It's going to drive the kind of operational
3 efficiencies, it's going to serve the customers
4 the most, and I think that my sense is that the
5 intent on the act by Congress was to serve
6 customers.

7 So, I think it might be important to
8 make sure that there's a mix of participants, so
9 as clearing evolves and as we tackle these
10 operational issues and legal issues and account
11 registration issues, that the in clients' needs
12 are serviced. And that's only done if they are
13 right there at the beginning of the mandate and
14 not kind of delayed for other participants.

15 MR. PETERSON: I wanted to go back
16 briefly to, again, Darcy's, I think, general point
17 not to overwork it, but a distinction between
18 access and clearing mandate.

19 To the extent that there are buy side
20 firms out there that are prepared to clear, ready
21 to clear, want to clear, to what extent should
22 regulators focus on trying to nail down and make

1 sure that clearinghouses have appropriate open
2 access provisions in place, whatever that means,
3 before we can advance a focusing on individual
4 clearing mandates so that those at some level, buy
5 side participants who are prepared to and can deal
6 with a risk management sense everything else are
7 able to do so?

8 MR. EDMONDS: I don't believe until the
9 Commission's finished the rule-writing and we
10 adopt and become compliant with that rule-writing
11 that that process can even start. And that's the
12 big challenge. I think we would all take the same
13 risk that Dan did. We would all like to have the
14 rulebook finally done and say here it is, let's
15 go, and let's have that give-and-take and hear
16 back and talk about some of the commercial aspects
17 that different types of customers might bring in.
18 The problem is we're stuck in waiting on that
19 rule-writing to be done in order to complete our
20 rule set and not only certify it back to the
21 agencies, but also put it out in front of the
22 public and get that required feedback we need so

1 those conversations can begin in earnest.

2 MR. O'CONNOR: I would disagree to an
3 extent. I think that Dan has an operational
4 clearinghouse, he has a rulebook. It might not be
5 compliant with the final rule set, he may have to
6 do work on it, but he has a rulebook that he uses
7 today, and he does a significant amount of
8 business in today.

9 Mark has a rulebook; he's done business
10 in his clearinghouse. People can use it if they
11 choose to use it.

12 We have a clearinghouse, we have a
13 rulebook. We have business inside the
14 clearinghouse.

15 I have no doubt that those rulebooks
16 will need to change to adopt to regulation, but to
17 a greater or lesser extent. I mean, it is
18 available today. So, the rulebooks are there.

19 MR. EDMONDS: And to be clear, Garry,
20 I'm not talking about the current, I'm talking
21 about the proposed changes because at least what
22 we've heard, and I'd be interested to hear Bill,

1 Darcy's, and other's opinion, is they want to know
2 what they're going to be going to, not where
3 they're coming from necessarily.

4 MR. O'CONNOR: No, certainly you need
5 certainty about what that rulebook's going to look
6 like, and the further along we get in the
7 rule-writing process, the closer we'll get to
8 that, but you have many examples here at the table
9 and elsewhere about commercial alternatives to
10 clearing. Everyone's trying to present a good
11 clearing model. The vast majority of the
12 rulebooks that are out there today are going to be
13 Dodd-Frank-compliant. We're talking about tweaks
14 rather than rewrites of rulebooks so you have a
15 lot of the information.

16 MR. DeLEON: Just sort of by way of sort
17 of experience we've had here, and Darcy may be
18 different, but, right now, the industry is working
19 very hard to come up with new standard
20 documentation for cleared derivatives, and this
21 has been an ongoing process for quite a while.
22 The industry, fortunately, is close to finalizing

1 it.

2 We think we've gotten through most of
3 the major issues, but this has been a big industry
4 thing. And one of the major issues that's come up
5 and that's almost resolved and just by way of the
6 rules, and this is not a comment on anyone in
7 particular, is we don't know what the final staff
8 rules are going to be. And we're trying to put
9 language into this standard documentation based
10 upon what we think the final staff rules will be,
11 because depending on what those are and what the
12 rules are in terms of doing a trade and getting it
13 cleared and notification will change how
14 commercially you act and what your
15 responsibilities are.

16 So, there are things going on that the
17 industry is trying to move ahead on to accomplish
18 because they do want to clear. We do want to move
19 this process along, but there are things that as
20 not being finalized, we can't do or we have to
21 estimate, which will require us going back and
22 changing things or writing things in a more

1 open-ended manner.

2 So, this is not meant as a complaint,
3 but just goes to, yet again, why the timeframe
4 can't be flip a switch and do stuff tomorrow
5 because not everything is known. And while we try
6 to write documentation to think about that and
7 this dealers, FCMs, banks, buy side, custodians,
8 right, we just don't have all the facts and we
9 will have to adapt things. Hopefully, we'll guess
10 right and the adaptations will be minor, but there
11 is a chance that something comes up which is very
12 different than we thought and the documentation we
13 wrote doesn't work.

14 And I'll give you an example of that.
15 We negotiated and many other people did, 18 months
16 ago to start clearing certain documentation, and
17 with the passage of Dodd-Frank, that documentation
18 no longer works, which is why we're redoing all
19 the standard documentation to be more
20 Dodd-Frank-compliant. So, I have docs with ICE
21 and CME and LCH to clear stuff on the client side,
22 but given everything that's changed, we don't want

1 to use those docs anymore. So, there's a chance
2 that if things are different than we think they're
3 going to be, we have to renegotiate. So, this is
4 not a complaint, this is just an operational,
5 legal thing because we have fiduciary
6 responsibility to our clients.

7 MR. PETERSON: Right. And just to be
8 clear, I wasn't suggesting before that the
9 regulators ought to force changes in market
10 practice in advance of sort of finalizing rules.
11 I mean, in part, the issues about open access and
12 the obligations to ensure open access will be
13 determined by what the final rules look like. I'm
14 only sort of questioning whether the question of
15 providing access could be considered and mandating
16 access can be considered apart from the clearing
17 mandate, per se.

18 MR. BUTHORN: But I think this is what
19 always happens, right? I mean, we always in our
20 markets get into a situation where we do things,
21 we make changes, and then we have to change later
22 on because we realize there were practicalities

1 about what we're doing that are different than the
2 reality. I think from the dealer's perspective
3 the key priority for us has to be during this
4 phase that we simplify the considerations of how
5 to get to clearing. And, to be frank, trading a
6 clearing to your swap and giving it up to LCH is
7 very similar and almost identical to doing a
8 two-year swap or a five-year swap. There's very
9 little distinction there.

10 What matters is what we have to do with
11 our clients, to the Chairman's point before,
12 around getting them documented, getting them
13 through due diligence and getting them onboard,
14 those are really key priorities. So, from our
15 perspective, I think it's a very straightforward
16 question. If the priority is timed and if the
17 priority is to accelerate, which I think those are
18 all good things for everybody, then what we have
19 to do is focus on what simplifies the process at
20 every potential bottleneck. And, for us, it's
21 clearly in the documentation process, and I think
22 that we've heard that.

1 So, we would very much like to see as
2 much from the regulators, as much delineation and
3 simplification on those points as possible because
4 that allows us to focus. It allows to take
5 scarce, knowledgeable resources, deploy them
6 against the clients and deploy them against the
7 policies, the procedures we need to put in place
8 for those clients, and then get this thing going.
9 Otherwise, what'll end up happening is we'll be in
10 a constant debate about this isn't done and that's
11 not done, we can't do it yet because this isn't
12 finished, and that's going to be a problematic
13 debate if we're still having it a year from now.

14 MR. GREENBERGER: One point I would make
15 that I think arises from your question about,
16 well, can we do certain things quickly and then do
17 other things later on, do free and open access
18 after we get the clearing process started, I think
19 historically speaking, once you get something up
20 and running and there's a methodology to it, it's
21 very, very hard to then say, oh, we're going to
22 add these fill-ups on, we're going to make it a

1 different way for people to get access or we're
2 going to have different conflict of interest rules
3 or ownership rules. I think it's imperative that
4 when the clearing facility starts, that the
5 clearing facility, for the public interest to
6 understand immediately everything that it needs to
7 comply with about who gets access, who has
8 ownership, because if you don't, I'll tell you,
9 you'll get the thing started, and six months,
10 you'll want to do something else and you'll be up
11 in front of Congress answering questions about why
12 you're upsetting the clearing process by adding
13 new rules. It should all be started at one time.

14 And I think the documentation is
15 critically important, but I've just seen too many
16 deals -- I don't practice law anymore. I used to
17 practice law. I've seen too many deals get done
18 really, really quickly when they need to get done
19 quickly. Now, I'm not saying it should be a
20 reckless time period, but this documentation
21 problem, which I endorse and I compliment at the
22 buy side for being so concerned about, that can be

1 done very, very quickly when it needs to get done
2 quickly.

3 MR. PETERSON: Just --

4 MS. BRADBURY: I think in addition --
5 oh, I'm sorry. Go ahead, Sam.

6 MR. PETERSON: Maybe just to add to that
7 and just as background, I mean, we work with many
8 small, financial end-users, I think most of which
9 aren't looking forward to clearing. In regards to
10 the point Michael just made, I think the
11 documentation and steps can be taken very quickly
12 for a large client that presents a big
13 opportunity, but that is sadly not the case for
14 many smaller, financial entities. And with where
15 Title VII ended up, we're talking about a mandate
16 for clearing that applies to thousands of
17 financial end-users and many of which don't pose
18 systemic risk and don't have the infrastructure in
19 place right now, don't clear futures, or don't
20 trade futures or clear trades right now.

21 So, to sort of jump back to the
22 conversation that Darcy had with the Chairman, I

1 would support a sort of volume or size bucket in
2 addition to the buckets in your concept paper to
3 account for the fact that there are, for instance,
4 many small banks that are very infrequent hedgers
5 and should be accommodated in getting them set up
6 for a clearing.

7 MR. GREENBERGER: I would just say it's
8 a sad fact of life and you can look at the
9 unregulated market and the ISDA standard
10 agreements. The smaller entities, this is going
11 to be a highly-standardized market in the end. To
12 the extent it isn't now, I think with price
13 recovery and documentation being developed and
14 even small users' insistence on getting a hedge in
15 place is going to mean that standardized products
16 are going to be used. I don't see any small
17 hedgers even getting from clearing facilities some
18 kind of different documentation and big hedgers.

19 MS. BRADBURY: I was just going to say
20 in addition to the rules specifically governing
21 the clearinghouse, which are obviously important,
22 and you all have that largely underway and have

1 received many comment letters, which I'm sure you
2 read decidedly, but I think the capital margin
3 rules will be really important.

4 Going back to a point that I think was
5 made earlier, I think you can't put in place new
6 margin regimes in un-cleared swaps until everyone
7 has an opportunity to clear their swaps because
8 it's supposed to be an incentive to clear, but if
9 you don't actually have the ability to clear, it
10 would be obviously a big penalty. But I think
11 understanding the pricing at the end of the day is
12 going to drive the marketplace. So, whether it's
13 the dealers or the buy side understanding what the
14 capital treatment is on the dealer side and
15 understand what the margin rules are for
16 everybody, I think we've all gotten over the idea,
17 okay, clearing, it's going to happen, it's a fact.

18 We understand the legislation passed,
19 and some of us are more enthusiastic than others,
20 but now you're really looking at cost. What's it
21 going to cost me to clear, what is the new margin
22 regime look like? How can I get competition

1 between my dealers so I can get clearing brokers
2 that work for me that will do portfolio margining
3 within the clearing deal broker? There's a lot of
4 different ways that you can tackle these, but I
5 don't want to leave off that important thing that
6 does fundamentally drive the economics of the
7 marketplace, which is the margining regimes at the
8 end of the day.

9 MS. BROWN-HRUSKA: I would just note
10 that, unfortunately, there's no clearing members
11 here in terms of expressing their kind of progress
12 toward achieving open access or at least not open
13 access, but setting up relationships with the
14 thousands of small customers that Sam mentions. I
15 think that that's you have to have -- we kind of
16 have to include the clearing members in the
17 conversation and understand the process by which
18 they go through to do due diligence with
19 individual customers and manage the risks because,
20 after all, they do assume the risk and provide
21 credit to a vast number of users, and it's
22 envisioned that they will play a central role.

1 So, I think it's very important that they also are
2 considered sort of part of this process.

3 MR. MAGUIRE: I think coming back to
4 what John's original question was on this about
5 sort of the timelines and the DCO's perspective.
6 Again, thinking about all of us, we have
7 rulebooks, to Garry's point. We clear today
8 actively and size in many different products. We
9 will have new rulebooks; we will be
10 Dodd-Frank-compliant when the new rules are
11 finalized. We have a period of time, which we
12 talked about on some of the panels yesterday,
13 about the impediments or obstacles we have to go
14 through to comply, but we will. We're open for
15 business. We're all working on pipework and
16 improvements and connectivity to make this more
17 streamlined.

18 So, I think, in summary, I don't think
19 really the clearinghouses are the real impediment
20 to clearing here. I think it's the broader
21 infrastructure that we need to consider. And I
22 don't wish to be bullish around this, but I think

1 we will make sure we comply all the way through
2 this. It's really, I think, the broader
3 infrastructure, and, if you will, the ecosystem
4 and the documentation, the client readiness, the
5 FCM readiness, as well, that needs to be
6 considered in terms of finding the timeline
7 predominantly.

8 MR. DeLEON: I just wanted to be clear
9 that when I say there's time required to do
10 things, this is not meant as a bad-faith comment.
11 But I do want to point out, though, that, yes,
12 things can get done quickly, but you want to avoid
13 the situation where two people come to the table
14 to negotiate a document and it has to get done at
15 the end of the day. Because when that happens,
16 one player is not happy and one player takes
17 advantage of the other. And getting to Sam's
18 point, and I think you want to prevent that, and
19 that's why it can't happen so quickly because
20 large players or more sophisticated players will
21 want to protect themselves, and there will be
22 commercial interests, and these things will not

1 get done in a day. And even if they got done
2 quickly, there is still a timeframe issue of
3 getting these things done.

4 And I can tell you from experience
5 because my firm has done this and all the people
6 at this table have done this and the people in the
7 audience, when you want to add an account to open
8 and clear, it takes days to get done, even when
9 documentation is standardized. You have to have a
10 huge number of touch points. And I just want to
11 point out that this is a physical fact, it's not
12 like walking into a store and buying an iPad. And
13 guess what? If you want to do that, there may be
14 a backlog, and it may not be there, even though
15 Apple would be more than glad to sell it to you.
16 So, I just want to point out there are bottlenecks
17 you can't get around.

18 MR. GREENBERGER: Bill, I'm not saying
19 things should be done in a day. We're looking at
20 the relativity between needing 18 and 24 months
21 and setting something up in 6 months or 8 months
22 or 9 months. That's what I'm talking about. I

1 said we should not have reckless timeframes, but I
2 don't think we should have overly passive
3 timeframes either.

4 MR. NICHOLAS: Yes, just to address
5 John's point about the timing of the open access
6 issue, I mean, I think it is critical to address
7 that upfront and as soon as possible, and
8 particularly issues relating to eligibility,
9 clearinghouse participation, I think to start the
10 process and then address those issues after the
11 fact. I mean, it would put certain types of firms
12 at a disadvantage, and I think some firms are
13 reluctant to invest in the infrastructure required
14 until they know for sure that they're going to be
15 eligible.

16 MR. RAMSAY: I wanted to maybe talk
17 before we run out of time, which is very soon. We
18 touched on Europe very briefly, and I don't know
19 whether there was a consensus on this or not, but
20 is there a sense that it does not make sense in
21 terms of our own timing in the U.S. For clearing
22 mandates to await the completion of a regulatory

1 regime applicable to clearing in Europe or what do
2 people think about that?

3 MR. GREENBERGER: Well, I said earlier I
4 think it would be a mistake. I think that what
5 you set up is going to be a template and a model
6 because I think it's well considered and you've
7 had so much substantial input. If you play a
8 waiting game, everybody is going to be waiting for
9 the next person to move. Somebody has to move
10 first. I think the SEC and the CFTC with the
11 proposed rules in place, with the comments that
12 you're getting in written form through these
13 roundtables is going to be ready to go. And I
14 perceive from this discussion a lot of interest
15 from both the clearing side and the buy side to
16 get started here. And I think if we do get
17 started, I have a high degree of confidence we're
18 going to set up a system that's not only going to
19 prevent systemic risk, but it's going to be very
20 profitable and lucrative at the same time with a
21 lot of opportunities for people to contribute and
22 take part in this. That's why I emphasized we

1 shouldn't be looking for clearing facilities, we
2 should be looking at a lot more than four. I
3 think that's going to be in everybody's best
4 interest.

5 MS. BROWN-HRUSKA: I would never accuse
6 this commission of waiting in this rule process.
7 It seems to me that this group has done an awesome
8 job of working very hard to move this process
9 forward, but I also recall a very strong
10 relationship with other jurisdictions in Europe
11 and in the UK that are represented here. And I
12 think it's critically important to interact on a
13 very basic level going forward on the phasing even
14 of these proposals.

15 I think there's the real risk that you
16 could have flight of certain market users and
17 intermediaries to that market if you move too
18 hastily and create an environment that makes it
19 difficult to go forward. On the other hand, I
20 think that, again, this process is working well;
21 we're seeing the SEFs come online. I think at
22 that point I would second that point that we do

1 need to move forward on the SEF front. It's very
2 important, but we need to do a very deliberate
3 analysis of the requirements.

4 MS. BRADBURY: I guess I would be more
5 worried if I thought two continents were coming
6 out in a very different place. Certainly, the
7 conversations we've had with regulators in Europe
8 and if you look at the legislation, it will
9 probably never be identical. The securities
10 market and the futures markets are not regulated
11 identically now, but I feel like there is
12 convergence on the big ideas, and all of our
13 counterparties are major, global institutions, and
14 they're going to have a pretty common product
15 offering at the end of the day.

16 So, I guess I wouldn't be a huge fan of
17 waiting for them to catch up necessarily. The
18 other thing is without actual legislation, in many
19 ways, the European markets are ahead of us. I
20 mean, we do much more automated trading of
21 interest rate swaps that are European, for
22 example, as opposed to in the states. It just

1 happens. They don't call them SEFs, right? But,
2 so in many ways, the European market could be more
3 advanced. Certainly, London has been kind of the
4 headquarters of the swaps market for decades now,
5 and, so, I imagine at the end of the day we'll
6 kind of get to the same place, even if we do it in
7 slightly different timing.

8 MR. EDMONDS: I would add that this is a
9 global market, and behaving in a manner that is
10 inconsistent with the recognition of that would
11 seem to be irresponsible at this point. So,
12 certainly, we need to lead. I think Congress made
13 that decision when they worked on Dodd- Frank.

14 At the same time, the concerns that have
15 been talked about here today and the issues that
16 Bill raised of adding one more account, if we're
17 going to add that one more level of bifurcation of
18 that, the unintended consequences are going to be
19 someone's at a competitive disadvantage. I don't
20 know if any of us can handicap who that would be,
21 but we certainly don't want it to be this
22 infrastructure at the end of the day. When I say

1 "this infrastructure," the industry as a whole
2 regulated by this agencies.

3 MR. O'CONNOR: I would compliment the
4 commissions on the amount of work that they've
5 done working with their international
6 counterparts. I know that's clear in your
7 proposed rulemakings and in testimonies of
8 commissioners, that despite the enormous workload
9 that you're under, you are reaching out and you
10 are working with your international counterparts.

11 And to Darcy's point, I think that
12 provided that you're ending up in the same place,
13 the timing of when you'll end up in that place is
14 probably less important than the form of the
15 solution, and I think the form of the solution is
16 already achieving a level of harmony that, to
17 Chris' point, is not going to create sort of
18 regulatory arbitrage in terms of financial
19 infrastructure.

20 MR. RAMSAY: I think it's probably a
21 good idea to break on the compliment to the
22 agencies. (Laughter) So, yes, I guess a 15-minute

1 break. Thank you. This has been a terrific
2 discussion.

3 (Recess)

4 MR. BERMAN: Hello and welcome to the
5 second panel of day two of these roundtable
6 sessions.

7 My name is Greg Berman. I am the senior
8 advisor to the director of the Division of Trading
9 and Markets the SEC. Catherine Moore, senior
10 special counsel in the division's Office of
11 Clearance and Settlement, joins me for the second
12 panel, along with my colleagues Rick Shilts and
13 John Lawton at the Commodity Futures Trading
14 Commission.

15 I want to thank all of the panelists for
16 joining us this morning to continue the important
17 dialogue on the issues and considerations that may
18 affect the implementation of new rules under the
19 Dodd-Frank Act. We value the opportunity to hear
20 reviews on the various implementation issues, and,
21 in particular, on how to implement the rules in a
22 manner that best achieves the purposes of the

1 Dodd-Frank Act and efficient and cost-effective
2 manner.

3 As indicated in the agenda, this panel
4 will focus on transaction processing for swaps and
5 security-based swaps. In particular, the areas of
6 focus for today's panel include trade execution,
7 confirmation, documentation, and the submission of
8 trades for clearing. In addition, we will discuss
9 whether a phase-in approach is appropriate for
10 some of these requirements and what types of
11 objective criteria could be used for phased-in
12 implementation.

13 I should note that the SEC is still in
14 the process of proposing substantive requirements
15 for some of these areas, with the exception of
16 trade verification and acknowledgment requirements
17 which the SEC proposed in January. As always, the
18 input we receive today will help inform our
19 approach as we continue the proposing process.

20 Before we begin, I'd just like to give
21 everybody the opportunity to go around the room
22 and introduce themselves. Perhaps we can start

1 over here.

2 MR. HUNTER: Henry Hunter, head of
3 Product Development and Business Development at
4 MarkitSERV.

5 MR. CUSENZA: Paul Cusenza, CEO of Nodal
6 Exchange.

7 MR. CAWLEY: James Cawley, CEO of
8 Javelin.

9 MR. BERNARDO: Shawn Bernardo, senior
10 managing director, Tullett Prebon.

11 MR. CHAVEZ: I'm Marty Chavez, partner
12 at Goldman Sachs.

13 MR. LAWTON: John Lawton, Division of
14 Clearing, Intermediary Oversight, CFTC.

15 MR. SHILTS: Rick Shilts, CFTC Division
16 of Market Oversight.

17 MS. MOORE: Catherine Moore, SEC.

18 MR. McVEY: Rick McVey, CEO of
19 MarketAxess.

20 MR. HARRINGTON: George Harrington, head
21 of Fixed Income Trading at Bloomberg.

22 MR. OMAHEN: John Omahen, SunGard.

1 MR. DENIZÉ: Yves Denizé, director and
2 associate general counselor at TIAA-CREF.

3 MR. O'CONNOR: Garry O'Connor, IDCG.

4 MR. BERMAN: Excellent. Thank you. To
5 start off the panel, I'd like to start with a
6 rather general question. Where do panelists think
7 rules regarding transaction processing should come
8 in the larger implementation sequencing?
9 Specifically, are there contingencies that were a
10 part of the implementation of one aspect of
11 transaction processing prior to any of the others?

12 MR. CHAVEZ: I'll take a stab at that,
13 if I may. We're approaching the rule set from the
14 point of view of a huge software project and
15 really just thinking about it as software
16 developers would and breaking it down. And so,
17 one of the slogans that software developers have
18 is make it right before you make it faster, and
19 another one is do things concurrently and
20 iteratively.

21 And so, we've looked at all the rules
22 and I took the opportunity to reread them to

1 prepare for this morning. I want to say it's an
2 incredible and magnificent work and thoughtful
3 dialogue. And so, now we're just going to look at
4 the dependencies and say, for instance, the
5 real-time public reporting of swaps. We can get
6 to work on that right now. That would be the
7 concurrent way of approaching software
8 development, but to go live, you need first for
9 SEFs and the execution to exist. You can get to
10 work on SEFs right now, but the SEFs have to exist
11 for certain kinds of transactions to have
12 real-time reporting, and if you go back from SEFs,
13 you need the swap trading relationship
14 documentation in place, you need the reporting and
15 recordkeeping obligations in place, you also need
16 to know what you're going to do with clearing,
17 which, in turn, depends on capital enlarging. So,
18 we've done a very detailed dependency analysis of
19 which ones need to come first.

20 MR. CAWLEY: If I can jump in, this is
21 something at Javelin we've given a lot of thought
22 to. It's something that directly affects us as an

1 electronic execution venue, but it's also
2 something that broadly concerns us all.
3 Specifically, we feel that this is
4 mission-critical to get it right out of the blocks
5 because we think that trade execution/confirmation
6 or acceptance into clearing, without that, you
7 increase settlement risk, which in turn increases
8 or lessens trade integrity and faith in the
9 system. And, ultimately, it goes to the success
10 of clearing, broadly speaking.

11 So, it's really something at a strategic
12 macro level concerns us all, and something that we
13 should address right out of the blocks, and it
14 should be a standard that's set with your tutelage
15 to which all of us subscribe to some minimum
16 standard in terms of trade execution and
17 confirmation of those trades.

18 MR. BERNARDO: I think that Tullett
19 Prebon as an entity or broker, it really depends
20 on how descriptive you make the rules because we
21 currently operate as a SEF with pretty much all of
22 the products that we're speaking about. So, the

1 phasing in of these different systems, whether it
2 be for the execution, whether it be for
3 connectivity for clearing, the trade reporting, we
4 have a lot of the things in place. And, as Marty
5 said, it takes time to do a lot of the things that
6 we have to do to enhance either the existing
7 platforms or to develop new ones. So, it really
8 depends on how prescriptive you make the rules.

9 MR. HUNTER: To some extent, a lot of
10 what's being asked for is already going on today.
11 There's already clearing, there's already
12 execution, electronic execution, there's already
13 reporting going on, but it's happening to greater
14 or lesser extent. But a large volume of
15 transactions are already being confirmed and
16 reported through existing trade repositories, and
17 that would suggest that starting there is a good
18 place because a lot of it is already happening.
19 The next thing after that logically would be
20 clearing in terms of what's already happening
21 today, and, finally, the electronic execution
22 piece. So, that sequence from a purely practical

1 perspective would make sense to us.

2 MR. CUSENZA: And building on that, I
3 think that the concept, too, which talked about
4 phasing and having the stuff in place makes a lot
5 of sense. I think a lot of this discussion about
6 phasing things and then phasing within items is
7 important.

8 I would also add, for us at Nodal
9 Exchange, we do electricity features, but we're an
10 ECM, and we have to convert to either a SEF or
11 DCM, and we're still not sure which is appropriate
12 for us. And so, having time to then go through
13 those rules and determine what is the right
14 mechanism and for the grandfathering rules to be
15 clear, and within the grandfathering, there's
16 certain elements that will be conforming with
17 immediately in terms of we already are today, but
18 there's other items that are more complex that
19 involve third parties.

20 For example, our clearing members have
21 to be FCMs instead of general clearing members.
22 We have to do that transition. We have to change

1 our boards and our voting for our company. And,
2 so, all those things need to be worked out and
3 they have to have time to do that, but some of the
4 basic items because we do clear today, all of our
5 contracts are cleared through LCH, can be done
6 immediately. So, the phasing concept is very
7 good.

8 MR. HARRINGTON: I think from a
9 Bloomberg perspective, one of the things that
10 we're seeing right now, I agree with what Henry
11 said, the connectivity I think is well underway
12 today. So, with DDTC and the role that MarkitSERV
13 plays, most players do have some sort of
14 connectivity in there now from a reporting
15 standpoint, so that does help accomplish CSDR from
16 an electronic execution standpoint. Obviously,
17 that's a space we play in, our competitors play
18 in, as well, for both CDS and IRS. Those markets
19 are definitely new markets. However, the growth
20 that we're seeing in them now is certainly
21 reflective that the market is moving towards
22 accepting the electronic trading as a venue for

1 swap execution.

2 I think the area where we're still
3 looking for guidance mostly falls in around the
4 compliance and what the compliance left of the SEF
5 is going to be. That's something where we're
6 spending a great deal of our time. I said whether
7 it be clearing, whether it be reporting, whether
8 it be execution, the building blocks are there and
9 construction is well underway. The piece that
10 we're looking for, final guidance, as well as with
11 some date guidance, but is what exactly that
12 compliance left is going to look like.

13 MR. McVEY: I would echo those comments
14 and just point out that of the three main
15 components between electronic execution and trade
16 reporting and central clearing, arguably,
17 electronic execution today is the furthest along.
18 There are multiple electronic execution venues
19 already available in most asset classes today, and
20 a big part of our readiness for self-registration
21 and compliance will depend on the final rules.
22 And one of the key things for those of us that

1 operate in credit where there is dual regulatory
2 responsibilities between the SEC and the CFTC is
3 the ultimate convergence of those rules.

4 We really hope that we're not coding the
5 two separate sets of rules for one asset class,
6 and I think if there is convergence of those rule
7 sets, you will see that electronic execution
8 venues are ready to qualify as SEF sooner. And
9 the second part that George points out is really
10 the compliance aspects of meeting SEF
11 qualifications and where those final rules come
12 out.

13 MR. O'CONNOR: And let me just, you
14 know, couch it in the terms that IDCG is a
15 clearinghouse. We don't sponsor an execution
16 facility as such. But I'd echo Henry's comments
17 that there's already reporting structures in
18 place, as we've already heard, there's already
19 execution structures in place and there is a great
20 deal of clearing happening. I think that when you
21 think about the phasing in of those particular
22 items, I think part of it, as we've heard in the

1 previous panel, is about the open access
2 considerations.

3 So, I think when you look at the
4 electronic execution platforms in existence today,
5 they're operating at a very commercial manner.
6 Probably the biggest changes that they have to
7 make is to sort of facilitate open access to those
8 platforms, and I think that that's more difficult
9 to do prior to a broad clearing mandate than
10 after. I think once you have a broad clearing
11 mandate, so you have, at least to an extent, made
12 a common counterparty situation available to the
13 various execution facilities, I think it's more
14 difficult to develop broad open access execution
15 facilities.

16 MR. DENIZÉ: As a financial end-user, I
17 think, for us, one of the key components is that
18 we had several expectations as to what the process
19 is going to look like. For our organizations,
20 we're not as entranced and as engaged as some of
21 the larger industry players are, and so, we have a
22 narrower focus and a narrow amount of resources

1 able to put to this problem. And to do this on
2 the fly in a fashion where things continue to
3 move, it's very difficult for us. And so, to have
4 a settled expectation as to where the market has
5 come out on a lot of these rules, our risk
6 managers have to understand the counterparty
7 credit issues, the margin and capital
8 requirements.

9 Our accounting and legal folks have to
10 work through the reporting, as well as the
11 documentation process in a way that's logical and
12 rational for us. And so, our hope is that the
13 phase-in process and the dependencies are some
14 settled expectations in terms of how the industry
15 is coming forward with establishing this regime,
16 but also to do so with clear concern about how the
17 end-users -- the prior panel was talking about
18 documentation.

19 I think it's very important that the
20 end-users have appropriate voice in the process
21 that were not given a fait accompli with respect
22 to documentation or any of these decisions and

1 that our opinions are solicited in an appropriate
2 time and an appropriate time of the process. And
3 hopefully, the timeline is not so short that those
4 concerns are just put the side in the interest of
5 expediency.

6 MR. OMAHEN: I think I can safely say
7 that SunGard agrees with Goldman Sachs on this
8 one, that it is a software project. First, being
9 a software vendor, I don't know how else we would
10 view it. But I think as looking at it as a
11 software project, being able to define any one
12 piece of it from front to back has great benefits
13 to building out the rest of it because once you
14 can actually crystalize requirements, you find
15 that all the other work follows and becomes much
16 easier.

17 So, there are people that have to build
18 those requirements, have to get down to that
19 detail level, and we always find with other
20 projects that until the data actually starts
21 coming out, it's hard for us to really build
22 around it. You can see specks, you can go to

1 meetings, but until you actually see the data
2 coming through, you just don't know what you're
3 going to get. So, I think this kind of clarity on
4 one section would have immense benefits for us.

5 MR. CUSENZA: I'd like to build on
6 Rick's comment about the convergence of CFTC and
7 SEC rules. We clear less liquid power contracts
8 when we do that through an auction platform,
9 coupled with OTC clearing, and this auction
10 platform would be acceptable today as an ECM,
11 acceptable as a DCM. It's acceptable in the SEC
12 draft rules as a SEF, but in the pre-trade price
13 transparency requirement of the SFTC rules for
14 SEFs, it would appear to not be permitted as an
15 auction platform. Of course, that's really
16 important for us because if we want to become a
17 SEF in terms of the time to do that kind of
18 transition, it's important what the final rules
19 will actually be. We hope in the final rules
20 they'll be that convergence and auctions will be
21 permitted in the CFTC-SEF definition, as well, but
22 without that, there's a lot of uncertainty for us

1 as how we can move our current platform to the new
2 world.

3 MR. SHILTS: I had a question.
4 Yesterday, we talked about connectivity and
5 infrastructure issues, and I don't want to talk
6 about that again, but I wonder if people could
7 touch on the specific arrangements, processes,
8 agreements required for trading platforms and
9 clearing entities, such as SEFs, to enable
10 transactions to be submitted to clearing, and then
11 also to talk about kind of the timeframes for
12 getting these in place.

13 MR. McVEY: I'd be happy to. We run an
14 all institutional electronic execution business at
15 MarketAxess, and, in essence, our rulebooks are
16 simply user agreements for institutional investors
17 and dealer agreements for qualified broker dealers
18 that make markets on the system. So, the
19 agreements are already in place. We have today
20 about 1,000 institutional investor firms that have
21 signed up with user agreements in appropriately 80
22 broker dealers, and there's been plenty of

1 investment going to not only the electronic
2 execution engines, but also the post-trade trade
3 reporting.

4 So, the readiness of the industry, I
5 think, is getting very close with respect to the
6 connectivity to the affirmation hubs and the prime
7 brokers, and, ultimately, the clearinghouses. And
8 I can say with confidence over the next three to
9 six months, that those connections will be in
10 place.

11 MR. CAWLEY: You ask about trade
12 connectivity between SEFs and clearinghouses in
13 terms of the way we see that at Javelin in terms
14 of connectivity is we view it on a pre-trade and
15 post-trade vis-à-vis trade confirmation and
16 verifying margin for customers to trade. We have
17 a strong view that SEFs should be required to
18 deliver trades on a real-time basis to
19 clearinghouses, and that clearinghouses, likewise,
20 should accept that trade in real-time and respond
21 equally in real-time with an affirmation or with a
22 rejection, and that that it's really incumbent

1 upon, therefore, the CCP and their constituent
2 FCMs to improve their internal latency to ensure
3 that trade connectivity or trade affirmation
4 internally between the FCM and the CCP comes back
5 in near real-time.

6 We think that on a post-trade basis,
7 broadly speaking, a customer, from customers we
8 speak to, they're happy to have no trade if
9 there's a rejection on one side. If, indeed, the
10 trade is reported to them in real-time, that it's
11 rejected or accepted. Likewise, on a pre-trade
12 basis, to take a more proactive approach.

13 When we speak to FCMs, they talk about
14 selecting their full tolerances, if you will, on
15 customers within the clearinghouse as if to say,
16 well, once the trade is done, as it comes to the
17 CCP, don't send me every trade for me to opine on
18 on a micro basis, but let me set those full
19 tolerances at the beginning of the day and let me
20 update them real-time on all my customers
21 throughout the day at the clearinghouse, and that,
22 we think, is very positive. It improves the

1 latency and the round-trip on that trade
2 affirmation or confirmation process.

3 Likewise, we would advocate, as do
4 others, and I believe that this is the case with
5 some of our competitors right now, that we could
6 take that information as an execution venue from
7 the clearinghouse and actually project it back to
8 the customer on our user interface or UI, if you
9 will, at the CEF level such that the customer
10 would not unknowingly exceed their own margin
11 limits. Then, likewise, the CEF could come in and
12 impose some type of one step beyond fat-fingering
13 on a trade, but prevent them from trading in
14 excess of their margin if they were to attempt to
15 do it knowingly. So, that's sort of a more
16 proactive approach. We're told from certain CCPs
17 that they have that plumbing. We certainly have
18 that capability and it exists in other listed
19 derivatives marketplaces today.

20 That all is born from what we see as a
21 last look option that FCMs have currently in the
22 OTC derivative marketplace, which is not the case

1 in less derivative space where the FCM, in fact,
2 agrees to accept all trades until they reject
3 them. So, the owners in those marketplaces really
4 to say, well, we'll accept all trades on a
5 customer until such time that we tell you not to
6 accept those trades. We think that that works
7 well for two reasons: One is the onus is really
8 on the FCM to determine and to enforce credit and
9 margin on their own individual customer, but,
10 also, possession is nine-tenths of the law, and
11 they have the ability to liquidate the underlying
12 account if that customer runs afoul of the margin
13 limits.

14 MR. SHILTS: And those are interesting
15 comments, but could you kind of explain how that
16 kind of helps us as far as implementation?

17 MR. CAWLEY: Well, I think it goes back
18 to my original comment, which is in order to have
19 successful clearing, the optimal solution is to
20 have best trade integrity to know that if a trade
21 is executed and that the workflow is thus that the
22 customers have got confidence in the overall

1 process, without that confidence in the system,
2 people will be loathed to submit trades to
3 clearing and to execute on SEFs.

4 So, we speak to customers. They say,
5 well, look, we see the benefits of trading on SEFs
6 and some of us offer trade annuity, which from a
7 customer's standpoint, customers really like, and
8 they like to get the prospect of evening trading
9 amongst themselves. But the downside to that is
10 well, who am I trading with? So, what happens on
11 the other side if the trade gets rejected?

12 MR. O'CONNOR: I think with regard to
13 implementation, what it means -- and I think
14 they'll all very, very good comments -- I think
15 what it means is to successfully execute on an
16 electronic platform, certainty of transaction is
17 very important for people. That's a core of what
18 you're saying. So, in order to have that
19 certainty of transaction, you need to have the
20 pipes in place connecting to clearinghouses, which
21 are able to give a timely response, whether that's
22 real-time or near to real-time back to the

1 execution venue so that people will have that
2 confidence that what they're doing on the screen
3 or what they're doing on the system, be they
4 various or multiple, they know that they're
5 actually doing.

6 So, I think that gives you some clues
7 about, as we did in the first round-trip, what
8 things you need in place and in what order you
9 need them in place to implement successful
10 electronic execution.

11 MR. LAWTON: Yes, that sort of leads to
12 a natural phasing in the statute of clearing
13 mandate proceeds trading mandate, and we're
14 wondering what sort of timeframe should there be.
15 Say that a clearing mandate is on day one, when
16 should a trading mandate follow? How long in
17 time, and what should be the steps?

18 MR. CAWLEY: Well, I think from a
19 mandate standpoint, you'd obviously want to have a
20 tight window on that, but from a business
21 standpoint, in a competitive environment, I would
22 be surprised if you gave a mandate for clearing

1 that execution venues would not ready themselves
2 in anticipation for fear that they be left out. I
3 would say that it would be unusual from where we
4 sit, and we'd certainly welcome it from our
5 competitors, that they wait for the last rule to
6 get written and then become effective before they
7 start to turn on and accept trades. From where we
8 sit, we'll be looking primarily in where you are
9 in your clearing mandate because, as I said,
10 yesterday, you could have if you reverse the order
11 and require execution first and not clearing, you
12 might be open for business, but there would be no
13 impetus to clear, so there'd be no trades to be
14 done. So, but I guess you'd want to have a tight
15 window, but I'd be mindful of looking to the
16 competitive forces at work in the marketplace to
17 accelerate that.

18 MR. HARRINGTON: I think it'd really
19 important to speak for a moment about the role of
20 standards, and the commissions have definitely
21 taken leadership here in terms of unique product
22 identifiers and unique swap identifiers,

1 algorithmic derivatives or descriptions for
2 derivatives. Standards are crucial to get the
3 documents and the plumbing in place.

4 So, just take a brief example, if you'd
5 got 10 participants and they're all going to
6 negotiate bilaterally, that's 45 documents, and
7 that might be doable. But if you've got 1,000
8 participants and they're all going to negotiate
9 bilaterally or they're going to connect to systems
10 bilaterally in a customized way, that's 499,500
11 different negotiations, and there just aren't
12 enough lawyers in the world to do that.

13 So, it's really important to make all of
14 this work in a timely way and to be able to answer
15 your question about how much time in between one
16 mandate and another for the agencies to take a
17 strong stand that the industry adopt standards.
18 That's going to make a scale and that going to
19 enable us to do this in what a computer geek would
20 call linear time rather than quadratic or
21 exponential time.

22 MR. O'CONNOR: You don't want to get

1 yourself in a position where you mandate something
2 on a tight timeframe and deliver a monopoly result
3 to somebody. So, you do need to give the industry
4 time to get the infrastructure in place and the
5 contracts in place that support a broad and
6 successful operation.

7 MR. HARRINGTON: I think if you look at
8 the technology that goes into someone who's going
9 to connect to a clearinghouse and just submit down
10 for clearing, and then you actually look at the
11 putting electronic execution on top of that, the
12 technology challenge there always from our
13 standpoint is not large, and, therefore, the
14 timing there from an implementation standpoint is
15 something that couldn't be done very closely.

16 I think the much broader question,
17 though, and this was sort of touched in the
18 earlier panels and certainly in earlier panel
19 discussions that we've had here, is what makes
20 sense from a product standpoint? In other words,
21 yes, you could rush and say technology can do
22 real-time reporting, technology can do electronic

1 execution, technology can do real-time submission
2 to clearing. That's all great, but if you build a
3 product that's not usable by the community, that's
4 a much greater fear.

5 So, whether you're talking about are the
6 indices the first ones, that would make sense or
7 investment grade or index underliers? Those are
8 the much more important questions to determine
9 versus what is the ability of the technology
10 because technology can move very fast, and, as
11 we've seen in these markets particularly,
12 sometimes it moves much faster than the business
13 actually can move.

14 MR. HUNTER: Yes, I would just echo that
15 sentiment, as well. With regard to technology, a
16 lot of which we agree is already in place to some
17 extent for certain products and processes, but
18 once you change business processes, that is the
19 real challenge, and it's the overlay between those
20 two, in particular. A point I want to make is
21 with regard to timing, not of implementation, but
22 of individual transactions and whether they can be

1 submitted in real-time and so on. Imposing
2 tighter requirements to put stuff through in
3 real-time may actually be more of a challenge
4 because it requires business process change than
5 if the requirements may be initially or even in
6 the longer term are looser, but people meet them
7 voluntarily because there's no reason not to, and
8 that limits them from having to make sudden and
9 large business process changes.

10 An example would be allocation of trades
11 by fund managers to subaccounts. That's a process
12 today which happens post-trade. It can be done
13 quite quickly, it can sometimes take longer, but
14 forcing trades to be submitted within prescriptive
15 timeframes would require business process change,
16 which, in turn, would delay implementation.

17 MR. CUSENZA: Yes, I was just going to
18 echo what George was saying in terms of I think
19 that's the concept when you mandate clearing and
20 trading. It should be different likely by product
21 because some products are going to come in much
22 more established than others and they're ready to

1 go, it could be even simultaneous. It depends on
2 what the product category is. Whatever you do, I
3 would set it up in a flexible way, such that
4 you're able to mandate those dates differently
5 depending on what the category is or the contracts
6 you're looking at.

7 MR. McVEY: I agree with the points that
8 have been made. I would make a slightly different
9 point. I think electronic execution provides
10 critical ingredients for central clearing. It is
11 the electronic execution venues that are going to
12 create real-time data and trade velocity
13 information that will help central clearinghouses
14 manage their risk. And I think even determining
15 which swaps are trading actively enough to manage
16 the risk in a clearinghouse partly comes from the
17 data that would come on the back of electronic
18 execution venues. So, in most cases, I think
19 these things are attached at the hip and I would
20 certainly suggest that the timing on those
21 mandates should be very similar.

22 MR. BERMAN: I'd like to come back to

1 something that I think, Marty, you started off
2 with. I think a few times you referenced the
3 whole software paradigm, and in your opening
4 comments, you talked about sort of backing up from
5 real-time reporting and going backwards. If we
6 take that paradigm and we go all the way
7 backwards, ultimately, you get to the end-user.
8 And I don't think I'm overgeneralizing, but among
9 all the participants, I think TIAA-CREF represents
10 the ultimate end-user. I think there was a
11 comment before about Apple. I have no idea how
12 YouTube works, but all I know is that it's 3:00 in
13 the morning, I can download videos of the royal
14 wedding, et cetera. So, it's sort of just
15 magical.

16 So, how, if you backup everything
17 ultimately to the end-user, how do you think about
18 both staging and from an end-user perspective, how
19 do you think about what you basically need from
20 all of the participants around and what order
21 would be best for you?

22 MR. DENIZÉ: Thinking from a taskforce

1 or a project team inside our company, we have to
2 know the rules, and I think that's perhaps facile
3 for this group, but it's certainly important
4 because we just have a cascade of decisions that
5 flow from that, including, as I mentioned before,
6 our risk management, our IT, even our audit
7 processing and policies and procedures all have to
8 flow from that. So, clear and determined rules.

9 We talked about the product phase-in,
10 and I'm handling the policy issues first, but the
11 product phase-in is very important. And for us,
12 there's a governance issue about how those
13 products get mandated to clear, get mandated to
14 trade, and having an opportunity either
15 individually or as a community to participate in
16 that process. It's important so we can also both
17 have input, but also plan appropriately as to what
18 that phase-in is going to look like on a
19 product-by-product basis.

20 And then as an end-user, we want a
21 fairly facile way to hook in. Hopefully, the
22 kinks have been worked up. Hopefully, the

1 inter-dealer experience has been tested
2 sufficiently as a first phase, for instance, of
3 implementation to work out the kinks, and then
4 we'll be able to be handed some fairly clear
5 direction as to how the process is going to be
6 on-boarded and so forth. And I think some of that
7 has been occurring, but I think, as some of the
8 other panelists have said, until the ground the
9 clears, the dust is settled, we won't have that
10 clarity for ourselves. And, again, it's just very
11 difficult to hit a moving target. And so, I think
12 as an end-user, we'd appreciate having some of
13 that worked out ahead of time.

14 MR. CHAVEZ: I think, as Yves pointed
15 and as you observed, again, standards are access
16 to getting all of this to work and to do it
17 robustly and rapidly.

18 So, you gave the YouTube example. The
19 great thing about YouTube is that you can go to
20 pretty much any smartphone or any browser and it
21 just works. You don't have to do any special
22 work.

1 And, so, it'd be really important and
2 particularly for the end-users, as a dealer, we
3 have literally hundreds of people reading the
4 rules and beginning to build software and to think
5 about all the dependencies, but the thousands of
6 end-users, this would be a relatively small corner
7 of their business. So, for them to get successful
8 on with us and the infrastructure providers, it's
9 really important to adopt the standards first.

10 MR. BERNARDO: I guess from a broker's
11 perspective, we've been building these platforms
12 for the various products long before the rules
13 were even written or even before Dodd-Frank
14 because, depending on the product, as the products
15 evolve and maybe become more efficient through the
16 use of electronics, and they can capture those
17 efficiencies, we've actually been rolling them out
18 in different product sectors. So, I think it's
19 obviously important. The implementation, I think,
20 the connectivity to clearing is one of the things
21 that should be done first. So, the connectivity
22 to a swap data repository, but we obviously, as

1 brokers, need non-discriminatory access to that
2 clearing. And then the execution, we have the
3 platforms in place, we can develop those
4 platforms, but they should come at a later date.

5 MR. LAWTON: There was a discussion in
6 the previous panel about potentially clearing
7 mandates being applied by market participants.
8 So, for certain types of market participants
9 getting subject to a clearing mandate earlier than
10 others.

11 Would the same sort of thinking apply
12 with regard to a trading mandate? Are there
13 distinctions you would make between a clearing

14 mandate and a trading mandate with regard to
15 market participants?

16 MR. CAWLEY: I think we thought about
17 this, too. It's dangerous to start segmenting out
18 the client base to say, for example, that dealers
19 go first. That would certainly put us at, I
20 think, extreme competitive, I would say, at a
21 considerable sustainable competitive disadvantage.
22 Liquidity is combustible and it's sticky and, with

1 all due respect to Sean and Tullett, we wouldn't
2 want to give an inter-dealer first look at the
3 business first such that dealer to customer
4 platforms be somehow handicapped.

5 So, you really want to give that a good,
6 hard, long look, vis-à-vis the competitive aspects
7 or the anti- competitive aspects that that might
8 ensue, and that would certainly stifle or could
9 stifle considerable innovation and competition in
10 the space that would ultimately have negative
11 impacts and transparency and customer choice. So,
12 one has to be very careful how you start to self-
13 select and start having guys subscribe to it.

14 Away from the anti-competitive
15 standpoint, there's also a liquidity standpoint
16 for customers. Does that mean then the customers
17 get a worse shake on a trade because there's less
18 liquidity in that pool to begin with because only
19 a small segment of that marketplace is required to
20 trade? There's been talk about, well, you have
21 end-user exemptions where they're not required
22 necessarily to post margin and so forth. But,

1 ultimately, we see those customers coming on, as
2 well, being for the simple reason that you're
3 going to see a tighter bid offer spread in a more
4 transparent market.

5 So, as you consider that, two things:
6 One is the anti-competitive aspect and giving one
7 group of SEFs a competitive advantage over
8 another, but, also, to the restrictions and the
9 negative impact and the unintended consequences
10 that could occur vis-à-vis execution and cost of
11 execution in transparency if you were to say,
12 well, one group goes first and another group goes
13 second.

14 MR. CUSENZA: I would also say that in
15 terms of any tiering, that that should be done
16 depending on what the market is if you do do the
17 tiering. Like, for example, our market, which is
18 a power market, I don't see where the tiering
19 would necessarily be a useful thing for the
20 trading requirement, but that may be different of
21 other markets, and so, therefore, it's important
22 to have a flexible approach there.

1 MR. McVEY: I would just add there's a
2 lot of talk about implementation by client
3 category or client segment. Our observation is
4 that the OTC derivative markets are much more
5 concentrated in terms of trading activity than the
6 securities markets. And I would have thought that
7 it makes some sense to look at overall trading
8 activity levels or open interest as a way to make
9 sure that the most active and most sophisticated
10 derivative market participants are being phased in
11 to the new regulations first, irrespective of
12 their client segment. And we're all hoping that
13 with central clearing, we will see much broader
14 market participation in swaps, but it is a
15 highly-concentrated market today. And it is those
16 users, whether they come from the dealer
17 community, the hedge fund community, investment
18 management community that I think are most capable
19 of embracing the new regulations and the new rules
20 the soonest.

21 MR. O'CONNOR: I think your question is
22 should we look at phasing-in by type of

1 participant and to the execution facilities, and I
2 would ask a couple of questions in response. And
3 number one: What do you think you would achieve
4 by doing that? Because as you've already heard
5 from panelists today, if you mandate a narrow
6 section of the market for execution, there may be
7 some value in doing that, but you're really
8 reinforcing what's already there today because we
9 have those sort of facilities today.

10 And the second question that I'd ask you
11 is: Why would you need to do that?

12 I think there's been consensus at this
13 panel, I think, that data connectivity needs to
14 come first, the clearing needs to come second, and
15 execution comes third after those things are in
16 place. There's some debate about the speed of
17 those transitions, but there's consensus on the
18 order. So, if you've already got data connection
19 and you've already got clearing in place, I'm not
20 sure what you achieve by then phasing in by
21 participant the execution facility because there's
22 already been a lot of work done.

1 MR. CHAVEZ: The commissions have an
2 excellent construct for phasing in the trading
3 mandate, which is the concept of made available to
4 trade on a SEF. And, so, with those, with a lot
5 of thought given to what that actually means,
6 number of participants, number of transaction
7 size, diversity of client participation, I think
8 you will get to the right answer without having to
9 mandate a particular group of clients go first.

10 MR. SHILTS: Are there any thoughts on
11 once there is a determination for mandatory
12 trading, how long the delay should be before it
13 actually goes into effect for a particular swap?

14 MR. McVEY: Are you asking the question
15 from an end-user perspective or from a staff
16 provider?

17 MR. SHILTS: Anyone who would have to
18 comply with the requirement, as well as for SEFs
19 to be -- presumably, there would be some SEFs that
20 are offering this product already if there was a
21 determination that it would have to be mandatorily
22 traded, but to make this a requirement that this

1 particular swap or category of swap now is subject
2 to the mandatory trading requirement? I mean, the
3 determination today and it starts tomorrow, I'm
4 just interested in what types of things we should
5 think about in terms of what types of delays
6 should there be before it actually goes into
7 effect and anyone that wants to trade the swap,
8 unless they're subject to an end-user exemption,
9 would have to then do it on a SEF or DCM.

10 MR. McVEY: Purely speaking as a
11 perspective SEF, I think the practical matter is
12 that we believe after the rules are finalized, we
13 would need appropriately 180 days to make sure
14 that our trading system and surveillance system
15 comply with that final set of rules. Having said
16 that, a lot of that has to do with what the final
17 rules say, and I talked earlier about the hopeful
18 convergence of the SEC and CFTC rules, and Paul
19 followed on as well. And we obviously are
20 offering requests for quote or auction-based
21 technology and credit today, and clients have
22 embraced that because it is the most competitive

1 form of electronic execution available to them.

2 We compete directly with Central Limit
3 Order books; we've offered Central Limit Order
4 books in the past. Our clients are finding that
5 in certain asset classes, requests for quote
6 technology is where they're getting the best price
7 and the most efficient trading technology. So, if
8 we're permitted to continue to offer requests for
9 quote without being forced to simultaneously offer
10 Central Limit Order book technology, then I think
11 our readiness will come very shortly after the
12 rule set is finalized. If there are significant
13 changes that those of us that offer RFQ technology
14 have to make to our trading businesses or Central
15 Limit Order books have to make to theirs, then I
16 think the implementation dates would need to be
17 pushed out further. And it's clear that there
18 will be competition space with both Central Limit
19 Order books and RFQ systems, and our view would be
20 to let the market decide and let people compete
21 with the technology that they think best serves
22 their client base.

1 MR. HARRINGTON: Rick took the macro
2 path to that answer, and I fully agree with that.
3 On a more micro level, and this gets a little bit
4 more into the weeds, but the best example that I
5 can look back is where we connect to CME and ICE
6 and LCH and IDCG, and those CCPs all have a
7 product set that they clear, and it's literally
8 down to they will clear a five-year IBM CDX
9 contract, and with that, market provides red
10 codes, which are actually identifiers. And then
11 in our system, we basically have a clearing
12 eligibility file that we maintain.

13 So, on a micro level, I think that it's
14 important to note that you're going to have two
15 things. Number one, there's going to be a
16 mandatory clearing requirement, and then there's
17 going to be the second requirement of made
18 available for trading. It almost pushes some of
19 the questions back, and our comment letter will
20 reflect this, that what level of detail are we
21 going to have either from the regulators, whether
22 it be the CFTC or the SEC as far as something has

1 gone to that level. And if it is as macro enough
2 as that, we're going to identify let's just say
3 the underlying 125 names in the CDX on the run
4 index contract. Then we would know very clearly
5 which ones we would require that when you came on
6 to our system, you're going to trade that has to
7 direct to the SEF offering or you could trade at
8 voice and process it or whatever it may be.

9 So, really, it's a matter of what level
10 of detail and what level of granularity that we
11 get from the commission. We would push for more
12 because you could simply say that now we're
13 putting Proctor and Gamble -- Proctor and Gamble
14 has now been deemed made available for trading, we
15 flip the switch, and it's on and it's almost
16 immediate. If it's something where made available
17 for trading is in a grey area where we can
18 determine whether or not, maybe it is, maybe it's
19 not, we're not sure how to interact. That just
20 creates a lot more difficulty for us as a
21 provider.

22 MR. CAWLEY: Just coming back to what

1 Rick said at a macro level, I agree with Rick.

2 First, a couple of set-in points there.
3 One, you want to look at is the compliance with
4 the rule sets as you promulgate them, but, also,
5 as staffs prepare for those, there are entities
6 out there, such as Rick's, that are trading today.
7 So, again, getting back to my earlier point, no
8 one's necessarily going to wait for the last rule,
9 the ink to dry on the last rule before they start
10 trading for fear that they lose market share. So,
11 in anticipation of those rule sets, people are
12 going to be trading once clearing becomes
13 effective, and it would be our expectation.

14 MR. DENIZÉ: I'll take a view again from
15 the end-user's perspective. I think identifying
16 the bucket of trades that we either do at that
17 point or intend to be doing in the near future
18 once that's been determined to be a mandated
19 trade, adjusting our system requirements, whether
20 it's for changes to the margin process, changes to
21 the confirmation process, changes to the trading
22 process, including the RFQ, whatever the process

1 that's going to be applied to those trades. Any
2 related incremental documentation and any changes
3 to our policies and processes, again, from a risk
4 management perspective, all of that in an end-user
5 perspective when someone's not trading on a daily
6 basis or in the volume, as some of our colleagues
7 here on the panel, is going to take some time. I
8 don't have a date for you, but I didn't want to
9 kind of lay that out for you in terms of the types
10 of steps that we would have to go through once
11 that announcement was made and the adjustment
12 would have to be made.

13 MR. BERNARDO: I know we keep saying the
14 implementation and we're talking about
15 electronics, but I don't want the voice brokers to
16 be forgotten about here because, even today, we're
17 talking about phasing in the electronics and
18 putting all these systems in place. The voice
19 brokers are actually doing these trades today in
20 all of the product areas that we're talking about.
21 So, some of the products may become fully
22 electronic, like the Treasury market, other

1 markets are going to be hybrid, where you are
2 going to have voice intervention, and then other
3 markets are just going to use some of the
4 platforms, whether it be for display purposes and
5 to send these trades through the Swap Data
6 Repository and to clearing. But the voice brokers
7 are doing these trades today, because, again,
8 we're talking a lot about implementation and
9 platforms and how they're going to operate. We
10 actually operate the markets as we speak.

11 MR. CHAVEZ: To briefly get back to your
12 question on the gap between when a swap is made
13 available for trading and when everyone must
14 mandatorily trade it on a SEF, again, the
15 standards are just so important here. The beauty
16 of YouTube is that people put a lot of work into
17 the HTML standards and the browser standards, so
18 any end-user can just go get a browser and it
19 works. We will need to create the same kind of
20 thing here. To the extent we do that, it will be
21 very easy for end-users to plug in. If we don't
22 have the standards and the proper foundation, it

1 could be extremely hard and take a long time.

2 MR. LAWTON: Going back to the comment
3 that was made a moment ago about end-users need a
4 certain amount of time to get their procedures in
5 place, could you go a little bit more into detail
6 which aspects, for example, confirmation,
7 documentation, valuation? When you're dealing
8 with it, there's going to be requirements for
9 dealers to have certain policies and procedures,
10 and then the question would be: How do the
11 end-users fit into that?

12 MR. DENIZÉ: On documentation alone,
13 most end-users who are moving from LTC derivatives
14 transactions into the clearing and the mandatory
15 clearing and the mandatory trading space are
16 facing new documentation in each case. And as we
17 transition to those different type of
18 documentation, those are changing, and so, we'd
19 have to adjust those. Those govern all the
20 agreements, all the transactions that are going to
21 take place. They do deal with conflict, dispute
22 resolutions, and so forth, and so, they spinout

1 into our own processes and policies as to how to
2 manage those contractual relationships and so
3 forth.

4 The valuation process, we have our own
5 internal valuation process that has to both
6 reflect and respond to the ability to either
7 question valuation, dispute it if possible or if
8 appropriate, and under what circumstances to do
9 that. And, so, those processes have to be laid
10 and be established.

11 In terms of trading, the trading process
12 for the end-user, as Marty was indicating, if it's
13 easy to hook in and it's all standardized, that
14 that makes it easier for us. If it's multiple
15 vendors, multiple types of systems, John is here
16 from SunGard.

17 I mean, as any number of software
18 vendors out there, we have to go through RFP
19 processes that talk about the costs involved, how
20 easily they match and mesh with our own systems,
21 and there's a fairly long testing process to
22 implement those software and process changes or

1 technological changes. And some of those just
2 aren't standard to the industry because we all
3 have legacy systems. We all have quite strange
4 systems, unfortunately, within our shops, and to
5 adjust all of that to even a single best in class
6 YouTube experience requires some adjustment.

7 So, we as end-users, and certainly I as
8 an end- user, certainly aren't suggesting that the
9 time should be infinite, but, we do want the --
10 and we encourage the commission to keep asking
11 these questions about the detail, and we'll
12 continue to provide that detail as we can.

13 MR. BERMAN: Can I ask a detailed
14 question about some of the information flow? So,
15 if you have to trade something that is on a SEF,
16 would you be trading that primarily using an
17 interface provided by the SEFs itself or would you
18 be using your own systems and, therefore, require
19 more of a programmatic connectivity to the SEFs,
20 which would obviously take longer than opening up
21 YouTube or SEF application on the iPhone and
22 typing in the swap that you want to trade?

1 MR. DENIZÉ: I think, interestingly, it
2 goes to the types of trades we're talking about,
3 as well. One of the reasons I think we have RFQ
4 versus some type of ticker approach on the SEF
5 trading is because we don't know what type of
6 liquidity and volume we're going to have on
7 certain types of trades. And I think the industry
8 is continuing to indicate that we're going to need
9 RFQ approaches because we won't have the liquidity
10 and volume to have that more automated process.
11 And so, something like an RFQ would be different,
12 but I view that a bit more manual than seeing a
13 ticker trade or something more automated in terms
14 of a process.

15 We as a current OTC derivatives trader,
16 we appreciate the elements of the RFQ process and
17 we look forward to a SEF process that, when robust
18 and sufficiently liquid and sufficient volume,
19 provides a set price transparency by all means,
20 but if we need to get all our trades done and RFQ
21 is a middle ground, then we'll have to pursue that
22 appropriately.

1 MR. HARRINGTON: I would just add to
2 that as a SEF provider, and I think I'll let Rick
3 comment, but I would think that he would probably
4 agree that, I mean, that's an area where we
5 compete as SEFs, as well. So, obviously, we're
6 going to build a platform, we're going to try and
7 build the best breed. We're going to try and
8 gather the best full liquidity, but then when you
9 do all those things on the surface, that's great.
10 But, a lot of times, in at least the electronic
11 trading business, a lot of the wins or losses is
12 what your level of integration is. So, offering.

13 So, yes, you've got the front end, but
14 you can directly route trades into the end-user's
15 OMS. They can do their allocations, they can go
16 through all their internal processes, and then use
17 that connectivity that you, as a provider, give
18 back to them. So, I think that's a space where
19 differentiate ourselves or attempt to
20 differentiate ourselves.

21 MR. McVEY: Yes, and I would echo that
22 if you look at electronic trading today both in

1 the fixed income markets, as well as the OTC
2 derivative markets, clients are using the
3 platform's front end, and the most active clients
4 are doing integration work into the OMS system.
5 So, ultimately, they will be directly connected so
6 that orders can flow directly from their blotter
7 into an execution venue, and then completed trades
8 back into their blotter for clearing. But I think
9 many of the connections have already been made.
10 There are many potential SEFs that already have
11 critical mass in terms of client and dealer
12 connections in place today.

13 MR. CAWLEY: Just I would echo both what
14 Rick and George has said. I think some of the
15 proof in the pudding is going to be in terms of
16 connectivity, API connectivity on a pre-trade and
17 post-trade basis, not just the front-end GUI or
18 user interface or UI, or to use Marty's analogy,
19 the YouTube interface.

20 One point, while we're on the subject of
21 YouTube interface is I think it's fair to say that
22 we want to get this right. One thing, to continue

1 the YouTube analogy is there have been several
2 versions of YouTube and Internet Explorer before
3 they essentially got it right, and I don't think
4 anyone here is saying for a second, and correct me
5 if I'm wrong, that we're expecting it all to be
6 done right on day one, and then for it to be set
7 in stone and for us not to make changes.

8 One of the great things about technology
9 is that the new technology is coming into the
10 realm every day, and one of the clear
11 differentiating factors who with clearinghouses
12 and electronic venues is how we deploy and utilize
13 that new technology as it becomes effective. So,
14 again, it took many iterations for some of this
15 technology to get within the YouTube or the
16 Internet Explorer space. And I would expect that
17 over the course of the next 5 to 10 years, as this
18 market migrates into central clearing and a fully
19 electronified markets, you're going to see the
20 same type of innovation.

21 MR. O'CONNOR: The only word of caution
22 I would offer is that there's no mandate to watch

1 YouTube and there is a mandate to use these sorts
2 of facilities. So, it's going to get better over
3 time, but there is an obligation for us to not get
4 it wrong on day one.

5 MR. CHAVEZ: Indeed. It'll be crucial
6 to take an iterative approach. The perfect is the
7 enemy of the goods. So, we definitely want to
8 pick milestones.

9 I'll just draw in an example from the
10 fed letter process during the crisis. So, the fed
11 would challenge the industry and say what are the
12 statements that are false today and they will all
13 be true three months from today and get everybody
14 to buy in and just keep doing it and doing it? We
15 will converge to a great answer, but with that
16 kind of approach, we can get to workable answers
17 soon.

18 MR. CUSENZA: Maybe just to build on
19 that a little bit, with July 16 approaching
20 quickly, to provide some clarity of what happens
21 then, July 16 and what's the status of the
22 situation, grandfather and other things would be,

1 of course, very helpful for the markets.

2 MR. HUNTER: Yes, I think each of these
3 products have different liquidity pools, as we
4 heard before. So, some products are more
5 susceptible to trade fully electronic, some need
6 to remain voice or have some sort of voice
7 intervention. So, as you write the rules,
8 depending on how prescriptive you make them, you
9 really don't want to rule out certain things and
10 hurt markets and low liquidity.

11 MR. BERNARDO: Yes, I think the markets,
12 while you reference the fed process earlier on,
13 the fed commitments are quite good at coming up
14 with solutions once mandates are in place, and
15 they know what the target is, are quite good at
16 saying, okay, let's get that infrastructure built,
17 and competitive pressures, as well, will dictate
18 their providers offer good solutions. One thing
19 we would recommend is that those choices are
20 allowed. There isn't a prescriptive approach to
21 saying this is how SEFs must connect to DCOs or
22 how counterparts must report their trades what

1 particular mechanisms they should use. So, that
2 ability to choose and use the optimal
3 infrastructure is the thing that's going to work
4 out the best in the long run.

5 MR. BERMAN: Can we drill down on that
6 just a bit? I think the common theme over both
7 today and all the panels is that a lot of this is
8 already happening, there are SEFs, there are
9 clearinghouses, there is lots of transaction
10 processing, there is a phasing possibility of the
11 huge influx of new requirements that will trade.
12 But when it comes to transaction processing are
13 there specific new requirements coming out of
14 Dodd-Frank that you say even though we have a lot
15 of aspects of straight through processing today,
16 there is one aspect or two aspects that it's
17 completely new, that would need to be built that's
18 not captured in current workflow?

19 MR. CHAVEZ: I think the poster child
20 example to your question would be the give-up
21 agreements for client clearing of OTC derivatives.
22 It is a brand-new thing, it is a really important

1 thing to get right, and here, the Commission's
2 leadership, together with the collaboration that's
3 already happening in the industry to come up with
4 a fully standard give-up agreement, and then we
5 all get into a protocol, and one day, we adopt
6 that agreement. That'll be crucial for getting
7 this to work.

8 MR. HUNTER: There are additional data
9 elements that are being asked for that aren't part
10 of the process today, for example, execution
11 timestamps and standard identifiers. So, it's not
12 a radical departure from what happens today. The
13 process is broadly the same, but there are
14 definitely some real implementation considerations
15 that are going to come into way to provide that
16 extra data.

17 MR. HARRINGTON: From an execution to a
18 reporting and to clearing standpoint, I think
19 everyone's made the point that those elements are
20 there. The big major difference as a provider and
21 as a SEF provider is on the detailed level of
22 compliance that we're being asked to conduct.

1 And one of the things that we commented
2 on was that given that the SEF offering that we're
3 planning on bringing to the market will be for
4 clearing only eligible swaps and then they'll be a
5 DCM in place on every single transaction that gets
6 done, a lot of the regulatory oversight will
7 already be being accomplished by those elements.
8 And, therefore, what we're pushing back on or
9 hoping to get some regulatory relief on is that
10 given that there's already so much regulatory
11 oversight taking place because of the DCM, and
12 because of the DCO, why, as the SEF, do we have to
13 come in and do a third level of pretty much asking
14 for the same level of detail if we verify that
15 those elements are in place? That's the major
16 change of something that's not there at all today
17 and something that would be a new requirement.

18 MR. CHAVEZ: To pick up George's point
19 very briefly, the swap trading relationship
20 documentation, that's going to be another very
21 substantial area of undertaking.

22 So, for instance, exchanging documents

1 on how to value swaps and how to value them in the
2 absence of market inputs is a mind-bendingly
3 difficult problem you could fill libraries with,
4 with very boring PhDs on that topic of how to
5 value even interest rate swap. So, that's going
6 to take a lot of work for the industry to get
7 right, as well.

8 MR. CAWLEY: If I can just chime in on
9 that one point, when it comes to documentation, I
10 think it's fair to say that, broadly speaking
11 across all facets of OTC clearing, whether it be
12 documentation, workflow, technology, a lot of the
13 building blocks are already there. Trade is
14 certainly going on, clearing is going on, and it's
15 a question of whether you port those, that
16 experience and those aspects into this
17 marketplace, and most of us and all of us probably
18 are to a certain extent with our own individual
19 companies.

20 Broadly speaking from a market
21 standpoint, we disagree with Marty. We don't
22 think we are putting men on the moon when it comes

1 to documentation vis-à-vis Execution Give-Up
2 Agreements. The FIA historically in the list of
3 derivatives context has done a really good job of
4 standardizing some very simple, straightforward
5 documents that can be universally adopted. We
6 need to be mindful when we consider that
7 documentation for the OTC context that we don't
8 attempt to start to put in workflows that are
9 going to limit open access and competition in this
10 space. It's something we're very mindful of
11 doing, and we look to give open access as a SEF
12 going forward. We don't want to deny access. We
13 also don't want to have documentation forced upon
14 us that we weren't included in drafting.

15 It's something that Yves from TIAA-CREFF
16 mentioned. Don't come to us in the eleventh hour
17 and say you have to adopt this documentation.
18 There is this fair degree of autonomy with SEFs
19 granted under Dodd-Frank and as seen so far from
20 the rule sets suggested and promulgated by the
21 commissions. We are licensed entities, and we
22 expect to be licensed entities with our own rule

1 sets and our own procedures and so forth. And one
2 of the mission-critical things that we're looking
3 for there, frankly, is documentation to offer
4 fair, open, and unfettered access with appropriate
5 rule sets attached to those such that there is
6 liquid and transparent trading, and so, we'd be
7 very mindful. But, again, coming back to it,
8 we're not putting men on the moon with this
9 documentation.

10 I've heard yesterday and today that
11 hundreds of thousands of man hours, the need to go
12 into this, and how do you segment out the market?
13 Do you take the most active guys first? And I
14 think Rick mentioned that earlier within the
15 context of if you're going to segment out the user
16 base, how do you approach it? And I think that's
17 not a bad way to start approaching it as you
18 consider the 80/20 rule and adoption as the rule
19 sets go forward.

20 When it comes to documentation
21 specifically, you've got standardized documents.
22 You're not reinventing the wheel on every

1 document. Yes, there are clearing agreements
2 today with simple addendums that can be attached
3 to cover OTC derivatives. These are addendums
4 attached to existing documentation. There is
5 existing documentation within the FIA context for
6 list of derivatives that can be ported into the
7 OTC space. We need to be mindful that as that
8 porting goes on, that it's done in a thoughtful,
9 neutral manner such that access is not somehow
10 diminished for one group over another within the
11 context.

12 But, again, coming back to this, a lot
13 of these things are, they're currently in use, and
14 it really behooves us, especially with
15 documentation to learn from some of the
16 documentation that we already have today.

17 MR. BERMAN: A big theme over the last
18 few days has been around phasing in, and I think
19 I've heard phasing in around client type, phasing
20 in around product type.

21 Should we be considering phasing in
22 around implementation of some of these technical

1 issues in terms of maybe phasing in over what data
2 elements should be required, phasing in things
3 don't require to give up versus required to give
4 up, or is that so well contained that it's not
5 necessarily something that really should be on the
6 table?

7 MR. O'CONNOR: I think you just need to
8 give people time to conform. I'm not sure that
9 you add any value by phasing in based on the
10 operational complexity of someone's business
11 versus somebody else's. I think you need to give
12 all participants sufficient warning, and then time
13 to conform.

14 MR. CUSENZA: Yes, I would just add that
15 in having the time and flexibility to allow people
16 to conform is an important piece.

17 For example, we clear as an ECM, but we
18 have to be now clearing or facilitating as a SEF
19 or a DCM. We may be able to meet most or if not
20 99 percent of the requirements. There may be some
21 that are unique to us that can be difficult and
22 work with the commission to basically say we will

1 conform at this set date and this certain process,
2 and so, it can be managed that way. I'm going to
3 guess those items could be different for different
4 entities, and so, having some flexibility to allow
5 the commissions to have the ability to flexibility
6 say well, everything but, you've got to do this
7 next, and then manage us individually would be
8 probably a good way to do that.

9 MR. McVEY: Yes, and I would just follow
10 on, I agree with that comment. I would also say
11 we're big fans of temporary registration for SEFs,
12 that is SEF is meeting the majority of core
13 principles described by the commissions. We think
14 they should qualify for temporary registration and
15 there should be a follow-on period from that where
16 they would need to fully comply with all of the
17 regulations. But I think if you do that, you'll
18 find that more SEFs are ready to go sooner than
19 would otherwise be the case if you require full
20 compliance of every one of the final rules.

21 MR. CHAVEZ: There are a number of
22 examples of successful big builds in the industry,

1 whether it's Trace or the Euro or MiFID-1 or the
2 DTCC Trade Information Warehouse, where part of
3 the success has been lay out requirements and then
4 progressively tighten them over time.

5 So, to give another example from the SEC
6 cash equity market rules, recently that the
7 reporting limit went from 90 seconds to 30
8 seconds, and it was very easy to do because we
9 were already at 90 seconds. If it had gone right
10 to 30 seconds from the outset, that would have
11 been difficult. So, as one concept end of the day
12 reporting, and then one hour and then five minutes
13 and then five seconds is something that would work
14 well as opposed to going immediately to the
15 desired outcome.

16 MR. BERMAN: Well, I'm sensitive. We're
17 standing between everybody and lunch. So, since
18 it is 12:30, I think I'll just take the
19 opportunity to thank all of the panelists, and I
20 think we regroup here at 1:30. Thank you.

21 (Whereupon, at 12:27 p.m., a
22 luncheon recess was taken.)

1 appropriate block trade sizes and position limits.

2 To get going with that we'll be asking
3 some questions and then we'll -- whoever wants to
4 comment just, again, just press the red button to
5 turn it on and then press it again to turn it off.

6 So before we start off with the first
7 question, let's go around the table and introduce
8 everyone. I'm Rick Shilts, the director of the
9 division of Market Oversight at the CFTC.

10 MR. EADY: Tom Eady from the SEC.

11 MR. GAW: Michael Gaw, SEC.

12 MS. COLLAZO: Marisol Collazo,
13 Depository Trust and Clearing Corp.

14 MR. GOOCH: Jeff Gooch, MarkitSERV.

15 MR. PRITCHARD: Raf Pritchard,
16 TriOptima.

17 MR. CUMMINGS: R.J. Cummings,
18 Intercontinental Exchange.

19 MR. OKOCHI: Jiro Okochi, Reval.

20 MR. THUM: Bill Thum, The Vanguard
21 Group.

22 MS. MCKENNA: Karla McKenna,

1 International Organization for Standardization.

2 MR. TURBEVILLE: Wally Turbeville,
3 Better Markets.

4 MR. JOACHIM: Steve Joachim, FINRA.

5 MR. MORAN: Jim Moran, CME Group.

6 MR. BERNARDO: Shawn Bernardo, Tullett
7 Prebon.

8 MS. THOMAS: Merritt Thomas, Barclays
9 Capital.

10 MR. TAYLOR: David Taylor, CFTC.

11 MR. SHILTS: And thank all for
12 participating today.

13 We'll start off, I guess, with the first
14 question, kind of talking about data reporting to
15 swap data repositories, and maybe to get initial
16 thoughts on when you think that swap dealers and
17 major swap participants, and then looking at other
18 participants and other counterparties, including
19 end-users, would be ready to commence data
20 reporting to swap data repositories. And also
21 noting what considerations we should take into
22 account as we phase in these various requirements

1 and whether asset class should be a major
2 consideration.

3 MR. GOOCH: Do you want me to kick off
4 on that one? I think it depends on if you look at
5 the rules as you've written them there's a number
6 of different data types people are expected to
7 pass over. I think on the basic level, you know,
8 the confirm of principle economic terms, which is
9 largely the same data set I think is, you know,
10 available today electronically and the credit
11 market already goes into the Trade Information
12 Warehouse. I think that piece can be done
13 relatively quickly.

14 I think where you'll get, you know,
15 bigger delays either in terms of the real-time
16 reporting of the reduced information set which can
17 be facilitated on the current networks but does
18 require some changes, particularly some of the
19 more complex trades, I think the SEFs will talk
20 probably at some point about, you know, that flow
21 being relatively quick, which I think is correct,
22 but I think for some of the bilateral trades

1 that's more of an issue in terms of capturing it.

2 I think also there's a number of things
3 you've defined in terms of collateral information,
4 other types of post-trade information, which
5 require a longer (inaudible). So I would say the
6 core data is largely electronified already and
7 group (inaudible) quite quickly by the majority of
8 participants. I think some of these other things
9 would then need a little bit of phasing in, in the
10 current vernacular of the last two days,
11 (inaudible) bringing some of the other
12 requirements.

13 MR. TAYLOR: You --

14 MR. PRITCHARD: Sorry.

15 MR. TAYLOR: Let me just do a follow-up
16 question, if I may. You sort of referenced the
17 credit asset class in that answer. Are you
18 directing that specifically to credit or do you
19 think that's generally across the asset classes or
20 are there differences?

21 MR. GOOCH: I think if you look at
22 credit we have and 99 percent of the trades

1 electronified already. In the interest rate asset
2 class, you know, on trade day real- time we're
3 sort of getting 85 percent and probably higher in
4 the U.S. Frankly, it's a global number. I think
5 that's relatively in good shape. You look at some
6 of the other asset classes -- Jiro should think
7 about this -- the equity is a lot further behind
8 foreign exchanges, past the commodities market, a
9 very sophisticated (inaudible). So it's probably
10 a bit more of a patchwork quilt. You have to keep
11 reminding me we're talking about lots of different
12 asset classes. I tend to focus on the credit
13 equities in most of my answers.

14 MR. PRITCHARD: Yes. I think we'd agree
15 with a lot of what Jeff is saying there that, you
16 know, the different asset classes have their
17 different characteristics and the electronic
18 platforms that support them are at different
19 stages of their sort of development and evolution
20 and readiness.

21 I think what we would observe from our
22 experience is in terms of the systemic risk

1 monitoring goal largely being served by the
2 capturing of the daily continuation and valuation
3 data across all trades, we're currently seeing
4 over 75 percent across all asset classes through
5 our commercial platforms, including the primary
6 economic terms of these trades along with daily
7 valuations and the exposures on over four million
8 trades on a daily basis, for example. And so, you
9 know, that I think speaks to the fact that in
10 terms of realizing one of the key systemic risk
11 monitoring benefits, there aren't any real
12 dependences on technologies or standards or
13 current activities really impeding the rapid
14 realization of that goal.

15 MR. OKOCHI: Jiro Okochi, Reval. So I
16 would say there's two answers to that question.
17 Are swap dealers ready? Of all the 200 swap
18 dealers and the major swap participants, I'm not
19 sure everyone is ready today. But assuming they
20 could be ready with the data they have, you know,
21 I think that's another part of the answer. If
22 it's getting the data in the right format, that

1 can take some time depending on the reporting
2 entity.

3 And then I'd say it's the work --

4 MR. SHILTS: When you say take some
5 time, if people could comment on how -- what do
6 you, you know, estimate? What would be like a
7 reasonable time period?

8 MR. OKOCHI: It's very hard to say
9 depending on, you know, which trades are going to
10 be the unclear-type trades, which trades are maybe
11 customized to the business segment they're in, if
12 they're in all asset classes, what kind of volumes
13 they have. What kind of systems the different
14 desks have. So, oftentimes, the commodities desk
15 will have a different trading system, different
16 data warehouse than say the interest rate does.
17 But I think it's not just the data. It's also the
18 workflow around that data. So just sending the
19 data in is half of the interface workflow, but all
20 of the utility tools around exception reporting,
21 et cetera, I think will be as big of a concern.
22 It's just sending the data in.

1 And lastly, getting the data that's not
2 yet completely defined. You know, the end-user
3 clearing exemption data to, you know, the unique
4 product identifiers, the unique counterparty
5 identifiers. You need to get all that kind of
6 squared away first.

7 MR. THUM: I think from Vanguard's
8 perspective we are gratified by the CFTC staff's
9 issuance of the concepts and questions on
10 implementation and we largely agree with the
11 concepts that are laid out there. We think that
12 probably once the final rules are in place there
13 needs to be a period for the market to digest the
14 rules and build the infrastructure to accommodate
15 the rules. But we think one of the first
16 priorities should be the nonpublic reporting of
17 general trading data. And we think that's
18 important to inform the decisions that have to be
19 made with respect to block trade sizes, delays
20 related to releasing information, related to
21 public information, related to block trades, and
22 also to make an appropriateness determination with

1 respect to position limits.

2 So we think that you've got it right in
3 terms of the sequencing that you've laid out and
4 the concept release. And we think that following
5 an initial period for the market to digest the
6 rules and to develop the infrastructure, then
7 collecting the data, is the first step.

8 MR. TAYLOR: How long do you think that
9 digestion period needs to be?

10 MR. THUM: Well, I think that's a
11 question. And, you know, I think it's hard to sit
12 here today and say that. I think that the
13 Commissions should come up with a time, whether
14 that's after the rules are published, whether
15 that's three to six months and then engage in a
16 regular series of meetings with the different
17 market participants, particularly if it's going to
18 be on data reporting, you're going to have to be
19 meeting with the swap dealers, with the MSPs, with
20 the SDRs, to see that their infrastructure is in
21 place to be able to meet the deadlines and, you
22 know, to effectively crack the whip where

1 necessary to get them in line to be able to
2 collect that data because we don't think that you
3 can make informed decisions on block trade sizes
4 or delays or position limits until you have that
5 information.

6 So clearly we've got implementation in
7 terms of market infrastructure, collecting the
8 data, then determining which swaps are
9 standardized for clearing. Then from there
10 determining which standardized swaps are available
11 to trade and having mandated a phased rollout of
12 mandates relating to party type and product type
13 starting with the dealers and the MSPs and moving
14 eventually through to asset managers, like
15 ourselves, and end-users, but focusing on products
16 as well, such as the most liquid range of interest
17 rate swaps and credit default swaps and then
18 building from there to the less liquid types of
19 products.

20 MR. TURBEVILLE: It strikes me that a
21 lot of what I know I've gotten from other
22 roundtables and absorbed some information. I have

1 a little bit of experience in the market myself.
2 But it strikes me that the packets of information
3 associated with these transactions are by and
4 large not huge packets of information. And we've
5 got a couple of things going for us. One is that
6 each one of these trading institutions actually
7 has to record that information in their own
8 systems, or if they're not recording it in their
9 own systems they don't know actually what's going
10 on with their own books, which I think is not
11 true. I think they're actually able to record it.
12 We also know that trade information, trade data
13 has been successfully sent many times and to many
14 places as the markets have emerged.

15 The one thing that struck me just from
16 listening to the roundtables was that more
17 complicated transactions are actually recorded, if
18 I got it right, are actually recorded in the
19 systems of the trading firms, not in their more
20 complicated form but broken down and disaggregated
21 into simpler units. And one of the things I'm
22 sort of interested in is is it a deterrent to

1 getting things launched that if the regulators are
2 requiring transaction- based information as
3 opposed to risk-based information which would take
4 a more complicated transaction and record it in a
5 simpler way.

6 By the way, we actually think it should
7 be -- the regulations should be talking about the
8 simpler forms rather than transaction-based but I
9 just wondered if it's accurate to say that's
10 actually something that needs to be addressed --
11 transaction-based versus risk-based information.

12 MR. OKOCHI: My comment to that would be
13 that when the dealers do that it's probably
14 because they're in a different hedge book and it's
15 not, you know, it could be an option volatility
16 book for the embedded component of the swap versus
17 an interest rate book for the coupon of a
18 structured debt instrument. I'm not sure it's
19 that they're --

20 MR. TURBEVILLE: Yeah. The point is if
21 the regulations say it's a transaction-based
22 recordation into the SDR as opposed to the

1 risk-based recordation, which you're suggesting in
2 two different books, is that an issue?

3 MR. GOOCH: I think the issue is not so
4 much about the availability information. Every
5 dealer books these trades in their books every
6 day. I mean, they always get electrified. The
7 question is just how quickly. I think if you're
8 doing a flow interest rate swap off an electronic
9 execution venue you have the electronic format.
10 In seconds it can be made available. If you've
11 done some very complex swap trade with an embedded
12 option which maybe you can break up a little bit,
13 then you might have, you know, people working from
14 the paperwork for several hours to enter it into
15 the system. It gets electrified. I think the
16 issue and the challenge, you know, in terms of
17 business process for people is what do they now do
18 if they have to take the basics of that trade and
19 make it available in 15 minutes, they have to
20 fundamentally change the way they book it. It's
21 not the trade data is not going to be available,
22 it's just a question of how long it takes. It

1 always gets there because they have to run risk at
2 the end of the day. They always have it in some
3 form in their system eventually.

4 MR. TURBEVILLE: They certainly do. I'm
5 just asking sort of a simple question. Is it --
6 are the rules -- are the rules requiring SDRs to
7 carry transactions as opposed to disaggregated
8 risks? The disaggregated risks they'll have? I'm
9 sure that's true. And the only concern I would
10 have is if you had to reaggregate it somehow and
11 when you actually record it to the SDR.

12 MS. COLLAZO: Well, if I can just speak
13 to that. You know, we tend to see the transaction
14 model as a way in which the regulators aren't
15 going to be able to see the audit trail, if you
16 will, from taking it from a position or risk
17 perspective back to the transactions. And you
18 know, from our understanding and having spoken
19 with yourselves, is that -- there's two objectives
20 here and one is understanding the exposure in the
21 market which is a risk- based view, but the other
22 is understanding from a market abuse perspective

1 and just monitoring what are the records that make
2 up that position. And to do that you have to have
3 the transactions.

4 And so, you know, the model, and I think
5 when you look at it per asset class, we, you know,
6 at DTCC we tend to have two perspectives here in
7 the sequencing. One is as regulators you do need
8 to see the transactions, we think, because you
9 need to see both essentially. You need to see the
10 risk and then you need to be able to go back and
11 understand what led to that risk exposure.

12 Two is being informed about the data I
13 think is absolutely correct. So separate
14 reporting from dissemination for the moment and
15 see the information flowing through and understand
16 what does that look like. So how do you formulate
17 your views on block trade and on what the
18 liquidity impact could be? So certainly we've
19 talked, you know, and you've heard conversations
20 from many folks on the potential for liquidity
21 impact. But this allows you to actually form a
22 basis of what does that do before public

1 dissemination actually happens.

2 And, you know, the third thing really is
3 when we talk about swap data repositories and the
4 information, look at where trades have been
5 electronically confirmed. Or what is the most
6 natural asset class that should go first as far as
7 electronic confirmation? Certainly, our
8 experience from the Trade Information Warehouse is
9 the CDS market is very ripe for that. Interest
10 rates, we think, you know, is probably the next
11 logical place, perhaps FX, equities, and then
12 commodities last because that tends to be much
13 more end-user to end-user-based.

14 And I guess just the last thing to say
15 there is there is an existing process today and we
16 need to be mindful that there is a process that
17 does allow for the most sophisticated high volume,
18 you know, users, such as, you know, the dealers to
19 submit a technical capability of flowing
20 information through but also supports the buy side
21 end-user in a more simple form of either web-based
22 or spreadsheet upload.

1 And so I think we have to be cautious
2 from, you know, at least from a regulatory
3 perspective as to the scope of data when we talk
4 about phasing and implementation. If you look at
5 pieces within an asset class then you're not going
6 to have a full market view. And that to me is an
7 important objective, an overarching objective of
8 what you're looking to do here, is to have that
9 market view. So, you know, we tend to think of
10 the phasing on a per asset class basis, not
11 necessarily by financial entity under that.

12 MR. EADY: A question here. Yesterday
13 there was some discussion among some of the
14 participants or the firms represented here about
15 when they would be ready or open for business and
16 some of the SDRs were represented. And I think a
17 lot of it, you know, the conversation centered
18 around, well, it depends what the final rules look
19 like, which is certainly understandable. I'm
20 curious here for those who are panelists who are
21 currently thinking about registering as SDRs,
22 which products are you considering being an SDR

1 for or which type of swaps? And at what date --
2 assuming that the rules as currently proposed by
3 both the SEC and CFTC are adopted in substantially
4 the same form as final rules, how soon would you
5 be ready to accept trade reports from the
6 participants who are obligated to do so and for
7 which products?

8 MR. CUMMINGS: I can start that one. I
9 guess at the risk of requesting to go first, I
10 think commodities is probably the outlier in this
11 group. We've been -- ICE has been clearing energy
12 commodities for almost nine years and reporting to
13 the CFTC daily trade capture messages, including
14 transaction-based information, user-based
15 information, lifecycle events related to
16 positions, offsets, deliveries, for almost five
17 years running now for price discovery contracts.
18 So as far as commodities as an asset is concerned,
19 we're pretty far ahead.

20 ICE does plan to apply for SDR
21 recognition. You know, if we're talking solely
22 for transaction venues that ICE operates it's a

1 very short walk. I think Bill said maybe three to
2 six months. That seems about right. But that
3 leans on a lot of benefits that the commodities
4 market has developed over a longer period of time,
5 which is standardized APIs, standard transactions,
6 experience in high frequency trading, you know, a
7 lot of data that's moving through in real-time and
8 real-time reporting off of our transaction
9 systems.

10 It's not difficult from that aspect but
11 I think some of yesterday's panels discussed, you
12 know, how do SEFs connect and what protocol would
13 they have to write to for an open access
14 clearinghouse? What protocols would an SDR
15 support for one to multiple DCOs who supported a
16 swap that was for all intents and purposes
17 identical across DCOs? I think that, you know,
18 that question is unknown right now depending on
19 which players decide to register as SEFs, for
20 energy commodities in particular. But the
21 protocols that we would put out would closely
22 mirror what's already in place today.

1 MS. COLLAZO: I'll guess I'll add at the
2 risk of going second. So, you know, we think that
3 from the asset class perspective, obviously with
4 credit derivatives having over 95 percent of
5 trades electronically confirmed that that is an
6 asset class that is also ripe for initial
7 implementation. But we are very much mindful of
8 some of the proposed rules and language that the
9 SDR needs to demonstrate the ability to
10 accommodate all swaps of the asset class. And,
11 you know, with respect to that we feel that we
12 have a model that allows for all the electronic
13 confirmation but also we have a model that allows
14 for the paper confirmed trades to be represented.
15 Those are represented currently today on a trade
16 basis or much more on a risk basis.

17 With the Trade Information Warehouse, we
18 understand there is work that we'll need to do to
19 bring that more compliant with Dodd-Frank, though
20 we would urge some consideration about how paper
21 confirmations are reported and looking at a very
22 light set of details that would allow an image

1 copy of the confirmation to be submitted initially
2 as part of the phasing-in approach.

3 So taking the approach of what is mostly
4 electronified in asset class, we think credit is
5 the first one to go. And then we would see
6 interest rates, you know, as the next logical one.
7 Certainly, our plan is to register as an SDR.
8 Currently, our firms recognize us as the
9 repository for credit, as well as for equities.
10 And there are RFPs going on right now, one through
11 ISDA for rates and one through AFME for FX. And
12 so we're sort of respectful of that process.

13 MR. EADY: So is that answer that --
14 let's say the final rule was adopted on -- I'll
15 just pick a date for sake of the argument here --
16 July 1st.

17 MS. COLLAZO: Right.

18 MR. EADY: -- that you would virtually
19 be ready immediately to accept trade reports for
20 the asset classes that you just mentioned?

21 MS. COLLAZO: Well, there's some work
22 that still needs to be done with respect to the

1 additional field. And so there is an append -- we
2 need to append the existing records that we have
3 with additional information as they flow through.
4 So there is going to be --

5 MR. EADY: As you plan through those
6 things, how long do you think that will take?

7 MS. COLLAZO: Based on our information
8 it's about six months. Six, you know, months at
9 the lower end, nine months at the higher end that
10 we would see as far as being ready with the
11 industry. Because, again, what we need to be
12 mindful of, I think we need to go back to the
13 connectivity discussion in that we need to ensure
14 that all the firms are able to submit the
15 additional information that is needed and that the
16 flow of information, not just for firms but from
17 all the relevant parties submitting downstream to
18 the SDR to enable that 100 percent coverage is --
19 that all the necessary upgrades are being made.

20 MR. EADY: Well, that speaks to the
21 participants' readiness to report that information
22 to you.

1 MS. COLLAZO: That's right.

2 MR. EADY: But you'll be ready to
3 receive it.

4 MS. COLLAZO: That's right.

5 MR. EADY: That's what I'm getting at.
6 Okay. And in your case, R.J., you said basically
7 three to six months?

8 MR. CUMMINGS: That's for --

9 MR. EADY: For commodities?

10 MR. CUMMINGS: For commodities,
11 probably. What I would comment is what Marisol
12 said, is that, you know, the SDR, the way it's
13 been drafted is contemplating taking trades from
14 SEFs and DCOs for different types of lifecycle
15 events. I mean, there are other rules pending
16 related to the DCO, at which point a DCO would be
17 ready to submit a trade to an SDR based on a
18 confirmation. So right now that's unknown.
19 Whether the SDR could accept them or not doesn't
20 mean that the DCO is going to be in a position on
21 that same timeframe to report its transactions on
22 the timeframes that have been outlined in the

1 rules.

2 MR. EADY: Right, but you'd be ready to
3 accept it if they were? Is that right?

4 MR. CUMMINGS: Excuse me.

5 MR. EADY: No, no--but you as an SDR,
6 you're going to register as an SDR?

7 MR. CUMMINGS: Yes, for commodities.

8 MR. EADY: So you'll be ready to accept
9 the report presuming that the people who are
10 obligated to send them are in a position to send
11 them to you?

12 MR. CUMMINGS: I think we're in a -- for
13 commodities, we're in a very different position
14 from the other asset classes because of the
15 standardization that already exists in the market.

16 MR. JOACHIM: We have no plans to
17 register an SDR but we do have recent experience
18 with creating data repositories with Trace in the
19 last two years. We've probably done, and maybe
20 this will help you, we've probably had the
21 bookends of complexities. We did agency
22 debentures, which was a commoditized product that

1 was well known, well traded, well identified with
2 pretty simple rules, pretty homogeneous as a
3 product, and that took us about six months to
4 create the data repository to collect the data and
5 also plan for dissemination at the same time. And
6 we had a strong foundation already built with
7 corporate -- with similar corporate bonds.

8 We're about to do asset-backed to
9 mortgage-backed securities, which is kind of the
10 other end of the game. There's a portion of the
11 market that's homogeneous since the agency
12 mortgage-backed securities, TBAs in particular,
13 but the rest of the marketplace is particularly
14 bespoke, customized, highly unique, a tremendous
15 number of variety of instruments, probably similar
16 in size to a lot of the issues is almost the 1.3
17 million CUSIPs, instruments that are identified in
18 the group. And that's probably taken us from
19 beginning of planning almost two years, including
20 the industry to get ready to do it, to do it
21 right, to cover all the different wrinkles and
22 different instruments.

1 So if I was going to plan and think
2 through each of these instruments as to what I
3 would think through as an appropriate timeframe
4 and a fair timeframe to expect, you'd have to look
5 at the level of standardization that exists and
6 preconditions. And I think we've heard a couple
7 of places where there is a fair amount of that and
8 six months looks like about the right time. But I
9 would say that if you're thinking about markets
10 that have very little infrastructure in place,
11 very little standardization, not much
12 commoditization, I don't think it's unreasonable
13 to think you're going to need to spend at least 18
14 months to 2 years to be ready to have all the
15 pieces in place to ensure that you're collecting
16 uniform data that is usable by regulators, as well
17 as prepare for dissemination in the long term and
18 that the industry is ready to provide that
19 information.

20 MR. MORAN: At CME, we're looking to
21 have a service in rates -- in interest rates -- in
22 energy and commodities. We kind of look at the

1 SDR functions as being very similar to functions
2 we already perform as a DCO. You know, we
3 warehouse the trades. We record them with
4 regulatory information. So to the extent a
5 product is listed in clearing and it comes in, you
6 know, for the most part, we're pretty close there.
7 There are a couple of caveats. One is, you know,
8 some of the rules are not finalized. There's a
9 lot of discussion about data points that may
10 change. Different identifiers that are not yet
11 created. So obviously those would have to be
12 incorporated into the structure at whatever point
13 they're created.

14 So that -- and the other piece of that
15 is the current rules require that if somebody is
16 listing a swap they need to take in parts of the
17 uncleared market that are reported. This would
18 involve some development. I'm not exactly sure on
19 what the timeframe is for that but it would be our
20 intent to extend the SDR service to also include
21 reporting for the uncleared market.

22 MR. PRITCHARD: Yes, we operate the

1 rates repository at the moment and we see 3.9
2 million live rate swaps on regulator basis through
3 that. As mentioned, we also, through our
4 commercial services, receive a huge number of
5 primary economic details and valuations across all
6 asset classes. So we don't see a large dependency
7 on getting that part of the data repository
8 requirements ready. I think the intradata, the
9 real-time data, is what we'd be adding and the
10 timeframes that we talked about, three to six
11 months seem perfectly realistic. To put our basic
12 receptor, the parties could send that data, too.
13 And one of the points we've advocated in our
14 discussions is that the turnover in the rates
15 market is not that high. There's thousands of
16 trades a day is the volume of business that goes
17 through the interest rate swap market. So it's
18 not a huge sort of fire hose of new intraday data,
19 but that real-time aspect. And I think the key
20 point that a number of the other panelists have
21 referred to is that a repository can put out a
22 receptor that SEFs or parties can put the data

1 into but getting the industry as a whole connected
2 up to that and reliably, you know, comfortable
3 with their ability to comply with these
4 regulations, 15 minutes or 30 minutes, that's, you
5 know, that puts some pressure on the respondent.
6 Maybe Tommy does a trade to be really sure that
7 he's got a mechanism in place to discharge his
8 obligations and that potentially is a greater
9 dependency in terms of the timeframes.

10 And then the point I think Marisol
11 mentioned is a good one. It's easy to get the
12 high percentage of relatively standardized trades
13 flowing through but including the smaller tail of
14 the more complex trades and making sure that
15 you're compliant with the full prescriptions of
16 the rulemaking for those more complex trades could
17 take some time.

18 MS. THOMAS: Sorry. I think it's
19 important to look not at just the asset class but
20 the products within the asset class. So, for
21 example, in commodities, the stuff that's already
22 trading on ICE, you know, is not a problem. And

1 simple swaps that mimic futures that are already
2 trading, those are also very simple. So I think,
3 you know, looking at it on both the product and an
4 asset class will be very important.

5 I also think, you know, it's very
6 difficult to pin down these times and therefore,
7 the way to accelerate getting this done would be
8 to have some sort of phased implementation process
9 where, you know, there's a risk-free trial period
10 where everybody is trying to get their stuff into
11 the SDRs and, you know, there's no penalties
12 because people are working through the kinks in
13 their systems and trying to get this done.

14 And then as you have, you know, you can
15 create certain triggers which, you know, if you
16 see that, you know, these are very liquid
17 products. Okay, well, you know, people seem to be
18 getting them into the SDRs and this data looks
19 sensible to us, let's start disseminating this
20 publicly, et cetera. And then as you progress
21 those products from, you know, your most liquid
22 standard products, which you can move quickly on

1 to the less liquid, more customized products that
2 are more difficult, you know, you can accelerate
3 the process. You can get people putting stuff
4 into these SDRs faster with the stage process, I
5 think.

6 MR. OKOCHI: Jiro Okochi, Reval. So we
7 plan on registering for three asset classes:
8 Interest rates, FX, cross commodities. We're
9 technically ready now since we currently host all
10 of this data, primarily on the uncleared-type
11 trades for end-users, since that's our major
12 client-base. We think we can stand up a similar
13 environment and add the additional data points in
14 five months and three weeks.

15 MR. THUM: From the buy side
16 perspective, one other issue that is relevant, I
17 think, is, again, who is putting that information
18 into the SDR? And when we're trading with a US
19 dealer, certainly we'd expect the U.S. Dealer to
20 be putting that information in. An issue for us
21 will be when we're trading with a non-U.S. bank or
22 dealer, I think the way the rules are currently

1 written would require us to put the data in. And
2 we would like to have the non-U.S. dealer have the
3 requirement to put the information into the SDR.
4 I think if it's going to be put onto the buy side
5 to do that, then it would require significant
6 additional work to be able to do it where we think
7 the relative merit and expertise probably lies
8 with the dealer, U.S. or non-U.S.

9 MR. EADY: So if you were to have to
10 undertake that responsibility, how long do you
11 think it would take for you to be ready to do
12 that?

13 MR. THUM: I think it's hard for me to
14 estimate that. I think our expectation is that we
15 won't have to do that. Certainly, we track all of
16 our trades. We have detailed operations and
17 systems to keep track of them, value them, margin
18 them, and otherwise so we have the data in-house.
19 And we actively risk manage it. However, the
20 connectivity to report that data to the SDR is
21 another thing, and we think that that connectivity
22 should come dealer to SDR as opposed to buy side

1 to SDR.

2 MR. SHILTS: I'd like to turn to a
3 little different subject here. As I think you had
4 mentioned before, some of the various provisions
5 of Dodd-Frank may require having certain data,
6 data from the SDRs, for example, in setting block
7 trade sizes.

8 And in terms of implementation, I wanted
9 to get people's thoughts on what we might or the
10 Commissions might want to do with respect to SEFs
11 or designated contract markets. Setting block
12 trade sizes for swaps, say, in this kind of an
13 interim period after they're up and operational
14 but before we may have the data to actually do the
15 calculations and setting the block trade sizes.
16 And whether the SEF should be doing that, and if
17 so, on what types of criteria should they be
18 looking at?

19 MR. THUM: Right. We think again, as I
20 mentioned previously, that the issue of liquidity
21 and the impact on liquidity needs to be assessed.
22 And the relative liquidity between the products

1 needs to be considered when assessing a block side
2 delay related to public dissemination of the
3 information or indeed position limits. So we do
4 think that once the data is able to come into the
5 SDR and be reported to the commissions, that the
6 determination can be made, while initially by the
7 SEF in terms of a relative liquidity analysis
8 based on looking at the most liquid product. And
9 again, we're talking about all swaps trading down
10 to standardized swaps that can be clearable down
11 to standardized swaps that can be made available
12 for trading on a SEF. Looking at that most liquid
13 standardized trade that's made available for
14 trading and then comparing every other trade that
15 is made available trading to that and then
16 developing -- instead of having a static block
17 size, have a relative block size based on a
18 comparison of the liquidity from the most liquid
19 product through the least liquid product. So we
20 also think that for the most liquid product
21 certainly at the outset as opposed to the upper 95
22 percent of trading liquidity, we think that the 80

1 percent level makes more sense. We think that if,
2 for the most liquid --

3 MR. SHILTS: I guess I'm not really
4 focusing on what the ultimate criteria are that we
5 establish for setting the blocks. I'm really
6 trying to get an idea irrespective of what the
7 commissions decide ultimately --

8 MR. THUM: Right.

9 MR. SHILTS: It's in this interim period
10 before we are able to actually make calculations
11 based on the criteria that's adopted. How should
12 we permit SEFs or others to set block trade sizes
13 absent the data. What kind of criteria -- what
14 should they look at in terms of setting block
15 trade sizes and who should do it?

16 MR. THUM: I think it's going to be very
17 hard for a SEF to make an analysis based on
18 liquidity when the data isn't there. So I think
19 that in terms of -- we feel that the focus of the
20 earliest point of implementation should be on risk
21 reduction as opposed to price transparency or some
22 of the other objectives. So some of those

1 objectives I think day one are going to have to be
2 compromised while the data is being gathered. So
3 in the absence of having the data to come up with
4 a clear analysis of liquidity to set SEF block
5 sizes, then there's going to have to be a much
6 more generic and delayed reporting of things like
7 the size of trades. And maybe that would have to
8 be based on buckets of trade sizes -- say 10
9 million and under would be 1 bucket, 10 million to
10 50 million would be a bucket, 50 million plus
11 would be a bucket -- so that there would be some
12 public dissemination at end of day but that that
13 information could not be used for the negative
14 purposes that we've all been talking about in
15 terms of releasing actual trade sizes and pricing
16 prematurely.

17 MR. BERNARDO: I would agree with that.
18 Because if you take six months or longer to gather
19 data and focus on the trade reporting, from a
20 SEF's perspective, a Tullet Prebon's perspective,
21 we can handle the trade reporting. We can handle
22 the reporting to the SDR. We do that currently.

1 It doesn't matter which means of in-state commerce
2 that we're executing. We'll take care of the
3 reporting. We'll do that as we do now. And then
4 six months down the road figure out what is the
5 correct block trade size for each particular
6 product and maturity. And I would also give
7 yourself leeway to change that, you know, six
8 months after that. Depending upon the data and
9 the market environment you can alter it again.
10 That's, again, my opinion.

11 MR. OKOCHI: One other approach could be
12 just take a nominal dollar amount, \$10 million,
13 and look at the PV01 of any instrument and say if
14 the PV01 is greater than \$X million, that's a
15 large enough trade. It's reported. Just try and

16 make it greater than X million notional or 500
17 million notional. So you can set up some basic
18 parameters that way.

19 MR. TURBEVILLE: In terms of
20 implementation, we went around and talked about
21 how soon will you be able to actually be a
22 receptacle for the information? What wasn't

1 discussed was how soon will you be able to
2 disseminate? And dissemination is sort of -- it's
3 said, it's statutory that you must disseminate.
4 It's in the regulations that you must disseminate.
5 It doesn't say really what dissemination is. But
6 I was wondering whether -- we answered, you know,
7 three to six months, six to nine, whatever the
8 number was. That was about becoming a receptacle.
9 All of this isn't that important if you're going
10 to become a receptacle and receive and then at a
11 later date become a disseminator. Isn't that
12 right? Because it's about the release of
13 information. So there could be a natural
14 progression from receiving data, understanding
15 better what the appropriate block trade sizes
16 might be, and then disseminating. If that's the
17 order in which people think it's going to go.

18 MR. GOOCH: I think that's the important
19 point that Wally makes. I think a lot of this
20 data is available today. I'm going to go to my
21 (inaudible) current rates in equity market have
22 every trade pretty much in databases today. So in

1 terms of some of these processes to analyze that
2 data, I think some of that could start relatively
3 soon. I mean, clearly to my mind the emphasis
4 will be on getting the SDRs registered because at
5 that point you have full and unfettered access to
6 all of the data you want to look at. I think
7 that's probably your start point for analysis as
8 opposed to when it becomes mandatory to report to
9 SDRs because most large participants already do it
10 on a voluntary basis. Some of the small guys
11 don't and there will be a mandatory day for them.
12 But to be honest, you're trying to identify very
13 liquid products in the first phase, not analyze
14 the nuances of very illiquid ones. So if you're
15 missing a couple of small trades from the
16 corporates it probably doesn't make a lot of
17 difference.

18 So I would think the key day is
19 registration when you can start getting full
20 access and start thinking about it as opposed to
21 when the slowest guy is going to start reporting
22 in because you're going to get receptacles that

1 are, you know, 90 to 95 percent full on day one is
2 my guess. And then, you know, maybe not quite the
3 timeliness you want. Maybe you're missing the old
4 field but I think you're going to start a pretty
5 rich place in terms of sequencing. And certainly,
6 you know, back to the conversations yesterday, if
7 we're going to have this ordering of reporting,
8 clearing, execution, then you need to be getting
9 that reporting piece sorted out fairly early to
10 move onto the other decisions.

11 MR. GAW: Jeff, you said in your earlier
12 comments that some configurations would be
13 necessary to existing systems and processes to
14 support real-time reporting. I was wondering if
15 you or other panelists could provide some detail
16 on those additional configurations and how long it
17 would take to make them.

18 MR. GOOCH: Sure. There's two types of
19 changes to my mind that are needed. One, which is
20 relatively straightforward which is that there's
21 some additional fields. I think Henry mentioned
22 this on an earlier panel, that technically it is

1 not there in the feeds today. Timestamps is one.
2 People don't tend to record the place of
3 execution, which is a requirement. So there are a
4 couple of those which don't fundamentally change
5 any of your analysis but there's some work to do
6 to be able to receive those and for people to send
7 them. Some participants will find them very easy,
8 some won't, but I think it's just depending on
9 what they happen to have in their system.

10 I think the bigger issue is, you know,
11 around this issue of timing issue. Basically, put
12 a requirement to send most things in 15 to 30
13 minutes, you know. If you're in a major, you
14 know, dealer-to-dealer market, that's not going to
15 be a problem. The interest rate market, for
16 example, generally starts coming in a matter of,
17 you know, certainly less than 10 minutes. I don't
18 think that's going to cause too many issues. The
19 other extreme is your fund manager has to get the
20 subfund allocations in within 15 minutes in order
21 to get confirms out in 30. For some guys that
22 could be a major challenge. They struggle to do

1 it by the end of the day given compliance checking
2 rules and things they have. So I think it's the
3 ramifications in terms of business process that
4 makes the big difference. You know, this
5 conversation we're doing about some of the complex
6 trades, they're all getting electronified on the
7 day; they're not all getting electronified in 30
8 minutes. To require that of people would
9 basically mean that, you know, guys on desks will
10 be sitting there entering stub records to meet the
11 reporting requirement quickly, then booking it
12 properly later. Maybe that's what we need to do
13 but that's the sort of thing that will take a
14 little bit of time and a little bit of discussion.

15 MR. TURBEVILLE: But it's also
16 critically important to actually get the
17 information in a sensible, usable form as opposed
18 to information that's not usable, but soon.

19 MR. GOOCH: That's why I think rather
20 than creating a false process to get something
21 quickly on a trade that's not going to get
22 publicly disseminated anyway, it's not that kind

1 of business, you know, give people a bit more time
2 to the end of the day so they can do it properly.
3 The regulators still get their access. It clears
4 (inaudible) that's a different issue. But I don't
5 think we're talking about problems with those kind
6 of products.

7 MR. SHILTS: I think Chairman Gensler
8 has a question.

9 CHAIRMAN GENSLER: I have a question
10 back to the earlier. I noticed that a number of
11 you will be trying to register in rates and
12 commodities and equities, so there will be some
13 competitive SDRs and so forth. But I was curious
14 how does that relate to this ISDA process that I
15 understand -- if anybody is willing to raise their
16 hand and tell us a little bit about -- I know
17 there's nobody from -- I don't think officially
18 from ISDA -- but their process of going out for a
19 request for proposal in a number of SDR classes.
20 And how it relates to that and, I mean, if you're
21 not the winner of some ISDA process -- we're not
22 involved in that -- what that means.

1 MR. GOOCH: Somebody's not responding.
2 Do you want me to give my understanding? Because
3 I'm not bidding in the ISDA process so I can
4 probably avoid embarrassing anybody else.

5 As I understand that, having read the
6 document, is that the (inaudible) on a voluntary
7 basis, most of the major players globally report
8 into SDRs. For the ODRF, the group of global
9 regulators have put out a requirement. You know,
10 that was a process requested by the regulatory
11 community a while back. The ODRF, as I understand
12 it for rates in particular, increased the level of
13 detail they require. ISDA has gone back and asked
14 someone to bid to produce that. I don't think
15 legally that's an SDR or an MA compliant European
16 solution. That's a voluntary solution on a global
17 basis to meet a requirement to the coalition of
18 regulators, I guess. Some of you guys sit on that
19 coalition and probably determined what you want.
20 So I don't think it was trying to end around any
21 kind of competitive position in the U.S. or Europe
22 or anywhere else as I understand it. There's a

1 requirement regulator put on major dealers and,
2 you know, major swap participants using your
3 terminology, but (inaudible) on a voluntary basis
4 and they need somewhere to put it. It would be
5 very helpful, obviously, if that was the same
6 solution as required to (inaudible).

7 CHAIRMAN GENSLER: I guess my question
8 is is what's the timing? What's the deadlines?
9 And for those of you who are, you know, do you
10 still plan to be SDRs if you don't get the nod
11 from -- it's not technically an SDR but I suspect
12 anybody who wins that is going to register as a
13 SDR.

14 MR. GOOCH: I believe the timing was
15 September for live but I didn't read it that
16 closely because I wasn't responding.

17 MR. CUMMINGS: I think the application
18 deadline was the end of April.

19 CHAIRMAN GENSLER: That's for rates or
20 is it also for commodities?

21 MR. CUMMINGS: It's for commodities.

22 CHAIRMAN GENSLER: Commodities?

1 MR. CUMMINGS: I think it's safe to say,
2 at least from ICE's perspective, that if ISDA
3 doesn't nominate an SDR proposal, it won't
4 materially change our plans to register as an SDR.

5 MR. SHILTS: Any other comments on that?
6 Go ahead.

7 MR. DeLEON: The current process right
8 now is going on and there's a bid process which
9 has gone out. There were 13, I believe -- it was
10 11 or 13 proposals that is now down to 4. And
11 members of ISDA, there's a working group, will be
12 meeting on that later this week, actually, to
13 review the final proposals to choose an SDR for
14 the industry for rates. There is already an
15 approved credit one and there are other RFPs
16 running for the other products.

17 So to the extent that the original one
18 that was accepted was not going to be Dodd-Frank
19 compliant or G-14 for the commitment letter
20 compliant, this process was done again. So ISDA
21 is rerunning that process and the other RFPs have
22 gone out for other products. So the dealers plan

1 to use this to be compliant for regulatory reasons
2 with their prudential regulators, as well as there
3 is a chance that this becomes the SDR. One issue
4 that obviously has come up is if there are
5 multiple SDRs, then you're going to have the
6 SDR-squared problem, which will be that you will
7 then need -- all the regulators will need to
8 aggregate between SDRs and make sure they're not
9 double or triple counting positions to get a full
10 look. So that is something that people are
11 focused on but you, as the regulator, and we've
12 spoke to the SEC as well on this, that is an issue
13 that people are aware of and there is a concern.
14 But the ISDA process will be final -- the RFPs are
15 being reviewed and as I said, they are down to
16 four now.

17 MR. SHILTS: Thank you. We've got a few
18 more topics here so we'll try to get those in
19 quickly. One, if we could just get some quick
20 thoughts on again looking at block trades and the
21 provisions for block trading is there will be a
22 delay in the reporting. And I was wondering what

1 the thoughts are as far as whether there is
2 specific things to think about in terms of type of
3 trade or asset class as far as implementing the
4 delays, the length of the delays and what we
5 should be thinking about coming up with final
6 rules.

7 MS. COLLAZO: If I could just speak on
8 it. One of the things which goes back to my
9 earlier statement about dissemination, you know,
10 coming later that you get the opportunity to look
11 at the information. If you look at credit
12 derivatives, for example, there is a different
13 size that you normally see in the way that trades
14 and standard trades are traded with respect to
15 sovereigns versus corporate, for example. And so
16 you see very much a different, you know, notional
17 that gets traded. The notional on sovereigns are
18 much, you know, higher.

19 And so once you start to receive some of
20 that information, I think those are some of the
21 conclusions that you'll start to find in the data
22 is that even within an asset class certain

1 products will trade -- have different, you know,
2 trading patterns and how that informs -- how block
3 logic should work, you know, subsequently. So,
4 you know, that's one example that I would say that
5 you could look to as to the notional size and CDS.

6 MS. THOMAS: I think it's the same with
7 commodities as well. I think, you know, you need
8 to be looking at the liquidity and the volume in
9 those markets. I mean, because most of our
10 transactions are, you know, obviously
11 customer-based transactions, we will do large
12 hedging programs where we will take on a large,
13 you know, chunk of risk for a client and we may
14 not be able to hedge that in the market for weeks
15 or even months depending on the liquidity in
16 smaller, more niche commodity markets. So I think
17 it's important to look at the volume in the
18 individual markets and how often that trades.

19 MR. SHILTS: Does that vary at all by
20 asset class or type of product or just volume
21 exclusively?

22 MS. THOMAS: It varies by product within

1 the asset class. So asset class commodities, you
2 know, oil or WTI will be very different from a
3 small basis gas location. So it's important to
4 look at the individual products.

5 MR. BERNARDO: I would think not only
6 the product but even the maturity as well. It's
7 going to be different for every product class.
8 It's going to be different for maturity. It will
9 absolutely be different and the Trace Model or the
10 model that they use is probably a good model to
11 follow. Again, you phase it in. You start off
12 with longer times, and if it works and everybody
13 is meeting their requirements and you think that
14 you can shorten them, shorten them to a lesser
15 time.

16 MR. JOACHIM: In fact, what we did was
17 we had a team of academic analyzing the data for
18 us looking at liquidity and all the factors we
19 just talked about to see empirically what they
20 could actually see because what you hear from
21 people, stories told, they're usually very
22 different than the empirical evidence that you can

1 tell. But you'll need a team of people to look at
2 this empirically and see what the impacts are as
3 best you can. It will never be QED but it will
4 give you an indication. It will be an informed
5 decision, better than an uninformed decision.

6 MR. EADY: One thing that I wanted to
7 ask about was both the SEC and the CFTC rule make
8 reference to certain unique identifiers for legal
9 entities, products, and transactions. I wanted to
10 get from Karla's point of view what we should
11 expect in terms of the possibility of, for
12 example, a legal entity identifier, unique
13 identifier being available according to an
14 internationally recognized standard.

15 MS. MCKENNA: Thank you Tom. In terms
16 of background and context, the technical committee
17 that I manage for ISO is solely dedicated to the
18 development and maintenance of standards for the
19 financial services area of business. So this is
20 the area where the ISO and the BIC, the market
21 identifier code, currency codes, et cetera. So
22 it's out of this family of standards that we set

1 our sights on solving the legal entity identifier
2 for business and financial transactions' solution
3 for the marketplace and for regulators.

4 We started sometime last year and we
5 filed a draft standard based on the qualifications
6 and the requirements that we had seen published so
7 far by the industry and by regulators in March of
8 this year. The ISO process is made up of a
9 succession of consensus-building exercises,
10 reviews, and agreements. And so we started the
11 process in March of this year and on a very
12 aggressive but realistic timeframe, we think that
13 we could have a published LEI standard by next
14 summer, probably by July of 2012. That breaks
15 down into two to three sessions or rounds of
16 review and comment and updating of the standard.
17 We actually reached a number of milestones this
18 week. When we put together in ISO a standard
19 that's code based, we need to appoint somebody who
20 is going to look after it. I like to call it --
21 and that's called a registration authority in
22 ISO-speak. We've picked a registration authority

1 to put forward in the standard in order to be able
2 to do functions like assign and maintain and
3 validate entities for legal entity identifiers and
4 that is Swift with the aid of Avox, a subsidiary
5 of DTCC. And we also look forward in the next
6 round of review to be able to insert that
7 information and have that role fulfilled in the
8 standard.

9 We also agreed to appoint a working
10 group in order to handle, or as we call them,
11 dispose of the comments that come in and to handle
12 the review process between now and the last round
13 of voting that we have within ISO. So that is
14 where we are at this point. And we offer this as
15 a solution, both to industry and to regulators,
16 for the collection and dissemination of
17 information.

18 MR. GAW: A follow-up question to the
19 panelists. If sort of a consensus standard does
20 not develop or particular identifiers are needed
21 for say products or transactions which as I
22 understand it might not be in the near term future

1 for ISO, what implementation issues will there be
2 to develop say SDR-specific nomenclature systems?

3 MR. GOOCH: So we spent a little time
4 with our customers and some of the proposed SDRs
5 as well. I think it breaks down -- we need to
6 look at each identifier separately. I think the
7 LEI identifiers could be enormously powerful when
8 it comes but it's going to take a while to create
9 a standard and the codes created for the entities.
10 So I think at the moment we certainly use BIC in
11 the interest world and the DTCC warehouse IDs in
12 the credit world. You know, a little bit of a
13 hybrid of the two, but moving to BIC in the equity
14 world. I think we can run with those for the time
15 being and then when the time comes, an available
16 map to them because the reality is every
17 participant has varied embedded co-structures in
18 their underlying systems. Every RMS has different
19 structures. Every vendor does. People are not --
20 it's going to take a decade or more for everyone
21 to switch to this to be their core underlying
22 identifiers. So to start with, people are going

1 to send what they have, you know, they'll rely on
2 people like (inaudible) or SunGard or other
3 vendors to map for them to the new codes that
4 eventually they'll change their underlying codes
5 to be there. So there I think it's a relatively
6 easy transition. You just have to be careful
7 across multiple SDRs. That causes an issue.

8 I think transaction identifiers, there's
9 a lot of good discussion around workflows and the
10 CFTC and SEC have taken slightly different
11 approaches there. I think there's a little bit
12 more work needed to agree how that's going to work
13 but I think that's a fixable problem. I think
14 product identifiers is the much tougher one to
15 work out how you create them, who creates them,
16 what are they used for. Again, I think people
17 will map to them once they're known but that's
18 something I think is a much tougher thing to do.
19 From our perspective, we'll wait for the standard
20 to emerge and then work out how we take our trade
21 details and create the code out from them which
22 I'm sure we can without a problem. But I think

1 that's going to be a much tougher one. And that
2 probably isn't a critical path for some of the
3 public dissemination, you know, we talked about
4 earlier on in terms of how that's going to work.

5 I think there are some interesting debates to have
6 there.

7 MS. MCKENNA: Just to follow on from
8 that, we are -- now that we have identified the
9 registration authority within ISO starting
10 discussions with the regulators and the industry
11 about ways that we could preassign or preregister
12 some of the participants in the first round and
13 maybe use that as a model going forward, there
14 will be a time in the ISO-consensus process where
15 we no longer accept comments in the process, so we
16 will know what the structure and what the data
17 attributes that will be attributed to the LEI will
18 be. So even before the standard is approved and
19 published in its final form we will know what the
20 technical aspects will be and we can discuss
21 around possible preregistration of the first round
22 to make it available.

1 MR. CUMMINGS: I think with regard to
2 the product identifiers, one of the things that
3 the Commission needs to be sensitive to is that
4 where a product identifier already exists in the
5 market, and as the de facto standard, for instance
6 in credit the read ID, that can be subject to
7 being withheld from SDRs or DCOs based on maybe an
8 arbitrary licensing decision by one or more
9 competitors in the marketplace. So that lends
10 itself to finding an international independent
11 group that can define and administer product
12 identifiers that maybe across asset classes would
13 work.

14 MR. PRITCHARD: If I could just make a
15 point there about following on from what Jeff said
16 about the transaction identifiers, I think one
17 thing that sets up the requirement for the
18 uniqueness of those is the way the rules are
19 formulated so that a transaction may be reported
20 by multiple types of entity over its life -- the
21 SEF or the clearinghouse or the party -- and that
22 obviously sets up a big requirement for

1 consistency and to use the same identity. You
2 know, a solution to that is obviously to fall back
3 to just having one type of entity report on a
4 transaction over its life and that gets us past
5 the dependency on that unique transaction
6 identifier being around.

7 MR. TAYLOR: If we were to end up with a
8 system where transaction identifiers or a unique
9 swap identifier was a random number generated and,
10 therefore, was done following a first touch
11 approach, do you all have a view as to how quickly
12 something like that could get implemented?

13 MR. CUMMINGS: I think the first touch
14 approach is probably a bad idea if you're talking
15 about multiple SEFs originating transactions on a
16 first touch basis into multiple DCOs. Talking
17 about reporting of lifecycle events on the same
18 day for the same instrument for the same maturity
19 across multiple DCOs, it's going to be hard for
20 not only the DCOs to keep up with that, the SEFs
21 to keep up with that, looking laterally and
22 vertically you run the risk of putting in

1 identical swap identifiers into one or many SDRs.

2 MS. COLLAZO: So, I agree that is a
3 challenge of the uniqueness. You absolutely have
4 to have a model in place that allows for unique
5 identifier, you know, random in nature to ensure
6 against the duplicate IDs. One of the challenges
7 when we looked at how you address the USI in the
8 workflow is in order for an SDR to be able to meet
9 the requirements under the rules and be able to
10 reconcile between messages and in order for the
11 reporting parties as well to be able to do that
12 you have to have an audit trail and you need to
13 have a unique ID that is unique in all instances.
14 And, you know, difficult to implement though
15 theoretically, that's the model that has to
16 prevail.

17 You know, if you look at what we did for
18 credit in the Trade Information Warehouse, we had
19 to establish that central trade record ID to
20 enable firms to talk the same language in the
21 message that they recognize and the trade they
22 recognize. So it is important but it is, you

1 know, no small feat to implement. So, you know,
2 we actually ended up, you know, debating which
3 model is better. Should the SDR issue or should
4 it be a first touch approach? And from a workflow
5 perspective, if you look at it, you know, in the
6 workflow, first touch makes sense but again, the
7 challenge is going to be who that USI issuer is
8 and how that information flows down from the SEF,
9 through the DCO, maintained by the reporting party
10 and tracked.

11 MR. SHILTS: Is there a last --

12 MR. CUMMINGS: I think there's -- an
13 additional point is that each one of these
14 entities through the lifecycle of that trade is
15 going to assign its own unique ID to the
16 transaction as it touches it and works it through
17 its workflow. The USI, while valuable, someone
18 generates it, is probably going to be a
19 concatenation of multiple values across the
20 systems that the trade moves through. The
21 participants, they offload transactions at
22 multiple points in the workflow and lifecycle of a

1 trade. So a USI that has to travel uniformly
2 through these systems and be updated across the
3 multiple entities that are a party to that
4 transaction, either the FCM, the end user, the
5 SEF, it seems like a lot of back and forth if you
6 settle on the first touch approach.

7 MR. GOOCH: Yeah, I think there's a very
8 interesting (inaudible) access element to this
9 which is it's very technologically easy to create
10 a unique identifier generated locally at first
11 touch making the string very long. Anybody in the
12 IT department does that all the time. That makes
13 it very easy. The trouble is you get something
14 that's then so long that, you know, all the big
15 participants are fine because they talk on APIs.
16 They don't care whether there's 20 characters, 500
17 characters, it just flows down the pipe. Any
18 smaller guy who relies on CS spreadsheets or
19 screens then has a real problem of importing that.

20 On the other hand, if you try and shrink
21 it in order to keep uniqueness, you have to put a
22 code in that's unique to the SEF or the SDR or DCO

1 or something, you know, you can concatenate those
2 things together and then some people really get
3 nervous about their trade forever being tagged for
4 the rest of its life with details of how it was
5 first executed which, you know, worries some
6 people as well. So I think there's a balance
7 there to strike between complete anonymity, you
8 know, which is perfect but then you have a
9 consequence because some small users, they're
10 going to have to, you know, have record keyboard
11 skills to accurately type this stuff off screens.

12 MR. SHILTS: All right, we've gone 5, 10
13 minutes over. It was a good discussion. So I
14 want to thank all the panelists for their
15 participation today. We'll take I guess about a
16 15-minute break which was scheduled -- we'll try
17 to start here around 10 till. Thank you.

18 (Recess)

19 MR. CURLEY: Okay, thanks every one.
20 This is our fourth session today and the last
21 session in the two-day joint roundtable on
22 implementation for Dodd-Frank. We appreciate all

1 the comments contributed by participants to this
2 point and are grateful to everyone who has stuck
3 it out right to the end.

4 My name is Peter Curley from the SEC and
5 this panel focuses on implementation matters
6 associated with commercial end-users, nonfinancial
7 entities that use swaps and security-based swaps
8 are -- to hedge or mitigate commercial risk in
9 particular -- are given special consideration in
10 both the Commodities Exchange Act and the Exchange
11 Act. So it's certainly appropriate to give time
12 and attention to the particular implementation
13 challenges that arise for them. Like in the other
14 panels, we're going to try to focus really on the
15 implementation issues and not on interpretative
16 issues, rather things associated with the
17 rule-making. There's been a lot of time for that
18 and this is more of a nuts and bolts session, if
19 we can make it that way.

20 And so some of the things we'd like to
21 cover are the compliance practices and other
22 associated matters important internally for

1 end-users associated with the proposed rules,
2 international timing and coordination issues that
3 might arise that are unique to the end-user
4 community, and related matters of that kind. We'd
5 also like to discuss whether the requirements
6 should be phased in by asset class-type of market
7 participant or other facts and the point of view
8 that the end-users might have on points like that.

9 So before we begin I'd like to just go
10 around the table and have everyone introduce
11 themselves and identify who they represent. So we
12 can start over with you, Peter.

13 MR. SHAPIRO: Peter Shapiro, Swap
14 Financial Group. We're an advisor to end-users.
15 Our business includes a heavy number of what would
16 be called under the act special entities,
17 governments, nonprofits, as well as nonfinancial
18 for-profit businesses.

19 MR. DONOVAN: Thank you. I am Bill
20 Donovan, vice president of Investments for the
21 United States Stone Carnegie Pension Fund. I'm
22 also here on behalf of CIEBA, the Committee for

1 the Investment of Employee Benefit Assets, which
2 represent over 100 of the largest pensions plans
3 in the United States.

4 MR. WASSON: I'm Russ Wasson with the
5 National Rural Electric Cooperative Association.
6 We have 1,000 members that serve about 43 million
7 people in the United States with electric energy.

8 MR. OKOCHI: Jiro Okochi, CO of Reval.
9 We provide derivative management solutions to over
10 500 corporates, primarily end-users.

11 MR. GLACE: Joe Glace, chief risk
12 officer for Exelon Corporation. We have
13 generation as well as utilities in both Chicago
14 and Philadelphia.

15 MR. PETERSEN: Sam Petersen, Chatham
16 Financial. We're a consulting firm that works
17 with both nonfinancial and financial end-users.

18 MR. TURBEVILLE: Wally Turbeville,
19 Better Markets, a nonprofit, nonpartisan
20 organization interested in implementation of the
21 Dodd-Frank Act and most recently a repeat
22 performer on roundtables.

1 MS. SLAVKIN: Heather Slavkin, AFL-CIO.
2 We represent 12 million working people across the
3 country.

4 MS. MIMS: Verett Mims. I'm assistant
5 treasurer of the Boeing Company, the largest U.S.
6 exporter in the country. So we have three issues.
7 One, we're a commercial end-user; two, we're one
8 of those CIEBA members as having a large pension
9 fund; and three, we have a captive finance
10 program.

11 MR. COTA: I'm Sean Cota. I'm a
12 retailer of petroleum products in Vermont. I'm
13 chairman of the board of the Petroleum Marketers
14 Association of American, past president of the New
15 England Fuel Institute. We represent virtually
16 all the heating oil that's sold in the United
17 States and 90 percent of all the retail gasoline
18 sold. And we've done trading in commodities a
19 long time.

20 MR. LAWTON: John Lawton, Division of
21 Clearing, Intermediary Oversight, CFTC.

22 MR. SHILTS: Rick Shilts, director of

1 Division of Market Oversight at the CFTC.

2 MR. BERMAN: Gregg Berman from the SEC.
3 Thank you.

4 MR. CURLEY: Great. Thanks, everyone.
5 So just to kick off I'd like to ask a relatively
6 general question regarding the types of issues
7 overall that are important to end-users when it
8 comes to implementation, both on the
9 infrastructure side and also with respect to their
10 own internal compliance matters.

11 MR. PETERSEN: I guess I'll sort of
12 start it off. So working with a wide variety of
13 firms, including firms that would neither be
14 classified as a swap dealer or a major swap
15 participant and may at times be entering into
16 trades with firms that are neither classified as a
17 swap dealer nor a major swap participant, one of
18 the issues that comes into play is the reporting
19 requirement and also the items that an end-user
20 would have to report in order to be exempt from
21 clearing. And I think a general concern or maybe
22 an observation is that, you know, we've met with

1 CFTC staff and SEC staff on this and we certainly
2 appreciate the thoughtful rule that was put forth
3 on the end-user exemption, but based on how it's
4 deemed that one satisfies those 10 to 12 pieces of
5 information, for instance, that requirement could
6 either be fairly easy to satisfy or it could be
7 more burdensome in nature.

8 And knowing that it's only recently come
9 out and there's a lot of understanding yet to be
10 done on the margin rules, depending on the asset
11 class that an end-user is trading in and depending
12 on whether they're trading with a bank swap dealer
13 or a non-bank swap dealer, there are a variety of
14 concerns that end-users have related to those
15 margin rules and many of them are very practical
16 rules related to negotiating documentation with
17 dealers, credit support arrangements, et cetera.

18 MR. SHAPIRO: Just to chime in briefly
19 in support of what Sam was saying, in terms --
20 particularly in terms of the reporting with regard
21 to how the end-user generally meets its financial
22 obligations, if it could be done as a standing

1 report rather than with every transaction, we know
2 this would help our clients vastly on
3 implementation. If it could be simply a standing
4 report, even if it had a check-the-box saying no
5 changes from the last report. We're concerned
6 about just people missing and not getting it
7 right, having compliance issues unnecessarily and
8 about having, you know, too great a burden that
9 would be provided. With the requirement, of
10 course, then you would say if there were a
11 material change that must, of course, be added.

12 MR. OKOCHI: My comment would be to
13 commend the CFTC for coming out with basically
14 what we viewed as as check-the-box, burden of
15 proof approach as opposed to extensive
16 documentation to prove that you're commercially
17 hedging a risk. So in our opinion and in our
18 client's opinion, there wasn't a lot of uproar
19 around the end-user exemption rule that came out.
20 I think where we should get a lot of interesting
21 comments would be around the margining aspects,
22 even though there could be threshold allowed. It

1 does appear that CSAs would be required by all
2 nonfinancial end-users entering into derivatives.
3 I think that's going to raise more issues than the
4 actual proof that you can be exempt from clearing.

5 MR. WASSON: In our markets, the
6 majority of our transactions are with other
7 end-users. We do transactions with swap dealers
8 and major swap participants or those entities we
9 suspect will become swap dealers or major swap
10 participants, but in our markets where we have
11 nonfinancial commercial entities dealing with each
12 other, we don't really have collateralization or
13 margin requirements. I mean, those are exceptions
14 rather than the rule. So where they exist you may
15 have unsecured credit thresholds but they're set
16 high because our counterparties are perceived to
17 be low risk. We've been doing business this way
18 for 80 years where the credit analysis is done
19 between the counterparties. And so rather than
20 dealing with someone on exchange where you don't
21 know who the counterparty is, we know very well
22 who our counterparties are.

1 And so in our markets, we typically
2 provide types of assurance, such as letter of
3 credit, letters of credit or sometimes physical
4 assets, but not typically cash or treasury
5 securities. And we don't deliver margin
6 electronically or even daily. Our swaps don't
7 even settle on a daily basis typically. And the
8 valuation exposures are not agreed to necessarily
9 by the counterparties except in a termination-type
10 event sort of scenario. So our commercial hedging
11 needs from an electric utility point of view are
12 very geographically specific and they're highly

13 customized and they contain a great deal of
14 operating and transmission contingencies and
15 optionality but not optionality in the sense that
16 you might have been thinking of in the sense of
17 with respect to physical delivery or not, but
18 optimality with regard to what is going to be the
19 demand for electricity because it constantly
20 changes. When we leave this room and turn out the
21 lights, it's going to affect the load of whatever
22 utility is serving this building. And so as the

1 CFTC might have thought of futures markets where
2 you have specific quantities are delivered at
3 specific times, it doesn't exist in the electric
4 industry that way.

5 MS. MIMS: The same thing for us in
6 terms of our commercial use of derivatives. Thank
7 you for the FX exemption, by the way. For us, if
8 we needed to enter into some type of commodity
9 hedge, we would be precluded from hedging unless
10 we get hedge accounting. And right now we're not
11 margining. We're not setting aside margin for any
12 of our OTC trades. And so you can imagine if say
13 we had a liquidity crisis, you know, to issue
14 commercial paper, in essence you're now saying you
15 need to go out and raise more money just to
16 satisfy that initial and variation margin
17 requirements. So it's definitely a concern for us
18 because we prefer to use that cash to develop
19 aircraft and create jobs, not to have it set aside
20 for something that we, too, have been doing for a
21 very long time quite successfully.

22 MR. COTA: I guess my -- in general, the

1 check- the-box criteria, I think, works. We do
2 both futures and a variety of different derivative
3 options for hedging of heating fuels in
4 particular. It sometimes is a cash -- the
5 derivatives cost me more. The futures cost me
6 less, but there's a cash flow issue. So it's all
7 baked in in one part or the other. So from an
8 implementation standpoint, we really don't have a
9 large concern as an industry as to how that's
10 going to come up in the other criteria. But for
11 the qualifications and the check-the-box, I think
12 that makes sense.

13 MR. TURBEVILLE: For folks that
14 generally are proponents in the comment letter
15 process of more disclosure, that's us, have to
16 agree with you guys fundamentally. Peter, you
17 made a good point about the check-the-box and
18 really recognizing that these transactions are
19 often part of our program. The swap -- the
20 end-user's swap exemption is based on a
21 swap-by-swap analysis. But in fact, the swaps are
22 actually part of a program and we think it's

1 sensible to do so. However, we also think it's
2 sensible that as you look at doing the program,
3 that the disclosure is programmatic. So how
4 you're going to satisfy your obligations with
5 regard to this hedging program and then
6 check-the-box as swaps come through is a good
7 idea. But also, this is the disclosure that this
8 is the hedging program that we're entering into,
9 and these swaps are attached to that hedging
10 program we think is a very important factor. And
11 we've suggested perhaps that SDRs can keep files,
12 not necessarily the high tech files with
13 gazillions of bits of information but files that
14 recognize for each end-user this is the hedging
15 program and these are the swaps that we've done in
16 regard to that hedging program. I wonder if
17 that's the kind of thing that you guys might be
18 interested in.

19 Joe, we go way back so --

20 MR. GLACE: Absolutely. And, yeah, we
21 actually agree that the check-the-box is a good
22 approach and we need sort of a standing disclosure

1 because we're very transparent. We have a very
2 transparent hedging program. That's what we do.
3 We actually try to -- we guarantee our cash flows
4 over the next several years forward and we're not
5 focused on things like real-time exposures or
6 real-time reporting, if you will, because this is
7 a long-term program. So that's, again, we think
8 these ideas are good ideas. We think -- I echo
9 the point of having a standing election until
10 something changes, if you will, so we can continue
11 to flow business under our normal operations.

12 MR. TURBEVILLE: And the idea of
13 identifying it by a hedging program, this is an
14 asset or a contract or a need for fuel or whatever
15 the heck you guys do. This is what we're hedging
16 and these are the swaps that we're doing under
17 that hedging program. And by the way -- and this
18 is how we intend -- this is how we can pay them
19 off and nothing has changed.

20 MR. GLACE: Correct.

21 MR. PETERSEN: Just to maybe add to
22 that, I mean, I guess it depends on what you mean

1 by this is how we intend to pay them off. I mean,
2 that could be a little bit of information or a lot
3 and certainly we don't think it was the intent of
4 Congress to have a requirement that end-users
5 prove any of the items in that list for the CFTC
6 notification. So I guess that's an example of one
7 of the areas where I think it depends on how you
8 interpret the items even in the proposed rule.
9 And depending on how you interpret that, it could
10 be an easy thing. A check-the- box-type approach
11 could qualify or it could be something more
12 onerous. So, for instance, the requirement that
13 an SEC filer has to get board approval in order to
14 opt out of central clearing, I mean, that right
15 there, depending on how you read that, that could
16 be a major problem for many end-users or it could
17 be not that big of a deal. Again, it's a matter
18 of how that's actually required to be complied
19 with.

20 MR. TURBEVILLE: Yeah, you found things
21 that we could agree on. But I think because
22 likely we would say these are the kinds of things

1 you would need to do to show how you can pay,
2 these are the board approval rule we would
3 support, but in terms of the process, I think we
4 would be in agreement, forgetting the substantive
5 roles of what you show, the process of a hedge
6 program checking off and then a different issue is
7 the substantive rule of what you have to say which
8 we probably wouldn't agree with you on.

9 MR. OKOCHI: I would just add, so I
10 would say most companies that are entering into
11 derivatives already have Board approval to enter
12 into derivatives risk management policy.

13 MR. TURBEVILLE: And the hedge program
14 somewhere (inaudible).

15 MR. OKOCHI: And financial obligations
16 to meet the swap, otherwise they wouldn't be able
17 to enter into the swap with a swap dealer anyway.
18 So I think the check-the-box is good. I think
19 the unintended consequence could be the swap
20 dealers who may feel they're on the hook to make
21 sure that that trade was a commercial hedge. What
22 other information might they ask for even though

1 it may not be a requirement under the rules?

2 MR. CURLEY: Maybe just to play out that
3 a little bit further in terms of people's
4 confidence in passing on information to the SDR
5 and particular interaction with the counterparty,
6 the dealers who may be involved in that reporting
7 process. We've had some comments indicating their
8 different levels of concern that might arise
9 depending on exactly how the connection is made.
10 So do one or two of you have comments along those
11 lines or thoughts?

12 MR. OKOCHI: Well, I think again the
13 good news on the U.S. side is only one
14 counterparty is supposed to report, whereas on the
15 EC side there could be situations where end-users
16 would have to report to the SDR. So I think
17 that's less of a burden to end-users.

18 You know, I think the data, the 10, 12
19 sets of data that would be required that swap
20 dealers or the reporting entity would have to
21 report to the SDR, that's again not a monumental
22 task. Again, I think it would be a question of

1 how would they know that that information that was
2 reported to them is confirmed? So it's one thing
3 confirming the trade execution data. It's another
4 thing confirming, you know, can I see your board
5 resolution that allows you to do your first
6 commodity swap. So I think again the unintended
7 consequences could be the additional reporting
8 that the swap dealers would feel the need to
9 obtain.

10 MR. TURBEVILLE: This is not real-time.
11 This data I would assume is going to happen -- is
12 going to go into files. It's not going to be the
13 real-time data reporting necessarily and it can
14 actually be reviewed and corrected if there's
15 errors and that sort of thing because this is
16 actually a sort of record of the justification of
17 the qualification of the swap as an end-user swap.
18 So that's something to consider, too. That it's a
19 little bit different from the real-time data
20 that's going to be publicly disseminated.

21 MR. WASSON: Well, we're concerned about
22 the public dissemination of some of this

1 information because it's never been available to
2 the public before. And in our industry,
3 particularly the electric industry, the concept of
4 real-time reporting really has no meaning because
5 many of us don't actually know what our, you know,
6 our billing cycles are until the 30 days or so
7 have passed. You know, the concept of real-time
8 reporting for a financial institution is fine
9 because they're choosing which transactions to
10 enter into and they have the ability to capture
11 that data. But for an entity like a utility,
12 which has a public service obligation to serve
13 everyone in their territory and the data is
14 constantly changing, there is no mechanism really
15 by which we can affect real-time reporting at
16 least in the analogous where you're thinking of it
17 for a financial institution.

18 MR. SHILTS: With respect to reporting,
19 whether it be for real-time or other reporting to
20 data repositories, could people comment on how
21 they think end- users might comply with any
22 reporting requirements? Would you be expected to

1 establish or build your own in-house proprietary
2 systems or use third-party providers or secure
3 internet connections or whatever? And how might
4 that affect any phased implementation?

5 MR. DONOVAN: If I might from a pension
6 fund perspective, as the gentleman from Vanguard
7 said earlier, we would be anticipating that the
8 buy side not have to report, that the sell side
9 would. But from what we understand, the rules
10 would require us to report if they don't. So we
11 have to be ready for that and that's a monumental
12 task for us to get ready in order to take on all
13 of the reporting, dissemination of information,
14 and so forth, on the chance that it might occur.
15 So we'd like some more clarity that really if the
16 burden is on them and it does not come back to the
17 buy side because we're just not set up to do it.

18 MR. SHILTS: Can you also elaborate
19 exactly what the burden is?

20 MR. DONOVAN: Obviously, there are
21 systems that have to connect between the parties,
22 you know, and just to give you an idea of, you

1 know, your people from Wall Street here get up and
2 talk about their systems and their people and the
3 effort they're putting into this, you know, and
4 perhaps devoting maybe 100 people to get
5 Dodd-Frank implemented. I have one accountant,
6 one systems specialist, and one programmer -- or
7 half a programmer actually. So those two and a
8 half people have to do all this. And, you know,
9 it takes time from the investment side as well.
10 So all the things that need to be done, it's going
11 to have to be done by a very few amount of people.

12 MR. PETERSEN: Just to add to that, just
13 to sort of put some categories to this issue of
14 what an end-user would have to report, the
15 gentleman from Vanguard mentioned the case or the
16 concern with if an end-user is doing a trade or
17 buy side or end-user firm is doing a trade with a
18 non-U.S. dealer according to the rule, if they're
19 not a U.S. person, then the end-user would
20 actually have to report. So that's one case.

21 Another case, a comment, it's not
22 uncommon in the commodity space, and especially

1 the energy space where you will have two firms
2 that are end-users, you know, not swap dealers,
3 not major swap participants. So that's another
4 case where you'd have end-user reporting.

5 And then another one you'll have cases
6 where many, you know, community or regional banks
7 actually offer derivatives to their customers.
8 It's expected that many of them would not be swap
9 dealers and certainly many of them are small and
10 do a very low number of trades. And again, they
11 would likely be the reporting party there.

12 In terms of the burden, you know, having
13 worked through the question of how one of our
14 firms might have to satisfy the reporting
15 requirement, it's a question of building on an
16 internal system or it's a question of at a minimum
17 being able to do some sort of data dump that can
18 be pulled into one of these firms that will likely
19 register as swap data repositories. In addition,
20 there's obviously costs associated with that,
21 especially if you have to hire staff, but also
22 just in paying for the reporting service and maybe

1 Jiro would be able to add to how an end-user might
2 do that.

3 MR. GLACE: Typically, we would actually
4 see a prototypical format, file format from somebody
5 who is going to accept the data. We'd have a
6 sandbox, a trial period in which the past data,
7 you know, this counterparty is X. I know them as
8 Y. Do we have to map these tables? Et cetera.
9 So it's all about data and moving the data in a
10 consistent and reliable manner. And that just
11 costs money and time to get the work done and you
12 have to sort of find, you know, typically when
13 we've done these, we just did ERCOT Nodal. That
14 was a couple of years in the making where again
15 there's a lot of participants honing in on the
16 data model, if you will, that's been exposed by
17 the -- in this case, ERCOT. You know, that we
18 actually have to submit the data to. And then
19 everybody sort of has a trial period and works
20 through all that EDI, Electronic Data Interchange,
21 for lack of a better word. It's just a lot of
22 mechanics and a lot of costs and a lot of systems

1 focused to get that type of work done to do it
2 reliably and do it well.

3 MR. WASSON: And I would just like to
4 say that whether it's a third-party provider or
5 whether we are building out the infrastructure
6 ourselves to do the reporting, it's our customers,
7 it's our members, it's our owners that are going
8 to bear the burden because the cost is going to
9 flow directly to them. Because in cooperatives,
10 our customers are our owners. There are no
11 third-party shareholders where cost could be
12 shifted. And so whatever cost we incur for
13 compliance with respect to Dodd-Frank, those costs
14 are going to flow through to the electric bills of
15 our 43 million consumer-owners in the United
16 States.

17 MR. OKOCHI: I do believe the rules say
18 though whenever it's technologically feasible.
19 So, you know, PDF for FX, technologically
20 feasible. So that would be a cheaper way to do
21 it.

22 MS. SLAVKIN: I understand that there

1 are additional burdens that go along with
2 transacting in the swaps market with the
3 implementation of Dodd-Frank, but it seems to me
4 that there are certain things that are not being
5 addressed in all of your comments. You seem to be
6 focusing on the problems that it will create for
7 your business, but these rules are being put in
8 place to protect the safety and soundness of the
9 system so that folks like my members don't have to
10 spend their taxpayer dollars again to bail out big
11 financial institutions. And it seems to me that
12 the data reporting requirements that were proposed
13 in both the CFTC's and the SEC's rules were not
14 really that burdensome, but the information that's
15 going to be provided to the regulators as a result
16 is essential in order to ensure things like the
17 end-user exemption is correctly applied. That if
18 an institution is a major swap participant it's
19 captured by the regulations and that the
20 regulators have the ability to monitor systemic
21 risk. And I think, you know, these nitpicks about
22 the various troublesome aspects of the regulation

1 are ignoring the bigger picture.

2 MR. PETERSEN: Just to sort of respond
3 to that, I mean, perhaps I should have been more
4 positive at the outset and talked about what I
5 like about the reporting requirement. But I think
6 it's extremely important. I don't think by large
7 measure end-users ever opposed it. So I
8 absolutely agree that it's critical to improving
9 the derivatives markets and to giving the
10 regulators the tools they need to detect risk and
11 take steps to reduce and mitigate risks.

12 I think it's just a question of cost
13 benefit. If we're talking about a relatively
14 small part of the market in which the reporting
15 entity would not be a swap dealer or major swap
16 participant, it's not necessarily a nitpick. I
17 mean, what you might consider to be a nitpick
18 might actually be a big deal for a firm. And
19 again, that firm in many cases is a firm that is
20 simply trying to do right by their business and
21 hedge their business risk. So that's one point.

22 And then on a second point, I agree that

1 these issues, they don't necessarily have to be
2 impediments to reporting. And I think the
3 gentleman from Reval seems positive that there are
4 ways we can find sort of solutions or ways to
5 comply with these rules that don't require a great
6 deal of cost or burden for end-users. I'm simply
7 raising the concern that if they do, that would be
8 a negative and it would be a consequence that we
9 don't need to bear.

10 MR. SHAPIRO: It's probably worth just
11 giving an illustration of an end-user to end-user
12 transaction which are a relative rarity, Sam. I
13 assume you see them as relative rarities as well
14 in your practice. I'm just thinking of an example
15 that we've had where the City of New York, one of
16 our clients, did a transaction with one of the --
17 a related entity, the New York City Housing
18 Finance Corporation, where one side had one set of
19 exposures it wanted to get rid of and the other
20 side wanted to acquire. And it was one of those
21 perfect matches that you do. There was no
22 systemic risk issue that would come from this. If

1 you're not feeling good about the banks, what this
2 did was it made it so it disintermediated the
3 banks from standing in the middle and taking
4 profit out of each side. Simple, straightforward.
5 But what it would do is make it so that under
6 these rules the folks entering into this
7 transaction would no longer be able to rely upon a
8 bank to do the reporting requirement and would
9 have to do it themselves.

10 So realizing that that's a legitimate,
11 you know, imposition upon them, it should be done
12 intelligently, it should be done carefully, and it
13 should be done with something that would allow
14 them to have the leeway and the time to be able to
15 comply with it. It's not the risk item that I
16 think we're looking at. It's a rarity but it does
17 occur.

18 MR. TURBEVILLE: And when it's not a
19 rarity, Exelon, for instance, another, you know,
20 large, sophisticated utilities, have risk systems,
21 deal capture systems, which capture all of the
22 data that is necessary to identify the

1 information, roughly speaking.

2 MR. GLACE: Most of the data.

3 MR. TURBEVILLE: Most of the data that
4 is going to go to the SDR. So as Joe was saying,
5 for folks that do it with some regularity, they
6 are also going to be the people that have the
7 systems that pick it up. I would guess the real
8 issue is absolute time periods. Once it gets into
9 the system it can be instantaneously transmitted
10 over. The question is how long does it take you
11 guys to get it into your system?

12 MR. SHILTS: Chairman Gensler.

13 MR. GLACE: That's another key issue, is
14 we actually don't do real-time reporting on the
15 trade floor today. We're more of a daily close.

16 CHAIRMAN GENSLER: I don't remember
17 exactly how we asked questions on each of our
18 rules but what I'm taking just listening here,
19 that there are some transactions that are between
20 end-users or what Sam calls non-dealer, non- MSPs.
21 But, you know, commercial end-user to commercial
22 end-user, I think we asked questions in the swap

1 data repository and the data rules about how to
2 treat these, but since we've reopened our comment
3 letters, you know, it would be helpful if you
4 think whether it's facts, and PDF was mentioned,
5 or whether it's a GUI interface, you know, just an
6 easy so that it's sort of the least cost to end-
7 users but still the information comes in. It
8 would be helpful to just, you know, I'm just
9 mentioning to help give this Commission, you know,
10 guidance within those rules on that matter.

11 And I thank Sam for mentioning there are
12 other avenues, of course, you know, that some of
13 the trades might be end-user to de minimis dealer.
14 So there might not be a dealer because they're de
15 minimis and, you know, things like that. But --

16 MR. CURLEY: And one of the topics we've
17 been asking about consistently is phasing of the
18 implementation. And we touched on it a moment ago
19 but in terms of your own views on phasing in these
20 requirements or where the end- user community
21 would fall in the phasing process, would you have
22 a preference for being earlier or later in the

1 process? Is there any risk or concern on your
2 part that being later in the process, for example,
3 might mean you would be presented with a fait
4 accompli as one of the earlier panelists had
5 mentioned?

6 MR. COTA: Sean Cota here. Following up
7 on the chairman's comments on the end-user, we do
8 end-user to consumer contracts all of the time.
9 There are thousands of them that we do. And
10 previously it was described that that's going to
11 be fully exempt and that's terrific because
12 otherwise it would be a nightmare.

13 But as to the timing, the retail
14 petroleum industry is -- Rome is burning and
15 people are fiddling. We need to do things
16 immediately. The amount of leverage and the
17 impacts that these are making in the derivative
18 markets showing up and the DCM markets are huge
19 and pronounced. The differential that has emerged
20 between the WTI contract and the BRINK contract,
21 people will debate that it's about fundamentals.
22 It's not about fundamentals. It's about leverage

1 and moving these trades from a somewhat regulated
2 market to an unregulated market.

3 The other markets need to know that
4 we're serious. They need to know the timing of
5 that. They need to know what the game plan is.
6 We have the same set up as 2008, only the largest
7 players that buy and sell the world oil market,
8 multiples per day, now have access to the Fed
9 window. So when this thing comes apart, and it's
10 going to come apart, the longer you wait, the
11 bigger the boom and the bust cycle will be. So I
12 would say do it now.

13 MR. WASSON: We do have some points we'd
14 like to make on sequencing if you would indulge
15 me.

16 Since we're non-financial end-users, we
17 recommend sequencing the final rules and
18 implementation of the rules in the new markets as
19 follows. First, define the scope of the CFTC's
20 new jurisdiction over non-financial commodity
21 transactions by finalizing the definitions of
22 swap, defining non-financial commodity, and

1 providing certainty on the question of all
2 requested and anticipated exclusions and
3 exemptions from non-financial commodity options to
4 the public interest exemptions for tariff products
5 and between the Federal Power Act 201(f)-type
6 entities.

7 In other clear congressional mandates,
8 to avoid overlap and regulatory uncertainty, we
9 need clarity in our business. If we don't need to
10 spend 2011 dollars on understanding and
11 implementing CFTC's new rules, those are dollars
12 that we can put to good use on reliability and
13 energy infrastructure projects.

14 Secondly, we would encourage the CFTC to
15 enter into the statutory MOUs with federal energy
16 regulators and analyze the information the
17 industry already provides to regulators such as
18 FERC, the EIA, and the EPA, to reduce the
19 duplicative regulatory costs and burdens that may
20 be weighing down our economy.

21 Third, establish recordkeeping reporting
22 rules I clear and common sense terms and provide

1 for a CFTC light regulatory scheme for
2 non-financial entities new to the CFTC regulatory
3 regime, commercial end-users without systems and
4 personnel that the CFTC assumes would be present
5 if we were financial entities.

6 Fourth, proceed to define rules and
7 constructs, new market infrastructure entities,
8 and construct new market infrastructure entities,
9 define and register market professionals, such as
10 swap dealers and MSPs, and test the regulatory
11 structure on financial products first -- those
12 that can be easily standardized, moved to
13 exchanges, accepted by transaction reporting
14 entities, and cleared.

15 Fifth, within an asset class, sequence
16 the implementation such that transactions between
17 SDRs and MSPs, once those entities are defined,
18 registered, and tested, are regulated well before
19 transactions to which non-financial entities are
20 parties.

21 Sixth, provide a CFTC office to assist
22 commercial end-users, especially those who need

1 non-financial commodity swaps and options to hedge
2 commercial risk in understanding the new
3 regulatory regime which once again is sort of a
4 CFTC light approach to regulation.

5 And finally, provide significant time
6 for different types of commercial end-users,
7 whether they be Fortune 100 or global entities or
8 small not-for-profit electric cooperatives, to
9 watch and learn and to choose to participate in
10 the new regulatory structure or not participate,
11 and to register and assume a place in the new
12 CFTC-regulated swaps markets.

13 Thank you.

14 MR. DONOVAN: Could I make a comment
15 regarding the phasing of buy product. It seems
16 that if we're attempting to control and mitigate
17 systemic risk, those are the products that should
18 go first in the cycle. Pension plans used
19 interest rate swaps which were not the cause for
20 any issues in the last recession. And much like
21 with the Treasury exempting foreign exchange
22 swaps, we felt that interest rate swaps are the

1 same way so that others ought to go first that
2 present the greatest risk to the system and have
3 perhaps a narrower participation than interest
4 rate swaps which are very broad. And that we
5 might get the biggest bang for the buck right out
6 of the gate.

7 MS. MIMS: And I would like to echo
8 those sentiments because Boeing entered into a
9 long-duration strategy which we thought was a
10 great thing in terms of mitigating, you know, our
11 notion of matching up our plan's liability. So we
12 don't see this as pension security for our current
13 employees and retirees if we're saying we want to
14 enter into interest rate swaps to mitigate more
15 surplus volatility, but now we're seeing that
16 because we don't have the ability to net and we're
17 just, you know, long one way, that we can probably
18 be like further disadvantaged than the swap
19 dealers themselves because, like I say, we have no
20 offset. And so if nothing else I think that's the
21 reason why we're saying, yes, phase it in because
22 we don't see those interest rate swaps as being

1 real systemic risks. It's more likely that on a
2 go-for-it basis we may even delay that depending
3 on how this is implemented. So I think we
4 definitely want to see how it rolls out. So I
5 agree with you guys.

6 MR. TURBEVILLE: One of the problems
7 with talking about instruments that weren't the
8 cause of the near ruin of the financial system of
9 the developed world the last time, the instruments
10 that will be the next problem probably are
11 different instruments. Right? So we sort of view
12 the whole Dodd-Frank system as a fabric and that
13 it's quite important not to think of one type of
14 instrument or one type of participant in the
15 marketplace as by itself lacking in systemic risk
16 when the whole system is designed to work
17 together. The Dodd-Frank system is designed to
18 work together and not to be peeled away one part
19 at a time because each individual part is
20 nonsystemically risky. The Bank of England
21 estimated that somewhere between -- I believe the
22 figures are \$60 trillion and \$120 trillion of

1 wealth was lost to this world as a result of the
2 losses of the financial crisis.

3 And so that being the case, it's
4 important that the whole thing be viewed together,
5 and recognizing that, you know, let's all try and
6 make it work but by the same token not try to talk
7 about individual pieces as individually
8 nonsystemically risky when the whole structure is
9 designed to support the system.

10 MR. DONOVAN: I'd agree that the whole
11 system has to eventually work together, but I
12 think it's practically impossible to implement the
13 whole thing at one fell swoop. So while we're
14 talking about phasing and implementation --

15 MR. TURBEVILLE: Right.

16 MR. DONOVAN: -- is that certain things
17 have to happen first and the things that should
18 happen first were those that posed the most
19 systemic risk the last go-round. And perhaps the
20 participants in that arena are still posing the
21 systemic risks such as hedge funds.

22 MR. TURBEVILLE: Possibly so the

1 participants do. But I think -- my point is just
2 that it's a slippery slope to start talking about
3 taking a piece because each individual piece, no
4 matter, you know, the banks, the insurance
5 companies, the hedge funds, each one argue their
6 particular piece isn't individually systemically a
7 threat. So that's what the issue is.

8 MR. DONOVAN: But if you do look at the
9 facts, I think the facts support who is the most
10 -- who poses the most risk.

11 MR. SHAPIRO: I think there's perhaps an
12 easier way to slice which is large-small. And,
13 you know, I think that's one of the things you'd
14 look at. You raised correctly, Peter, I think,
15 the issue about people being concerned about being
16 last in and not having their interests heard. So
17 we would want to see, for example, the major
18 governmental and major nonprofit institutions be
19 in but there's a tremendous difference in
20 implementation for someone like, for example, you
21 know, Harvard or University of California versus
22 Olin College of Engineering or Simmons College or

1 something like that, all of whom I mention because
2 they're swap users. There's a big difference
3 between somebody like Memorial Sloan-Kettering
4 with a \$3 billion endowment than a smaller urban,
5 you know, hospital system in Elizabeth, New
6 Jersey, like Trinitas. In some ways you could
7 make sure that the interests of the whole group is
8 met by making sure that the larger issuers get
9 their issues out first. Again, just in terms of
10 Wally's comments, I don't think anybody's talking
11 about exemption anyone. We're talking about how
12 we'd roll it out.

13 MR. SHILTS: Just in terms of that, how
14 -- do you or others have any thoughts on timing in
15 rolling it out if you did like a large-small
16 breakdown as you're talking about?

17 MR. SHAPIRO: One of the beauties of
18 timing it in this way is that there's some
19 learning that the ecology of the market will have
20 that way among the larger users, their counsel,
21 their advisors, the dealers who will work with
22 them as it's adapted. I think that the distance

1 between the initial adaption and the final
2 adaption by everyone should really need be no more
3 than a couple years.

4 MR. OKOCHI: I think we're talking about
5 a couple different things. So the phasing in, do
6 you phase things in because you're trying to test
7 how things will work? Versus the view I would
8 have is if you're looking to layer things in to
9 allow for people to plan and resource, you really
10 need to know the whole scope. So all of Russell's
11 points really kind of point to -- unless you
12 really know the end game -- to the level of detail
13 that may impact your requirements, it's hard to
14 say, well, I want to go first or last. So I think
15 that's a big question. Do you want to set up a
16 big beta test site for all of this for 12 months
17 to see how it works and then come back, set final
18 rules and requirements, and then phase in the
19 implementation or not?

20 MR. SHILTS: Chairman Gensler.

21 CHAIRMAN GENSLER: Russell, can I just
22 ask -- and I apologize. You may have said this.

1 I walked in and out -- because I took your point
2 is about pension funds so I was wondering whether
3 it was about the special entity provisions of
4 Dodd-Frank or --

5 MR. WASSON: Not pension funds. We do
6 have some special entities in our industry that
7 are regulatory in nature.

8 CHAIRMAN GENSLER: Right, right.

9 MR. WASSON: You know, not affiliates.

10 CHAIRMAN GENSLER: So let me ask a
11 question maybe about special entities. Was there
12 any sense of -- there's a lot in Dodd-Frank, the
13 statute, even before you get to our rules -- to
14 protect pension funds and municipalities. And
15 hopefully we'll finalize those rules and we'll be
16 consistent and protect those parties. And I know
17 it's something that Heather and others have worked
18 a lot, hard on. Was there a sense that -- of any
19 phasing with regard to the protections for these
20 pension funds? The protection for the
21 municipalities or would that be at the same time?
22 This is swap dealers and how they deal with these

1 pension funds and special entities.

2 MR. SHAPIRO: The trickiest issues that
3 we see on the special entities side have to do
4 with communication between the dealer and the
5 special entity. And that's, you know, the area --
6 we are only always on the special entities side.
7 We're always facing the dealer, fighting with the
8 dealer, making sure that we get as far a deal as
9 possible out of the dealer. But we want a free
10 flow of ideas on that. You know, it's just a
11 critically important thing. We hate the notion
12 that suddenly there'll be a chilling effect on
13 ideas, even what would be characterized as
14 recommendations.

15 Our clients overwhelmingly view dealer
16 recommendations with healthy skepticism. We know
17 there are those out there who do not. We know
18 there are those out there who are not well
19 advised. Those things need to be clarified before
20 you implement, and we think there needs to be
21 time. But by all means, implement quickly with
22 the big guys so that we can get the system

1 working.

2 CHAIRMAN GENSLER: So am I hearing you
3 would -- because I shouldn't speak for Congress,
4 but I think Congress did side with the special
5 entities in those provisions. And you're saying
6 correct?

7 MR. SHAPIRO: Correct, yeah.

8 CHAIRMAN GENSLER: And so however we end
9 up in the final rules, you're saying that all
10 special entities be protected from the same day or
11 just some get protected early? Because this is a
12 little hard for me to think how if you side with
13 the special entities, how do you say only some get
14 protected 60 days later and some get protected 12
15 months later?

16 MR. SHAPIRO: That's a very tricky
17 question. You'd think --

18 CHAIRMAN GENSLER: That's why I'm asking
19 you the question.

20 MR. SHAPIRO: Yeah. You'd think you'd
21 want to protect everyone out of the chute. The
22 question really is how you nail down some of the

1 trickier questions on communication. NACUBO, the
2 National Association of College and University
3 Business Officers, submitted a thoughtful comment
4 to the draft regs where they talked about the
5 notion of sophistication and the difference among
6 their own membership between those who deal in the
7 billions and those who deal in the millions. And
8 in terms of the ability to be able to have that
9 end-user certify that he was not relying on the
10 dealer to provide advice so that there's clarity
11 to that dealer and clarity frankly to himself and
12 his own board, that he was able to digest these
13 things on his own, chew them up, and spit them
14 out. I think you'd want -- it's interesting to
15 look at that kind of carve out. It would be very
16 different from one set of users to another. The
17 notion that we need to protect Swenson and Yale
18 Endowment, thought of as one of the most
19 sophisticated groups of investors in the world,
20 the same way that you'd have to protect a pension
21 or retirement system at one of the rural electric
22 co-ops that we work with, you know, one looks like

1 a big hedge fund. The other guy looks like a
2 special entity.

3 MR. COTA: The question is timing and
4 how you're going to prioritize. There are two
5 different levels. The prioritization of the risk
6 and the prioritization of what you can accomplish.
7 And I think scale matters more than the type. I
8 think the Treasury's preannouncement that they're
9 going to exempt \$4 trillion a day of trading and
10 FOREX was a huge mistake. And although FOREX
11 didn't take the system down, it didn't take it
12 down simply because the Fed agreed to print money
13 and give it around the world to even banks in
14 Libya.

15 So I think scale matters in your
16 implementation priorities, but you also need to
17 have an end game. I'm in the petroleum business.
18 We deal with the EPA. The EPA has lots of rules.
19 We have a law from 1973 that got reviewed in the
20 early '80s and was never implemented and we are
21 now in the ninth extension of the rule
22 implementation. At a certain point it gets to be

1 a joke. And the regulators are undermined because
2 people think that they'll never actually
3 accomplish the end goal so why should I even try
4 to comply?

5 And so the bad actors continue to get
6 away damaging the industry and the good actors get
7 punished because it costs them more because they
8 implemented early. So I think there are two
9 different stages in that regard. One is scale.
10 The second is you need to have a timeline at the
11 end that you need to implement things and
12 everybody needs to know. They need to be on the
13 same page at that date.

14 MR. WASSON: I'd also just like to
15 comment that many of us file 723 exemption
16 requests last August and the Commission correctly
17 stated that they would wait until 90 days before
18 the effective date of the Act to reconsider those
19 requests. And I think we're at that time right
20 now. And of course, the 723 would grant you a
21 year's exemption from the effective date of
22 Dodd-Frank. And I think that would be

1 exceptionally helpful for many smaller entities
2 that are going to find these rules. In fact, this
3 whole language we're talking about is foreign --
4 it's a foreign language to us. And so it would
5 enable us to have more time to prepare so we'd be
6 most grateful if those 7023 exemption requests
7 could be reconsidered at this time.

8 MR. CURLEY: I would like to introduce a
9 question about public companies and any unique
10 considerations associated with the proposed rules
11 for end-users or for public companies or some
12 special factors associated with recording or the
13 processes of recording, and any thoughts that
14 people might have on that, both for larger
15 companies and smaller, public companies.

16 MR. PETERSEN: Just to bring that topic
17 up again, and it was said earlier that, you know,
18 many public companies already have hedging
19 policies in place that allow them to enter into
20 trades over the counter and that's correct.
21 However, those policies or resolutions would not
22 necessarily meet the requirements related to the

1 end-user exemption. I hope they do. It's just a
2 question that we have. So certainly, that is one
3 specific area that I know a lot of our public
4 end-user clients are very concerned with just
5 because they read it and they don't know what it
6 means. And again, it could on the one hand be
7 read where, you know, you simply amend an existing
8 resolution and periodically -- and hopefully not
9 too frequently -- reaffirm that or perhaps just
10 refer back to that on a trade-by-trade basis, or
11 at its worst it can mean that the Board actually
12 has to get together every time you have to do a
13 trade, which is obviously nonworkable.

14 So again, I hope it's an issue that can
15 be resolved, but depending on how that plays out
16 between now and the final rule, that could be a
17 major implementation hurdle for end-users. And
18 frankly, it could be an impediment to hedging
19 risks.

20 MR. TURBEVILLE: Consistent with what we
21 were talking about earlier, I think the notion
22 should be, and I believe it is, talking about a

1 hedge program and what assets should be hedged.
2 Some of the folks where know that I did other
3 things prior to doing this and I saw any number of
4 companies -- largely energy companies, at one time
5 or another, companies like Calpine, even dating
6 back to ENRON and some of the others -- ran into
7 grave issues when it came to what they were doing
8 with hedging -- whether they were hedging or
9 trading. And I think it's actually quite a good
10 thing to make certain that when companies are
11 entering into hedging programs that it is a big of
12 a solemn event and they actually adopt the -- at
13 the highest levels, the policy of hedging certain
14 assets. If you listen to calls -- analysts' calls
15 regarding a lot of these companies, one of the
16 major things they talk about is their hedging
17 programs because it's very central to them. And
18 to the extent it's central to them, it's also a
19 great risk for them as well.

20 So we applaud the notion of making
21 certain that here's what's going to be hedged,
22 here's our program, and it's actually a program

1 that's actually consensually entered into at sort
2 of the highest levels of the company. We think
3 it's a great idea.

4 MR. GLACE: We agree with your comments
5 so that the Board meets and approves policies and
6 programs and that the Board is not involved in
7 transactional activity. That's just got to get
8 fixed if it's a problem because that's not going
9 to work as was earlier pointed out. But again, if
10 the Board does approve the hedging programs,
11 approve the risk policies of the entity, and
12 that's their role.

13 MR. TURBEVILLE: It's a very big thing
14 for your company and others like you. This
15 program is very important and central to the value
16 -- your shareholders' value.

17 MS. MIMS: True, for every hedging
18 program we enter into we actually have a white
19 paper. We call it a risk mitigation strategy
20 document. So the controller of each of the
21 business units involved in the hedge and the CFO,
22 depending on the dollar limit, have to sign off on

1 them. So because we have a very stringent policy,
2 yes, I am concerned about every time we needed to
3 enter into something and prove that we still get
4 the exemption that it would require Board
5 approval. I would think that a one- time
6 corporate resolution would do the trick and that
7 each subsequent hedge would just, you know, be
8 grandfathered in to that first resolution. I'm
9 just not sure what your thinking is on that.

10 MR. CURLEY: I think today it's more of
11 an implementation point. And so what I'm hearing
12 from you is that it's relatively consistent across
13 public companies to have a policy if that kind or
14 more practices so that there wouldn't be as much
15 of a timing or implementation concern driven by
16 that factor if that's a fair statement. So thank
17 you for that input.

18 And then I'd like to follow on with this
19 in reference to international factors. We haven't
20 talked so much about the cross-border issues but I
21 know that it is a topic that comes up, even among
22 relatively small companies. It's part of their

1 business now in a global market. And just how is
2 it that with respect to end-users in particular,
3 international factors might be taken into account
4 for purposes of implementation concerns. Are
5 there rules outside the United States that we
6 should think about in terms of implementation and
7 how it affects the end-user community.

8 MR. PETERSEN: This is an issue that has
9 come up quite a lot with our clients over the last
10 year and I think one major concern is that they
11 just -- our clients want to know going forward if
12 they have international operations or, you know,
13 hedge at different entities, which set of rules
14 they need to be worried about, you know, they have
15 the question of, you know, how far do the U.S.
16 rules sort of reach? So with respect to that, to
17 the extent that the agencies could provide clear
18 guidance in the rules related to those points,
19 that would certainly be appreciated. And
20 obviously, this is a scenario that's going to be a
21 boon for many law firms going forward.

22 There are other issues just to briefly

1 talk about margin again. I mean, it seems to me
2 that margin is an area where right now the
3 European proposal appears to be quite different
4 than what the agencies here have proposed, which
5 of course could be easy for a firm that does have
6 international operations to consider doing trades
7 abroad.

8 MR. OKOCHI: I think the difference in
9 information threshold versus the clearing
10 threshold could be something that U.S. companies
11 should have to be mindful of when doing
12 derivatives overseas.

13 MR. CURLEY: Okay, we are just about at
14 the end of our time so if you have another
15 question.

16 MR. SHILTS: Yeah, it's kind of a
17 follow-up on something we talked about earlier.
18 It sounds like some of the key concerns with
19 respect to end-users who may have to report goes
20 to I guess resources, limited resources to develop
21 whatever needs to be done. But I was wondering,
22 if you could comment on how should the commissions

1 think about that in terms of any sort of phased in
2 implementation? You know, considering the
3 resource issue. I mean, what -- in context,
4 ultimately everybody will come into compliance.
5 So what might you think about is kind of a
6 realistic timeframe?

7 MR. COTA: From this group of end-users,
8 they would like it done immediately, as soon as
9 possible. We don't care where the paperwork is.
10 We are going out of business rapidly because
11 there's no control over these markets. So do it
12 now.

13 MR. SHAPIRO: I'm thinking about it in a
14 slightly different way. And that is just thinking
15 about the way in which I've watched the
16 over-the-counter market evolve itself since the,
17 you know, late 1980s. As it moved from initially
18 larger, more sophisticated users, down to smaller,
19 more frequent users. And one of the things that
20 clearly happened was the overwhelming number of
21 the transactions are dealer to end-user. The
22 dealer, in essence, is the one who will carry the

1 water of making it happen. Your regs
2 intelligently impose almost all the burden in that
3 direction to make sure that it happens.

4 Thinking about the implementation of
5 these regs, doing it from large to small, having
6 the dealer basically get the plumbing working for
7 that first year, I don't think it really should
8 take longer than a year, two max. I don't know if
9 anybody around the table thinks that it needs to
10 be longer than two years before it's 100 percent
11 implemented.

12 I'd be curious, you know, for anybody --
13 Russ or Sam, if you've got anybody there that you
14 think that would be too short a time.

15 MR. TURBEVILLE: On the reporting side,
16 it's actually -- it's the usual event issue, isn't
17 it? Isn't it because these are events that don't
18 happen very often?

19 MR. SHAPIRO: It is.

20 MR. TURBEVILLE: Typically, that's not
21 going to get any better or worse in a year, is it?

22 MR. SHAPIRO: No, but the, you know, the

1 ecology will evolve. I think that's the key
2 thing. People will get used to it. This is how
3 it's done. It's not how it's done now. It's how
4 it's going to be done based upon what the
5 commissions do.

6 MR. DONOVAN: Could I make a comment,
7 Peter, as well? I would agree with what you said
8 earlier. If we do go from large to small, we're
9 very concerned that the largest dealers are going
10 to set the precedent and the models at the outset
11 and we're going to be left with it at the end. So
12 the smaller users, although they may have more
13 time, they may end up with a model that they
14 really don't want or don't have the ability to
15 work with very well. So I'd agree entirely with
16 what you had said earlier. And I think the
17 process that you're going through here, being very
18 deliberate about it and getting these comments is
19 what I would suggest that you continue before
20 doing anything -- rushing in quickly. So I
21 commend you on what you are doing.

22 MR. WASSON: And we would commend you as

1 well. I think one of the things, before we start
2 talking about timeframes, is that we need
3 certainty with respect to just exactly what it is
4 we're dealing with. And so when we talk about
5 product definitions, for example, Terry, I
6 suspect, when product definitions come out, you're
7 going to be asking for additional comments on
8 electric utility-type industry products that
9 perhaps are unclear whether they're swaps or not.
10 And as the chairman indicated, you know, the
11 30-day period where you're opening up all these
12 past NOPRs, that's greatly appreciated but first
13 off, when does the 30-day period start? And
14 secondly, can we have a final product definition
15 and then start the 30-day period because then we
16 would know what we're dealing with. But if we
17 open up all the NOPRs before we have a final
18 product definition, then we're sort of behind the
19 8-ball in the same position we've been in this
20 whole process but we've had to comment on various
21 NOPRS where we don't know the most basic elements
22 of how it might impact us.

1 MR. PETERSEN: Just to add to that, I
2 mean, I think just off the top of my head I would
3 expect that most firms could get ready in two
4 years. However, I definitely echo Russell's
5 concerns and point of view regarding, you know,
6 it's probably better to ask that exactly question
7 after we have a more final set of rules. I so
8 hope that this is, you know, the first of many for
9 a where we can ask these questions.

10 MR. CURLEY: All right. Well, I think
11 we've just about reached the end of our time for
12 this panel and the end of the day with Chairman.

13 Yeah, please.

14 CHAIRMAN GENSLER: Two things. One, the
15 final definition of (inaudible).

16 MR. SHILTS: Did anybody have any last
17 comment before we close?

18 MR. COTA: You guys have a huge job.
19 You're all understaffed, you don't have enough
20 money, and the future financial system depends on
21 you doing it well. So I appreciate all the time
22 and effort you guys do.

1 MR. CURLEY: All right. Thank you very
2 much.

3 MR. SHILTS: Thank you.

4 (Whereupon, at 3:58 p.m., the
5 PROCEEDINGS were adjourned.)

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