

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 39 and 140

RIN 3038-AF12

Reporting and Information Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending certain reporting and information regulations applicable to derivatives clearing organizations (DCOs). These amendments, among other things, update information requirements associated with commingling customer funds and positions in futures and swaps in the same account, revise certain daily and event-specific reporting requirements in the regulations, and codify in an appendix the fields that a DCO is required to provide on a daily basis under the regulations. In addition, the Commission is adopting amendments to certain delegation provisions in its regulations.

DATES:

Effective date: The effective date for this final rule is September 7, 2023.

Compliance date: DCOs must comply with the amendments to § 39.19 and appendix C by February 10, 2025; DCOs must comply with the amendments to all other rules by September 7, 2023.

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I. Background

In January 2020, the Commission adopted amendments to its part 39 regulations in order to, among other things, update DCO reporting requirements.¹ The Commission subsequently became aware of issues with the amended regulations that would benefit from further change or clarification. Thus, in November 2022, the Commission proposed to amend certain reporting and information regulations applicable to DCOs to address those issues.²

The Commission received a total of 11 substantive comment letters in response to the proposal.³ After considering the

¹ Derivatives Clearing Organization General Provisions and Core Principles, 85 FR 4800 (Jan. 27, 2020), available at <https://www.federalregister.gov/documents/2020/01/27/2020-01065/derivatives-clearing-organization-general-provisions-and-core-principles>.

² Reporting and Information Requirements for Derivatives Clearing Organizations, 87 FR 76698 (Dec. 15, 2022), available at <https://www.federalregister.gov/documents/2022/12/15/2022-26849/reporting-and-information-requirements-for-derivatives-clearing-organizations>.

³ The Commission received comment letters submitted by the following: Better Markets; Chris

comments, the Commission is largely adopting the rules as proposed, although there are some proposed changes that the Commission has determined to either revise or decline to adopt.

In the discussion below, the Commission highlights topics of particular interest to commenters and discusses comment letters that are representative of the views expressed on those topics. The discussion does not explicitly respond to every comment submitted; rather, it addresses the most significant issues raised by the proposed rulemaking and analyzes those issues in the context of specific comments.

II. Amendments to § 39.13(h)(5)

Regulation § 39.13(h)(5) requires a DCO to have rules that require its clearing members to maintain current written risk management policies and procedures; ensure that it has the authority to request and obtain information and documents from its clearing members regarding their risk management policies, procedures, and practices; and require its clearing members to make information and documents regarding their risk management policies, procedures, and practices available to the Commission upon the Commission's request. It also requires the DCO to review the risk management policies, procedures, and practices of each of its clearing members on a periodic basis.

It is the Commission's view that these requirements are unnecessary for clearing members that clear only fully collateralized positions, as fully collateralized positions do not expose the DCO to any credit or default risk stemming from the inability of a clearing member to meet a margin call or a call for additional capital. Therefore, and consistent with other amendments to part 39 to address fully collateralized positions,⁴ the Commission proposed new § 39.13(h)(5)(iii), which would provide that a DCO that clears fully collateralized positions may exclude from the requirements of paragraphs (h)(5)(i) and (ii) those clearing members that clear only fully collateralized

Barnard; CME Group, Inc. (CME); Eurex Clearing AG (Eurex); Futures Industry Association (FIA); The Global Association of Central Counterparties (CCP12); Google Cloud (Google); Intercontinental Exchange, Inc. (ICE); Nodal Clear, LLC (Nodal); The Options Clearing Corporation (OCC); and World Federation of Exchanges (WFE). All comments referred to herein are available on the Commission's website, at <https://comments.cftc.gov/PublicComments/CommentList.aspx?id=7343>.

⁴ See 85 FR 4800, 4803-4805.

positions.⁵ The requirements would still apply to clearing members that clear fully collateralized positions but also clear margined products.⁶ The Commission did not receive any comments on the proposed changes to § 39.13(h)(5), and is therefore adopting the changes as proposed.

III. Amendments to § 39.15(b)(2)

Regulation § 39.15(b)(2) sets forth procedures a DCO must follow to obtain Commission approval to commingle customer positions and associated funds from two or more of three separate account classes—futures and options, foreign futures and options, and swaps—in either a futures or cleared swaps customer account. The Commission proposed several amendments to § 39.15(b)(2) to better reflect the information that the Commission needs to evaluate such a request.

OCC, Eurex, ICE, and Better Markets supported the proposal. OCC stated that the changes appear reasonably calibrated to achieve the Commission's policy objectives while providing useful guidance to DCOs on the required contents of a request. Eurex added that the proposed changes appropriately streamline the procedures and will help focus both DCOs seeking such relief, and the Commission in its review of such request for relief, on the information most relevant to a DCO's request.

Furthermore, recognizing that futures and swaps are typically commingled to allow for portfolio margining, the Commission proposed to add new § 39.15(b)(2)(vii) to require that a DCO provide an express confirmation that any portfolio margining will be allowed only as permitted under § 39.13(g)(4), which allows portfolio margining of positions only if the price risks with respect to such positions are "significantly and reliably correlated." Although ICE generally supported the proposed changes to § 39.15(b)(2), ICE stated that the express confirmation under proposed new § 39.15(b)(2)(vii) is unnecessary, as § 40.5 already requires

that a DCO analyze its proposal for compliance with the Commodity Exchange Act (CEA) and Commission regulations. The Commission notes, however, that because the DCO's submission would address commingling but not necessarily portfolio margining, the DCO's analysis may not take § 39.13(g)(4) into account. Thus, the Commission does not want approval of the submission to be misinterpreted as approval of the DCO's portfolio margining as well. Because a submission under § 40.5 is deemed approved by the Commission without any written form of approval, requiring the DCO to provide the express confirmation in § 39.15(b)(2)(vii) is meant to address that.

In response to the Commission's request for comment as to whether there is additional information that would be helpful to market participants and the public in evaluating a DCO's commingling rule submission, ICE does not believe that the Commission should require disclosure of additional information. ICE stated that the information already required, as proposed to be modified, will provide market participants with sufficient information to evaluate a commingling proposal.

In general, Better Markets believes the proposal would strengthen the existing requirements by requiring a DCO to provide not only an analysis of the risk characteristics of the products but also an analysis of any risk characteristics of products to be commingled that are *unusual in relation* to the other products the DCO clears, as well as how it plans to manage any identified risks. Better Markets stated that it supports this aspect of the proposal because adding the phrase "unusual in relation to" in § 39.15(b)(2)(ii) will allow the Commission and the public to better understand any increased risk posed to the DCO or its customers by the commingling of products that otherwise would be held in separate accounts. Better Markets further stated that this additional requirement will better enable the Commission to understand the DCO's ability to manage those risks. In response to a request for comment as to whether there is a better way to articulate this concept, Better Markets argued that the Commission should go a step further and specify that the analysis should cover products with margining, liquidity, default management, pricing, and volatility characteristics that differ from those currently cleared by the DCO. Better Markets believes this discussion is critical in the ever-changing derivatives markets, where new derivatives

products are constantly being introduced. Better Markets urged the Commission to be forward-looking in its approach to receiving as much information as possible from a DCO's "unusual in relation to" analysis to determine whether to allow a DCO to commingle products in a single customer account. The Commission is persuaded that this provision should be more specific, and is therefore adding to § 39.15(b)(2)(ii) the requirement that a DCO's analysis address any characteristics that are unusual in relation to the other products cleared by the DCO, "such as margining, liquidity, default management, pricing, or other risk characteristics." The Commission believes that this information would better assist the Commission in evaluating a DCO's request to commingle customer positions and its ability to manage any identified risks. The Commission is otherwise adopting the amendments to § 39.15(b)(2) as proposed, without any changes.⁷

IV. Amendments to § 39.18

Regulation § 39.18(g)(1) requires that a DCO promptly notify staff of the Division of Clearing and Risk (Division) of any hardware or software malfunction, security incident, or targeted threat that materially impairs, or creates a significant likelihood of material impairment of, automated system operation, reliability, security, or capacity. The Commission proposed to amend § 39.18(g)(1) to eliminate the materiality threshold, requiring DCOs to report all such events regardless of their magnitude. Better Markets supported the proposal to remove the materiality threshold, stating that both the Commission and DCOs would benefit from expanded reporting of such incidents. CME, OCC, ICE, Eurex, Nodal, CCP12, Google, and WFE opposed the proposal.

CCP12, CME, Eurex, ICE, Nodal, OCC, and WFE stated that the removal of the materiality threshold would lead to a significant increase in the number of reportable events, including events which have little or no impact on a DCO's operations or on market participants, or which are mitigated well before any impact, and thus of little or no value as the subject of a required notification. CCP12, CME, Eurex, Google, ICE, Nodal, OCC, and WFE commented that such an increase in reportable incidents would burden both DCOs and the Commission, and would

⁵ By adopting this regulation, this requirement would be consistent with and would supersede a related interpretation issued by the Division of Clearing and Risk. See CFTC Letter No. 14-05 (Jan. 16, 2014).

⁶ The Commission also proposed to combine paragraphs (h)(5)(i)(B) and (C) of § 39.13, which require, respectively, that a DCO have rules that ensure that it has the authority to request and obtain information and documents from its clearing members regarding their risk management policies, and require its clearing members to make such information and documents available to the Commission upon request. These revisions are purely technical and are not meant to alter the requirements in any way.

⁷ For a description of the proposed amendments to § 39.15(b)(2), see Reporting and Information Requirements for Derivatives Clearing Organizations (Dec. 15, 2022), supra note 2, at 76699-76700.

divert attention and resources away from incidents that deserve greater focus and planning, with little corresponding benefit to the Commission, the protection of market participants, or the risk management practices of DCOs. CCP12, CME, Google, and OCC further asserted that the proposal is inconsistent with notification regimes in analogous contexts, including similar Commission rules and reporting obligations to other agencies and authorities.

CCP12, CME, Eurex, ICE, Nodal, and OCC further stated that the Commission underestimated the increase in reporting obligations as a result of the proposal to eliminate the materiality threshold; CCP12, CME, and OCC similarly stated that the Commission underestimated the costs of such notifications. Such underestimates would, according to commenters, distort the Commission's cost-benefit considerations. The Commission received additional comments in opposition to the proposed removal of the materiality threshold, including statements regarding the costs and impacts on third-party contracts, the value of allowing DCOs to use their expertise to determine which events are material, and a request to alternatively allow for quarterly submission of reports for incidents deemed not material.

After considering the comments received, the Commission recognizes the concerns raised therein and declines at this time to adopt the proposal to remove the materiality threshold for the reporting of exceptional events under § 39.18(g). Better Markets supported the removal of the materiality threshold, stating that events might be material even when they do not have any effect on measurements often used to determine materiality, and that both the Commission and DCOs would benefit from clear reporting standards which would promote consistency in reporting across DCOs. However, given the rationale of comments opposed to the removal of the materiality threshold as described above, including arguments regarding increased cost, lack of informational benefit, and the volume of reports which would be required if the threshold were removed, and the lack of opportunity to solicit comment on potentially less costly or voluminous alternatives suggested by commenters, the Commission declines to move forward with the proposal at this time. The Commission understands that removing the materiality threshold altogether could result in a significant increase in the number of reportable events, including events which have little or no impact on a DCO's

operations, or which are mitigated well before any impact, and thus could be of little or no value as the subject of a required notification. The Commission will continue to evaluate the effectiveness of the existing reporting standard in generating uniform and timely notification regarding events where notification would be of value to the Commission and will provide additional guidance, or further modify the standard, as appropriate. Better Markets also commented that the requirement in § 39.18(g) that notice of exceptional events be given "promptly" is vague and should be amended to a more specific timeframe in order to avoid undue delay in reporting. The Commission notes, however, that it did not propose to amend this requirement, as Commission staff has not had any issues with the timing of the notices that are made.

The Commission also proposed to amend § 39.18(g)(1) by adding "operator error" to the list of events that would require prompt notification to the Division. Better Markets expressed support for the addition of "operator error" to the list of potentially reportable events, and WFE, CME, OCC, and Nodal expressed opposition. Better Markets stated that "operator error" is appropriately included as an additional subject of reporting because such errors may impact or potentially impact the operation, reliability, security, or capacity of a DCO's automated systems. WFE, CME, OCC, CCP12, and Nodal expressed concern about the potential breadth of the term "operator error," which is not defined in the regulation and which might be read to include de minimis, routine errors which would require reporting of events that have little or no impact on clearing and settlement functions and for which effective procedures are already in place to mitigate any potential impacts. OCC further stated that "operator error" might be read to include actions of clearing members or their agents and employees because they are responsible for providing information via applications, and OCC suggested adding certainty to the term "operator error" by providing examples.

After considering the comments received, the Commission recognizes the concerns raised therein and declines to adopt the proposal to include "operator error" to the list of events that would require prompt notification to the Division under § 39.18(g)(1). The Commission acknowledges that, as described by Better Markets, operator errors may impact a DCO's operations in the same way as other events described in § 39.18(g)(1). However, the

Commission believes that such operator errors are already required to be reported under § 39.18(g)(1) as a "security incident," which, as defined by § 39.18(a), is a cybersecurity or physical security event that actually jeopardizes or has a significant likelihood of jeopardizing automated system operation, reliability, security, or capacity, or the availability, confidentiality or integrity of data. The proposed addition of "operator error" was intended to specify this obligation more clearly. In light of comments which indicate that the proposal would result in confusion, particularly as to scope, the Commission will not adopt the proposal but will consider providing guidance, or further modifying § 39.18(g)(1), as appropriate.

The Commission further proposed to redesignate existing paragraph (g)(2) of § 39.18 as new paragraph (g)(3) (without any further revisions), and to move from existing paragraph (g)(1) to paragraph (g)(2) the requirement to report security incidents or threats (and not just "targeted" threats). Thus, as proposed, new § 39.18(g)(2) would require that a DCO promptly notify the Division of any security incident or threat that compromises or could compromise the confidentiality, availability, or integrity of any automated system or any information, services, or data, including, but not limited to, third-party information, services, or data, relied upon by the DCO in discharging its responsibilities.

Among comments received regarding this proposed amendment, OCC, Google, and ICE expressed opposition, and Better Markets commented in favor. Better Markets stated that non-targeted cyber attacks can be just as destructive as targeted attacks, and thus the reporting of non-targeted attacks may enhance the ability of the CFTC to assess emerging threats and alert DCOs. OCC, Google, and ICE stated that the inclusion of the language "could compromise" is overly broad and ambiguous and would dramatically increase the reach and burdens of the rule without providing regulatory benefit. OCC recommended removing "could compromise" from the proposal and stated that, as proposed, § 39.18(g)(2) would increase a DCO's costs of obtaining third-party services and may lead to termination of existing third-party relationships because of the additional costs and potential liability facing third parties as a result of the proposal. Google also expressed opposition to the removal of the "targeted" qualifier for threats, stating that it would result in overbroad and inefficient reporting. Google

additionally recommended that paragraph (g)(2) also incorporate a probabilistic reporting trigger by, for example, replacing “could” with “reasonably likely to” in order to exclude speculative incidents. After considering the comments received, and in light of the broad scope of attacks which comments indicate would be required to be reported under the proposal, the Commission recognizes the concerns raised therein and declines to adopt new § 39.18(g)(2) as proposed but will consider providing guidance, or further modifying § 39.18(g), as appropriate.

Finally, in connection with the proposed amendments to § 39.18(g), the Commission proposed to amend § 39.18(a) to define “hardware or software malfunction” and “automated system.” WFE, CME, OCC, and CCP12 expressed opposition to the proposed definition of “automated system,” and OCC, CCP12, Eurex and Nodal expressed opposition to the proposed definition of “hardware or software malfunction.” WFE, CME, OCC, and CCP12 stated that the definition of “automated system” is broad and overinclusive, and that most of a DCO’s ancillary support systems would fall within the definition, resulting in a significant increase in reporting obligations under § 39.18(g) that are not related to a DCO’s core clearing and settlement functions. OCC, CCP12, Eurex, and Nodal expressed opposition to the definition of “hardware or software malfunction,” stating that it is overly broad and would result in a significant increase in reach and burden of reporting requirements with little corresponding regulatory value to the Commission. OCC recommended that both definitions be refined to avoid reporting of incidents that pose no significant risk to a DCO’s core functions and which do not impact or narrowly impact market participants. OCC further recommended limiting the definitions to systems or events that impact a DCO’s market activities that are subject to the Commission’s jurisdiction. After considering the comments received, the Commission recognizes the concerns raised therein and declines to adopt the proposed definitions for “hardware or software malfunction” and “automated system” but will consider providing guidance defining these terms, or further modifying § 39.18(g), as appropriate.

Based on the concerns raised in the comments received, the Commission is not adopting any of the proposed changes to § 39.18(g). Although the Commission continues to believe that the considerations that motivated the

initial proposal are valid, it also recognizes the concerns and alternatives raised by commenters as requiring additional analysis that precludes adopting the proposal at this time. To that end, the Commission may choose to instead provide guidance to address these considerations, or to propose new modifications to § 39.18(g) reflecting both the motivations for the proposed rule and the concerns raised by commenters.

V. Amendments to § 39.19(c)

A. Daily Reporting of Variation Margin and Cash Flows—§ 39.19(c)(1)(i)(B) and (C)

Regulation § 39.19(c)(1) requires a DCO to report to the Commission on a daily basis initial margin, variation margin (VM), cash flow, and position information for each clearing member, by house origin, by each customer origin, and by individual customer account. The Commission proposed to amend § 39.19(c)(1)(i)(B) and (C) to remove the requirement that a DCO report daily VM and cash flows by individual customer account.⁸

FIA, CCP12, Eurex, OCC, and ICE supported the proposal; no commenters opposed it. CCP12 and ICE stated that many DCOs do not possess VM and cash flow information at the customer level. OCC confirmed that it does not collect VM and cash flow information at the individual customer account level in the ordinary course of business. FIA stated that DCOs would need to develop and implement new systems, processes, and controls, at significant cost, to accurately report customer level VM and cash flow information. FIA stated that because clearing members that are futures commission merchants (FCMs) currently do not provide DCOs with daily customer level VM and cash flow information, FCM clearing members would incur substantial upfront and ongoing costs to provide this information to DCOs. OCC stated that collecting this information would impose significant costs on OCC and its clearing members. FIA stated that daily reporting of customer VM and cash flow information would not be of meaningful benefit to the Commission, DCOs, clearing members or market participants, particularly when weighed

⁸ DCOs currently are not reporting VM and cash flow information by each individual customer account because the Division issued a no-action letter addressing compliance with the amended requirements in § 39.19(c)(1). See CFTC Letter No. 21–01 (Dec. 31, 2020); see also CFTC Letter No. 21–31 (Dec. 22, 2021); CFTC Letter No. 22–20 (Dec. 19, 2022). The amendments to § 39.19(c)(1)(i)(B) and (C) eliminate the requirement for which additional time was provided in the staff letter.

against the associated costs. OCC believes that because it engages in VM netting at the customer origin level, VM and cash flow information at the individual customer account level would not necessarily reflect OCC’s actual exposure to its clearing members.

In response to the Commission’s request for comment on whether there are certain products or market segments where it may be appropriate to retain customer-level reporting requirements, FIA and ICE stated that there is no basis to differentiate between product categories, with FIA emphasizing the cost to DCOs and FCMs of developing new reporting processes to report VM and cash flow information by individual customer account, and the limited marginal benefit of reporting such information. Because many DCOs currently do not receive VM and cash flow information at the customer level, and a requirement to collect this information would impose significant costs on DCOs, the Commission is removing this requirement by adopting the amendments to § 39.19(c)(1)(i)(B) and (C) as proposed.

B. Codifying the Existing Reporting Fields for the Daily Reporting Requirements in New Appendix C to Part 39

The Commission proposed to add a new appendix to part 39 of the Commission’s regulations that would codify the existing reporting fields for the daily reporting requirements in § 39.19(c)(1). Until now, the instructions, reporting fields, and technical specifications for daily reporting have been contained in the Reporting Guidebook, which the Division provides to DCOs to facilitate reporting pursuant to § 39.19(c)(1).⁹ The Commission proposed to add a new appendix C to part 39 that would set out the relevant contents of the Reporting Guidebook, specifically the reporting fields for which a DCO is required to provide data on a daily basis, as well as additional optional data that DCOs may provide.¹⁰ The Commission did not propose to codify the non-substantive technical and procedural aspects of the Reporting Guidebook that address the

⁹ Commodity Futures Trading Commission Guidebook for Part 39 Daily Reports, Version 1.0.1, Dec. 10, 2021 (Reporting Guidebook).

¹⁰ Appendix C specifies whether a field is mandatory, optional, or conditional. In this context, fields that are “conditional” would be reported by the DCO if it collects or calculates the particular data element and uses the data element in the normal course of its risk management and operations, or if the field is subject to any row-level validation rule described in the Reporting Guidebook.

format and manner in which DCOs provide this information.¹¹

Eurex, ICE, CCP12, and OCC supported the proposal to codify the existing daily reporting fields in new appendix C to part 39. Better Markets opposed the proposal, arguing that codifying the Reporting Guidebook will make it more difficult for the Commission to quickly update the reporting fields in response to new products or other financial innovations. In response to Better Markets, the Commission notes that it has drawn on its experience of more than a decade since § 39.19(c)(1) was first adopted to make certain it will receive the data it intended to be provided under this provision. However, in the unlikely event that the Commission identifies additional data it needs, the Commission could, if necessary, request from a DCO “information related to its business as a clearing organization, including information relating to trade and clearing details” pursuant to § 39.19(c)(5)(i). The Commission is therefore adopting the proposal to add new appendix C to part 39 of the Commission’s regulations, to codify the existing reporting fields in the Reporting Guidebook, which includes both required and optional fields.¹²

C. Additional Reporting Fields for the Daily Reporting Requirements—§ 39.19(c)(1)

The Commission proposed to include in appendix C several new fields that do not appear in the Reporting Guidebook but would further implement the existing daily reporting requirements under § 39.19(c)(1). Eurex generally supported the proposal, while CME opposed it, stating that the Commission severely underestimated the time and costs associated with adding the proposed new fields, and that the costs to DCOs substantially outweigh the benefits that additional reporting provides to the Commission. The new fields and comments received are discussed in greater detail below.

1. Risk Metrics

The Commission proposed to include in appendix C a series of new fields applicable only to interest rate swaps, including the delta ladder, gamma ladder, vega ladder, zero rate curves, and yield curves that a DCO uses in

connection with managing risks associated with interest rate swap positions. The Commission did not receive any comments on this proposal and therefore is adopting these fields as proposed. However, the Commission is amending the title of this section of appendix C to change it from “Greek Ladder Reporting” to “Risk Metric Ladder Reporting”, which better reflects the contents of the section, since rate and yield curves technically are not “Greeks,” and to account for the possible addition of other non-Greek risk metrics in the future.

2. Timing of Variation Margin Calls and Payments

The Commission proposed to require a DCO to report timing information about VM calls and payments, including the time and amount of each VM call to each clearing member, the time and amount that VM is received from each clearing member, and the time and amount that VM is paid to each clearing member. There were no comments in support of the proposal.

CME, ICE, and OCC opposed the proposal, arguing that it would impose costs on DCOs and settlement banks because they would need to build systems for daily automated reporting of payment flow timestamps. ICE and OCC stated that the manner in which DCOs make and collect a margin call is unique to each DCO based on its own processes and, as a result, the information that would be reported under these proposed fields only would reflect individual DCOs’ practices, with the information being too bespoke to be useful for surveillance. OCC further stated that clearing member payments to or from OCC at settlement times are made on a net basis, taking into account multiple categories of pay or collect obligations, in addition to the mark-to-market amounts. CME stated that not all settlement banks communicate with DCOs in automated and digestible file formats that can be used for daily reporting. Echoing comments by CME, CCP12 recommended that the Commission consider whether this proposal would require settlement banks to develop and deploy automated systems to communicate timestamps to DCOs, which could make compliance with this requirement unnecessarily complex. CME also stated that the information would not be useful for the Commission in real-time monitoring of DCO liquidity issues because it would be reported one day later, and because the timing of payments can vary from day to day for reasons unrelated to liquidity issues or other risks to DCOs or their clearing members. ICE stated

that specific timing information is generally irrelevant, so long as the amounts are paid before the applicable DCO’s deadline, and that the exact timing of payments is not indicative of the DCO’s liquidity position or its ability to manage liquidity risks.

As an alternative to the proposal, CME recommended that the Commission require DCOs to report when clearing members are sufficiently late making VM payments that it results in an impactful delay to the completion of the settlement cycle. ICE stated that because the proposal does not account for different approaches to the payment and netting of VM, the proposed fields would need to be revised to reflect the variety of ways that DCOs deal with VM payments. CCP12 commented that reporting VM calls and payment as of the beginning, middle, and end of the day would avoid confusion that may accompany reporting of individual cash flows, and would simplify DCOs’ reporting obligations.

The Commission understands that compliance with this requirement would be unnecessarily complex, given that the manner in which DCOs make and collect a margin call is unique to each DCO based on its own processes. The Commission is therefore persuaded by the comments that the timing information would not be particularly useful to it and therefore has determined not to require DCOs to report this information at this time.

3. Trade Date

The Commission proposed to require a DCO that clears interest rate swaps, forward rate agreements, or inflation index swaps to include in its daily reports the actual trade date for each position along with an event description. CCP12 supported the proposal, but requested that the Commission clarify whether the term “actual trade date” refers to the economically agreed date or the execution date. CME opposed the proposal, stating that the proposed requirement is duplicative of the recent amendments to part 45 of the Commission’s regulations, under which DCOs already provide this information to the Commission. CME also stated that numerous dates for these products exist in the over-the-counter registers, and requested clarification as to which date should be reported. The Commission is adopting the proposal, albeit with one change. In response to commenters’ requests for clarification, the Commission is modifying the description of “trade date” to read, the “[d]ate a transaction was originally executed, resulting in the generation of

¹¹ The Division will issue a new version of the Reporting Guidebook that will contain only the non-substantive technical and procedural aspects to facilitate daily reporting by DCOs.

¹² The Commission is adding to § 39.19(c)(1)(i) a reference to appendix C to specify that daily reports are required to be submitted in accordance with the data fields set forth in the appendix.

a new USI [unique swap identifier]. For clearing swaps, the date when the DCO accepts the original swap.” In response to CME’s comment regarding part 45 reporting, the Commission acknowledges some overlap between the information DCOs report pursuant to part 45 and the information reported pursuant to § 39.19(c)(1), but notes that the two data streams have different albeit complimentary regulatory and supervisory uses within the Commission,¹³ and are reported using different underlying technical specifications, sometimes with nuanced differences between substantive or technical definitions of individual data points, which then can affect whether and how the data changes in response to events, such as a compression exercise for swaps.

4. File Completeness

The Commission proposed to require a DCO to include in its daily reports information that reflects that the daily report is complete, with completeness information submitted either as a manifest file that contains a list of files sent by the DCO, or by including the file number and count information embedded within each report, where each Financial Information eXchange Markup Language (FIXML) file would indicate its position in the sequence of files submitted that day, e.g., file 1 of 10. No commenters opposed the proposal. Eurex and Nodal supported the proposal that file completeness be reflected in a manifest file and opposed the proposal that files be sequentially numbered to indicate completeness. Eurex and Nodal both explained that submitting a manifest file is more efficient operationally. Specifically, Eurex noted that when files are sequentially numbered to reflect completeness, all of the files would need to be renumbered and resubmitted any time a file is added or removed. Nodal made a similar observation, and also noted that a manifest file can be submitted after the DCO ensures that its reporting for the day is complete and the DCO confirms internally that there will be no changes. OCC stated that sequential file numbering to indicate completeness is preferable to requiring a manifest file, because the former is more efficient given the manner in which OCC submits

its daily reports. OCC requested that the Commission provide DCOs with the flexibility to use either a manifest file or sequential file numbering to indicate completeness, so that DCOs could use the method that works best with their processes.

Although the Commission acknowledges that for some DCOs, such as OCC, sequential file numbering to indicate completeness may be preferable, the Commission agrees with Eurex and Nodal that submitting a manifest file is operationally more efficient, especially for those DCOs that submit more complex or voluminous reports. Similarly, to ensure consistency and uniformity across all reports received, the Commission declines to provide DCOs with the option to choose between sequential file numbering and a manifest file to indicate completeness. Therefore, the Commission is adopting the proposal to require a DCO to include in its daily reports a manifest file that reflects that the daily report is complete.

5. Settlement Information for Contracts With No Open Interest

The Commission requested comment on whether it should require that a DCO provide the current settlement prices and related information published by DCMs for futures and options contracts with no open interest. No commenters supported this proposal.

CCP12, Nodal, OCC, ICE, and CME opposed the proposal. CCP12 stated that DCOs already calculate and report settlement prices for contracts with no open interest where they believe those prices provide a benefit to DCOs themselves or the marketplace, and requiring DCOs to report such data for all contracts with no open interest would be of questionable value for analytical or regulatory purposes. CCP12 recommended that DCOs continue to be afforded the discretion to choose to report such information on a voluntary basis. Nodal stated that, in addition to being impractical, the proposal would duplicate information that DCMs are required to report pursuant to part 16 of the Commission’s regulations. CME argued that reporting data that is unused and not based on observed open interest would not help the risk surveillance process because it does not represent an actual transaction, and ICE argued that the information would not be reliable because it is not based on actual trading activity. OCC and ICE stated that this information would be of limited utility, with OCC adding that this information relates to contracts that do not impact the DCO’s risk profile. CME stated that exchanges and DCOs list new products daily and

that this reporting requirement would add complexity to the listing process. CME also questioned whether the Commission has the authority to require this information if it is not clear that this information is necessary to conduct oversight of the DCO since it does not reflect actual trades that are settled or cleared. Similarly, OCC argued that a requirement to report such information could be inconsistent with the scope of reporting required by DCO Core Principle L, which requires a DCO to disclose publicly and to the Commission daily settlement prices, volume, and open interest for each contract settled or cleared by the DCO. CME noted that an alternative would be to require reporting of contracts with no open interest, but without requiring pricing information.

The Commission is persuaded by the comments that settlement information for contracts with no open interest would not be particularly useful to it, given that it does not impact a DCO’s risk profile, among other things. Therefore, the Commission has determined not to adopt the proposed requirement at this time.

D. Non-Substantive and Technical Edits to Appendix C to Part 39

The Commission has made a variety of non-substantive and technical edits to appendix C to part 39. Some of the edits are intended to ensure that, to the extent that a requirement appears in multiples places in appendix C, its title and description are uniform throughout. Other edits include the deletion of duplicate fields, the deletion of surplus language, formatting instructions, or technical instructions, or the replacement of abbreviations with complete words. Other edits rename fields or clarify, simplify, or rephrase descriptions. For example, the “Universal Product Identifier” field is being renamed “Unique Product Identifier” (UPI), and its description is being changed from “Uniquely identifies the product of a security using ISO 4914 standard, Unique Product Identifier” to “[a] unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to 17 CFR 45.7.” Another example is that the description for the Implied Volatility field is being changed from “implied volatility” to “[t]he implied volatility and quotation style for the contract, typically in natural log percent or index points.”

¹³ The information reported under § 39.19(c)(1) is intended to ensure that the Division is informed regarding both the risks that are present at each DCO as well as the DCO’s management of those risks, which pursuant to § 39.19(c)(1)(ii) includes information about the risks associated with the futures, options, swaps, and securities positions cleared at the DCO, in contrast with the part 45 data, which includes highly granular trade data related to both cleared and uncleared swaps.

E. Individual Customer Account Identification Requirements—§ 39.19(c)(1)(i)(A) and (D)

Regulation § 39.19(c)(1)(i)(D) requires the daily reporting of end-of-day positions for each clearing member, by house origin and by each customer origin, and by each individual customer account. In January 2020, the Commission amended this provision to require, among other things, that a DCO identify each individual customer account using both a legal entity identifier (LEI) and any internally-generated identifier, where available, within each customer origin for each clearing member.¹⁴ The Commission intended that this requirement apply to all instances within § 39.19(c)(1) where a DCO is required to report information at the individual customer account level. However, this may not have been clear because paragraph (c)(1)(i)(D) addresses only the reporting of end-of-day positions. Therefore, the Commission proposed to amend § 39.19(c)(1)(i)(A) to clarify that the requirement that a DCO identify each individual customer account by LEI and internally-generated identifier was not intended to be limited to end-of-day position reporting under paragraph (c)(1)(i)(D), but rather to apply to all instances in § 39.19(c)(1) where a DCO is required to report information at the individual customer account level. Furthermore, the Commission also proposed a technical change to clarify that the requirement that a DCO identify each individual customer account using both an LEI and any internally-generated identifier, “where available,” is intended to mean this information is required, in either case, only if the DCO has the information associated with an account.

CCP12, OCC, CME, and Eurex supported this proposal. Eurex noted that in Europe there is no requirement that LEIs be provided to DCOs and that, consequently, not all Multilateral Trading Facilities or Approved Trade Sources transmit LEIs to DCOs. On the other hand, CME observed that LEI reporting to DCOs has become more routine. ICE opposed the requirement that a DCO identify each individual customer account by LEI because extensive systems changes would be required to add identifiers to the reportable data, and since DCOs are unlikely to have customer-level LEI information, the costs associated with implementing this requirement outweigh the benefits. In response to ICE’s comment, the Commission further

emphasizes that the requirement that a DCO identify each individual customer account using both an LEI and any internally-generated identifier, “where available,” is intended to mean this information is required, *in either case*, only when the DCO has the information associated with an account, and the information is both maintained and associated with the account in a reportable format, such that reporting will not impose a significant additional burden on the DCO.

F. Daily Reporting of Margin Model Backtesting—§ 39.19(c)(1)(i)

The Commission proposed to add to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of the margin model backtesting that a DCO is required to perform daily pursuant to § 39.13(g)(7)(i). The Commission also proposed to add to new appendix C to part 39 the data fields it believes would be relevant and necessary to capture the backtesting results that would have to be reported under this provision. The Commission is adopting as proposed the amendment to § 39.19(c)(1)(i) to require that a DCO include in its daily reports its margin model backtesting results. As explained below, in response to concerns expressed by commenters, the Commission is modifying certain of the proposed data fields in new appendix C for reporting margin model backtesting results.¹⁵

Chris Barnard supported the proposal, stating that daily reporting of backtesting results will improve the Commission’s oversight of DCOs and should work to increase the accuracy, relevance, and effectiveness of DCOs’ margin calculations. Nodal generally supported requiring DCOs to provide the Commission with daily backtesting results, noting that it already provides such information to the Commission on a voluntary basis. CME requested that the Commission provide DCOs with ample time, preferably 18 months, to test and implement daily reporting of backtesting results. OCC stated that it has no objection to reporting its margin model backtesting results.

ICE opposed the proposal. ICE argued that the manner in which the Commission currently supervises DCO margin models, including the requirement in § 39.13(g)(3) that margin models be independently validated, and the requirement in § 39.19(c)(4)(xxiii) that a DCO report to the Commission

regarding material issues with its margin model, is sufficient for the Commission to supervise margin model performance over time.

Nodal and Eurex argued that the Commission should collaborate with DCOs to determine the specific information needed and the data fields via which it should be reported to ensure that the Commission is receiving the data and information it needs, in a manner that is consistent across all DCOs, to provide effective oversight of the performance of DCOs’ margin models.

Commenters expressed concern regarding the new fields that the Commission proposed to add to new appendix C for the purpose of reporting backtesting results, with commenters focusing on the fields for reporting detailed information related to margin model breaches. The Commission had proposed that breach details be reported using three fields: initial margin; VM; and breach amount, which was defined as the difference between the initial margin and VM. ICE, OCC, and Eurex argued that the proposed fields would not provide the Commission with meaningful information regarding margin model breaches. ICE stated that because initial margin requirements and VM payments may not be associated with the same set of positions, “from a formal statistical (hypothesis testing) point of view, the backtesting of the initial margin model should consider fixed positions over the implemented margin period of risk.” Similarly, OCC argued that the VM field should be replaced with a field titled “Static Portfolio Profit/Loss,” which would reflect “profit or loss on the same portfolio against which the initial margin was assessed.” OCC also argued that the Breach Amount field description be revised to delete the reference to VM and instead reflect the “difference between the initial margin and static portfolio profit/loss.” Along the same lines, Eurex argued that VM should be replaced as a measure for backtesting by a more general backtesting profit/loss, which would include further mandatory fields detailing how backtesting profit/loss is calculated (including profit/loss horizon, “clean” vs. “dirty” profit/loss, mark-to-market vs. mark-to-model profit/loss). Lastly, both Eurex and ICE emphasized the importance of the margin period of risk as a component of evaluating backtesting results.

In response to these comments, the Commission is amending the fields for reporting margin model backtesting results. The Commission is replacing the VM field with a new field titled

¹⁵ The Commission is also changing the term “back testing” to “backtesting” in all places that this term, or a variation thereof, appears in part 39 of the Commission’s regulations.

“Backtesting Metric,” which provides DCOs with the flexibility to designate the type of profit and loss calculation used for backtesting: VM; static portfolio profit and loss (also known as clean profit and loss); dirty profit and loss; mark to market profit and loss; or mark to model profit and loss. In connection with that change, the Commission is amending the Breach Amount field description to be the “difference between the Initial Margin and Backtesting Metric Amount.” Lastly, the Commission is adding a field titled “Margin Period of Risk”, which is defined as the “holding period for which the Backtesting Metric is calculated in days.”

G. Fully Collateralized Positions—§ 39.19(c)(1)(ii)

The Commission proposed to amend § 39.19(c)(1)(ii) to clarify that the daily reporting requirements of § 39.19(c)(1)(i) do not apply to fully collateralized positions. The Commission did not receive any comments on the proposal. The Commission is adopting the amendments to § 39.19(c)(1)(ii) as proposed.

H. Voluntary Reporting—§ 39.19(c)(1)(iii)

The Commission proposed to add, as new § 39.19(c)(1)(iii), the ability for a DCO to, after consultation with the Division, voluntarily submit any additional daily reporting data fields it believes would be necessary or appropriate. OCC supported the proposal. OCC recommended that the Commission remove the phrase “consultation with” and replace it with “notification to,” given the potential timing issues attendant to daily reporting generally, potential ambiguity regarding the extent and nature of the “consultation” required in the proposal, and to provide DCOs with greater flexibility. OCC also recommended that the Commission clarify that voluntarily reporting of additional information does not create an obligation to continue reporting the information, unless agreed to in writing by the DCO and Commission staff. No commenters opposed the proposal.

The Commission agrees with OCC that, absent any agreement to the contrary, voluntary reporting by a DCO of additional information does not create an obligation to continue reporting that information. As for the mechanics of how a DCO should proceed with voluntarily reporting additional information, the Commission believes that the best approach is for the DCO to coordinate with Division staff to ensure that any necessary

accommodations are in place so that the Division has the ability to receive the additional information and to incorporate it into its analytics. The Commission therefore disagrees with OCC because it believes that the collaborative approach encompassed within the phrase “consultation with” is preferable to the unilateral approach described in the phrase “notification to.” The Commission is adopting new § 39.19(c)(1)(iii) as proposed.

I. Reporting Change of Control of the DCO—§ 39.19(c)(4)(ix)(A)(1)

The Commission proposed to amend § 39.19(c)(4)(ix)(A)(1) to require a DCO to report any change to the entity or person that holds a controlling interest, either directly or indirectly, in the DCO. Eurex supported the proposal. OCC also supported the proposal, but requested that the Commission clarify whether the phrase the “entity . . . holding a controlling interest” refers to the specific corporate entity holding an ownership interest in the DCO, or whether it refers to any parent entity of one or more owners that collectively own more than 50 percent of the DCO. Better Markets opposed the proposal, asserting that the Commission instead should reinstate the 2011 versions of this regulation and § 39.3(f) because, unlike the current requirements, the 2011 version referenced § 39.3(f), which required Commission approval of the transfer of a DCO registration in connection with any corporate change involving the transfer of all or substantially all of a DCO’s assets to another legal entity.

In response to OCC’s request for clarification, the Commission notes that the phrase the “entity . . . holding a controlling interest” is intended to refer to both the specific corporate entity holding an ownership interest in the DCO, as well as to any parent entity of one or more owners that collectively own more than 50 percent of the DCO. With respect to the comments from Better Markets, the Commission initially notes that the comments do not address the merits of the proposal, but instead focus on changes the Commission made to a different regulation in a different rulemaking.¹⁶ In any event, the Commission does not believe that it is necessary to reconsider its 2020 amendment of § 39.3(f).¹⁷ The

¹⁶ 85 FR 4800, 4802–4803.

¹⁷ In the 2020 amendment of this regulation, § 39.3(f) was renumbered as § 39.3(g), and was revised to provide that a DCO seeking to transfer its open interest would be required to submit rules for Commission approval pursuant to § 40.5, rather than submitting a request for a Commission order. The 2020 amendments were intended to, among

Commission is adopting the amendments to § 39.19(c)(4)(ix)(A)(1) as proposed.

J. Reporting Changes to Credit Facility Funding and Liquidity Funding Arrangements—§ 39.19(c)(4)(xii) and (xiii)

The Commission proposed to amend § 39.19(c)(4)(xii) and (xiii), which require a DCO to report changes to credit facility funding arrangements and liquidity funding arrangements, respectively, to clarify that the reporting requirements include reporting new arrangements as well as changes to existing ones. Eurex and OCC supported both proposals, with OCC noting that they are consistent with its interpretation of the existing regulations. No commenters opposed the proposals. The Commission is adopting the amendments to § 39.19(c)(4)(xii) and (xiii) as proposed.

K. Reporting Issues With Credit Facility Funding Arrangements, Liquidity Funding Arrangements, and Custodian Banks—§ 39.19(c)(4)(xv)

The Commission proposed to amend § 39.19(c)(4)(xv) to require that a DCO report to the Commission within one business day after it becomes aware of any material issues or concerns regarding the performance, stability, liquidity, or financial resources of any credit facility funding arrangement, liquidity funding arrangement, custodian bank, or settlement bank used by the DCO or approved for use by the DCO’s clearing members. The Commission proposed to extend the reporting requirement, which previously applied only to any settlement bank used by the DCO or approved for use by the DCO’s clearing members, to apply as well to any credit facility funding arrangement, liquidity funding arrangement, or custodian bank used by the DCO or approved for use by the DCO’s clearing members. The Commission also proposed to change the threshold that triggers a DCO’s reporting obligations by replacing the requirement that a DCO report to the Commission within one business day after any material issues or concerns arise, with the requirement that a DCO report to the Commission within one business day after it becomes aware of any material issues or concerns.

Eurex, OCC, and ICE supported the proposal. OCC observed that the proposal properly addresses the variety

other things, simplify the requirements for a DCO to request a transfer of open interest and to separate the process from the procedures used to report a change to a DCO’s corporate structure or ownership. 85 FR 4800, 4802–4803.

of arrangements that DCOs use to meet their ongoing and situational funding requirements, and OCC also stated that DCOs should not be subject to potential enforcement action for not reporting an issue of which they are not even aware. With regard to the requirement to report material issues or concerns related to credit facility funding arrangements, ICE supported the proposal, but believes, as a technical matter, that it would be more accurate to refer to the provider of the arrangement, as opposed to the arrangement itself. No commenters opposed the proposal. Better Markets recommended that the Commission remove the materiality standard from the proposed requirement that DCOs report to the Commission regarding material issues with credit facility funding arrangements, liquidity funding arrangements, and custodian banks. Better Markets argued that because the subjective nature of materiality would result in inconsistent and inadequate reporting, the Commission instead should require DCOs to report whenever there are any issues or concerns.

With respect to ICE's comment that § 39.19(c)(4)(xv) should specify that a DCO must report material issues or concerns related to the provider of a credit facility funding arrangement, as opposed to reporting issues or concerns related to the arrangement itself, the Commission intends that the amended regulation apply to issues or concerns related to the provider as well as to the arrangement itself. The amended regulation is intended to ensure that the Division receives notice when a DCO learns that it may not be able to obtain the resources from the provider pursuant to the arrangement. The Commission disagrees with the suggestion from Better Markets that DCOs be required to report all issues or concerns regarding the performance, stability, liquidity, or financial resources of any credit facility funding arrangement, liquidity funding arrangement, custodian bank, or settlement bank used by the DCO or approved for use by the DCO's clearing members. Although Better Markets correctly noted the subjectivity inherent in a materiality standard, the Commission does not believe that it would be useful for it to be notified of all issues or concerns, especially since, in connection with its supervision of DCOs and engagement with DCO staff regarding reporting of issues or concerns related to settlement banks, Division staff has not found that the materiality standard impedes necessary reporting. Because the Commission believes that the threshold for reporting is properly

calibrated, the Commission is adopting § 39.19(c)(4)(xv) as proposed.

L. Reporting of Updated Responses to the Disclosure Framework for Financial Market Infrastructures—
§ 39.19(c)(4)(xxv)

The Commission proposed new § 39.19(c)(4)(xxv), which would set forth the requirement currently in § 39.37(b)(2) that, when a DCO updates its responses to the Disclosure Framework for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions in accordance with § 39.37(b)(1), the DCO shall provide notice of those updates to the Commission. Eurex and OCC supported the proposal, with OCC noting that it is a non-substantive change to existing DCO reporting obligations. No commenters opposed the proposal. ICE recommended that, to be consistent with § 39.37(b)(2), the Commission should state explicitly that the proposed reporting requirement only applies to material changes that a DCO makes to its disclosures under the PFMI Disclosure Framework. The Commission does not believe that such clarification is necessary, given that new § 39.19(c)(4)(xxv) simply references the reporting requirements in § 39.37(b)(2) without altering the substance of those requirements. The Commission is adopting new § 39.19(c)(4)(xxv) as proposed.

VI. Amendments to § 39.21(c)

Regulation § 39.21 requires a DCO to publish on its website a variety of information designed to enable market participants to make informed decisions about using the clearing services provided by the DCO. The Commission proposed several amendments to these requirements to better align a DCO's disclosure obligations with the type of clearing services that the DCO provides. Specifically, the Commission proposed to amend § 39.21(c)(3) and (4) to provide that a DCO that clears only fully collateralized positions is not required to disclose its margin-setting methodology, or information regarding the size and composition of its financial resource package for use in a default, if instead the DCO discloses that it does not employ a margin-setting methodology or maintain a financial resource package because it clears only fully collateralized positions. Additionally, the Commission proposed to amend § 39.21(c)(7) to provide that a DCO may omit any non-FCM clearing member that clears only fully

collateralized positions, and therefore does not share in the mutualized risk associated with clearing activity, from its published list of clearing members. The Commission did not receive any comments on these proposed changes, and is therefore adopting them as proposed.

VII. Amendments to § 39.37(c) and (d)

Regulation § 39.37 requires each systemically important DCO (SIDCO) and each DCO that elects to comply with subpart C of part 39 of the Commission's regulations (subpart C DCO) to disclose certain information to the public and to the Commission. Regulation § 39.37(c) and (d) require, respectively, a SIDCO or subpart C DCO to "disclose, publicly, and to the Commission" transaction data, and information regarding the segregation and portability of customers' positions and funds. The Commission proposed to amend these provisions to clarify that public disclosure of the information is sufficient and a separate report directly to the Commission is not required. OCC supports and appreciates the proposal, stating that it would relieve DCOs of duplicative requirements to report this information both publicly and to the Commission. The Commission is adopting this amendment as proposed.

VIII. Amendments to § 140.94(c)(10)

Regulation § 140.94(c) is a delegation of authority from the Commission to the Director of the Division of Clearing and Risk to perform certain specific functions. The Commission proposed to amend § 140.94(c)(10) to delegate to the Director the authority in existing § 39.19(a) to require a DCO to provide to the Commission the information specified in § 39.19 and any other information that the Commission determines to be necessary to conduct oversight of the DCO, and in existing § 39.19(b)(1) to specify the format and manner in which the information required by § 39.19 must be submitted to the Commission.

OCC generally supported the proposed changes to § 140.94(c)(10), as OCC agreed that the proposed delegations would appropriately empower Commission staff to facilitate efficient administration of part 39, and ensure that the Commission and its staff can obtain relevant information in a timely manner. OCC stated that changes to a DCO's reporting obligations can pose significant technical or logistical challenges, and necessitate substantial investment of time and resources to effect compliance. Therefore, while OCC supported the proposed changes, it urged the Division to continue to engage

in open dialogue with DCOs prior to exercising the delegated authority to seek additional information pursuant to § 39.19 or to change the format or manner of any required reporting. The Commission takes notes of this comment, and expects that information collection or any changes to the format and manner of required reporting would continue to involve engagement with DCOs. The Commission is adopting these changes as proposed.

IX. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis on the impact.¹⁸ The final rule adopted by the Commission will affect only DCOs. The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.¹⁹ The Commission has previously determined that DCOs are not small entities for the purpose of the RFA.²⁰ Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule adopted herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA)²¹ provides that Federal agencies, including the Commission, may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number from the Office of Management and Budget (OMB). This final rulemaking contains reporting and recordkeeping requirements that are collections of information within the meaning of the PRA. Responses to the collections of information are required to obtain a benefit.

This final rulemaking modifies the existing information collection associated with part 39, “Requirements for Derivatives Clearing Organizations,” OMB control number 3038–0076.” In accordance with the PRA, 44 U.S.C. 3507(d), the Commission has submitted these information collection requirements to OMB for its review.

1. Subpart B—Requirements for Compliance with Core Principles

a. Risk Management

The Commission is adopting as proposed new § 39.13(h)(5)(iii) to provide that a DCO that clears fully collateralized positions may exclude from the requirements of paragraphs (h)(5)(i) and (ii) those clearing members that clear only fully collateralized positions. The requirements would still apply to clearing members that clear fully collateralized positions but also clear margined products. This change will reduce the burden for DCOs that clear fully collateralized products, but does not affect the burden for the majority of DCOs that are subject to daily reporting requirements, as only four of the fifteen currently registered DCOs clear fully collateralized positions. As a result, the Commission believes that this reduction will have a negligible impact on the overall reporting burden for DCOs, and therefore the Commission is leaving the reporting burden for these reporting requirements unchanged.

b. Treatment of Funds

The Commission is amending § 39.15(b)(2), which applies when a DCO and its clearing members seek to commingle customer positions in futures, options, foreign futures, foreign options, and swaps, or any combination thereof, and any money, securities, or property received to margin, guarantee or secure such positions, in an account subject to the requirements of sections 4d(a) or 4d(f) of the CEA. The Commission is consolidating paragraphs (b)(2)(i) and (ii) and renumbering paragraphs accordingly. These changes pertain only to the structure and organization of the regulation and therefore do not impact the reporting requirement. The Commission is amending § 39.15(b)(2) to clarify that the requirement in paragraph (b)(2)(i)(G) that a DCO discuss the systems or procedures that the DCO has implemented to oversee its clearing members’ risk management of eligible products may be addressed by describing why existing risk management systems and procedures are adequate, and to add language clarifying that the requirements and standard of review of § 40.5 apply to commingling rule submissions. Because these changes are mere clarifications of existing requirements, they also have no impact on the reporting burden.

Similarly, the Commission is removing existing paragraph (b)(2)(iii), which provides that the Commission may request additional information in

support of a rule submission filed under existing paragraph (b)(2)(i) or (ii), and adding new paragraph (b)(2)(viii), which provides that the Commission may request supplemental information to evaluate the DCO’s submission and requires a DCO to submit any other information necessary for the Commission to evaluate the DCO’s rule’s compliance with the CEA and the Commission’s regulations. This does not impact the reporting burden because new paragraph (b)(2)(viii), like existing paragraph (b)(2)(iii), would ensure that the Commission can consider all information relevant to the rule submission. Although existing paragraph (b)(2)(iii) does not contain explicit language similar to new paragraph (b)(2)(viii)’s requirement that the DCO submit any other information necessary for the Commission to evaluate the rule’s compliance with the CEA and the Commission’s regulations, the fact that existing paragraph (b)(2)(iii) permits the Commission to request such information implies a DCO’s obligation to supply it. Simply making this implication explicit does not impact the reporting burden.

The Commission is deleting paragraphs (b)(2)(i)(C), (E), (H), and (L) because they require a DCO to submit information the Commission can already access or has not needed in its review of commingling rule submissions. This change will decrease the reporting burden. In addition, the Commission is removing existing paragraph (b)(2)(i)(I), which requires the DCO to provide information related to its margin methodology, while adding related paragraph (b)(2)(vii), which will require that a DCO discuss whether it anticipates allowing portfolio margining of commingled positions, describe and analyze any margin reductions it would apply to correlated positions, and make an express confirmation that any portfolio margining will be allowed only as permitted under § 39.13(g)(4). These changes will collectively decrease the reporting burden because the requirements being removed through the deletion of paragraph (b)(2)(i)(I) are, as a whole, more burdensome than the requirements being added in paragraph (b)(2)(vii). Similarly, the Commission is removing the requirement in existing paragraph (b)(2)(i)(K) to discuss a DCO’s default management procedures generally and maintaining only the requirement to address default management procedures unique to the products eligible for commingling and moving that requirement to paragraph (b)(2)(vi). This narrowing of the scope of

¹⁸ 5 U.S.C. 601 *et seq.*

¹⁹ 47 FR 18618 (Apr. 30, 1982).

²⁰ See 66 FR 45604, 45609 (Aug. 29, 2001).

²¹ 44 U.S.C. 3501 *et seq.*

the requirement reduces the reporting burden on the relevant DCOs.

The Commission is amending paragraph (b)(2)(i)(B) (renumbered as paragraph (b)(2)(ii)), which requires the DCO to provide an analysis of the risk characteristics of the products that would be eligible for commingling, to specify that the DCO should address any risk characteristics of products to be commingled that are unusual in relation to the other products the DCO clears, such as margining, liquidity, default management, pricing, or other risk characteristics, and how the DCO plans to manage any risks identified. Because such analysis was not previously explicitly required, and because DCOs that would not otherwise have addressed such issues in their analysis of the risk characteristics of the eligible products will now be required to do so, this will increase the reporting burden. However, the Commission expects this increase to be negligible, as this provision would only apply when a DCO is considering a new commingling of customer positions in various products, and only when the risk characteristics of products to be commingled are unusual in relation to other products the DCO clears.

The Commission is amending paragraph (b)(2)(i)(F) (and renumbering it as paragraph (b)(2)(iv)), which currently requires the DCO to describe the financial, operational, and managerial standards or requirements for clearing members that would be permitted to commingle eligible products, to require only that the DCO describe any additional requirements that would apply to clearing members permitted to commingle eligible products. The Commission believes that this amendment will have no impact on the reporting burden. Although the new requirement that the DCO describe any additional requirements is broader than the current requirement to describe financial, operational, and managerial standards or requirements, the existing paragraph requires the DCO to report even if no additional requirements would apply. The amendment only requires reporting when additional requirements are, in fact, applicable.

The Commission believes that the reductions in the reporting burden resulting from the deletion of paragraphs (b)(2)(i)(C), (E), (H), and (L) and the narrowing of the reporting burden resulting from the deletions of paragraphs (b)(2)(i)(I) and (K) (even after giving effect to the addition of new paragraphs (b)(2)(vi) and (vii)) are at least as great as the increase in the reporting burden resulting from the amendments to paragraph (b)(2)(i)(B)

(renumbered as paragraph (b)(2)(ii)). Because the Commission lacks the data to fully quantify each of these changes, it is conservatively estimating that these changes collectively do not alter the reporting burden. The Commission is of the view that to the extent that the cross-margining program would be submitted as part of a new rule or rule amendment filing pursuant to § 40.5, the changes are already covered by OMB control number 3038–0093 and there is no change in the burden estimates.

c. Daily Reporting

The Commission is adopting the proposed amendments to § 39.19(c)(1)(i)(A) that clarify that the existing requirement to identify individual customer accounts by LEI and internally-generated identifier was intended to apply to all instances in § 39.19(c)(1) where reporting is required at the individual customer account level, and not only to end-of-day positions. The Commission therefore is amending § 39.19(c)(1)(i)(A) to specify that when a DCO reports initial margin requirements and initial margin on deposit by each individual customer account as required, the DCO also must identify each individual customer account by LEI and internally-generated identifier, where available. The clarification will not affect the burden on DCOs because DCOs already provide this information and the impact of this amendment on the existing burden is negligible.

The Commission also is amending § 39.19(c)(1)(i)(B) and (C), which require a DCO to report daily variation margin and cash flow information by house origin and separately by customer origin and by each individual customer account, to remove the requirement that a DCO report daily variation margin and cash flows by individual customer account. This change is anticipated to result in a negligible decrease from the current burden of 0.5 burden hours per report.²²

The Commission also is adopting new § 39.19(c)(1)(iii), as proposed, which will give a DCO the ability, after consultation with the Division, to voluntarily submit any additional data field in its daily reports that is necessary or appropriate to better capture the information that is being reported. The

²² DCOs currently are not reporting variation margin and cash flow information by each individual customer account because the Division issued a no-action letter addressing compliance with the amended requirements in § 39.19(c)(1). See CFTC Letter No. 21–01 (Dec. 31, 2020); see also CFTC Letter No. 21–31 (Dec. 22, 2021). As noted, the proposed amendments to § 39.19(c)(1)(i)(B) and (C) would eliminate the requirement for which additional time was provided in the staff letter.

Commission believes that adding this provision to § 39.19(c)(1) does not affect the existing burden estimates for daily reporting. Although it is unclear at this time whether any DCOs will decide to voluntarily submit additional data fields in their daily reports and how frequently they will do so, the Commission believes that the impact of this new provision on the existing daily reporting burden is negligible. The Commission does not anticipate that DCOs will add information to their daily reports if doing so is a burden. The Commission instead anticipates that voluntary reporting by DCOs likely will consist only of data that already is maintained in reportable format and that can be included in the daily reports with minimal effort.

The Commission is also adding to part 39 an appendix that will codify the existing reporting fields for the daily reporting requirements in § 39.19(c)(1). The codification of existing reporting fields in new appendix C will not change the reporting burden.²³

The Commission is adding new fields within new appendix C that would further implement the existing daily reporting requirements under § 39.19(c)(1). Specifically, the Commission is adopting a requirement that a DCO include in its daily reports, with regard to interest rate swaps only, the delta ladder, gamma ladder, vega ladder, zero rate curves, and yield curves that the DCO uses in connection with managing risks associated with interest rate swaps positions. The Commission also is adopting a requirement that a DCO that clears interest rate swaps, forward rate agreements, or inflation index swaps to include in its daily reports the actual trade date for each position, along with an event description. The Commission is not adopting a proposed requirement that each DCO include in its daily reports timing information about variation margin calls and payments, but is adopting a proposed requirement to include in its daily reports information that reflects that the daily report is complete. Lastly, in connection with adopting a new requirement in § 39.19(c)(1)(i) that a DCO include in its daily reports the results of its required daily margin model backtesting, the Commission also is adding to new appendix C amended versions of the additional data fields necessary to implement this requirement.

²³ The current burden estimates for complying with the daily reporting requirements in § 39.19(c)(1) included in OMB Control No. 3038–0076 take into account the burden associated with reporting in accordance with the Reporting Guidebook.

With respect to adding new fields to new appendix C, and adding to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of its required margin model backtesting, the Commission believes that the incremental capital investment costs associated with implementing these requirements would be negligible. In many cases, the new fields are data that are already being used for DCO risk management and operations, and in some cases are already being reported to the Commission on a voluntary basis. Further, the Commission believes that any capital investment implementation for the reporting of these fields would leverage the DCO's existing server architecture that could be scaled up to meet these requirements with negligible costs. However, to the extent that a DCO does not currently use any of the information that would be required under the new fields, or if that information is not accessible on an automated basis, then a DCO may incur start-up costs associated with reporting information pursuant to the new fields, specifically including costs for coding, as well as testing, quality assurance, and compliance review. As explained below in connection with its discussion of cost-benefit considerations, the Commission has estimated²⁴ that DCOs may incur other start-up costs of approximately \$69,667.21 per DCO.²⁵

²⁴ To estimate the start-up costs, the Commission relied upon internal subject matter experts in its Divisions of Data and Clearing and Risk to estimate the amount of time and type of DCO personnel necessary to complete the coding, testing, quality assurance, and compliance review. The Commission then used data from the Department of Labor's Bureau of Labor Statistics from May 2021 to estimate the total costs of this work. According to the May 2021 National Occupational Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, available at https://www.bls.gov/oes/current/oes_nat.htm, the mean salary for a computer systems analyst in management companies and enterprises is \$103,860. This number is divided by 1800 work hours in a year to account for sick leave and vacations and multiplied by 2.5 to account for retirement, health, and other benefits, as well as for office space, computer equipment support, and human resources support, all of which yields an hourly rate of \$144.25. Similarly, a computer programmer has a mean annual salary of \$102,430, yielding an hourly rate of \$142.26; a software quality assurance analyst and tester has a mean annual salary of \$99,460, yielding an hourly rate of \$138.14; and a compliance attorney has a mean annual salary of \$198,900, yielding an hourly rate of \$276.25.

²⁵ The estimate of total start-up costs consists of the following: \$14,101.10 for the delta ladder, gamma ladder, vega ladder, and the zero rate curves, based on 20 hours of systems analyst time, 40 hours of programmer time, and 40 hours of tester time; \$7,248.61 for adding interest rate, forward rates, and end of day position fields, based on 8 hours of systems analyst time, 4 hours of programmer time, and 40 hours of tester time; \$14,140.83 for the manifest file, based on 40 hours

CME commented that it believes the time required to implement the proposed changes would be "an order of magnitude greater than predicted," which would add to the costs. However, CME did not quantify the amount by which it believes that costs would be increased, and as a result, the Commission is reluctant to adjust its estimates based on this comment. Furthermore, the Commission is not adopting all of the new fields that were proposed, which would reduce the costs that may be incurred by DCOs to implement the required changes relative to the initial proposal. Accordingly, the Commission believes that retaining its initial estimates of these costs in the proposal (excluding estimates of any proposals not being adopted in the final rule) addresses CME's concern that the Commission's initial estimates of the costs of implementation were not adequate, while accounting for the fact that costs were reduced by the Commission's decision not to adopt all of the relevant proposals.

Lastly, because the Commission understands that the preparation and submission of the daily reports required under § 39.19(c)(1)(i) is largely automated, the Commission estimates that adding the new fields to new appendix C, and adding to § 39.19(c)(1)(i) a requirement that a DCO include in its daily reports the results of the margin model backtesting, will result in a negligible increase to the current estimate of 0.5 burden hours per report. Accordingly, the Commission retains its existing estimate for the burden associated with daily reporting under § 39.19(c)(1).

The aggregate burden estimate for daily reporting remains as follows:

Estimated number of respondents: 13.
Estimated number of reports per respondent: 250.

Average number of hours per report: 0.5.

Estimated gross annual reporting burden: 1,625.

d. Event-Specific Reporting

Regulation § 39.19(c)(4) requires a DCO to notify the Commission of the occurrence of certain events; § 39.19(c)(4)(ix)(A)(1) requires a DCO to report any change in the ownership or

of systems analyst time, 40 hours of programmer time, and 20 hours of tester time; and \$22,676.67 for adding the backtesting fields, based on 40 hours of systems analyst time, 80 hours of programmer time, and 40 hours of tester time. The estimate of total start-up costs also includes \$11,500.00 for compliance attorney review. The amount that was estimated for the payment file in the proposal, \$39,907.22, is not being included here, because the Commission did not adopt the proposal for the payment file.

corporate or organizational structure of the DCO or its parent(s) that would result in at least a 10 percent change of ownership of the DCO. The Commission is amending § 39.19(c)(4)(ix)(A)(1) to require the reporting of any change in the ownership or corporate or organizational structure of the DCO or its parent(s) that would result in a change to the entity or person holding a controlling interest in the DCO, whether through an increase in direct ownership or voting interest in the DCO or in a direct or indirect corporate parent entity of the DCO. This increases the reporting requirement. However, the changes of control contemplated by the amendment occur infrequently. In addition, DCOs have typically notified the Commission of such changes of control even if not technically required by the current regulations. Finally, although changes of control usually require the preparation of documents such as a purchase agreement and the amendment of corporate governance documents and organizational charts, those burdens are a result of the change in control itself and not of the reporting requirement. The administrative burden of notifying the Commission—preparing a notification, attaching relevant but pre-existing supporting documents such as the revised organizational chart, and submitting to the Commission—is negligible. Therefore, the increase in the reporting requirement resulting from this amendment is negligible.

Regulation § 39.19(c)(4)(xii) and (xiii) require notification of changes in a liquidity funding arrangement or settlement bank arrangement. The Commission is amending these regulations to clarify that the reporting requirements include reporting new arrangements as well as changes to existing ones. The clarification will not affect the burden on DCOs because such reporting is already implied in the regulation.

Separately, the Commission is amending § 39.19(c)(4)(xv) to add credit facility funding arrangements, liquidity funding arrangements, and custodian banks to the list of arrangements or banks for which the DCO must report to the Commission any issues or concerns of which the DCO becomes aware. Although this increases the number of entities or arrangements for which reporting may be required, given that a DCO is only required to report these issues when it becomes aware of them, and given that these events are not very common, any increase should be negligible.

The Commission proposed to revise § 39.18(g) to delete the materiality threshold. Proposed changes would also

have required notification of each security incident or threat that compromises or could compromise the confidentiality, availability, or integrity of any automated system, or any information, services, or data, including, but not limited to, third-party information, services, or data, relied upon by the DCO in discharging its responsibilities; as well as operator errors that may impair the operation, reliability, security, or capacity of an automated system. The Commission estimated that these changes would require DCOs to file an additional four reports per year, on average. The Commission received several comments stating that this estimate is too low. The Commission is not adopting these changes, however, and is therefore removing the proposed additional four reports per year from the reporting burden.

The Commission proposed modifying the reporting obligations under § 39.18(g)(1) and new § 39.18(g)(2) to specify that only events that impact, or potentially impact, a DCO's clearing operations must be reported under each subsection. The Commission is not adopting these changes.

Finally, the Commission is adding § 39.19(c)(4)(xxv) to centralize an existing reporting obligation under § 39.37(b)(2) in § 39.19. This does not create a new reporting obligation. The Commission is also revising § 39.37(c) and (d) to remove the requirement to make certain disclosures to the Commission while retaining a requirement to make such disclosures publicly. This will cause a negligible decrease in costs that will not affect the reporting burden. The reporting burden under existing § 39.37 is covered in the PRA estimate for that regulation.

The aggregate burden estimate of § 39.19(c)(4) adjusted for the changes described above is as follows:

Estimated number of respondents: 13.
Estimated number of reports per respondent: 14.
Average number of hours per report: 0.5.

Estimated gross annual reporting burden: 91.

e. Public Information

The Commission is revising § 39.21(c)(3) and (4) to exclude DCOs that clear only fully collateralized positions from the specific disclosure requirements of these paragraphs. Similarly, the Commission is amending § 39.21(c)(7), which requires a DCO to publish on its website a current list of its clearing members, to provide that a DCO may omit any clearing member that clears only fully collateralized

positions and is not an FCM from the list of clearing members that it must publish on its website. Because such DCOs are still required to report per other parts of § 39.21, such as to disclose the terms and conditions of each contract cleared, the fees it charges its members, and daily settlement prices, volumes, and open interest for each contract, the number of respondents will remain unchanged. The changes do not affect the burden for the majority of DCOs that are subject to the public disclosure requirements. For fully collateralized DCOs, the changes would result in a negligible decrease in the amount of time required per report. The aggregate estimated burden for § 39.21 remains as follows:

Estimated number of respondents: 13.
Estimated number of reports per respondent: 4.

Average number of hours per report: 2.

Estimated gross annual reporting burden: 104.

C. Cost-Benefit Considerations

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.²⁶ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors (collectively referred to herein as section 15(a) factors).

The Commission recognizes that the final rule may impose costs. The Commission has endeavored to assess the expected costs and benefits of the final rule in quantitative terms, including PRA-related costs, where possible. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of the applicable rules in qualitative terms. The lack of data and information to estimate those costs is attributable in part to the nature of the final rule. Additionally, any initial and recurring compliance costs for any

particular DCO will depend on the size, existing infrastructure, practices, and cost structure of the DCO.

To further the Commission's consideration of the costs and benefits imposed by the proposal, the Commission invited comments from the public on all aspects of its cost-benefit considerations, including the identification and assessment of any costs and benefits not discussed by the Commission; data and any other information to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the costs and benefits of the proposed amendments; and substantiating data, statistics, and any other information to support positions posited by commenters with respect to the Commission's discussion. To the extent that the Commission received comments specific to the costs and benefits of the proposed changes, those comments are discussed in the relevant sections below.

2. Baseline

The baseline for the Commission's consideration of the costs and benefits of this final rule is: (1) the DCO Core Principles set forth in section 5b(c)(2) of the CEA; (2) the information requirements associated with commingling customer funds and positions in futures and swaps in the same account under § 39.15(b)(2); (3) the reporting obligations under § 39.18(g) related to a DCO's system safeguards; (4) daily reporting requirements under § 39.19(c)(1); (5) event-specific reporting requirements under § 39.19(c)(4); (6) public information requirements under § 39.21(c); (7) disclosure obligations for SIDCOs and subpart C DCOs under § 39.37; and (8) delegation of authority provisions under § 140.94.

The Commission notes that this consideration of costs and benefits is based on its understanding that the derivatives market regulated by the Commission functions internationally with: (1) transactions that involve U.S. entities occurring across different international jurisdictions; (2) some entities organized outside of the United States that are registered with the Commission; and (3) some entities that typically operate both within and outside the United States and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits below refers to the effects of the final rule on all relevant derivatives activity, whether based on their actual occurrence in the United

²⁶ 7 U.S.C. 19(a).

States or on their connection with, or effect on U.S. commerce.²⁷

3. Amendments to § 39.13(h)(5)

a. Benefits

The Commission is adopting new § 39.13(h)(5)(iii), which provides that a DCO that clears fully collateralized positions may exclude from the requirements of paragraphs (h)(5)(i) and (ii), which concern clearing members' risk management policies and procedures, those clearing members that clear only fully collateralized positions. The requirements would still apply to clearing members that clear fully collateralized positions but also clear margined products.

Fully collateralized positions do not expose DCOs to many of the risks that traditionally margined products do. Full collateralization prevents a DCO from being exposed to credit or default risk stemming from the inability of a clearing member or customer of a clearing member to meet a margin call or a call for additional capital. This limited exposure and full collateralization of that exposure renders certain provisions of part 39 inapplicable or unnecessary, including § 39.13(h)(5). The Commission is adopting this provision in order to provide greater clarity to DCOs and future applicants for DCO registration regarding how § 39.13(h)(5) applies to DCOs that clear fully collateralized positions. Furthermore, the Commission believes that this amendment will provide a benefit to DCOs that clear fully collateralized positions, as they will no longer need to meet a requirement that does not apply to their clearing model.

b. Costs

The Commission does not anticipate any costs associated with this change, as it would codify the removal of requirements that need not apply to fully collateralized positions.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits in light of the specific considerations identified in section 15(a) of the CEA. In consideration of section 15(a)(2)(B) of the CEA, the Commission believes that § 39.13(h)(5)(iii) may increase operational efficiency for DCOs that clear fully collateralized positions. The provision should not impact the protection of market participants and the public, the financial integrity of markets, or sound risk management

practices, as the requirements that the Commission is proposing to exclude for fully collateralized positions do not further these factors when applied to such positions. The Commission has considered the other section 15(a) factors and believes that they are not implicated by this provision.

4. Amendments to § 39.15(b)(2)

a. Benefits

The Commission is amending § 39.15(b)(2) to clarify its requirements and revise the information a DCO must provide to the Commission when it seeks to commingle customer positions and associated funds from different account classes. The Commission anticipates that the amendments will help DCOs, the Commission, and the public to focus on those issues that are most important in considering the submission, and will generally reduce compliance burdens on DCOs.

Based on its experience in reviewing commingling rule submissions, the Commission believes the changes to the information requirements would improve the quality of future submissions and enhance protection of market participants. The existing requirements often result in rule submissions that provide information the Commission already has and lack sufficient focus on the commingling itself, making it difficult for both the Commission and the public to properly assess the risks that commingling of customer funds may pose. The amendments would improve the quality of the submissions by providing the information needed to evaluate the risks posed to customers by commingling products that otherwise would be held in separate accounts.

The amendments would reduce compliance burdens for DCOs by removing existing paragraphs (b)(2)(i)(C), (E), (H), and (L), provisions that call for submission of information the Commission can otherwise access or has not needed in its review of commingling rule submissions. Replacing existing paragraph (b)(2)(i)(I) and adding the related § 39.15(b)(2)(vii) would focus DCO efforts on providing the most useful information on the topic of margin methodology, and eliminates a requirement to provide margin methodology information with which the Commission is already familiar. Similarly, by maintaining only that part of paragraph (b)(2)(i)(K) concerning default management procedures unique to the products eligible for commingling and moving that requirement to paragraph (b)(2)(vi), the amended regulation would focus the discussion of

the DCO's default management procedures on changes necessitated by the commingling of eligible products rather than general information on default management procedures already available to the Commission.

b. Costs

As discussed above, the Commission expects that the amendments to § 39.15(b)(2) will decrease DCOs' costs associated with seeking commingling approval. These changes most meaningfully reduce costs by no longer requiring a DCO to produce certain information it was previously required to provide to the Commission. This is partly offset by the addition of new information requirements. Paragraph (b)(2)(vii), as amended, would require information concerning portfolio margining that is largely a subset of the margin methodology information required by existing paragraph (b)(2)(i)(I). The new requirement in this paragraph amounts to a one sentence confirmation of compliance with § 39.13(g)(4). Paragraph (b)(2)(viii), intended to ensure a DCO provides all information the Commission needs to evaluate a commingling rule submission, incorporates the requirements of existing paragraph (b)(2)(iii). Further, the amendment to existing paragraph (b)(2)(i)(B) on risk characteristics (renumbered as § 39.15(b)(2)(ii)), in addition to focusing the discussion on unusual characteristics, extends the analysis to include a discussion of the DCO's management of identified risk characteristics, which is information that should likely be readily available to DCOs. The Commission is adding to § 39.15(b)(2)(ii) the requirement that a DCO's analysis address any characteristics that are unusual in relation to the other products cleared by the DCO, such as margining, liquidity, default management, pricing, or other risk characteristics. The Commission believes that a DCO may incur additional minor costs, but only to the extent that the products do in fact have margining, liquidity, default management, pricing, or other risk characteristics that are unusual in relation to those currently cleared by the DCO. Lastly, to the extent paragraph (b)(2)(vi) on default management procedures extends beyond the scope of existing paragraph (b)(2)(i)(J) or (K), DCOs should already have this information.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to

²⁷ See, e.g., 7 U.S.C. 2(i).

§ 39.15(b)(2) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments will have a beneficial effect on the protection of market participants and on sound risk management practices. The amendments better focus the DCO submissions on risk management considerations that are relevant to address the commingling of customer positions and associated funds, and assure that DCOs provide the Commission with the information it needs to consider the regulatory adequacy of their efforts. These activities are ultimately directed towards protecting market participants whose accounts are exposed to risks the commingled positions introduce. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.15(b)(2).

5. Notification of Exceptional Events—§ 39.18(g)

a. Benefits

For reasons discussed in greater detail above, the Commission is declining to adopt the proposal to amend § 39.18(g)(1) to expand the scope of hardware or software malfunctions for which a DCO must provide notice to the Division by deleting the materiality element from the requirement to report malfunctions that materially impair, or create a significant likelihood of material impairment of, the DCO's automated systems. Similarly, the Commission is also declining to adopt the remaining proposed changes to § 39.18(g), including the elimination of the materiality threshold for reporting of other exceptional events, the addition of new language regarding reporting for operator error, the addition of untargeted threats as a reporting event, and definitions for "hardware or software malfunction" and "automated system." The retention of the current regulatory framework, including the reporting threshold which affords discretion to DCOs to report only material events, will benefit DCOs by allowing the expenditure of less time and fewer resources to report events of no significance, the knowledge of which would provide little or no informational value to the Division.

b. Costs

Commenters stated that the Commission underestimated the increase in reporting obligations as a result of the proposal to eliminate the materiality threshold for the reporting of exceptional events under § 39.18(g)

(estimated at four reports per DCO per year) as well as the costs of such notifications (estimated at \$152 per year). The Commission is not adopting the proposal to remove the materiality threshold or any of the other proposed changes to § 39.18(g).

c. Section 15(a) Factors

As the Commission is not adopting the proposed amendments to § 39.18(g), a consideration of costs and benefits under section 15(a) is not applicable for this subsection.

6. Removing the Requirement To Report Variation Margin and Cash Flow Information by Individual Customer Account in § 39.19(c)(1)(i)(B) and (C)

a. Benefits

The Commission is amending § 39.19(c)(1)(i)(B) and (C) to remove the requirement that DCOs report to the Commission on a daily basis variation margin and cash flows by individual customer account. In removing these requirements from § 39.19(c)(1)(i)(B) and (C), the Commission anticipates benefits to DCOs and their clearing members in that their operational, technological, and compliance burdens would be reduced. The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission expects that DCOs and their clearing members will not incur any costs related to the amendments to § 39.19(c)(1)(i)(B) and (C), as the Commission is eliminating the existing requirement that DCOs report to the Commission on a daily basis variation margin and cash flows by individual customer account.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to § 39.19(c)(1)(i)(B) and (C) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments to § 39.19(c)(1)(i)(B) and (C) will have a moderately beneficial effect by reducing technological, operational, and compliance burdens of DCOs, and of their clearing members. The Commission also believes that the amendments will not have any effect on protection of market participants and the public or on sound risk management practices because, although the Commission is slightly reducing the amount of information that DCOs must report to the Commission, the Commission is confident that it will

continue to receive from DCOs sufficient information to effectively and efficiently supervise and oversee DCOs and the derivatives markets. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.19(c)(1)(i)(B) and (C).

7. Codifying the Existing Reporting Fields for the Daily Reporting Requirements in New Appendix C to Part 39

a. Benefits

The Commission is adding a new appendix C to part 39 that codifies the existing reporting fields for the daily reporting requirements in § 39.19(c)(1). Until now, the instructions, reporting fields, and technical specifications for daily reporting have been contained in the Reporting Guidebook, which the Division provides to DCOs to facilitate reporting pursuant to § 39.19(c)(1). Although codifying the Reporting Guidebook will not result in material benefit to currently registered DCOs, the Commission believes that it likely will benefit prospective DCO applicants, as well as members of the industry and general public, by providing a detailed list of DCO daily reporting obligations, in contrast to the more general requirements in § 39.19(c)(1). The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission does not expect that DCOs will incur increased costs related to codifying the reporting fields from the Reporting Guidebook in new appendix C to part 39. DCOs have been relying on the Reporting Guidebook for nearly a decade to satisfy their daily reporting obligations under § 39.19(c)(1). Codifying these requirements into a regulatory appendix does not alter the existing burden that DCOs have in complying with § 39.19(c)(1).

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of codifying the Reporting Guidebook as appendix C to part 39 in light of the specific considerations identified in section 15(a) of the CEA. The Commission has considered the section 15(a) factors and believes that adding new appendix C to part 39 to codify the reporting fields set forth in the existing Reporting Guidebook does not implicate the section 15(a) factors.

8. Additional Reporting Fields for the Daily Reporting Requirements—
§ 39.19(c)(1)

a. Benefits

The Commission is adding several new reporting fields that will be incorporated into new appendix C to part 39.²⁸ The Commission is requiring that DCOs that clear interest rate swaps include in their daily reports the delta ladder, gamma ladder, vega ladder, zero rate curves, and yield curves that those DCOs use in connection with managing risks associated with interest rate swaps positions. Additionally, the Commission is requiring DCOs that clear interest rate swaps, forward rate agreements, or inflation index swaps to include in their daily reports the actual trade date for each position along with an event description. Additionally, the Commission is requiring DCOs to include in their daily reports information that reflects that the daily report is complete. Lastly, in connection with the new requirement in § 39.19(c)(1)(i) that a DCO include in its daily reports the results of its required daily margin model backtesting, the Commission also is adding to new appendix C amended versions of the additional data fields necessary to implement this requirement.²⁹ This information, separately and in the aggregate, is expected to assist the Commission in conducting more effective oversight of DCOs, thereby enhancing the protections afforded to the markets generally. The Commission did not receive any comments on the benefits associated with these changes.

b. Costs

The Commission believes that the costs associated with adding these new daily reporting fields to appendix C are negligible. The Commission believes that DCOs already possess this information in read-ready format and use it in the ordinary course of business, and the regulation only requires that they transmit it to the Commission in a standardized format. Despite these beliefs and out of an abundance of caution, the Commission is estimating the cost of developing and producing the new daily reporting fields that

²⁸ As noted previously, the Commission is not adopting the proposal that each DCO include in its daily reports timing information about VM calls and payments.

²⁹ Although the costs, benefits, and section 15(a) factors associated with the requirement in § 39.19(c)(1)(i) that a DCO include backtesting results in its daily report are addressed separately below, the costs associated with the implementation of this requirement via the amended new daily reporting fields in appendix C are addressed in this section.

would be incorporated into new appendix C.

The Commission estimates that the capital costs associated with the addition of new daily reporting fields in new appendix C, and the requirement that DCOs include information on their backtesting results in their daily reports are negligible. The Commission also estimates that any ongoing costs are negligible because the Commission understands that the preparation and submission of the daily reports required pursuant to § 39.19(c)(1)(i) is largely automated. However, to the extent that a DCO does not currently use any of the information that would be required under the new fields, or if that information is not accessible on an automated basis, then a DCO may incur start-up costs associated with reporting information pursuant to the new fields, specifically including costs for coding, as well as testing, quality assurance, and compliance review. To estimate these start-up costs, the Commission relied upon internal subject matter experts in its Divisions of Data and Clearing and Risk to estimate the amount of time and type of DCO personnel necessary to complete the coding, testing, quality assurance, and compliance review. The Commission then used data from the Department of Labor's Bureau of Labor Statistics from May 2021 to estimate the total costs of this work.³⁰ Using this method, the Commission estimates the total start-up costs to be approximately \$69,667.21 per DCO.³¹

³⁰ To estimate the start-up costs, the Commission relied upon internal subject matter experts in its Divisions of Data and Clearing and Risk to estimate the amount of time and type of DCO personnel necessary to complete the coding, testing, quality assurance, and compliance review. The Commission then used data from the Department of Labor's Bureau of Labor Statistics from May 2021 to estimate the total costs of this work. According to the May 2021 National Occupational Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, available at https://www.bls.gov/oes/current/oes_nat.htm, the mean salary for a computer systems analyst in management companies and enterprises is \$103,860. This number is divided by 1800 work hours in a year to account for sick leave and vacations and multiplied by 2.5 to account for retirement, health, and other benefits, as well as for office space, computer equipment support, and human resources support, all of which yields an hourly rate of \$144.25. Similarly, a computer programmer has a mean annual salary of \$102,430, yielding an hourly rate of \$142.26; a software quality assurance analyst and tester has a mean annual salary of \$99,460, yielding an hourly rate of \$138.14; and a compliance attorney has a mean annual salary of \$198,900, yielding an hourly rate of \$276.25.

³¹ The estimate of total start-up costs consists of the following: \$14,101.10 for the delta ladder, gamma ladder, vega ladder, and the zero rate curves, based on 20 hours of systems analyst time, 40 hours of programmer time, and 40 hours of tester time; \$7,248.61 for adding interest rate, forward

CME commented on the cost-benefit considerations related to the addition of these new daily reporting fields, arguing that the Commission severely underestimated the amount of time that would be required to comply with the requirement. Specifically, CME commented that it believes the time required to implement the proposed changes would be "an order of magnitude greater than predicted," which would add to the costs. However, CME did not quantify the amount by which it believes that costs would be increased, and as a result, the Commission is reluctant to adjust its estimates based on this comment. Furthermore, the Commission is not adopting all of the new fields that were proposed, which would reduce the costs that may be incurred by DCOs to implement the required changes. Accordingly, the Commission believes that retaining its initial estimates of these costs in the proposal (excluding estimates of any proposals not being adopted in the final rule) addresses CME's concern that the Commission's initial estimates of the costs of implementation were not adequate, while accounting for the fact that costs were reduced by the Commission's decision not to adopt all of the relevant proposals.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of adding these daily reporting fields to new appendix C to part 39 in light of the specific considerations identified in section 15(a) of the CEA. Requiring DCOs to include in their daily reports delta ladder, gamma ladder, vega ladder, zero rate curve, and yield curve information for interest rates swaps, as well as trade dates for interest rate swaps, forward rate agreements, and inflation index swaps, are expected to provide information necessary for the Commission to improve its supervision and oversight of DCOs and the derivatives markets, which in turn is expected to result in improved protection of market participants and

rates, and end of day position fields, based on 8 hours of systems analyst time, 4 hours of programmer time, and 40 hours of tester time; \$14,140.83 for the manifest file, based on 40 hours of systems analyst time, 40 hours of programmer time, and 20 hours of tester time; and \$22,676.67 for adding the backtesting fields, based on 40 hours of systems analyst time, 80 hours of programmer time, and 40 hours of tester time. The estimate of total start-up costs also includes \$11,500.00 for compliance attorney review. The amount that was estimated for the payment file in the proposal, \$39,907.22, is not being included here, because the Commission did not adopt the proposal for the payment file.

the public, improved financial integrity of the futures markets, and potentially improved DCO risk management practices. The Commission has considered the other section 15(a) factors and believes that they are not implicated by this change.

9. Daily Reporting of Margin Model Backtesting—§ 39.19(c)(1)(i)

a. Benefits

The Commission is adding to § 39.19(c)(1)(i) a requirement that DCOs include in their daily reports the results of the margin model backtesting that DCOs are required to perform daily pursuant to § 39.13(g)(7)(i). Because margin model backtesting results are a crucial element of an effective risk surveillance program, obtaining this information will allow the Commission to conduct more effective oversight of DCOs, thereby enhancing the protections afforded to the markets generally. The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission expects that requiring DCOs to report backtesting results daily will impose only a negligible cost on DCOs because DCOs already possess this information, and they are being required only to transmit it to the Commission in a standardized format. Additionally, the Commission has revised the fields in new appendix C to part 39 for reporting backtesting results to address concerns expressed by commenters and better align those fields with the manner in which DCOs calculate their backtesting results, since DCOs do not perform backtesting and calculate the results in a uniform manner. However, to the extent that a DCO does not maintain the required information in the required standardized format, a DCO may incur initial costs related to modifying its systems to convert the information to the standardized format, specifically including costs for coding, as well as testing, quality assurance, and compliance review. An estimate of these start-up costs is included in the discussion of the estimated costs associated with reporting information pursuant to the new fields in appendix C. The Commission notes, however, that some DCOs are already voluntarily providing backtesting information to the Commission on a weekly or monthly basis.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of requiring DCOs to report

backtesting results daily in light of the specific considerations identified in section 15(a) of the CEA. Requiring DCOs to report backtesting results daily is expected to improve the Commission's supervision of DCO risk management and, therefore, is expected to yield enhanced protection of market participants and the public, improved financial integrity of the futures markets, and also potentially improve DCO risk management practices. The Commission has considered the other section 15(a) factors and believes that they are not implicated by adding to § 39.19(c)(1)(i) a requirement that DCOs include in their daily reports the results of their daily margin model backtesting.

10. Fully Collateralized Positions—§ 39.19(c)(1)(ii)

a. Benefits

The Commission is amending § 39.19(c)(1)(ii) to clarify that this regulation does not apply to fully collateralized positions. Because § 39.19(c)(1)(ii) merely expands on § 39.19(c)(1)(i), which already does not apply to fully collateralized positions, and therefore has no independent force or effect, this amendment does not represent a substantive change. Making this change to § 39.19(c)(1)(ii) provides greater certainty to DCOs, their clearing members, and their customers, and may prevent them from having to request guidance on this matter from the Commission or the Division in the future. Further, the Commission believes that this amendment may increase operational efficiency for DCOs that clear fully collateralized positions. The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission does not anticipate any non-negligible change in costs resulting from amending § 39.19(c)(1)(ii) to clarify that it does not apply to fully collateralized positions.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of amending § 39.19(c)(1)(ii) to clarify that this regulation does not apply to fully collateralized positions in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that this amendment may increase operational efficiency for DCOs that clear fully collateralized positions, which is in the public interest. The Commission has considered the other section 15(a)

factors and believes that they are not implicated by the amendment.

11. Reporting Change of Control of the DCO—§ 39.19(c)(4)(ix)(A)(1)

a. Benefits

Regulation § 39.19(c)(4)(ix)(A)(1) requires a DCO to report any change in the ownership or corporate or organizational structure of the DCO or its parent(s) that would result in at least a 10 percent change of ownership of the DCO. The Commission is amending § 39.19(c)(4)(ix)(A)(1) to require a DCO to report any change in the ownership or corporate or organizational structure of the DCO or its parent(s) that would result in a change to the entity or person holding a controlling interest in the DCO, whether through an increase in direct ownership or voting interest in the DCO or in a direct or indirect corporate parent entity of the DCO. This amendment will ensure that the Commission has accurate knowledge of the individuals or entities that directly or indirectly control a DCO regardless of the corporate structures of the equity holders of the DCO. The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission expects the costs related to the amendment to § 39.19(c)(4)(ix)(A)(1) to be negligible. Specifically, the Commission expects a negligible cost burden with respect to the changes, in part because the changes of control contemplated by the amendment occur infrequently. In addition, DCOs have typically notified the Commission of such changes of control even if not technically required by the current regulations. The administrative burden of notifying the Commission—preparing a notification, attaching relevant but pre-existing supporting documents such as the revised organizational chart, and submitting to the Commission—is negligible.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to § 39.19(c)(4)(ix)(A)(1) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments may have a moderately beneficial effect on protection of market participants and the public, as well as on the financial integrity of the futures markets, because the amendments are anticipated to provide the Commission with a better understanding of the

organizational structure of the ownership of the DCO, potentially illuminating whether any individuals or entities that directly or indirectly control a DCO also have ownership stakes in other registrants or registered entities. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.19(c)(4)(ix)(A)(1).

12. Reporting Issues With Credit Facility Funding Arrangements, Liquidity Funding Arrangements, Custodian Banks, and Settlement Banks—§ 39.19(c)(4)(xv)

a. Benefits

The Commission is amending § 39.19(c)(4)(xv) to require that a DCO report to the Commission within one business day after it becomes aware of any material issues or concerns regarding the performance, stability, liquidity, or financial resources of any credit facility funding arrangement, liquidity funding arrangement, custodian bank, or settlement bank used by the DCO or approved for use by the DCO's clearing members. This amendment expands the reporting requirement, which previously applied only to any settlement bank used by the DCO or approved for use by the DCO's clearing members, to apply as well to any credit facility funding arrangement, liquidity funding arrangement, or custodian bank used by the DCO or approved for use by the DCO's clearing members. This amendment also changes the threshold that triggers a DCO's reporting obligations by replacing the requirement that a DCO report to the Commission within one business day after any material issues or concerns arise, with the requirement that a DCO report to the Commission within one business day after it becomes aware of any material issues or concerns. Given the importance of credit facility funding arrangements, liquidity funding arrangements, custodian banks, and settlement banks to both DCOs and clearing members, it is imperative that the Commission be informed of any known issues or concerns regarding these entities or arrangements, especially considering the broader impact that problems with these entities or arrangements could have on DCOs and clearing members, as well as the derivatives markets as a whole. As such, the reporting of this information is expected to improve the Commission's oversight and supervision of DCOs, clearing members, and the derivatives markets generally. The Commission did not receive any comments on the costs

or benefits associated with these changes.

b. Costs

The Commission expects that the costs related to the amendments to § 39.19(c)(4)(xv) will be negligible. Specifically, because a DCO is only required to report these issues when it becomes aware of them, and given that these events are not very common, any cost increase is estimated to be negligible.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to § 39.19(c)(4)(xv) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments to § 39.19(c)(4)(xv) may potentially have a beneficial effect on protection of market participants and the public, as well as on the financial integrity of the futures markets, because the amendments would provide the Commission with new, additional information that is anticipated to assist the Commission in its supervision of DCOs and oversight of the derivatives markets. Additionally, this information could be time-sensitive and critically important in times of market stress or broader economic upheaval. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.19(c)(4)(xv).

13. Reporting of Updated Responses to the Disclosure Framework for Financial Market Infrastructures—§ 39.19(c)(4)(xxv)

a. Benefits

The Commission is adopting new § 39.19(c)(4)(xxv) to codify in § 39.19 the requirement in § 39.37(b)(2) that, when a DCO updates its responses to the Disclosure Framework for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions in accordance with § 39.37(b)(1), the DCO shall provide notice of those updates to the Commission. This amendment further centralizes within § 39.19 the obligations of DCOs to report information to the Commission, which benefits affected DCOs by consolidating their reporting obligations within one location. The Commission did not receive any comments on the costs or benefits associated with these changes.

b. Costs

The Commission does not anticipate any costs associated with the adoption of § 39.19(c)(4)(xxv) because it does not alter the existing reporting obligations of DCOs.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the adoption of § 39.19(c)(4)(xxv) in light of the specific considerations identified in section 15(a) of the CEA. The Commission has considered the section 15(a) factors and believes that they are not implicated by the adoption of § 39.19(c)(4)(xxv).

14. Publication of Margin-Setting Methodology and Financial Resource Package Information—§ 39.21(c)(3) and (4)

a. Benefits

The Commission is amending § 39.21(c)(3) and (4) to provide that a DCO that clears only fully collateralized positions is not required to disclose its margin-setting methodology, or information regarding the size and composition of its financial resource package for use in a default, if instead the DCO discloses that it does not employ a margin-setting methodology or maintain a financial resource package because it clears only fully collateralized positions. The Commission anticipates the public may benefit from increased clarity regarding the risks that market participants may face at such a DCO because the full collateralization requirement is intended to mitigate such risk.

b. Costs

The Commission does not anticipate any costs associated with the amendment to § 39.21(c)(3) and (4).

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to § 39.21(c)(3) and (4) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments to § 39.21(c)(3) and (4) serve the broader public interest due to the increased clarity regarding the risks that market participants may face at such a DCO, as the full collateralization requirement is intended to mitigate such risk. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.21(c)(3) and (4).

15. Excluding Eligible DCOs From the Requirement in § 39.21(c)(7) To Publish a List of Clearing Members

a. Benefits

The Commission is amending § 39.21(c)(7) to provide that a DCO may omit any non-FCM clearing member that clears only fully collateralized positions, and therefore does not share in the mutualized risk associated with clearing activity, from its published list of clearing members. The Commission anticipates that the amendment will reduce operational and compliance burdens on eligible DCOs. This is a significant benefit because, given the manner in which they engage directly with market participants, DCOs that provide for fully collateralized clearing may have a large number of non-FCM clearing participants and a high volume of turnover among such participants.

b. Costs

The Commission does not anticipate any costs associated with the amendments to § 39.21(c)(7), as the rule reduces the public disclosure requirements that apply to DCOs that provide for fully collateralized clearing.

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendments to § 39.21(c)(7) in light of the specific considerations identified in section 15(a) of the CEA. The Commission believes that the amendments to § 39.21(c)(7) will have a limited and rather moderately beneficial effect on the operations of the eligible DCOs themselves, because eligible DCOs would enjoy the reduced burden of being excused from including non-FCM clearing members that clear only fully collateralized positions in their published lists of clearing participants. Additionally, with respect to public interest considerations, the Commission believes that the amendments to § 39.21(c)(7) will have a moderately beneficial effect on non-FCM market participants that clear through eligible DCOs, because those market participants would benefit from the additional privacy afforded to them when they are not publicly listed as clearing members on the DCO's website. The Commission has considered the other section 15(a) factors and believes that they are not implicated by the amendments to § 39.21(c)(7).

16. Clarifying the Disclosure Obligations in § 39.37

a. Benefits

The Commission is amending § 39.37(c) and (d) to clarify that public disclosure of the information described in those paragraphs is all that is required. The changes to § 39.37(c) and (d) will provide a modest benefit to SIDCOs and subpart C DCOs by clarifying that a separate report directly to the Commission of information that the DCO discloses publicly pursuant to § 39.37(c) and (d) is not required.

b. Costs

The Commission has not identified any costs associated with the changes to § 39.37(c) and (d).

c. Section 15(a) Factors

In addition to the discussion above, the Commission has evaluated the costs and benefits of the amendment of § 39.37(c) and (d) in light of the specific considerations identified in section 15(a) of the CEA. The Commission has considered the section 15(a) factors and believes that they are not implicated by the changes.

17. Amendments to § 140.94(c)(10)

a. Benefits

The Commission is amending § 140.94(c)(10) to provide the Director of the Division with delegated authority to request additional information that the Commission determines to be necessary to conduct oversight of the DCO, and to specify the format and manner of the DCO reporting requirements. The Commission believes the delegation of authority will promote a more expedient process to address these aspects of the reporting requirements under § 39.19.

b. Costs

The Commission has not identified any costs associated with the amendments to § 140.94(c)(10).

c. Section 15(a) Factors

The Commission has considered the section 15(a) factors and believes that they are not implicated by this amendment.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation.³²

³² 7 U.S.C. 19(b).

The Commission believes that the public interest to be protected by the antitrust laws is the promotion of competition. In the proposal, the Commission requested comment on whether: (1) the proposed rulemaking implicates any other specific public interest to be protected by the antitrust laws; (2) the proposed rulemaking is anticompetitive and, if it is, what the anticompetitive effects are; and (3) whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting the proposed rule amendments. The Commission did not receive any comments in response.

The Commission has considered the final rule to determine whether it is anticompetitive and has identified no anticompetitive effects. Because the Commission has determined that the rules are not anticompetitive and have no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA.

List of Subjects

17 CFR Part 39

Reporting and recordkeeping requirements.

17 CFR Part 140

Authority delegations (Government agencies).

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as follows:

PART 39—DERIVATIVES CLEARING ORGANIZATIONS

- 1. The authority citation for part 39 continues to read as follows:

Authority: 7 U.S.C. 2, 6(c), 7a–1, and 12a(5); 12 U.S.C. 5464; 15 U.S.C. 8325; Section 752 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, title VII, sec. 752, July 21, 2010, 124 Stat. 1749.

§ 39.2 [Amended]

- 2. Amend § 39.2 by removing “Back test” and adding in its place “Backtest”.

§ 39.5 [Amended]

- 3. Amend § 39.5 in paragraph (b)(3)(vi) by removing “back testing” and adding in its place “backtesting”.
- 4. Amend § 39.13 as follows:
 - a. In paragraph (g)(7), remove “Back tests” and “back tests” wherever they appear and add in their places “Backtests” and “backtests”, respectively.

- b. In paragraph (h)(5)(i)(A), add the word “and” at the end of the paragraph;
- c. Revise paragraph (h)(5)(i)(B);
- d. Remove paragraph (h)(5)(i)(C); and
- e. Add paragraph (h)(5)(iii).

The revision and addition read as follows:

§ 39.13 Risk management.

* * * * *

- (h) * * *
- (5) * * *
- (i) * * *

(B) Require its clearing members to provide to the derivatives clearing organization or the Commission, upon request, information and documents regarding their risk management policies, procedures, and practices, including, but not limited to, information and documents relating to the liquidity of their financial resources and their settlement procedures.

* * * * *

(iii) A derivatives clearing organization that clears fully collateralized positions may exclude from the requirements of paragraphs (h)(5)(i) and (ii) of this section those clearing members that clear only fully collateralized positions.

* * * * *

- 5. Amend 39.15 by revising paragraph (b)(2) to read as follows:

§ 39.15 Treatment of funds.

* * * * *

- (b) * * *

(2) *Commingling*. In order for a derivatives clearing organization and its clearing members to commingle customer positions in futures, options, foreign futures, foreign options, and swaps, or any combination thereof, and any money, securities, or property received to margin, guarantee or secure such positions, in an account subject to the requirements of sections 4d(a) or 4d(f) of the Act, the derivatives clearing organization shall file rules for Commission approval pursuant to the requirements and standard of review of § 40.5 of this chapter. Such rule submission shall include, at a minimum, the following:

(i) Identification of the products that would be commingled, including product specifications or the criteria that would be used to define eligible products;

(ii) Analysis of the risk characteristics of the eligible products and of the derivatives clearing organization’s ability to manage those risks, addressing any characteristics that are unusual in relation to the other products cleared by the derivatives clearing organization, such as margining, liquidity, default

management, pricing, or other risk characteristics;

(iii) Analysis of the liquidity of the respective markets for the eligible products, the ability of clearing members and the derivatives clearing organization to offset or mitigate the risk of such eligible products in a timely manner, without compromising the financial integrity of the account, and, as appropriate, proposed means for addressing insufficient liquidity;

(iv) A description of any additional requirements that would apply to clearing members permitted to commingle eligible products;

(v) A description of any risk management changes that the derivatives clearing organization will implement to oversee its clearing members’ risk management of eligible products, or an analysis of why existing risk management systems and procedures are adequate in connection with the proposed commingling;

(vi) An analysis of the ability of the derivatives clearing organization to manage a potential default with respect to any of the eligible products that would be commingled, including a discussion of any default management procedures that are unique to the products eligible for commingling;

(vii) A discussion of the extent to which the derivatives clearing organization anticipates allowing portfolio margining of commingled positions, including a description and analysis of any margin reduction applied to correlated positions and the language of any applicable clearing rules or procedures, and an express confirmation that any portfolio margining will be allowed only as permitted under § 39.13(g)(4); and

(viii) Any other information necessary for the Commission to determine the rule submission’s compliance with the Act and the Commission’s regulations in this chapter, which the Commission may request as supplemental information if not provided in the initial submission. The Commission may extend the review period for the rule submission in accordance with § 40.5(d) of this chapter in order to request and obtain supplemental information as necessary.

* * * * *

- 6. Amend § 39.19 as follows:

- a. Revise paragraph (c)(1)(i) and the introductory text of paragraph (c)(1)(ii);
- b. Add paragraph (c)(1)(iii);

- c. Revise paragraphs (c)(4)(ix)(A)(1) and (c)(4)(xii), (xiii), and (xv); and

- d. Add paragraph (c)(4)(xxv).

The revisions and additions read as follows:

§ 39.19 Reporting.

* * * * *

- (c) * * *
- (1) * * *

(i) A derivatives clearing organization shall compile as of the end of each trading day, and submit to the Commission by 10 a.m. on the next business day, a report containing the results of the backtesting required under § 39.13(g)(7)(i), and the following information related to all positions, other than fully collateralized positions, in accordance with the data fields set forth in appendix C to this part:

(A) Initial margin requirements and initial margin on deposit for each clearing member, by house origin and by each customer origin, and by each individual customer account. The derivatives clearing organization shall identify each individual customer account, using both a legal entity identifier, where available, and any internally-generated identifier, within each customer origin for each clearing member;

(B) Daily variation margin, separately listing the mark-to-market amount collected from or paid to each clearing member, by house origin and by each customer origin;

(C) All other daily cash flows relating to clearing and settlement including, but not limited to, option premiums and payments related to swaps such as coupon amounts, collected from or paid to each clearing member, by house origin and by each customer origin; and

(D) End-of-day positions, including as appropriate the risk sensitivities and valuation data that the derivatives clearing organization generates, creates, or calculates in connection with managing the risks associated with such positions, for each clearing member, by house origin and by each customer origin, and by each individual customer account. The derivatives clearing organization shall identify each individual customer account, using both a legal entity identifier, where available, and any internally-generated identifier, within each customer origin for each clearing member.

(ii) The report shall contain the information required by paragraphs (c)(1)(i)(A) through (D) of this section for each of the following, other than fully collateralized positions:

* * * * *

(iii) Notwithstanding the specific fields set forth in appendix C to this part, a derivatives clearing organization may choose to submit, after consultation with staff of the Division of Clearing and Risk, any additional data field that is necessary or appropriate to better

capture the information that is being reported.

* * * * *

- (4) * * *
- (ix) * * *
- (A) * * *

(1) Result in at least a 10 percent change of ownership of the derivatives clearing organization or a change to the entity or person holding a controlling interest in the derivatives clearing organization, whether through an increase in direct ownership or voting interest in the derivatives clearing organization or in a direct or indirect corporate parent entity of the derivatives clearing organization;

* * * * *

(xii) *Change in credit facility funding arrangement.* A derivatives clearing organization shall report to the Commission no later than one business day after the derivatives clearing organization enters into, terminates, or changes a credit facility funding arrangement, or is notified that such arrangement has changed, including but not limited to a change in lender, change in the size of the facility, change in expiration date, or any other material changes or conditions.

(xiii) *Change in liquidity funding arrangement.* A derivatives clearing organization shall report to the Commission no later than one business day after the derivatives clearing organization enters into, terminates, or changes a liquidity funding arrangement, or is notified that such arrangement has changed, including but not limited to a change in provider, change in the size of the arrangement, change in expiration date, or any other material changes or conditions.

* * * * *

(xv) *Issues with credit facility funding arrangements, liquidity funding arrangements, custodian banks, or settlement banks.* A derivatives clearing organization shall report to the Commission no later than one business day after it becomes aware of any material issues or concerns regarding

the performance, stability, liquidity, or financial resources of any credit facility funding arrangement, liquidity funding arrangement, custodian bank, or settlement bank used by the derivatives clearing organization or approved for use by the derivatives clearing organization's clearing members.

* * * * *

(xxv) *Updates to responses to the Disclosure Framework for Financial Market Infrastructures.* A systemically important derivatives clearing organization or a subpart C derivatives clearing organization that updates its responses to the Disclosure Framework for Financial Market Infrastructures published by the Committee on Payment and Settlement Systems and the Board of the International Organization of Securities Commissions pursuant to § 39.37(b)(1) must provide to the Commission, within ten business days after such update, a copy of the text of the responses that shows all deletions and additions made to the immediately preceding version of the responses, as required by § 39.37(b)(2).

* * * * *

■ 7. Amend § 39.21 by revising paragraphs (c)(3), (4), and (7) to read as follows:

§ 39.21 Public information.

* * * * *

(c) * * *

(3) Information concerning its margin-setting methodology, except that a derivatives clearing organization that clears only fully collateralized positions instead may disclose that it does not employ a margin-setting methodology because it clears only fully collateralized positions;

(4) The size and composition of the financial resource package available in the event of a clearing member default, updated as of the end of the most recent fiscal quarter or upon Commission request and posted as promptly as practicable after submission of the report to the Commission under § 39.11(f)(1)(i)(A), except that a

derivatives clearing organization that clears only fully collateralized positions instead may disclose that it does not maintain a financial resource package to be used in the event of a clearing member default because it clears only fully collateralized positions;

* * * * *

(7) A current list of all clearing members, except that a derivatives clearing organization may omit any clearing member that clears only fully collateralized positions and is not a futures commission merchant;

* * * * *

■ 8. Amend § 39.25 by revising paragraph (c) to read as follows:

§ 39.25 Conflicts of interest.

* * * * *

(c) Have procedures for identifying, addressing, and managing conflicts of interest involving members of the board of directors.

■ 9. Amend § 39.37 by revising paragraph (c) and the introductory text of paragraph (d) to read as follows:

§ 39.37 Additional disclosure for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.

* * * * *

(c) Publicly disclose relevant basic data on transaction volume and values consistent with the standards set forth in the Public Quantitative Disclosure Standards for Central Counterparties published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions;

(d) Publicly disclose rules, policies, and procedures concerning segregation and portability of customers' positions and funds, including whether each of:

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■ 10. Add appendix C to part 39 to read as follows:

Appendix C to Part 39—Daily Reporting Data Fields

A. Daily Cash Flow Reporting

Field name	Description	House & customer origin	Individual customer account
Common Fields (Daily Cash Flow Reporting)			
Total Message Count	The total number of reports included in the file	M	M
FIXML Message Type	Financial Information eXchange Markup Language (FIXML) account summary report type	M	M
Sender ID	The CFTC-issued derivatives clearing organization (DCO) identifier	M	M
To ID	Indicate "CFTC"	M	M
Message Transmit Datetime	The date and time the file is transmitted	M	M
Report ID	A unique identifier assigned by the Commodity Futures Trading Commission (CFTC) to each clearing member report.	M	M
Report Date	The business date of the information being reported	M	M
Base Currency	Base currency referenced throughout report; provide exchange rate against this currency	M	M
Report Time (Message Create Time) ..	The report "as of" or information cut-off time	M	M
DCO Identifier	CFTC-assigned identifier for a DCO	M	M
Clearing Participant Identifier	DCO-assigned identifier for a particular clearing member	M	M

Field name	Description	House & customer origin	Individual customer account
Clearing Participant Name	The name of the clearing member	M	M
Fund Segregation Type	Clearing fund segregation type	M	M
Clearing Participant LEI	Legal entity identifier (LEI) for a particular clearing member per International Organization for Standardization (ISO) 17442.	C	C
Clearing Participant LEI Name	The LEI name associated with the clearing member LEI	C	C
Customer Position Identifier	Proprietary identifier for a particular customer position account	C	N/A
Customer Position Name	The name associated with the customer position identifier	M	N/A
Customer Position Account Type	Type of account used for reporting	C	N/A
Customer LEI	LEI for a particular customer; provide if available	N/A	C
Customer LEI Name	The LEI name associated with the customer position LEI	N/A	C
Margin Account	Margin account identifier	M	N/A
Customer Margin Name	The name associated with the customer margin identifier	N/A	C
Unique Margin Identifier	A single field that uniquely identifies the margin account. This field is used to identify associated positions.	M	M
Customer Margin Identifier	Proprietary identifier for a particular customer	N/A	M
Customer Margin Account Type	Account type indicator	N/A	M

Futures and Options (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Concentration Risk	Risk factor component to capture costs associated with the liquidation of a large position	C	C
Delivery Margin	Margin collected to cover delivery risk	C	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	M
Liquidity Risk	Risk component to capture bid/offer costs associated with the liquidation of a large portfolio. ...	C	C
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	N/A
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Market Move Risk	Margin amount associated with market move risk	C	C
Margin Savings	The margin savings amount for the clearing member where there is a cross-margining agreement with another DCO.	C	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	C
Net Option Value	The credit or debit amount based on the long or short options positions	C	C
Backdated Profit and Loss	The profit and loss (P&L) attributed to positions added that were novated on a prior date	O	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark-to-market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A
Customer Margin Omnibus Parent	The margin identifier for the omnibus account associated with the customer margin identifier. (Conditional on reported customer position being part of a separately reported omnibus account position.)	N/A	C

Commodity Swaps (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	M
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	M
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., profit/loss, price alignment interest, cash payments (fees, coupons, etc.).	C	N/A
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark to market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A

Credit Default Swaps (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Concentration Risk	Risk factor component to capture costs associated with the liquidation of a large position	C	C
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	M
Liquidity Risk	Risk component to capture bid/offer costs associated with the liquidation of a large portfolio. ...	C	C

Field name	Description	House & customer origin	Individual customer account
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	C
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Spread Response Risk	Risk factor component associated with credit spread level changes and credit term structure shape changes.	C	C
Systemic Risk	Risk factor component to capture parallel shift of credit spreads	C	C
Curve Risk	Risk factor that captures curve shifts based on portfolio	C	C
Index Spread Risk	Risk factor component associated with risks due to widening/tightening spreads of credit default swap (CDS) indices relative to each other.	C	C
Sector Risk	Risk factor component to capture sector risk	C	C
Jump to Default Risk	Risk factor component to capture most extreme up/down move of a reference entity	C	C
Basis Risk	Risk factor component to capture basis risk between index and index constituent reference entities.	C	C
Interest Rate Risk	Risk factor component associated with parallel shift movements in interest rates	C	C
Jump to Health Risk	Risk factor component to capture extreme narrowing of credit spreads of a reference entity; also known as "idiosyncratic risk".	C	C
Other Risk	Any other risk factors included in the margin model	C	C
Recovery Rate Sensitivity Risk	Risk factor component to capture fluctuations of recovery rate assumptions	C	C
Wrong Way Risk	Risk that occurs when exposure to a counterparty is adversely correlated with the credit quality of that counterparty. It arises when default risk and credit exposure increase together.	C	C
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Initial Coupon	Amount of coupon premium amount accrued from the start of the current coupon period through the trade date. (Indicate gross pay/collect amounts.)	O	N/A
Upfront Payment	The difference in market value between the standard coupon and the market spread as well as the coupon accrued through the trade date. (Indicate gross pay/collect amounts.)	O	N/A
Trade Cash Adjustment	Additional cash amount on trades. (Indicate gross pay/collect amounts.)	C	N/A
Quarterly Coupon	Regular payment of quarterly coupon premium amounts. (Indicate gross pay/collect amounts.)	O	N/A
Credit Event Payments	Cash settlement of credit events. (Indicate gross pay/collect amounts.)	C	N/A
Accrued Coupon	Coupon obligation from the first day of the coupon period through the current clearing trade date. The sum of accrued coupon for each position in the clearing member's portfolio (by origin)..	M	N/A
Final Mark to Market	Determined by marking the end-of-day position from par (100%) to the end-of-day settlement price.	M	N/A
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark-to-market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A
Previous Accrued Coupon	Previous day's accrued coupon	M	N/A
Previous Mark to Market	Previous day's mark to market	M	N/A
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M	N/A

Foreign Exchange (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons..	M	M
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	M
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Other Payments	Includes any upfront and/or final/settlement payments made/received for the trade date. (Indicate gross pay/collect amounts.)	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M	N/A
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark-to-market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A

Interest Rate Swaps (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
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Field name	Description	House & customer origin	Individual customer account
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	M
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	M
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Cross-Margined Products Profit/Loss ..	P&L resulting from changes in value due to changes in the futures price. This P&L should only include changes to the cross-margined futures in the account.	C	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Other Payments	Includes any upfront and/or final/settlement payments made/received for the trade date. (Indicate gross pay/collect amounts.)	C	N/A
Net Coupon Payment	Net amount of any coupon cash flows recognized on report date but actually occurring on currency's settlement convention date. (Indicate gross pay/collect amounts.)	M	N/A
Net Present Value	Net present value (NPV) of all positions by currency	M	N/A
Net Present Value Previous	Previous day's NPV by currency	M	N/A
PV of Other Payments	Includes the present value of any upfront and/or final/settlement payments that will be settled after the report date. Only include amounts that are affecting the NPV of current trades.	M	N/A
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M	N/A
Accrued Coupon	Coupon obligation from the first day of the coupon period through the current clearing trade date. The sum of accrued coupon for each position in the clearing member's portfolio (by origin).	M	N/A
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark-to-market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L)..	M	N/A

Equity Cross Margin (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons resulting from liquidity/concentration charges.	M	M
Liquidity Risk	Risk component to capture bid/offer costs associated with the liquidation of a large portfolio ...	C	C
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date..	M	N/A
Total Margin	The total margin requirement for the origin. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	N/A
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin..	M	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Net Option Value	The credit or debit amount based on the long or short options positions	C	C
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date.	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark to market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A

Consolidated (Daily Cash Flow Reporting)

Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	N/A
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The consolidated non-U.S. margin requirement for the origin. The consolidated non-U.S. margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	N/A
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C	N/A
Backdated Profit and Loss	The P&L attributed to positions added that were novated on a prior date	C	N/A
Day Trading Profit and Loss	The P&L attributed to the day's trades	C	N/A
Position Profit and Loss	The P&L of the previous day's position with today's price movement	C	N/A
Total Profit and Loss	Unrealized P&L or mark-to-market value of position(s) including change in mark to market (Total P&L = Position P&L + Day Trading P&L + Backdated P&L).	M	N/A

Field name	Description	House & customer origin	Individual customer account
Exempt DCO (Daily Cash Flow Reporting)			
Additional Margin	Any additional margin required in excess of initial margin. For example, this figure should include any liquidity/concentration charge if the charge is not included in the initial margin.	M	N/A
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M	N/A
Margin Calls	Any outstanding margin call that has been issued but not collected as of the end of the trade date.	M	N/A
Total Margin	The U.S. person margin requirement for the origin by currency contribution. If the traded currency's swaps (i.e., JY) offset risk of other currencies, include an amount of zero for that currency. This margin requirement should include the initial margin requirement plus any additional margin required by the DCO.	M	N/A
Variation Margin	Variation margin should include the net sum of all cash flows between the DCO and clearing members by origin.	M	N/A
Collateral on Deposit	The collateral on deposit for an origin. This amount should include all collateral after all haircuts that have been deposited to cover the total margin requirement.	M	N/A
Mark-to-Market	Determined by marking the end of day position(s) from par (100%) to the end of day settlement price.	M	N/A

M = mandatory C = conditional O = optional.

B. Daily Position Reporting

Field name	Description	Use
Common Fields (Daily Position Reporting)		
Total Message Count	The total number of reports included in the file	M
FIXML Message Type	FIXML account summary report type	M
Sender ID	The CFTC-issued DCO identifier	M
To ID	Indicate "CFTC"	M
Message Transmit Datetime	The date and time the file is transmitted	M
Report ID	A unique identifier assigned by the CFTC to each clearing member report	M
Report Date	The business date of the information being reported	M
Base Currency	Base currency referenced throughout report; provide exchange rate against this currency	M
Report Time (Message Create Time)	The report "as of" or information cut-off time	M
Message Event	The event source being reported	M
Market Segment ID	Market segment associated with the position report	M
DCO Identifier	CFTC-assigned identifier for a DCO	M
Clearing Participant Identifier	DCO-assigned identifier for a particular clearing member	M
Clearing Participant Name	The name of the clearing member	M
Fund Segregation Type	Clearing fund segregation type	M
Clearing Participant LEI	LEI for a particular clearing member	C
Clearing Participant LEI Name	The LEI name associated with the clearing member LEI	C
Customer Position Identifier	Proprietary identifier for a particular customer position account	C
Customer Position Name	The name associated with the customer position identifier	M
Customer Position Account Type	Type of account used for reporting	C
Customer Position LEI	LEI for a particular customer; must be provided when available	C
Customer Position LEI Name	The LEI name associated with the Customer Position LEI	C
Customer Margin Identifier	Proprietary identifier for a particular customer	C
Customer Margin Name	The name associated with the customer margin identifier	C
Unique Margin Identifier	A single field that uniquely identifies the margin account. This field is used to identify associated positions	M

Futures and Options (Daily Position Reporting)

Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	M
Cross-Margin Entity	Name of the entity associated with a cross-margined account	C
Exchange Commodity Code	Contract commodity code issued by the exchange; e.g., ticker symbol, the human recognizable trading identifier.	M
Clearing Commodity Code	Registered commodity clearing identifier. The code is for the contract as if it was traded in the form it is cleared. For example, if the contract was traded as a spread but cleared as an outright, the outright symbol should be used.	M
Product Type	Indicates the type of product with which the security is associated	C
Security Type	Indicates type of security	M
Maturity Month Year	Month and year of the maturity	M
Maturity Date	The date on which the principal amount becomes due	C
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Asset Subtype	Provides a more specific description of the asset type	C
Security Group (Sector)	A name assigned to a group of related instruments which may be concurrently affected by market events and actions.	C
Unit Leverage Factor	The multiplier needed to convert a change of one point of the quoted index into local currency P&L for a 1-unit long position.	M
Units	Unit of measure	M
Settlement Method	Method of settlement	C
Exchange Identifier (MIC)	Exchange where the instrument is traded, per ISO 10383	M
Security Description	Used to provide a textual description of a financial instrument	M
Unique Product Identifier	A single field that uniquely identifies a given product. All positions with this identifier will have the same price	M
Alternate Product Identifier—Spread Underlying Long	When a contract represents a differential between two products, the product code that represents the long position in the spread for long position in the combined contract.	C

Field name	Description	Use
Alternate Product Identifier—Spread Underlying Short	When a contract represents a differential between two products, the product code that represents the long position in the spread for short position in the combined contract.	C
Last Trading Date	The last day of trading in a futures contract	M
First Notice Date	The first date on which delivery notices are issued	C
Position (Long)	Long position size. If a position is quoted in a unit of measure (UOM) different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Position (Short)	Short position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Settlement FX Info	Settlement price foreign exchange conversion rate	M
Change in Settlement Price	The quoted price change between the prior trading day's settlement and today's settlement	M
Unit Currency P&L	The local currency P&L between the prior trading day's settlement and today's settlement for a 1-unit long position.	M
Outright Initial Margin	Initial margin for the position as if it were a stand-alone outright position	C
Option Exercise Style	Exercise style	C
Option Strike Price	Option strike price	C
Option Put/Call Indicator	Option type	C
Underlying Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	C
Underlying Exchange Commodity Code	Underlying Contract code issued by the exchange	C
Underlying Clearing Commodity Code	Registered commodity clearing identifier. The code is for the contract as if it was traded in the form it is cleared. For example, if the contract was traded as a spread but cleared as an outright, the outright symbol should be used.	C
Underlying Product Type	Indicates the type of product the security is associated with	C
Underlying Security Type	Indicator which identifies the underlying derivative type	C
Underlying Security Group (Sector)	A name assigned to a group of related instruments which may be concurrently affected by market events and actions.	C
Underlying Maturity Month Year	Month and year of the maturity	C
Underlying Maturity Date	The date on which the principal amount becomes due	C
Underlying Asset Class	The underlying broad asset category for assessing risk exposure	C
Underlying Asset Subclass	The subcategory description of the asset class	C
Underlying Asset Type	Provides a more specific description of the asset subclass	C
Underlying Asset Subtype	Provides a more specific description of the asset type.	C
Underlying Exchange Code (MIC)	Exchange where the underlying instrument is traded	C
Underlying Security Description	Textual description of a financial instrument	C
Unique Underlying Product Code	A single field that is the result of concatenating relevant fields that create a unique product ID that is associated with a unique price.	C
Primary Options Exchange Code—Implied Volatility Quote.	This field identifies the main options chain for the future that provides the implied volatility quote	C
DELTA	Delta is the measure of how the option's value varies with changes in the underlying price	C
Implied Volatility	The implied volatility and quotation style for the contract, typically in natural log percent or index points	C
Customer Margin Omnibus Parent	The margin identifier for the omnibus account associated with the customer margin identifier. (Conditional on reported customer position being part of a separately reported omnibus account position).	C

Commodity Swaps (Daily Position Reporting)

Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	M
Exchange Commodity Code	Contract commodity code issued by the exchange; e.g., ticker symbol, the human recognizable trading identifier.	M
Clearing Commodity Code	Registered commodity clearing identifier. The code is for the contract as if it was traded in the form it is cleared. For example, if the contract was traded as a spread but cleared as an outright, the outright symbol should be used.	M
Product Type	Indicates the type of product with which the security is associated	C
Security Group (Sector)	A name assigned to a group of related instruments which may be concurrently affected by market events and actions.	C
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to 17 CFR 45.7.	O
Maturity Month Year	Month and year of the maturity	M
Maturity Date	The date on which the principal amount becomes due	C
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Unit Leverage Factor	The multiplier needed to convert a change of one point of the quoted index into local currency P&L for a 1-unit long position.	C
Minimum Tick	Minimum price tick increment	C
Units	Unit of measure	M
Settlement Method	Swap settlement method	C
Exchange Identifier (MIC)	Exchange where the instrument is traded	M
Security Description	Used to provide a textual description of a financial instrument	C
Security Type	Indicates type of security	M
Position (Long)	Long position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Position (Short)	Short position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., profit/loss, price alignment interest, cash payments (fees, coupons, etc.).	C
Settlement FX Info	Settlement price foreign exchange conversion rate	M
Universal (or Unique) Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. The USI namespace and the USI should be separated by a pipe " " character.	M
Option Exercise Style	Exercise style	C
Option Put/Call Indicator	Option type	M
Option Strike Price	Option strike price	M
Underlying Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	M
Underlying Exchange Commodity Code	Underlying Contract code issued by the exchange	C

Field name	Description	Use
Underlying Clearing Commodity Code	Registered commodity clearing identifier. The code is for the contract as if it was traded in the form it is cleared. For example, if the contract was traded as a spread but cleared as an outright, the outright symbol should be used.	M
Underlying Product Type	Indicates the type of product the security is associated with	C
Underlying Security Group (Sector)	A name assigned to a group of related instruments which may be concurrently affected by market events and actions.	C
Underlying Maturity Month Year	Month and year of the maturity	M
Underlying Maturity Date	The date on which the principal amount becomes due	C
Underlying Asset Class	The underlying broad asset category for assessing risk exposure	M
Underlying Asset Subclass	The subcategory description of the asset class	C
Underlying Asset Type	Provides a more specific description of the asset subclass	C
Underlying Exchange Code (MIC)	Exchange where the underlying instrument is traded	M
Underlying Security Type	Indicates type of security	M
Underlying Security Description	Textual description of a financial instrument	C
DELTA	Delta is the measure of how the option's value varies with changes in the underlying price	C

Credit Default Swaps (Daily Position Reporting)

Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	M
Exchange Security Identifier	Contract code issued by the exchange	O
Redcode	The code assigned to the CDS by Markit that identifies the referenced entity or the index, series and version. (Underlying instrument is required for Security Type = SWAPTION.)	M
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to Commission regulation 17 CFR 45.7.	O
Security Type	Indicator which identifies the derivative type	M
Restructuring Type	This field is used if the index has been restructured due to a credit event	M
Seniority Type	The class of debt	M
Maturity Date	The date on which the principal amount becomes due	C
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Reference Entity Type (Sector)	Specifies the type of reference entity for first-to-default CDS basket contracts. The Markit sector code should be provided when available.	M
Coupon Rate	The coupon rate associated with this CDS transaction stated in Basis Points	M
Security Description (Reference Entity)	Name of CDS index or single-name or sovereign debt	M
Recovery Factor	The assumed recovery rate used to determine the CDS price	O
Position (Long)	Long position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Position (Short)	Short position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
5 YR Equivalent Notional	The five-year equivalent notional amount for each risk factor/reference entity CDS contract	M
Accrued Coupon	Coupon obligation from the first day of the coupon period through the current clearing trade date	M
Profit and Loss	Unrealized P&L or mark to market value of position(s) including change in mark to market plus change in accrued coupon plus change in unsettled upfront fees. Does not include cash flows related to quarterly coupon payments, credit event payments, or price alignment interest.	M
Credit Exposure (CS01)	The credit exposure of the swap at a given point in time. CS01 = Spread DV01 = "dollar" value of a basis point = In currency (not percentage) terms, the change in fair value of the leg, transaction, position, or portfolio (as appropriate) commensurate with a 1 basis point (0.01 percent) instantaneous, hypothetical increase in the related credit spread curves. CS01/Spread DV01 may refer to non-dollar currencies and related curves. From the DCO's point of view: positive CS01 = gain in value resulting from 1 basis point increase, negative CS01 = loss of value resulting from 1 basis point increase.	C
Mark to Market	Determined by marking the end of day position(s) from par (100%) to the end of day settlement price	M
Price Value of a Basis Point (PV01)	Change in P&L of a position given a one basis point move in CDS spread value. May also be referred to as DV01, Sprd DV01.	M
Previous Accrued Coupon	Previous day's accrued coupon	M
Previous Mark to Market	Previous day's mark to market	M
Universal (or Unique) Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. The USI namespace and the USI should be separated by a pipe " " character.	O
Option Strike Price	Option strike price	C
Settlement Method	Method of settlement	C
Option Exercise Style	Exercise style	C
Option Put/Call Indicator	Option type	C
Option Type	Specifies the option type	C
Option Start Date	The option adjusted start date	C
Option Expiration Date—Adjusted	The CDS option adjusted expiration date	C
Underlying Exchange Security Identifier	The underlying contract alias used by outside vendors to uniquely identify the contract	O
Underlying Clearing Security Identifier (Red Code)	The underlying code assigned to the CDS by Markit that identifies the referenced entity or the index, series and version.	C
Underlying Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to Commission regulation 17 CFR 45.7.	O
Underlying Security Type	Indicator which identifies the underlying derivative type	C
Underlying Restructuring Type	This field is used if the underlying index has been restructured due to a credit event	C
Underlying Seniority Type	The underlying class of debt	C
Underlying Maturity Date	The date on which the principal amount becomes due	C
Underlying Asset Class	The underlying broad asset category for assessing risk exposure	C
Underlying Asset Subclass	The subcategory description of the asset class	C
Underlying Asset Type	Provides a more specific description of the asset subclass	C
Underlying Reference Entity Type (Sector)	Specifies the type of underlying reference entity for first-to-default CDS basket contracts	C
Underlying Coupon Rate	The underlying coupon rate associated with this CDS transaction stated in basis points	C
Underlying Security Description	Textual description of a financial instrument	C
Underlying Recovery Factor	The assumed recovery rate used to determine the underlying CDS price	C
DELTA	Delta is the measure of how the option's value varies with changes in the underlying price	M
GAMMA	Gamma is the rate of change for delta with respect to the underlying asset's price	M
RHO	Rho measures the sensitivity of an option's price to a variation in the risk-free interest rate	M

Field name	Description	Use
THETA	Theta is the rate at which an option loses value as time passes	M
VEGA	Vega is the measurement of an option's sensitivity to changes in the volatility of the underlying asset	M
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C
Option Premium Date	Date swaption premium is paid	C

Foreign Exchange (Daily Position Reporting)

Settle Date	Settle date of the position	M
Settlement Price/Fixing Currency	Settlement price of the position	M
Discount Factor	Discount factor for the position. Use the factor for the Mark to Market (MTM) currency	M
Valuation Date	Valuation date of the position	M
Delivery Date	Delivery date of the position	M
Clearing Security Identifier	Code assigned by the DCO for a particular contract	M
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to Commission regulation 17 CFR 45.7.	O
Security Type	Registered commodity clearing identifier. (Underlying instrument is required for Security Type = FXOPT FXNDO.)	M
Maturity Month Year	Month and year of the maturity	C
Maturity Date (Expiration)	Specifies date of maturity (a calendar date). Used for FXFWD/FXNDF. For non-deliverable forwards (NDFs), this represents the fixing date of the contract.	C
Maturity Time (Expiration)	The contract expiration time. (Used for FXFWD/FXNDF.)	C
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Valuation Method	Specifies the type of valuation method applied	C
Security Description	Used to provide a textual description of a financial instrument	C
Foreign Exchange Type	Identifies the type of FX contract. Use Typ = 7 for direct FX (e.g., EUR/USD). Use Typ = 16 for NDFWD contracts (e.g., THB/INR settled in USD).	M
Currency One	Specifies the first or only reference currency of the trade	M
Currency Two	Specifies the second reference currency of the trade	M
Quote Basis	For foreign exchange quanto option feature	M
Fixed Rate	(FXFWD or FXNDF only). Specifies the forward FX rate alternative	C
Spot Rate	Specifies the FX spot rates the first or only reference currency of the trade	C
Forward Points	(FXFWD or FXNDF only) The interest rate differential in basis points between the base and quote currencies in a forward rate quote. May be a negative value. (The number of basis points added to or subtracted from the current spot rate of a currency pair to determine the forward rate for delivery on a specific value date.)	C
Delivery Type Indicator	Delivery type indicator	M
Position—Long	Gross long position. An affirmative zero value should be reported for the long position. (Both long and short positions are required.) For FXNDF use Typ = DLV for settlement currency.	M
Position—Short	Gross short position. An affirmative zero value should be reported for the short position. (Both long and short positions are required.) For FXNDF use Typ = DLV for settlement currency.	M
Final Mark to Market	Mark to market which includes the discount factor	M
Dollar Value of a Basis Point (DV01)—Long Currency	The dollar value of a one basis point change (DV01) in the yield of the underlying security and that of the hedging vehicle.	M
Dollar Value of a Basis Point (DV01)—Short Currency	The dollar value of a one basis point change (DV01) in the yield of the underlying security and that of the hedging vehicle.	M
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., profit/loss, price alignment interest, cash payments (fees, coupons, etc.).	M
Undiscounted Mark to Market	Mark to market, which does not include the discount factor	M
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M
Universal (or Unique) Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. The USI namespace and the USI should be separated by a pipe " " character.	M
Option Put/Call Indicator	Option type	C
Strike Rate	Option strike rate	C
Option Exercise Style	Exercise style	C
Option Cut Name	The code by which the expiry time is known in the market	C
Underlying Settlement Price/Fixing Currency	Settlement price for the position. (Underlying settlement is required for FXOPT, FXNDO.)	C
Underlying Exchange Security Code	Security code issued by the exchange; e.g., ticker symbol, the human recognizable trading identifier	C
Underlying Clearing Security Identifier	Code assigned by the DCO for the underlying contract	C
Underlying Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to Commission regulation 17 CFR 45.7.	O
Underlying Security Type	Indicator which identifies the underlying derivative	C
Underlying Maturity Month Year	Month and year of the maturity	C
Underlying Maturity Date (Expiration)	For FXFWD/FXNDF, the date on which the principal amount becomes due. For NDFs, this represents the fixing date of the contract.	C
Underlying Exchange Identifier (MIC)	Exchange where the underlying instrument is traded	C
Underlying Security Description	Textual description of a financial instrument	C
Option Long/Short Indicator	Indicates whether the option is short or long	C
Option Expiration	Adjusted option expiration date	C
Notional Long/Short	FX currency notional long or short	M
Implied Volatility	The implied volatility and quotation style for the contract, typically in natural log percent or index points	C
DELTA	Delta is the measure of how the option's value varies with changes in the underlying price	M
GAMMA	Gamma is the rate of change for delta with respect to the underlying asset's price	M
RHO	Rho measures the sensitivity of an option's price to a variation in the risk-free interest rate	M
THETA	Theta is the rate at which an option loses value as time passes	M
VEGA	Vega is the measurement of an option's sensitivity to changes in the volatility of the underlying asset	M
Option Premium MTM	Premium mark to market, which includes the discount factor	C

Interest Rate Swaps (Daily Position Reporting)

Cleared Date	Date on which the trade was cleared at the DCO	M
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Field name	Description	Use
Position Status	Position status: active, or terminated. Terminated positions should only be reported on the day of termination	M
DCO Pays Indicator	Indicate which cash flow the DCO pays	M
DCO Receives Indicator	Indicate which cash flow the DCO receives	M
Clearing Participant Pays Indicator	Indicate which cash flow the clearing member pays	M
Clearing Participant Receives Indicator	Indicate which cash flow the clearing member receives	M
Clearing Security Identifier	Code assigned by the DCO for a particular contract	M
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to Commission regulation 17 CFR 45.7.	O
Security Type	Registered commodity clearing identifier	M
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Swap Class	The classification or type of swap	M
Swap Subclass	The sub-classification or notional schedule type of the swap	C
Security Description	Used to provide a textual description of a financial instrument	M
Leg Type	Identifies if the leg is fixed or floating	M
Leg Notional	Notional amount associated with leg	M
Leg Notional Currency	Currency of the leg's notional amount	M
Leg Start Date Adj Bus Day Conv	If start date falls on a weekend or holiday, value defines how to adjust actual start date	C
Leg Start Date	Leg's effective date	M
Leg Maturity Date Adj Bus Day Conv	If the maturity date falls on a weekend or holiday, value defines how to adjust actual maturity date	C
Leg Maturity Date	The date on which the leg's principal amount becomes due	M
Leg Maturity Date Adj Calendar	Regarding the maturity date, this specifies which dates are considered holidays	C
Leg Calculation Period Adjusted Business Day Convention	If a date defining the calculation period falls on a holiday, this adjusts the actual dates based on the definition of the input.	C
Leg Calculation Frequency	Calculation frequency, also known as the compounding frequency for compounded swaps	M
Leg First Reg Per Start Date	If there is a beginning stub, this indicates the date when the usual payment periods will begin	C
Leg Last Reg Per End Date	If there is an ending stub, this indicates the date when the usual payment periods will end	C
Leg Roll Conv	Indicates the day of the month when the payment is made	C
Leg Calc Per Adj Calendar	Regarding the calculation period, this specifies which dates are considered holidays	C
Leg Daycount	Defines how interest is accrued/calculated	C
Leg Comp Method	If payments are made on one timeframe but calculations are made on a shorter timeframe, this describes how to compound interest.	C
Leg Pay Adj Bus Day Conv	If cash flow pay or receive date falls on a weekend or holiday, value defines actual date payment is made	C
Leg Pay Frequency	Frequency at which payments are made	M
Leg Pay Relative To	Payment relative to the beginning or end of the period	C
Leg Payment Lag	Number of business days after payment due date on which the payment is actually made	C
Leg Pay Adj Calendar	Regarding dates on which cash flow payments/receipts are scheduled, this specifies which dates are considered holidays.	C
Leg Reset Relative To	Specifies whether reset dates are determined with respect to each adjusted calculation period start date or adjusted calculation period end date.	C
Leg Reset Date Adj Bus Day Conv	Business day convention to apply to each reset date if the reset date falls on a holiday	C
Leg Reset Frequency	Frequency at which resets occur. If the Leg Reset Frequency is greater than the calculation per frequency, more than 1 reset date should be established for each calculation per frequency and some form of rate averaging is applicable.	C
Leg Fixing Date Bus Day Conv	Business day convention to apply to each fixing date if the fixing date falls on a holiday	C
Leg Fixing Date Offset	Specifies the fixing date relative to the reset date in terms of a business days offset	C
Leg Fixing Day Type	The type of days to use to find the fixing date (i.e., business days, calendar days, etc.)	C
Leg Reset Date Adj Calendar	Regarding reset dates, this specifies which dates are considered holidays	C
Leg Fixing Date Calendar	Regarding the fixing date, this specifies which dates are considered holidays	C
Leg Fixed Rate or Amount	Only populate if Leg1 is Type "Fixed". This should be expressed in decimal form (e.g., 4% should be input as ".04").	C
Leg Index	If Stream is floating rate, this gives the index applicable to the floating rate	C
Leg Index Tenor	For the floating rate leg, the tenor of the leg. For the fixed rate leg, NULL	C
Leg Spread	Describes if there is a spread (typically an add-on) applied to the coupon rate	C
Leg Pmt Sched Notional	Variable notional swap notional values	C
Leg Initial Stub Rate	The interest rate applicable to the Initial Stub Period in decimal form (e.g., 4% should be input as ".04")	C
Leg Initial Stub Rate Index 1	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the first index.	C
Leg Initial Stub Rate Index 2 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the second index.	C
Leg Final Stub Rate	The interest rate applicable to the final stub period in decimal form (e.g., 4% should be input as ".04")	C
Leg Final Stub Rate Index 1	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the first index.	C
Leg Final Stub Rate Index 2 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the second index.	C
Accrued Coupon (Interest)	Net accrued coupon amount since the last payment in the leg currency. If reported by leg, indicate the associated stream (leg) description (e.g., "FIXED/FLOAT," "FLOAT1/FLOAT2").	M
Profit/Loss	Profit/loss resulting from changes in value due to changes in underlying curve movements or floating index rate resets. This should exclude impacts to NPVs from extraneous cash flows (price alignment interest, fees, and coupons).	M
Leg Current Period Rate	If leg is a floating leg, this indicates the current rate used to calculate the next floating Leg coupon in decimal form (e.g., 4% should be input as ".04").	M
Leg Coupon Payment	Coupon amount for T + 1 in the leg currency. This should reflect the net cash flow that will actually occur on the following business day. Negative number indicates that a payment was made.	M
Dollar Value of Basis Point (DV01)	Change in value in USD if the relevant pricing curve is shifted up by 1 basis point. DV01 = "dollar" value of a basis point in currency (not percentage) terms, the change in fair value of the leg, transaction, position, or portfolio (as appropriate) commensurate with a 1 basis point (0.01 percent) instantaneous, hypothetical increase in the related zero-coupon curves. DV01 may refer to non-dollar currencies and related curves. From the DCO's point of view: positive DV01 = profit/gain resulting from 1 basis point increase, negative DV01 = loss resulting from 1 basis point increase.	M
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., Profit/Loss, price alignment interest, cash payments (fees, coupons, etc.).	M

Field name	Description	Use
Net Present Value	Net present value (NPV) of all positions by currency	M
Present Value of Other Payments	Includes the present value of any upfront and/or final/settlement payments that will be settled after the report date. Only include amounts that are affecting the NPV of current trades.	M
Net Present Value Previous	Previous day's NPV by currency	C
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M
Other Payments	Includes any upfront and/or final/settlement payments made/received for the trade date. (Indicate gross pay/collect amounts.)	C
Universal (or Unique) Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. The USI namespace and the USI should be separated by a pipe " " character.	C
Leg Initial Exchange	Amount of any exchange of cash flow at initiation of trade being cleared	C
Leg Initial Exchange Date	Date that the initial exchange is set to occur	C
Leg Final Exchange	Amount of any exchange of cash flow at maturity of trade	C
Leg Final Exchange Date	Date that the final exchange is set to occur	C
Option Exercise Style	Exercise style	C
Option Type	Specifies the option type	C
Option Start Date	The option adjusted start date	C
Option Adjusted Expiration Date	The IRS swaption adjusted expiration date	C
Option Buy/Sell Indicator	Indicates the buyer or seller of a swap stream	C
Underlying Clearing Security Identifier	Code assigned by the DCO for the underlying contract	C
Underlying Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to 17 CFR 45.7.	C
Underlying Security Type	Indicator which identifies the underlying derivative	C
Underlying Asset Class	The underlying broad asset category for assessing risk exposure	C
Underlying Asset Subclass	The subcategory description of the asset class	C
Underlying Asset Type	Provides a more specific description of the asset subclass	C
Underlying Swap Class	The classification or type of swap	C
Underlying Swap Subclass	The sub-classification or notional schedule type of the swap	C
Underlying Security Description	Textual description of a financial instrument	C
Underlying Security Leg Type	Identifies if the leg is fixed or floating	C
Underlying Security Leg Notional	Notional amount associated with leg	C
Underlying Security Leg Currency	Currency of this leg's notional amount	C
Underlying Security Leg Index	If stream is floating rate, this gives the index applicable to the floating rate	C
Underlying Security Leg Index Tenor	For the floating rate leg, the tenor of the leg. For the fixed rate leg, NULL	C
Underlying Security Leg Fixed Rate Or Amount.	Only populate if Leg1 is type "Fixed". This should be in decimal form (e.g., 4% should be input as ".04")	C
Underlying Security Leg Spread	Indicates whether there is a spread (typically an add-on) applied to the coupon rate	C
DELTA	Delta is the measure of how the option's value varies with changes in the underlying price	M
GAMMA	Gamma is the rate of change for delta with respect to the underlying asset's price	M
RHO	Rho measures the sensitivity of an option's price to a variation in the risk-free interest rate	M
THETA	Theta is the rate at which an option loses value as time passes	M
VEGA	Vega is the measurement of an option's sensitivity to changes in the volatility of the underlying asset	M
Option Premium	Premium registered on the given trading date. The amount of money that the options buyer must pay the options seller.	C
Option Premium Date	Date option premium is paid	C
Trade Date	Date a transaction was originally executed, resulting in the generation of a new USI. For clearing swaps, the date when the DCO accepts the original swap.	M
Event Description	Description for each position record	C

Forward Rate Agreements (Daily Position Reporting)

Previous Business Date	Previous business date	M
Position Status	Position status: active or terminated. Terminated positions should only be reported on the day of termination	M
DCO Pays Indicator	Indicates which cash flow the DCO pays	M
DCO Receives Indicator	Indicates which cash flow the DCO receives	M
Clearing Participant Pays Indicator	Indicates which cash flow the clearing member pays	M
Clearing Participant Receives Indicator	Indicates which cash flow the clearing member receives	M
Clearing Security Identifier	Code assigned by the DCO for a particular contract	M
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to 17 CFR 45.7.	O
Security Type	Registered commodity clearing identifier	M
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
FRA Type	Type of swap stream	M
Notional Amount	Stream notional amount	M
Notional Currency	Currency of leg notional amount	M
Start Date	Date the position was established	M
Maturity Date	The date on which the principal amount becomes due	M
Payment Day Count Convention	Defines how interest is accrued/calculated	M
Payment Accrual Days	Number of accrual days between the effective date and maturity date	M
First Payment Date	Date on which the payment is made. Always report the adjusted date	C
Reset Date Bus Day Convention	Business day convention to apply to each fixing date if the fixing date falls on a holiday	M
Reset Date Fixing Date	Date on which the payment is fixed. Always report the adjusted date	M
Fixed Rate	The fixed amount in decimal terms	M
Float Index	The index for the floating portion of the Forward Rate Agreement (FRA)	M
Float First Tenor	First tenor associated with the index	M
Float Second Tenor	Second tenor associated with the index	C
Float Spread	In basis point terms	M
Float Reference Rate	The fixed floating rate in decimal terms	M
PV01	Change in value in native currency if the relevant pricing curve is shifted up by 1 basis point	M

Field name	Description	Use
Dollar Value of Basis Point (DV01)	Change in value in USD if the relevant pricing curve is shifted up by 1 basis point. DV01 = "dollar" value of a basis point in currency (not percentage) terms, the change in fair value of the leg, transaction, position, or portfolio (as appropriate) commensurate with a 1 basis point (0.01 percent) instantaneous, hypothetical increase in the related zero-coupon curves. DV01 may refer to non-dollar currencies and related curves. From the DCO's point of view: positive DV01 = profit/gain resulting from 1 basis point increase, negative DV01 = loss resulting from 1 basis point increase.	M
Net Present Value	Net present value (NPV) of all positions by currency	M
Settlement FX Info	Settlement price foreign exchange conversion rate	M
Net Present Value Previous	Previous day's NPV by currency	M
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M
Universal (or Unique) Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. The USI namespace and the USI should be separated by a pipe " " character.	C
Settlement Amount	The amount paid/received on the Payment Date. Always report adjusted date. (The position pays on a negative amount.)	M
Other Payments	Includes any upfront and/or final/settlement payments made/received for the trade date. (Indicate gross pay/collect amounts.)	C
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., profit/loss, price alignment interest, cash payments (fees, coupons, etc.).	C
Profit/Loss	Profit/Loss resulting from changes in value due to changes in underlying curve movements or floating index rate resets. Should exclude impacts to NPVs from extraneous cash flows (price alignment interest, fees, and coupons).	C
Present Value of Other Payments	Includes the present value of any upfront and/or final/settlement payments that will be settled after the report date. Only include amounts that are affecting the NPV of current trades.	C
Trade Date	Actual trade date for each position record (including specifically, the cleared date and the trade date)	M
Event Description	Description for each position record	C

Inflation Index Swaps (Daily Position Reporting)

Cleared Date	Date on which the trade was cleared at the DCO	M
Position Status	Position's status: active or terminated. Terminated positions should only be reported on the day of termination	M
DCO Pays Indicator	Indicate which cash flow the DCO pays	M
DCO Receives Indicator	Indicate which cash flow the DCO receives	M
Clearing Participant Pays Indicator	Indicate which cash flow the clearing member pays	M
Clearing Participant Receives Indicator	Indicate which cash flow the clearing member receives	M
Clearing Security Identifier	Code assigned by the DCO for a particular contract	M
Unique Product Identifier	A unique set of characters that represents a particular swap. The Commission will designate a UPI pursuant to 17 CFR 45.7.	O
Security Type	Registered commodity clearing identifier	M
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Swap Class	The classification or type of swap	M
Swap Subclass	The sub-classification or notional schedule type of the swap	C
Security Description	Used to provide a textual description of a financial instrument	M
Leg Type	Identifies if the leg is fixed or floating	M
Leg Notional	Notional amount associated with leg	M
Leg Notional Currency	Currency of the leg's notional amount	M
Leg Start Date Adj Bus Day Conv	If start date falls on a weekend or holiday, value defines how to adjust actual start date	C
Leg Start Date	Leg's effective date	M
Leg Maturity Date Adj Bus Day Conv	If the maturity date falls on a weekend or holiday, value defines how to adjust actual maturity date	C
Leg Maturity Date	The date on which the leg's principal amount becomes due	M
Leg Maturity Date Adj Calendar	Regarding the maturity date, this specifies which dates are considered holidays	C
Leg Calc Per Adj Bus Day Conv	If a date defining the calculation period falls on a holiday, this adjusts the actual dates based on the definition of the input.	C
Leg Calc Frequency	Calculation frequency, also known as the compounding frequency for compounded swaps	M
Leg Roll Conv	Describes the day of the month when the payment is made	C
Leg Calc Per Adj Calendar	Regarding the calculation period, this specifies which dates are considered holidays	C
Leg Stream Daycount	Defines how interest is accrued/calculated	M
Payment Stream Comp Method	If payments are made on one timeframe but calculations are made on a shorter timeframe, this describes how to compound interest.	C
Payment Stream Business Day Conv	If cash flow pay or receive date falls on a weekend or holiday, value defines actual date payment is made	C
Payment Stream Frequency	Frequency at which payments are made	M
Payment Stream Relative To	Specifies the anchor date when the payment date is relative to that date	C
Payment Stream First Date	The unadjusted first payment date	C
Payment Stream Last Regular Date	The unadjusted last regular payment date	C
Payment Leg Calendar	Regarding dates on which cash flow payments/receipts are scheduled, this specifies which dates are considered holidays.	C
Leg Reset Date Bus Day Conv	Business day convention to apply to each reset date if the reset date falls on a holiday	C
Leg Reset Date Relative To	Specifies the anchor date when reset date is relative to that date	C
Leg Reset Frequency	Frequency at which resets occur. If the Leg Reset Frequency is greater than the calculation per frequency, more than 1 reset date should be established for each calculation per frequency and some form of rate averaging is applicable.	C
Leg Reset Fixing Date Offset	Specifies the fixing date relative to the reset date in terms of a business days offset	C
Leg Fixing Day Type	The type of days to use to find the fixing date (i.e., business days, calendar days, etc.)	C
Leg Reset Date Calendar	Regarding reset dates, this specifies which dates are considered holidays	C
Leg Fixing Date Bus Day Conv	Business day convention to apply to each fixing date if the fixing date falls on a holiday	C
Leg Fixing Date Calendar	Regarding the fixing date, this specifies which dates are considered holidays	C
Fixed Leg Rate or Amount	Only populate if Leg1 is Type "Fixed". This should be expressed in decimal form (e.g., 4% should be input as .04).	C
Floating Leg Inflation Index	If leg is floating rate, this gives the index applicable to the floating rate	C
Floating Leg Spread	Describes if there is a spread (typically an add-on) applied to the coupon rate	C
Floating Leg Payment Inflation Lag	Number of business days after payment due date on which the payment is actually made	C

Field name	Description	Use
Floating Leg Payment Inflation Interpolation Method	The method used when calculating the inflation index level from multiple points. The most common is the linear method.	C
Floating Leg Inflation Index Initial Level	Initial known index level for the first calculation period	C
Floating Leg Inflation Index Fallback Bond Ind.	Indicates whether a fallback bond as defined in the 2006 International Swaps and Derivatives Association (ISDA) Inflation Derivatives Definitions, sections 1.3 and 1.8, is applicable or not. If not specified, the default value is "Y" (True/Yes).	O
Leg Pmt Sched Notional	Variable notional swap notional values	C
Leg Stub Type	Stubs apply to initial or ending periods that are shorter than the usual interval between payments	C
Leg Initial Stub Fixed Rate	The interest rate applicable to the Initial Stub Period in decimal form (e.g., 4% should be input as ".04")	C
Leg Final Stub Fixed Rate	The interest rate applicable to the final stub period in decimal form (e.g., 4% should be input as ".04")	C
Leg Initial Stub Floating Rate Index 1 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the first index.	C
Leg Initial Stub Floating Rate Index 2 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the second index.	C
Leg Final Stub Floating Rate Index 1 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the first index.	C
Leg Final Stub Rate Floating Index 2 Tenor	Stub rate can be a linear interpolation between two floating rate tenors. E.g., if the stub period is 2 months, rate is linear interpolation of 1-month and 3-month reference rates. Specify the second index.	C
Leg First Reg Per Start Date	If there is a beginning stub, this describes the date when the usual payment periods will begin	C
Leg Last Reg Per End Date	If there is an ending stub, this describes the date when the usual payment periods will end	C
Leg Accrued Interest (Coupon)	The net accrued coupon amount since the last payment in the leg currency. If reported by leg, indicate the associated stream (leg) description (e.g., "FIXED/FLOAT," "FLOAT1/FLOAT2").	M
Profit/Loss	Profit/Loss resulting from changes in value due to changes in underlying curve movements or floating index rate resets. This should exclude impacts to NPVs from extraneous cash flows (price alignment interest, fees, and coupons).	M
Leg Coupon Amount	Coupon amount for T + 1 in the leg currency. This should reflect the net cash flow that will actually occur on the following business day. A negative number indicates payment was made.	M
Leg Current Period Coupon Rate	If leg is a floating leg, this indicates the current rate used to calculate the next floating leg coupon in decimal form (e.g., 4% should be input as ".04").	M
I01	Change in value in native currency if the relevant pricing curve is shifted up by 1 basis point	M
Dollar Value of Basis Point (DV01)	Change in value in native currency of the swap/swaption/floor/cap if relevant pricing curve is shifted up by 1 basis point. DV01 = "dollar" value of a basis point in currency (not percentage) terms, the change in fair value of the leg, transaction, position, or portfolio (as appropriate) commensurate with a 1 basis point (0.01 percent) instantaneous, hypothetical increase in the related zero-coupon curves. DV01 may refer to non-dollar currencies and related curves. From the DCO's point of view: positive DV01 = profit/gain resulting from 1 basis point increase, negative DV01 = loss resulting from 1 basis point increase.	M
Net Cash Flow	Net cash flow recognized on report date (with actual settlements occurring according to the currency's settlement conventions). E.g., profit/loss, price alignment interest, cash payments (fees, coupons, etc.).	M
Net Present Value	Net present value (NPV) of all positions by currency	M
Present Value Of Other Payments	Includes the present value of any upfront and/or final/settlement payments that will be settled after the report date. Only include amounts that are affecting the NPV of current trades.	M
Net Present Value Previous	Previous day's NPV by currency	C
Price Alignment Interest	To minimize the impact of daily cash variation margin payments on the pricing of swaps, the DCO will charge interest on cumulative variation margin received and pay interest on cumulative variation margin paid.	M
Universal or Unique Swap Identifier	Universal (or Unique) Swap Identifier (USI) namespace and USI. Enter the USI Namespace and the USI separated by a pipe " " character.	C
Stream Initial Exchange	Amount of any exchange of cash flow at initiation of trade being cleared	C
Stream Initial Exchange Date	Date that the initial exchange is set to occur	C
Stream Final Exchange	Amount of any exchange of cash flow at maturity of trade	C
Stream Final Exchange Date	Date that the final exchange is set to occur	C
Other Payments	Includes any upfront and/or final/settlement payments made/received for the trade date. (Indicate gross pay/collect amounts.)	C
Trade Date	Actual trade date for each position record (including specifically, the cleared date and the trade date)	M
Event Description	Description for each position record	C

Equity Cross Margin (Daily Position Reporting)

Exchange Security Identifier	Contract code issued by the exchange	M
Clearing Security Identifier	Code assigned by the DCO for a particular contract	M
Product Type	Indicates the type of product the security is associated with	C
Security Type	Indicates type of security	M
Maturity Month Year	Month and year of the maturity	M
Maturity Date	The date on which the principal amount becomes due. For NDFs, this represents the fixing date of the contract.	C
Asset Class	The broad asset category for assessing risk exposure	M
Asset Subclass	The subcategory description of the asset class	C
Asset Type	Provides a more specific description of the asset subclass	C
Security Description	Used to provide a textual description of a financial instrument	M
Position (Long)	Long position size. If a position is quoted in a unit of measure (UOM) different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Position (Short)	Short position size. If a position is quoted in a UOM different from the contract, specify the UOM. If a position is measured in a currency, specify the currency.	M
Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	M
Option Strike Price	Option strike price	C
Option Put/Call Indicator	Option type	C
Underlying Exchange Commodity Code	Underlying Contract code issued by the exchange	C
Underlying Clearing Commodity Code	Registered commodity clearing identifier. The code is for the contract as if it were traded in the form it is cleared. For example, if the contract was traded as a spread but cleared as an outright, the outright symbol should be used.	C
Underlying Product Type	Indicates the type of product the security is associated with	C
Underlying Security Type	Indicator which identifies the underlying derivative	C
Underlying Maturity Month Year	Month and year of the maturity	C
Underlying Maturity Date	The date on which the principal amount becomes due	C
Underlying Asset Class	The underlying broad asset category for assessing risk exposure	C

Field name	Description	Use
Underlying Asset Subclass	The subcategory description of the asset class	C
Underlying Asset Type	Provides a more specific description of the asset subclass	C
Underlying Settlement Price/Currency	Settlement price, prior settlement price, settlement currency, and final settlement date	C

M = mandatory C = conditional O = optional.

C. Risk Metric Ladder Reporting

Field name	Description	Use
Common Fields (Risk Metric Ladder Reporting)		
Total Message Count	The total number of reports included in the file	M
FIXML Message Type	FIXML account summary report type	M
Sender ID	The CFTC-issued DCO identifier	M
To ID	Indicate "CFTC"	M
Message Transmit Datetime	The date and time the file is transmitted	M
Report ID	A unique identifier assigned by the CFTC to each clearing member report	M
Report Date	The business date of the information being reported	M
Base Currency	Base currency referenced throughout report; provide exchange rate against this currency	M
Report Time (Message Create Time)	The report "as of" or information cut-off time	M
Message Event	The event source being reported	M
Ladder Indicator	Indicator that identifies the type of risk metric ladder	M
DCO Identifier	CFTC-assigned identifier for a DCO	M
Clearing Participant Identifier	DCO-assigned identifier for a particular clearing member	M
Clearing Participant Name	The name of the clearing member	M
Fund Segregation Type	Clearing fund segregation type	M
Clearing Participant LEI	LEI for a particular clearing member	M
Clearing Participant LEI Name	The LEI name associated with the clearing member LEI	M
Customer Identifier	Proprietary identifier for a particular customer position account	C
Customer Name	The name associated with the customer position identifier	C
Customer Account Type	Type of account used for reporting	C
Customer LEI	LEI for a particular customer; provide if available	C
Customer LEI Name	The LEI name associated with the customer position LEI	C
Unique Margin Identifier	A single field that uniquely identifies the margin account. This field is used to identify associated positions	C

Delta Ladder (Daily Reporting)

Currency	ISO 4217 currency code	M
FX Rate	Rate used to convert the currency to USD	M
Curve Name	Name of the reference curve	M
Tenor	Number of days from the report date	M
Sensitivity	Theoretical profit and loss with a single upward basis point shift	M

Gamma Ladder (Daily Reporting)

Currency	ISO 4217 currency code	M
FX Rate	Rate used to convert the currency to USD	M
Curve Name	Name of the reference curve	M
Tenor	Number of days from the report date	M
Sensitivity	Theoretical profit and loss with a single upward basis point shift	M

Vega Ladder (Daily Reporting)

Currency	ISO 4217 currency code	M
FX Rate	Rate used to convert the currency to USD	M
Curve Name	Name of the reference curve	M
Tenor	Number of days from the report date	M
Sensitivity	Theoretical profit and loss with a single upward basis point shift	M

M = mandatory C = conditional O = optional.

D. Curve Reference Reporting

Field name	Description	Use
Common Fields (Curve Reference Reporting)		
Total Message Count	The total number of reports included in the file	M
FIXML Message Type	FIXML account summary report type	M
Sender ID	The CFTC-issued DCO identifier	M
To ID	Indicate "CFTC"	M
Message Transmit Datetime	The date and time the file is transmitted	M
Report ID	A unique identifier assigned by the CFTC to each clearing member report	M
Report Date	The business date of the information being reported	M
Base Currency	Base currency referenced throughout report; provide exchange rate against this currency	M
Report Time (Message Create Time)	The report "as of" or information cut-off time	M
Message Event	The event source being reported	M
DCO Identifier	CFTC-assigned identifier for a DCO	M

Field name	Description	Use
Currency Curve (Daily Reporting)		
Curve	Reference curve name	M
Currency	ISO 4217 currency code	M
Maturity Date	The date on which the principal amount becomes due	M
Par Rate	Rate such that the maturity will pay in order to sell at par today	M
Zero Rate Curve (Daily Reporting)		
Currency	ISO 4217 currency code	M
Curve	Reference curve name	M
Maturity Date	The date on which the principal amount becomes due	M
Offset	The difference in days between the maturity date and reporting date	M
Accrual Factor	The difference in years between the maturity date and reporting date	M
Discount Factor	Value used to compute the present value of future cash flows values	M
Zero Rate	Averages of the one-period forward rates up to their maturity	M

M = mandatory C = conditional O = optional.

E. Backtesting Reporting

Field name	Description	Use
Common Fields (Backtesting Reporting)		
Total Message Count	The total number of reports included in the file	M
FIXML Message Type	FIXML account summary report type	M
Sender ID	The CFTC-issued DCO identifier	M
To ID	Indicate "CFTC"	M
Message Transmit Datetime	The date and time the file is transmitted	M
Report ID	A unique identifier assigned by the CFTC to each clearing member report	M
Report Date	The business date of the information being reported	M
Base Currency	Base currency referenced throughout report; provide exchange rate against this currency	M
Report Time (Message Create Time)	The report "as of" or information cut-off time	M
Message Event	The event source being reported	M
Breach Indicator	Indicates the breach file	M
DCO Identifier	CFTC-assigned identifier for a DCO	M
Clearing Participant Identifier	DCO-assigned identifier for a particular clearing member	M
Clearing Participant Name	The name of the clearing member	M
Fund Segregation Type	Clearing fund segregation type	M
Clearing Participant LEI	LEI for a particular clearing member	M
Clearing Participant LEI Name	The LEI name associated with the clearing member LEI	M
Customer Identifier	Proprietary identifier for a particular customer position account	C
Customer Name	The name associated with the customer position identifier	C
Customer Account Type	Type of account used for reporting	C
Customer LEI	LEI for a particular customer; provide if available	C
Customer LEI Name	The LEI name associated with the customer position LEI	C
Unique Margin Identifier	A single field that uniquely identifies the margin account. This field is used to identify associated positions	C
Breach Details (Daily Reporting)		
Initial Margin	Margin requirement calculated by the DCO's margin methodology. Unless an integral part of the margin methodology, this figure should not include any additional margin add-ons.	M
Backtesting Metric	Indicates the type of profit and loss calculation used for backtesting: <ul style="list-style-type: none"> • VM—Variation Margin • STATIC—Static Portfolio P/L (Clean P/L) • DIRTY—Dirty P/L • MTMA—Mark to Market P/L • MTMO—Mark to Model P/L • OTHER 	M
Backtesting Metric Amount	Amount on the positions for which Initial Margin is computed	M
Breach Amount	Difference between the Initial Margin and Backtesting Metric Amount	M
Margin Period of Risk	Holding period for which the Backtesting Metric is calculated in days	M
Breach Summary (Daily Reporting)		
Total Instance	Total number of testing dates for the account	M
Number of Breaches	Total number of breaches in the testing period	M
Test Range Start	Beginning date of the test	M
Test Range End	End date of the test	M

M = mandatory C = conditional O = optional.

F. Manifest Reporting

Field name	Description	Use
Manifest Reporting		
Total Message Count	The total number of reports included in the file	M
FIXML Message Type	FIXML account summary report type	M

Field name	Description	Use
Sender ID	The CFTC-issued DCO identifier	M
To ID	Indicate "CFTC"	M
Message Transmit Datetime	The date and time the file is transmitted	M
Filenames	List of files to be sent	M

M = mandatory C = conditional O = optional.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

■ 11. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2(a)(12), 12a, 13(c), 13(d), 13(e), and 16(b).

■ 12. Amend § 140.94 by revising paragraph (c)(10) to read as follows:

§ 140.94 Delegation of authority to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Clearing and Risk.

* * * * *

(c) * * *

(10) All functions reserved to the Commission in § 39.19(a), (b)(1), (c)(2), (c)(3)(iv), and (c)(5) of this chapter;

* * * * *

Issued in Washington, DC, on July 31, 2023, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

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

Appendices to Reporting and Information Requirements for Derivatives Clearing Organizations—Commission Voting Summary and Chairman’s and Commissioners’ Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Support of Chairman Rostin Behnam

Today the Commission considered a final rule addressing reporting and information requirements for derivatives clearing organizations (DCOs). As with the proposal, the final rule provides greater transparency, clarity, and certainty to our DCOs and market participants. It also streamlines how the Commission receives information necessary to carry out its supervisory role. By periodically updating our regulations, the agency can incorporate our experiences with the industry and market participants directly into our ruleset. We can also use these opportunities to respond to emerging technologies, issues, and risks with responsive and targeted regulation. This both creates efficiencies and a level playing field,

and provides a forum to address ongoing compliance concerns on each of our respective sides through open dialogue.

I fully support the final rule. Ensuring our regulations are operating as intended is paramount. DCOs play a critical role in U.S. derivatives markets. Any lapse in their duties or even the perception that compliance is nothing more than window dressing puts our markets and the larger financial system at risk, especially when it comes to entities that have been designated as systemically important by the Financial Stability Oversight Council known as “SIDCOs.”

The majority of the proposed Part 39 amendments—with the exception of those addressing system safeguards—were considered today. Several amendments in the final rule, codify existing staff letters and Commission practices and interpretations with the goal of ensuring that DCOs understand their reporting obligations and the Commission receives the information it needs to perform its supervisory responsibilities in the most effective and least burdensome manner. For example, an amendment to Rule 39.19 will codify an existing staff letter¹ providing for no-action relief by removing the requirement that a DCO report daily variation margin and cash flows by individual customer account. The final rule will also codify existing reporting fields for the daily reporting requirements in new appendix C to Part 39.² Additional amendments will update information requirements associated with commingling customer funds and positions in futures and swaps in the same account.

Acknowledging that different risk profiles require more tailored consideration, the final rule will adopt specific obligations for fully collateralized positions which specify that certain requirements for risk management, daily reporting, and website publication do not apply to DCOs that clear fully collateralized positions. In addition, to ensure that the Commission maintains unfettered access to data, an amendment to Part 140 of the Commission rules will delegate to the Director of the Division of Clearing and Risk (DCR) existing authority to require a DCO to provide to the Commission

¹ See CFTC Letter No. 21–01, Request for Temporary No-Action Relief from the Reporting Requirements in Commission Regulation 39.19(c)(1) (Dec. 31, 2020), <https://www.cftc.gov/csl/21-01/download>; CFTC Letter no. 21–31, Extension of Temporary No-Action Relief from the Reporting Requirements in Commission Regulation 39(c)(1) (Dec. 22, 2021), <https://www.cftc.gov/csl/21-31/download>; and CFTC Letter No. 22–20, Extension of No-Action letter Regarding Reporting Requirements in Commission Regulation 39.19(c)(1) (Dec. 19, 2022), <https://www.cftc.gov/csl/22-20/download>.

² Commodity Futures Trading Commission Guidebook for Part 39 Daily Reports, Version 1.0.1, Dec. 10, 2021 (Reporting Guidebook).

the information specified in Rule 39.19 and any other information that the Commission determines to be necessary to conduct oversight of the DCO, and to specify the format and manner in which the information required must be submitted to the Commission.

Given that what we do as regulators is as important as what we do not do, based on the concerns raised regarding the system safeguards proposals, the Commission did not vote on the adoption of any of the proposed amendments. This determination does not alter the current landscape or diminish Commission concerns regarding cyber resilience. However, significant and important concerns and meaningful alternatives raised by commenters require additional consideration and analysis. The Commission will continue to consider how best to address the issues targeted in the proposed rule while incorporating additional information gained through this rulemaking process and additional examination.

Appendix 3—Statement of Support of Commissioner Kristin N. Johnson

Today, the Commission considers several amendments to Part 39 regulations. In January of 2020, the Commission amended a number of the provisions in Part 39 to enhance certain risk management and reporting obligations and clarify the meaning of certain provisions including registration and reporting requirements.¹ Last November, the Commission considered a proposed rulemaking seeking to further update certain Part 39 regulations to reflect developments in risk management. I support the Commission’s consideration of these amendments designed to improve derivatives clearing organizations’ (DCO) risk management practices and clarify reporting requirements set out in Part 39.

The Dodd-Frank Wall Street Reform and Consumer Protection Act set out to implement reforms to mitigate systemic risk and promote transparency and stability.² DCOs play a significant role in mitigating risk and facilitating stability in our markets by providing essential clearing and settlement market infrastructure. Clearinghouses enhance visibility, introduce and enforce uniform contractual obligations, and establish standards for critical risk management tools such as initial and variation margin. They facilitate dispute resolution among counterparties, ensure the maintenance of necessary liquidity reserves,

¹ Derivatives Clearing Organization General Provisions and Core Principles, 85 FR 4800 (Jan. 27, 2020), <https://www.federalregister.gov/documents/2020/01/27/2020-01065/derivatives-clearing-organization-general-provisions-and-core-principles>.

² Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

introduce important operating systems and cyber-risk management measures, and implement governance measures that mitigate conflicts of interest and monitor systems safeguards.³

In light of the role of DCOs in our markets, we must provide a framework that not only supports market stability but is functional and can be practically integrated. The implementation of the proposed final amendments to existing regulations will address gaps in reporting data to the Commission.

Cyber Security

We live in a digital age, and our dependence on technology, digital operational infrastructure systems, and software is increasingly undeniable. The security and integrity of cyber systems is important for the effective functioning of individual firms. Interconnectedness in financial markets creates the possibility that a cyber-threat that impacts certain actors in our markets may also impact the safety and soundness of counterparties or customers. In some instances, these cyber events will lead to more significant disruption, impeding clearing and settlement of transactions or impacting price discovery. Just a few months ago, ION, a significant service provider in global derivatives markets, experienced a cybersecurity event that triggered concerning effects across derivatives markets. The ION cybersecurity event underscores the importance of cyber security monitoring, prevention, and reporting.

Under DCO Core Principle I, DCOs must “establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures”⁴ In accord with this Core Principle, the Commission adopted Regulation 39.18(g) requiring DCOs to promptly notify the Division of Clearing and Risk (DCR) of any cyber security event or targeted threat that materially impairs, or creates a significant likelihood of material impairment of automated system operation, reliability, security, or capacity.⁵

In November of 2022, DCR proposed amendments to Regulation 39.18(g), recommending improvements to certain cyber-event reporting requirements. The proposed amendment would have eliminated the materiality threshold, which would have required DCOs to report all such events regardless of magnitude.⁶ The amendment would have increased reporting of DCO cyber events and automated system impairments, including impairments concerning third-party provided services.

While I appreciate the Commission’s careful response to public comments

received regarding proposed amendments to Regulation 39.18(g), it is important to balance thoughtful consideration of cyber regulation with the emergent need for action. Our markets cannot afford to wait for continued attacks or delayed action over a significant period of time. The potential disruption that may be created by cyber-events requires a timely response.

As market participants integrate, adopt, and partner with significant technology firms and adopt software and technology that facilitates the technical operations for their businesses, it is imperative that our regulation focus on monitoring, reporting, transparency and the development of cyber recovery and resilience programs.

Four months ago, the Market Risk Advisory Committee (MRAC) that I sponsor held a meeting in this room. The director of national cybersecurity at the White House’s Office of the National Cyber Director and others joined a thoughtful dialogue focused on preventing or mitigating the threat of cyber events and cyber security threats. In addition to valuable dialogue during the MRAC meeting, my staff and I traveled to the White House executive offices to meet with the Office of the National Cyber Director. Our discussions and dialogue continue.

DCR is correctly focused on refining and updating Regulation 39.18(g). There is a clear need for immediate and careful study of the cyber-risk issues that present for DCOs. To this end, an MRAC subcommittee focused on technical and operational resilience will begin to examine several of the issues raised in the proposed amendment and comment letters. Hopefully, our collective efforts will enhance cyber resilience of the registrants in our markets as well as the critical third- and fourth-party service providers that registrants may depend on.

Segregation of Customer Funds

DCO Core Principle F and requires DCOs to establish standards and procedures for protecting and ensuring the safety of clearing member and customer funds. In addition, Core Principle F requires DCOs to establish standards and procedures that are designed to protect and to ensure the safety of funds and assets held in custody, to hold such funds and assets in a way designed to minimize risk, and to limit investment of such funds and assets to instruments with minimal credit, market, and liquidity risks. The DCO risk mitigation function is imperative for the segregation and safekeeping of clearing member and customer funds and assets.

Today, DCR proposes amendments that seek to close a gap with respect to DCO regulations that govern segregation of customer assets.

While there are robust regulations governing segregation of customer funds by futures commission merchants (FCMs),⁷

those same protections may not reach all DCO customers. In some instances, the divergence in our rules is based on the history and structure of the markets for certain assets and products. As innovative financial products and market structures proliferate, we must be mindful of the consequences of the lack of parallelism in our customer protection regulations.

I support the Commission’s adoption of the proposed amendments that enhance customer protections, namely segregation of customer funds, treatment of customer funds, and the introduction of financial resource requirements for certain DCOs.

Liquidity Reserves

The amendments today also include updates addressing liquidity-related transparency. When market participants fail to manage liquidity risk effectively, enterprise risk management failures may occur and, depending on the size and significance of the market participants experiencing risk management failures, the effects may trigger disruption across global financial markets.

The transparency amendments proposed today, enhance reporting requirements for credit and liquidity facilities. Specifically, Regulation 39.19(c)(4)(xv) will require DCOs to report within one business day after becoming aware of any material issues or concerns regarding the performance, stability, liquidity, or financial resources of any credit facility funding arrangement, liquidity funding arrangement, custodian bank, or settlement bank used by the DCO or approved for use by the DCO’s clearing members. These amendments will improve the Commission’s risk surveillance of DCOs and clearing members. Prudent risk management—the management of liquidity needs, in particular—is critical to DCO resilience. I support the amendments to enhance transparency. Each adds value to the Core Principles we uphold and our mandate to the protect customers and preserve the integrity of the financial markets that we regulate.

I want to thank the staff of DCR—Eileen Donovan, August Imholtz, Gavin Young, and Parisa Nouri—for their diligent and thoughtful work on these amendments.

Appendix 4—Statement of Support of Commissioner Christy Goldsmith Romero

Clearinghouses play an important public interest role—they are critical market infrastructure intended to foster financial stability, trust, and confidence in U.S. markets. Dodd-Frank Act reforms increased central clearing, thereby increasing financial stability. Those reforms also concentrated risk in clearinghouses. With that concentrated risk, it is critical that the Commission maintain vigilance in its oversight over clearinghouses to identify and monitor risk and promote financial stability. This is most important for the CFTC’s monitoring of systemic risk.

to the futures customer, and prohibits an FCM from using the funds deposited by a futures customer to margin or extend credit to any person other than the futures customer that deposited the funds. *Id.*

³ *Statement of Commissioner Kristin N. Johnson in Support of Notice of Proposed Amendments to Reporting and Information Requirements for Derivatives Clearing Organizations*, Nov. 10, 2022, <https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement060723d>.

⁴ 7 U.S.C. 7a-1(c)(2)(I)(i).

⁵ 17 CFR 39.18(g).

⁶ *Reporting and Information Requirements for Derivatives Clearing Organizations*, 87 FR 76698, 76700 (Dec. 15, 2022), <https://www.cftc.gov/sites/default/files/2022/12/2022-26849a.pdf>.

⁷ Section 4d(a)(2) of the CEA requires each FCM to segregate from its own assets all money, securities, and other property deposited by futures customers to margin, secure, or guarantee futures contracts and options on futures contracts traded on designated contract markets. 7 U.S.C. 6d(a)(2). In addition, Section 4d(a)(2) requires an FCM to treat and deal with futures customer funds as belonging

Clearinghouse reporting is a cornerstone to the Commission's oversight, including monitoring risk and promoting financial stability. I support this rule because it strengthens and improves certain clearinghouse reporting requirements.

Strengthening Reporting on Risk Characteristics of Unusual Products To Be Commingled Facilitates Effective Commission Oversight in Areas of Emerging Risk

First, the final rule strengthens requirements for reporting the risk characteristics of products to be commingled that are unusual in relation to other products that the clearinghouse clears. A clearinghouse must obtain CFTC approval to commingle customer positions and associated funds of products that would otherwise be held in separate customer accounts.

This rule facilitates effective Commission oversight, as clearinghouses will provide better information for the CFTC to evaluate a request to commingle customer positions across asset classes. This practice can be used to reduce margin requirements for customers with offsetting positions. Margin requirements are an important element of financial stability, so any reduction should be carefully considered.

In addition to providing the CFTC an analysis of risk characteristics of the products to be commingled, this rule adds an analysis of any risk characteristics that are *unusual in relation* to the products that clearinghouse clears, as well as how it plans to manage any identified risk. This addition will help the Commission better understand the risks posed by the commingling arrangement.

I also appreciate that the final rule incorporates the suggestion by a public interest group that the Commission go further and add that the analysis should specifically address the commingled products' margining, liquidity, default management, pricing, and volatility risks that are unusual in relation to those currently cleared by the clearinghouse. This is particularly important given that the derivatives industry is seeing a change with emerging products such as digital assets for example, that can carry emerging risk in each of these areas.

Expanding Reporting of Change of Control of the Clearinghouse

I support the expansion of the rule requiring a clearinghouse to report *any* change to the entity or person that holds a controlling interest, either directly or indirectly, rather than the existing rule of reporting a change that would result in at least a 10 percent change of ownership. The existing rule could mean that there would be no reporting when an entity increases its ownership stake in a clearinghouse from 45 percent to 51 percent. That would leave the Commission blind to important changes of control. This proposed rule would provide the CFTC with better understanding of the organizational structure of the clearinghouse, including control and ownership. This is a critical change.

I read with interest the comment about changes to Regulation 39.19(c)(4) during the

last Administration regarding Commission approval when a clearinghouse seeks to transfer its registration and open interest in connection with a corporate change. While that is not the subject of this rule, I would be interested in learning more about the effects of those amendments and what is needed for the Commission to have greater control over a transfer of registration. This is an issue that arose when it became apparent that LedgerX would be sold in FTX's bankruptcy.

Strengthening the Enforceability of Reporting Fields

Clearinghouses report information daily to the Commission such as initial margin, variation margin, cash flow, and position information for each clearing member, by house origin, and by each customer origin and customer account. Over time, the Commission has provided detailed instructions and technical specifications in the Reporting Guidebook. The whole purpose of the Reporting Guidebook was to ensure uniformity in clearinghouse reporting, as well as to ensure that the Commission received the right information for its surveillance and oversight of clearinghouses and the derivatives markets.

I am pleased to support the Commission now requiring the reporting fields, rather than just serving as a guide, which will strengthen the enforceability of reporting fields and aid in clearinghouse accountability. First, the Reporting Guidebook contains some reporting fields that are only optional, not required, but that would help the Commission in its oversight. It is important to require these fields, removing a clearinghouse's option not to report them. Second, the types of clearinghouses registering with or applying to register with the Commission are changing. Recently, for example, we have seen digital asset companies registering or applying to register, some with no history of being regulated. It has become increasingly important that we have rules and regulations, rather than guides that can be ignored by new clearinghouses.

However, I do agree with the comment from a public interest group that it is important for the Commission to be nimble, particularly in light of emerging products and emerging risk. I urge the staff to consider how we can both implement this new rule requiring the reporting fields, while also staying ahead of the risk curve in gathering the information needed or releasing additional guidance or rules.

Continuing Concerns Over Cyber and Other Incident Reporting

When it comes to expanding the reporting of cyber incidents and other incidents, the final rule dropped proposed requirements for expanded Commission reporting. Let me start by saying that drafting new regulation is a process that works best with public input from the full range of interested parties. While I supported this requirement at the proposal stage, I also understand the

importance of listening to commenters about the practical effect of our regulations.¹

However, the concern that caused us to propose the rule still exists. The cyber threat is pervasive and increasing. In fact, since the Commission issued this proposal last November, cyber incidents have continued to threaten the derivatives markets. Notably, in January 2023, a third-party service provider, ION Markets, suffered a ransomware attack that disrupted trade processing at affected brokers.

Early notification is key for the Commission's ability to protect markets, including working with registrants and all those affected to coordinate a response. The original proposal was based on CFTC staff finding a troubling lack of uniformity in how clearinghouses were reporting cyber incidents or incidents of other disruptions. As discussed in the open meeting on the proposed rule, there were 120 reports of an incident made in fiscal year 2022.

Examination staff have learned of about perhaps as many incidents that they considered material where the CFTC should have been notified.² They found that some clearinghouses did an excellent job of reporting, while others lagged way behind.³

The goal of the rule was to improve the uniformity of reporting incidents to the CFTC. While I appreciate the commenters' concerns about the consequences of removing the limitation that the incident be material, as well as other proposed changes, we still need to address the underlying problem in some way.

Additionally, the proposal also clarified that incidents requiring notification were not just those caused by cyber attackers, but also those triggered by accidents or malfunctions. At the recent Technology Advisory Committee meeting, TAC member Professor Hilary Allen of American University Washington College of Law described how by some estimates, losses from accidental tech glitches exceed those from cyberattacks.⁴ I appreciate the discussion in the rule's preamble, which reminds clearinghouses that the existing notification requirements already cover many instances of operator error.

Ultimately, given the experiences of the CFTC staff, the Commission needs to find the right fix that improves notifications. I am pleased to see a commitment here to addressing this urgent need as cyber threats are the threats of our day. The Technology Advisory Committee's Cybersecurity Subcommittee is working on advising the Commission on how best to promote cyber resilience.

I am thankful for the Commission's continued attention to this topic and I urge

¹ Commissioner Christy Goldsmith Romero, "Statement of Commissioner Christy Goldsmith Romero on Proposed Rule on Cybersecurity Incident Reporting" (Nov. 10, 2022), <https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement111022>.

² See "CFTC to Hold an Open Commission Meeting November 10" at 1:15:00 (posted Nov. 15, 2022), <https://youtu.be/hZn2Vv5uNRE>.

³ See *Id.*

⁴ See CFTC Technology Advisory Committee (July 18, 2023) <https://www.youtube.com/watch?v=8ro4Iu0N17I>.

the staff to continue engaging with commenters, financial regulators, and the public, and to then propose new requirements. In the interim, the Commission should also continue to work closely with clearinghouses to maintain two-way communication, and use our supervision and enforcement tools to ensure that we are staying on top of cyber and other incidents so that we can fulfill our responsibility in protecting markets.

Appendix 5—Statement of Support of Commissioner Caroline D. Pham

I support the final rule on reporting and information requirements for derivatives clearing organizations (DCOs) (DCO Reporting Final Rule) because of its careful attention and response to public comments received. I would like to thank Clark Hutchison, Eileen Donovan, Parisa Nouri, August Imholtz, Gavin Young, Theodore Polley, and Elizabeth Arumilli of the Division of Clearing and Risk (DCR) for their work on the DCO Reporting Final Rule. I appreciate the staff addressing my concerns.

The Commission has a great deal to be proud of with respect to its DCO registration and oversight regimes. Mandatory clearing for swaps was a pillar of the G20 reforms, and the U.S. was one of the first jurisdictions to adopt a clearing requirement pursuant to the directive.¹ Since then, the CFTC has amended its rules to keep them up to date and ensure they reflect changes that take place in the industry.²

I am pleased that the DCO Reporting Final Rule is appropriately responsive to industry concerns that the Commission's existing rules were unworkable.³ I continue to stress the need that the Commission evaluate its rules to ensure they are functioning as intended, and propose workable solutions to any operational or implementation challenges to enable firms to more effectively achieve compliance, particularly for technical issues that do not meaningfully

impact our oversight or systemic risk concerns.

In this instance, Regulation 39.19(c)(1) required a DCO to report to the Commission on a daily basis initial margin, variation margin, cash flow, and position information for each clearing member, by house origin, by each customer origin, and by individual customer account.⁴ Since providing certain information by individual customer account was unworkable, the Commission proposed amending Regulation 39.19(c)(1)(i)(B) and (C) to remove the requirement that a DCO report daily variation margin and cash flows by individual customer account.⁵ In response to commenters, all of whom supported removing this part of the requirement, the Commission is removing the unfeasible part of the requirement.

There are other instances of the Commission responding to overwhelming support from commenters on unworkable proposals. These include significant amendments the Commission had proposed to the system safeguards rules for DCOs. To highlight one, Regulation 39.18(g)(1) requires that a DCO promptly notify DCR staff of any hardware or software malfunction, security incident, or targeted threat that materially impairs, or creates a significant likelihood of material impairment of, automated system operation, reliability, security, or capacity.⁶

The Commission had proposed amending Regulation 39.18(g)(1) to eliminate the materiality threshold, requiring DCOs to report all such events regardless of their magnitude.⁷ Eight out of nine commenters opposed this proposal, and took the time to detail the compliance issues the proposal created. Reasons included that DCOs would report events that do not impact the DCO; the requirement would divert attention and resources away from incidents that deserve greater focus and planning, with little corresponding benefit to the Commission; and the requirement would be inconsistent with other notification regimes, including similar Commission rules and reporting obligations to other agencies and authorities. In general, the commenters' position was that the CFTC underestimated the increase in reporting the amended rule would create.

Speaking from personal experience, I think that if we had removed the materiality requirement, there would be a nonstop flood of notifications coming in to the staff because there are operational issues that occur all the time, many of which are insignificant and are resolved with de minimis impact. But nonetheless, without a materiality threshold then all such incidents would need to be reported promptly. So, I am pleased that we are taking the time to consider this aspect of the proposed rule further, particularly since there is ongoing work around the world on

international standards, and the Fed and the Securities and Exchange Commission (SEC) are also both updating their incident reporting requirements. There is no doubt that the maintenance of strong incident reporting regimes is critical to CFTC oversight, but I also believe that it is important for the Commission to harmonize its reporting regime with other similar regulatory approaches.

The SEC's Reg SCI is most analogous to our DCO systems safeguards and systems incident reporting requirements.⁸ It was promulgated in 2014 after our system safeguard rules, and after a joint CFTC–SEC advisory committee examined the cause of the 2010 flash crash, which showed the interconnectedness between the stock and futures markets and made recommendations for market structure reforms. Many firms operate DCOs that are either dually registered, or have affiliates that are registered as SEC clearing agencies, and have already implemented policies, procedures, and processes to comply with Reg SCI. Accordingly, it should be simpler and faster for them to apply the same SEC reporting framework to the DCOs if we are considering an update to our system safeguards requirements.

In looking at the preamble to the NPRM for Reg SCI, I note that it dates back to two policy statements by the SEC on "Automated Systems for Self-Regulatory Organizations" dated 1989 and 1991.⁹ And, these policy statements are based on SEC reports dating back to 1986. Ultimately these policy statements established the initial framework for what would later become Reg SCI.

Both the securities and futures markets experienced the same shift to electronic trading and reliance on automated systems in the wake of rapid technological advance, and given how these developments dominated the industry, I believe it is reasonable to infer that the contemporaneous use of the term "automated systems" in CFTC regulations would have similar meaning to the SEC's use of that term in the context of securities regulation.¹⁰ If the CFTC revisits these rules, I would be interested in learning more about the genesis of the DCO systems safeguards and reporting requirements, and reviewing the original CFTC rulemakings, to confirm whether that was the case.

⁸ See generally Regulation Systems Compliance and Integrity, 79 FR 72251 (Dec. 5, 2014) (codified at 17 CFR 240).

⁹ Automated Systems of Self-Regulatory Organizations, 54 FR 48703 (Nov. 16, 1989); Automated Systems of Self-Regulatory Organizations, 56 FR 22490 (May 15, 1991).

¹⁰ Regulation Systems Compliance and Integrity, 79 FR 72251, 72272 (codified at 17 CFR 240) (noting the definition of SCI systems to include "all computer, network, electronic, technical, automated, or similar systems of, or operated by or on behalf of, an SCI entity that, with respect to securities, directly support trading, clearance and settlement, order routing, market data, market regulation, or market surveillance").

¹ G20 Pittsburgh Summit (Sept. 24–25, 2009); Clearing Requirement Determination Under Section 2(h) of the CEA, 77 FR 74283 (Dec. 13, 2012).

² Derivatives Clearing Organization General Provisions and Core Principles, 85 FR 4800 (Jan. 27, 2020).

³ In January 2020, as part of updates to its DCO regulations, the CFTC amended the daily reporting requirements for DCOs to require, among other things, the reporting of margin and position information by each individual customer account. The Commission then learned of concerns about futures commission merchants' ability to provide this information to DCOs. As a result, CFTC staff issued a no-action letter extending the compliance date for this reporting requirement in order to resolve this issue. See CFTC Letter No. 21–01, United States Commodity Futures Trading Commission (Dec. 31, 2020), <https://www.cftc.gov/csl/21-01/download>; see also CFTC Letter No. 21–31, United States Commodity Futures Trading Commission (Dec. 22, 2021), <https://www.cftc.gov/csl/21-31/download>; CFTC Letter No. 22–20, United States Commodity Futures Trading Commission (Dec. 19, 2022) (further extending the compliance date), <https://www.cftc.gov/csl/22-20/download>.

⁴ 17 CFR 39.19(c)(1).

⁵ Reporting and Information Requirements for Derivatives Clearing Organizations, 87 FR 76698 (Dec. 15, 2022).

⁶ 17 CFR 39.18(g)(1).

⁷ See footnote 5, *supra*.

Therefore, I think it would make sense to evaluate whether to adopt essentially the same definition for “automated systems” as the SEC definition of “SCI systems” because I think the intent and scope would be the same. In fact, the SEC explicitly acknowledged the similarities in the

securities and U.S. commodities markets with respect to systems issues and incidents in its preamble to the final rule.¹¹

¹¹ See *id.* at 72256 (“Systems issues are not unique to the U.S. securities markets, with similar incidents occurring in the U.S. commodities markets as well as foreign markets.”).

Overall, this rule is an example of how good government works, and I am pleased to support it. Thank you.

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