COMMODITY FUTURES TRADING COMMISSION

PUBLIC ROUNDTABLE ON COMMISSION'S PROPOSED RULEMAKING THAT CALLS FOR THE COLLECTION OF ACCOUNT OWNERSHIP AND CONTROL INFORMATION

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P R O C E E D I N G S

(1:00 p.m.)

MR. SHILTS: All right, if everyone could take their seats and we'll get started here shortly.

All right, good afternoon and welcome everyone. My name is Rick Shilts and I'm the director of our Division of Market Oversight here at the CFTC. I'm pleased to open this public roundtable today to discuss issues related to the Commission's Notice of Proposed Rulemaking that calls for the collection of ownership, control and related information, for all trading accounts active on U.S. Futures exchanges. This is the third roundtable involving the CFTC staff this week. On Tuesday and Wednesday, as you may know, we held -- with our SEC counterparts -- roundtables on issues related to implementation of Dodd- Frank, related to swap data, repositories, real-time reporting, and swap execution facilities. Those discussions were very valuable and I'm sure that today's roundtable also will be very enlightening.

In that regard, the purpose of the roundtable today is for staff to gain a better understanding of the flow of data to be collected under our proposed rule. The information obtained today should assist the CFTC staff in implementing this proposed rule. I'd like to thank those attendees who are participating on our panel and those who are otherwise attending. I'd also like to thank the staff at the CFTC for their hard work in planning this roundtable.

For the record, I'd like to note that all statements and opinions that may be expressed -- and all questions asked by CFTC staff -- are those of the staff and do not necessarily represent the views of any commissioner or the Commission collectively.

Before we begin, I'd like to note some housekeeping items. I want to point out that this is not the only opportunity for interested parties to comment on the proposed rulemaking. The CFTC has a mailbox into which anyone may submit comments and supporting materials. Submitted comments will be read by staff to help us as we implement this proposed rule. Please note that the comment period deadline is now October 7. Also you should know that this meeting is being recorded. The microphones are in front of you. Please press the button and you'll see the red light. That means you can talk -- and please speak directly into it. When you finish, please press the button to turn off the mic. And we would also ask that you refrain from putting any Blackberries or cell phones on the table as it typically causes interference with our audio system.

And now I would like to hand things off to Rachel Berdansky, who is the Deputy Director for Market Compliance in the Division of Market Oversight, to make some opening remarks and get us started. Again, thanks to all those participating here today. Rachel?

MS. BERDANSKY: Thank you. I'd like to echo Rick's gratitude to each of our panelists.

The Commission seeks to make this rulemaking a collaborative process and this roundtable -- or rather, rectangle table -- is being held in that spirit. Commenters should feel free to submit any additional comments arising from matters discussed at this meeting. Also, commenters may refer to a transcript of this meeting, which will be published on the Commission's website a few days after this meeting. If panelists wish to comment on the general policy of the proposed rule, including cost, or suggest alternatives to what the Commission has proposed, they may do so in the written comments.

As Rick mentioned, the purpose of this roundtable is for staff to gain a better understanding of the flow of data to be collected under the proposed rule. Because of the time constraints of this meeting, it is essential that we keep on topic and at least try to keep on time. The Commission believes that ownership and control information is fundamental to the effective regulation of modern markets. With the Ownership and Control Report, also known as the OCR, the Commission seeks to enhance market transparency, increase trade practice and market surveillance capabilities, leverage existing surveillance systems and data, and facilitate the Commission's enforcement and economic research programs. The Commission's current plan is to have OCR data submitted to the Commission by exchanges, for all trading accounts active on an exchange. The Commission understands that the exchanges will need to adopt rules to collect OCR data from data sources such as FCMs, IBs, CTAs, and CPOs.

For each trading account, the OCR will include a trading account number, the names and address of the accounts owners and controllers, special account number -- if one has been assigned -- an indication of whether the account is a reportable account pursuant to large trader thresholds, and other relevant information. A major focus of today's meeting will be identifying who maintains each piece of OCR information and the flow of this data. On display is a spreadsheet that lists each data point required by the proposed rule, we will use this to guide the first part of today's meeting.

This roundtable meeting is broken out into two general topic areas -- sources of OCR data and OCR implementation. We would like to begin by going through the list of data points, determine who maintains the data point and how the exchanges will obtain that data. Before we get started, let's go around the table and introduce ourselves. I'm then going to ask those people who submitted prepared statements or who have requested an opportunity to make a statement to do so. We ask that your statement not exceed five minutes. Also, I am aware that at least one panelist has prepared some PowerPoint slides relating to data flow. We will save some time -- approximately 10 minutes at the end of the first panel -- for that presentation. At this point, why don't we go ahead and introduce ourselves.

MR. GOLLEY: My name is Jerry Golley. I'm the deputy director for systems and services here at CFTC.

MR. ROGERS: I'm John Rogers. I'm the chief information officer at CFTC.

MR. NOWLIN: John Nowlin, Enterprise Architect at CFTC.

MR. FAY: Jim Fay in OITS.

MR. MORAN: Jim Moran, director of regulatory technology and strategy at CME Group.

MR. ANGUISH: Keith Anguish, associate director, Systems Development at CME Group.

MR. COOPER: I am Karl Cooper. I am the chief regulatory officer of NYSE Liffe U.S.

MR. BOOTH: Andy Booth. I'm the chief technology officer at NYSE Liffe U.S.

MR. OTT: Joe Ott, vice president of compliance, Kansas City Board of Trade.

MR. UMSTATTD: Dan Umstattd, director of operations, Kansas City Board of Trade.

MR. CUMMINGS: R.J. Cummings, vice president, product development, Intercontinental Exchange.

MR. LEGROS: Barry Legros, vice

president, application systems, ICE Features U.S.

MR. FABIAN: Mark Fabian, vice president, market regulation, ICE Features U.S.

MS. SCHRAMM: Melinda Schramm, chairman, International Introducing Brokers Association.

MR. CRAPPLE: George Crapple, co-chairman of Milburn Ridgefield. We're a CPO and CTA. I'm also on the Board of the NFA and the FIA.

MR. TUBRIDY: Ray Tubridy, managing director of State Street.

MS. SUTPHEN: Leslie Sutphen, currently industry consultant, formerly with Newedge.

MR. KIRILENKO: Andrei Kirilenko, Office of the Chief Economist, CFTC.

MR. MARTINAITIS: Gary Martinaitis, associate deputy director of Market Information Group.

MR. ALVAREZ: Cody Alvarez, attorney advisor at DMO, CFTC.

MR. PUJOL: Sebastian Pujol, CFTC, Division of Market Oversight.

MS. BERDANSKY: I believe we also have Frank Franiak on the phone. Frank, do you want to introduce yourself? Okay. Why don't we just go ahead with our -- there will be, like I said, several people have submitted opening -- have opening statements or requests to make a statement. Leslie?

MS. SUTPHEN: Okay, thank you. Mr. Shilts and members of the Division of Market Oversight, I appreciate the opportunity to comment on the challenges of approving sources of ownership and control information, as well as discussing how best to implement protocols for receiving this information. My comments today will reflect my experience implementing electronic trading systems both as a managing director at Newedge Group and as an independent consultant over the past 13 years. They are a reflection of my own opinion and not that of Newedge Group or any other entity.

I applaud the efforts of the Commission to improve the identification of trading patterns and control in today's complex markets. I will confine my comments today to issues surrounding identification of control, as I believe the other participants will have more to say on issues having to deal with ownership information. I specifically want to talk about the setting up of unique user IDs which may translate to a specific field on the execution trade feed, such as Tag 50 or Sender Sub ID. In the way the futures industry operates today, the identification of specific controllers of trading and the associated information surrounding the controller is non-standardized, dispersed and not specific enough to enable precise identification of the controller. The non- standardization has to do with the nature of user IDs themselves. User IDs are generally freeform text, varying depending on the requirements of the trading platform being used, the exchange to which the trade is being routed or the identification requirements of the clearing or executing firm. The lack of standardization often complicates the setup of users across multiple markets.

For example, on some exchanges it is necessary to use the exchange assigned user ID and on others, the user ID cannot be longer than six characters. In addition, some trading requirements such as sharing an order book among traders can result in multiple order router IDs being mapped with single exchange ID. Even if the industry could come up with an standardized protocol for the setting up of user IDs, there is currently no uniform approach to the assignment of IDs, the collection of information on the user, and the control over whether the ID is active or not. Generally, the FCM will delegate the control over who has access to the user ID to the client itself as practically the FCM cannot definitively identify who is logging in at a given moment. Although many FCMs do set up detailed and complex databases with the names of the traders behind the IDs and possible -- possibly some contact information. Maintaining these databases is a manual and laborious process with no easy way to automate and maintain this information. In many cases, the information is located in disparate spreadsheets used by support desk personnel.

Finally, even if the industry could adopt agreed standard procedures for setting up user IDs and maintaining the data behind the user ID, the user ID itself is not sufficiently precise to correctly identify the controller in all cases. Generally, in the case of screen trading, there is a single unique ID for each screen. However, if the screen is used by a broker or fund manager, the user is placing trades for multiple controllers -- many of whom are not necessarily identified by a unique account number or user ID.

In the case of automated trading, there may be a single user ID for multiple algorithms or strategies or no unique user ID because all traffic goes through a single FIX session. The exchanges generally require additional identification information beside the user ID to be passed -- for example, in Tag 50, in order to facilitate identification of a specific trading strategy or trader. However, at this time it is not always easy to populate this information technologically depending on the architecture of the trading platform. And the FCM does not always know that multiple algorithms are using the same identifier, making it difficult for both the exchange and the FCM to corroborate this information -- this identification.

I believe the industry can continue to work together to come up with a more standardized approach to setting up user IDs, codifying and collecting information, and agreeing with exchanges in how this information can be passed. However, it is important to note that migrating to this new approach will require fundamental re-architecture of user setups across the industry, something which typically can take several years to accomplish and at great cost. Thank you.

MS. BERDANSKY: Thank you. Melinda?

MS. SCHRAMM: Thank you. Unlike Leslie, I've reached the age where I have to take my glasses off to read -- I'm Melinda Schramm, Chairman of the Board of Directors of the NIBA. Thank you for including us today.

Founded in 1991, the National Introducing Brokers Association, or the NIBA, is a not for profit organization which represents Introducing Brokers, IBs, and Commodity Trading Advisors, CTAs. Our membership includes approximately 350 registered entities. While our members trade in all markets, they primarily transact business in the retail sector of the futures and options industry. Our statements and appearance today are representative of our IB membership only. The NIBA's mission is to provide a forum in which IBs can learn, network, and have a voice in the many developing issues affecting the daily activities in their offices.

Our goal is to support the IB community so that they can better serve its customers and grow the revenues of their businesses. NIBA's members typically have three to twelve sales, research, and support staff, in total, in their office. In fact, many IB registrants still have one or two person offices. Each office may serve as 50 to 400 customers, which could be solicited face-to-face or through web-based interactions. The majority of customers who trade through an IB office open individual accounts with an initial deposit of $30,000 or less. About one-third of NIBA's members are licensed as both IB and CTA, or they conduct other financial or futures-related business such as securities or insurance programs.

The typical IB member nets less than a quarter million dollars per year in personal income. NIBA acknowledges that it's in the best interest of all American business to know who their customers are, and how, and by whom certain decisions are being made. We're ready to work and are working to educate our members in the upcoming NFA amendments to the Know Your Customer Rules and the Associated Risk Disclosure Statements. By all standards, NIBA's members and, indeed, probably all IBs, are small businesses. They're typically owner operated with little or no clerical support.

As typically -- as correctly pointed out in the proposal, much of the information required by the OCR -- such as the customer's name and the date of birth -- is already obtained by the IB office which opens the account, in order to comply with the anti-money laundering regulations. And that information is being maintained by both the IB and its clearing FCM. Generally, IBs do not transact business for funds, pools, or other large accounts which may require any entity other than the individual account owner to be designated as the account controller. To the extent that they do, the Commission Rule 1.37 controls IBs -- particularly Guaranteed Introducing IBs or GIBs -- and work hand-in-hand with their clearing FCMs.

These FCMs -- their root data sources -- are already requiring and maintaining most of the OCR information proposed. While NIBA agrees with the FIA and others that a single uniform protocol for reporting should be adopted, we do not agree that this reporting should be done at the IB level. Weekly reporting would in most cases be unnecessary. As we have previously pointed out, FCMs are already collecting all the information necessary to open an account on their current account forms.

Additionally, IBs should not be required to submit any such reports directly to the Commission. In fact, in the case of GIBs in particular, all such communications with any reporting agency -- such as the NFA -- is nearly always required by the clearing FCM to be submitted to or through that FCM in order that the FCM can comply with its supervisory duties. Given these realities of the IB community, we believe that the majority of our members are small entities, as that term was defined in the Regulatory Flexibility Act. In this context, we look forward to discussing the impact of this proposed rule and sharing our perspective.

Thank you for the opportunity to participate in this meeting. The NIBA is ready to discuss any issues regarding this proposal and any that you may have in the future regarding the IB community in general. Thank you for the opportunity.

MS. BERDANSKY: Thank you, Melinda. Joe?

MR. OTT: The Kansas City Board of Trade would like to thank the Commission for hosting the public roundtable today to discuss the Ownership and Control Report currently being proposed. We feel it is paramount to assume an industry-wide committee, including the CFTC, to discuss the issues of how to implement the OCR in a manner that will both satisfy the CFTC's regulatory needs and as well as to avoid being an undue burden to the root data sources in designated contract markets.

KCBT agrees that the account ownership and control information report will enhance market transparency. We also agree it will increase the Commission's trade practice and market surveillance capabilities as well as leveraging existing surveillance systems and data and facilitating the Commission's enforcement research programs. The unprecedented changes recently seen in the futures industry are currently as a result of the shift in the style of trading -- from pit trading to electronic trading -- has necessitated many changes in the manner in which we regulate our markets.

The anonymity of the market participants in electronic trading has made it difficult to identify traders and trading accounts quickly. It has been our experience that some clearing members struggle with identifying the user and/or account number for a particular trade unless other information is given to them -- for example, a session ID, a firm ID, or a trader ID. Market transparency is a crucial element of any market surveillance system. The integration of large trader and trade registered data into the OCR will exponentially increase market transparency. Once the implementation of the OCR takes place, both the CFTC, as well as the exchange compliance staffs, will benefit greatly from the wealth of information at their disposal regarding the identity of market participants and the relationships that exist among them.

However, KCBT still believes that the most efficient way for the information to be submitted to the CFTC is for the FCMs and clearing members to submit the information directly just as they currently do with KCBT large trader reporting. The root data sources are in possession of the specific data points being proposed. Therefore, it makes no sense for the root data sources to report this information directly to the Commission. Of the specific data points required by the proposed OCR, the only data point KCBT currently has in our possession is the trading account number. The CFTC is already in possession of many of the specific data points required by the OCR through large trader information -- namely, the CFTC Form 102, Identification of Special Accounts, as well as exchange trade registrant information. Therefore, the CFTC is in a better position than the KCBT to integrate these existing resources and supplement them with ownership control information for all active trading accounts. It seems unnecessary to put a third party in the middle to submit the information to the Commission.

Requiring each contract market to report the information for every active account would result in duplication, as the same account number may trade in similar commodities across multiple exchanges. As an example, the same account number may trade KC, Chicago and Minneapolis Wheat. Therefore, Kansas City, CME and Minneapolis would all be reporting the information for the same account. In addition, there are currently certain KCBT clearing members, for open interest reporting purposes -- that have their home office in either Chicago or New York and report their positions to their Kansas City branch office -- who in turn reports to the clearing corporation. If this same logic was used for the OCR, then the information would have to be reported three times -- from the home office to the branch office to the Kansas City Board of Trade and on to the Commission.

KCBT agrees that uniform reporting protocols are an absolute necessity. The CFTC has standardized the content and format of all trade registered services submitted to them which are now required to be fixed ML trade capture reports. Therefore, it would seem logical that the Commission and root data sources could develop a similar industry-wide standard for the OCR. It would seem to make the most sense to have the CFTC and the root data sources come up with an industry-wide reporting standard directly to the Commission, versus all the exchanges having to build a system for their root data sources to report in to. The CFTC could use their existing large trader reporting system to accomplish the goals of the OCR by requiring that each root data source report the required information for all active accounts.

Regarding the specific data points required by the OCR, KCBT questions whether the date of birth for each active account is a necessary data point to collect. Neither current

CFTC regulations, nor NFA rules and regulations, require an FCM to collect the customer's date of birth. Currently, NFA Compliance Rule 2-30 only requires an FCM recording of an approximate age of the customer. Effective January 3 of 2011, NFA rules will require the FCM to record an approximate age or date of birth. It is the opinion of the Kansas City Board of Trade that requiring a first, middle and last name, as well as the address of their primary residence, should be sufficient to achieve a unique identification for each active account.

The OCR information will be difficult to obtain from omnibus accounts because the underlying accounts are not carried on the clearing member's books. Furthermore, certain omnibus accounts may not be members, or may be nonmembers of the Kansas City Board of Trade, which raises a question as to the regulatory authority the KCBT would have over them. The CFTC would have regulatory authority over all FCMs and hence another reason why the root data sources should report directly to the Commission.

We are currently not in a position to state with any certainty what the cost would be for the Exchange to provide the OCR until further details are forthcoming regarding an industry-approved standard for the OCR's content, format, and the time and manner of its transmission. Once more details become available, we will be in a better position to estimate the timeframe necessary for completion and the costs associated with such. However, it is clear that each contract market will incur significant service storage and programming costs to ensure they have the ability to store the information received if the CFTC requires each contract market to receive, collate, and correlate the data into a single record for active accounts in our market and then to transmit the information to the CFTC. Thus, you would have programming and service storage costs at each level, whereas if the information was submitted by each data source directly to the CFTC, you could eliminate one of these layers of costs.

It seems the best method for reporting the information would be to be submitted by the root data sources directly to the CFTC. The Kansas City Board of Trade appreciates the opportunity to participate in the political roundtable today.

Thank you.

MS. BERDANSKY: Thanks, Joe. Jim?

MR. MORAN: Once again, I'm Jim Moran from CME Market Regulation. Again we thank the Commission for having this roundtable and for giving us an opportunity to speak here.

You know, CME Group operates for DCM, CME, CBOT, NYMEX, and COMEX, and we recognize the need for the Commission to have their annular account identification information and we applaud the Commission in their efforts to require this information in an automated and standardized way across clearing firms. CME Group Market Regulation already maintains its own account ownership databases and it routinely uses that in the performance of our regulatory duties. We have made substantial advancements on these databases in recent years and we believe that these types of advancements make us more productive.

CME believes that automating the account ownership data submission and eliminating the manual processes and hard copy methods currently in place is overdue and very necessary. CME has a stake in the project and a commitment to help make it successful if we can. In its current form, we are concerned that the Commission's proposal requires certain data elements that clearing firms do not have or which cannot be obtained without a massive re-documentation project of hundreds of thousands of customer accounts. In some instances, the clearing firm may have the data, but it is not in the databases that would be used to provide this information. We also believe that some of the data elements sought by the Commission have limited regulatory value and that this proposal should be modified to be less expensive for the industry, quicker to create and market --

bring to market -- and that it should eliminate redundant reporting, all while still obtaining the desired regulatory objectives. The redundancy currently exists with respect to a substantial overlap of information required in CFTC Form 102, which is used in the large trader system.

We believe the Commission should take this opportunity to modernize and automate the core information required under Form 102, rather than require that the industry engage in two separate, but highly redundant, account identification processes.

I'd like to briefly summarize some recommended changes to -- other recommended changes to the OCR proposal that would be necessary for a successful project that would minimize disruption to the industry, while hopefully not using up all the resources that will be necessary for other changes anticipated by the Dodd-Frank Legislation. We also believe that this proposal would entail a lot of collaborative effort between the exchanges, the clearing firms, and the CFTC, and we think that it is something that can work in a practical and beneficial manner.

Specifically, we believe that the reporting should be done by the carrying clearing firm and not by the executing firms, or the IBs. It's at the carrying broker where the ownership of the trade is established and we believe that that's the most logical place where this reporting is done from. Also, we believe that omnibus accounts have long existed in the futures industry and should not be functionally banned by requiring a carrying firm to obtain all of the end client information for accounts within the non-disclosed omnibus. Instead, omnibus accounts should be identified as such in the OCR and regulators can request ownership or control information directly or through the clearing firm on an as needed basis.

Third, with regards to trading control, there's a statement in the OCR proposal that trading authority is sufficient to qualify as controller. This is not consistent with the conventions for reporting control in large trader position reporting and the CFTC should maintain that the existing definition of trading control -- which is more of a legal control pursuant to a power of attorney or a situation where independent account controllers are not aggregated for position limits -- should be held and applied to the OCR as well. As far as data, there's 28 data items on the spreadsheet in front of us. We believe that about 14 of those directly overlap with the CFTC Form 102. And perhaps 10 or 12 of those -- the data already exists in the firm's system, but, you know, some things in terms of reporting, would have to be -- would require a system change in order to implement. The remaining elements, we believe, are either not necessary or have limited regulatory value. These items include the fields for owner and controller birthdates, fields for the NFA ID number, and fields relating to the dates that various reports are made.

We believe that simply getting the report should have a date on it and we don't need a separate field to record dates. Also, the automated system identifier that is proposed is really not something that is associated with an account. An account can have, you know, a lot of different parties doing different types of trading and it isn't really the best place -- it's not the best place to identify when an automated system is used. Also, we believe that there should be some kind of threshold of volume. Many customers are small and while we still aren't sure exactly what that threshold should be, you know, customers that trade very small -- and just occasionally, in small quantities -- there are so many of them that, you know, having the flow of that data in the database has the potential of just cluttering up the information and actually making this a less efficient process.

So CME believes that, you know, we should all come to the table and begin discussing how we can make this proposal work and do it in a way that, you know, is good for the markets, is good for transparency, but yet does not impose an undue burden on our participants or our firms.

Thank you.

MS. BERDANSKY: Thank you, Jim. I believe that we have one more panelist who has joined us via telephone, Frank Franiak. Frank, do you want to introduce yourself, please?

MR. FRANIAK: Yeah, hello. This is Frank Franiak. I'm the president of Woodfield Fund Administration. We are a fund administrator that handles hedge funds as well as futures pools. I have no initial statement to provide.

MS. BERDANSKY: Thank you. At this time, I'm going to turn it over to --

MR. FABIAN: Rachel, if you don't mind, I'd like to make a short statement on behalf of ICE. I'll keep it short -- promise. Is that okay?

Again, I'd like to thank DMO and the Commission for organizing this roundtable, inviting ICE to it to express our opinions and thoughts on the OCR collection proposal. This is an important topic and has a significant impact on ICE as well as the other entities sitting around this table as well as the firms that are going to be supplying the data to us. As we expressed in our written comments that we submitted last year in answer to the ANPR -- and will likely reiterate some of those in a further comment letter in response to the most recent rulemaking proposal -- we understand and agree with the initiative to collect this information. We think it will be very useful in enhancing our systems and our ability to do our surveillance in trade practice reviews. It will definitely make it more efficient. It will take something that we do manually now -- in terms of getting a lot of this information -- and make it a more automated and quicker process, having it right at our fingertips as opposed to having to request it manually.

At the same time, we recognize that the proposed OCR initiative will demand a substantially significant amount of time and resources to develop and implement -- not only for those reporting entities who may be involved, but also for anyone who is supplying the root information. As noted by the Commission, the successful implementation of this proposal is going to require effective communication and coordination between all parties involved, including the Commission, so that we achieve the desired results. However, at the same time, we need to work together to determine the most effective and efficient means by which to collect that OCR data.

And in the interest of keeping time short, I would like to just echo some thoughts that we had made in our original comment letter, and that has been made by the Kansas City Board of Trade here today, which are in regard to a more efficient process -- we believe -- of having the reporting -- excuse me -- the root source data providers report the information directly to the CFTC. It's a one stop shopping approach, as opposed to then reporting to multiple different reporting entities. It also alleviates potential issues that may arise -- as Joe alluded to -- where firms may report the same account to multiple exchanges and, therefore, each exchange has different -- has rules that require the submission of this information in the event that a firm does not properly report some piece of that data, and some kind of disciplinary action is taken.

We -- you know -- the question becomes, okay, they report to multiple exchanges, whose jurisdiction are they under? Who takes disciplinary action? Do all the exchanges they report to take a disciplinary action or some kind of corrective action? So without going into any further detail, I again would support a lot of the reasons that Mr. Ott from the Kansas City Board of Trade enumerated, with respect to having the information flow directly to the CFTC into a common repository which then can be either distributed to the various exchanges that need it, or the various exchanges can download the information -- depending on the accounts that are active on their exchange.

In reference to which accounts should report, obviously the Commission has said that they would like to see more information than just those that are large traders and they alluded to wanting the community or the user group here today to define for them some other parameter that would capture most of the active trading. And we would agree that some kind of a parameter that is linked to volume, and/or frequency of trading, that would identify the most active accounts -- not necessarily by large trader status, but by frequency and volume of trading -- that are active on an exchange and in the markets, as opposed to trying to collect all the information from every account that is active because there are so many small accounts that are active. It may just be much more burdensome than trying to create a minimum level of reporting.

So, like I said, I was going to keep it short. And we look forward to addressing any questions the DML may have and we look forward to raising other questions and comments that we may have, as well. Thank you.

MS. BERDANSKY: Thank you. At this time, I am going to turn it over to Sebastian to start Panel One. Sebastian?

MR. PUJOL: Thanks, Rachel. And thanks to everyone for coming. If you guys could sort of turn your attention to the screens that are around you, we're going to start with the chart that's represented here. What we're trying to do is -- we have a few specific goals with this, but fundamentally we want to understand where the data resides and if it's not in places where it needs to ultimately be, what the obstacles are to getting there -- whether they be practical, or legal, or so forth. With that in mind, there's four specific things that we want to make sure we get out of this chart as we complete it. And by the way, this includes every data point that was proposed in the OCR.

The first thing we want to ask is,

obviously, who possesses each of these data points? The second question is, if you possess it, are you an initial holder of the data or is it something that is sent to you in the regular course of business by someone else? The third question is, for the data that you possess, what do you routinely share? And I'm not sure this question will be so applicable for DCMs, but for downstream sources -- or upstream sources for DCMs. And for the things that you don't routinely share, what's the reason? Is it that there typically hasn't been a need? That there is some restriction around -- maybe the information is protected by the privacy law of some jurisdiction that prohibits you from sharing it? Is it a competitive concern? You wouldn't want someone else to know this information. Those are the sorts of questions we'd like to have answered.

Also, for some of these data points, I think that maybe the answer would be that most of the time it's this, but here are the exceptions. I think we'd like to note, at least on the first pass, that those exceptions exist, but save the sort of detailed discussion of what the exception is until after we've at least understood what the norm is.

Finally, there are 28 data points here, but I suspect that many of them are related. So if -- as we go down them -- if folks want to group them together and say we can discuss these two or three as a single set, that's fine as well. So, with that being said, we'll just go ahead and get started with the first point -- the trading account number. And the trading account number we refer to here is what we receive from the DCMs in the trade capture reports. And I'm presuming that -- well, I won't presume anything -- I will let you guys sort of let us know who is in possession of that account number.

MR. COOPER: Sebastian, thanks. I just -- before we even get started -- I kind of wonder about the form. You have one column for FCM and I would think that maybe we need to be thinking about. You know, clearing members, and non-clearing members, and members of exchanges, and nonmembers of exchanges. So we certainly have business that comes to NYSE Liffe U.S. that comes from a nonmember, non-clearing firm, that's, you know, then passed to an executing broker and is cleared at a third firm potentially, so --

MR. PUJOL: Absolutely.

MR. COOPER: If so --

MR. PUJOL: If we need to be more granular, we can do that.

MR. COOPER: -- quite frankly, the -- it all depends on what you're trying to get. If you're trying to get that business is going to come from a nonmember, non- clearing firm, the identity of the customer behind that -- assuming they don't have an omnibus account for yet another nonmember, non-clearing firm, or foreign IB, you know, it's -- what we're requiring here is it would be some sort of cascade of information from the nonmember -- non-exchange member -- firms to exchange member firms to, possibly, clearing member firms to exchanges, and then to you.

MR. PUJOL: So, with -- I mean we can certainly -- your answers can be more granular. But with that in mind, let's still try to go down sort of data point by data point and just account for each one of them. And we can start with number one. I mean certainly --

MR. FABIAN: You just want us to chime in and --

MR. PUJOL: Yeah.

MR. FABIAN: Okay.

MR. PUJOL: Absolutely. Yeah.

MR. FABIAN: Obviously, from the DCM perspective, there's going to be a trading account number in our cleared trade registers which we forward along to the Commission on a regular basis. So that's obviously exists on the DCM.

MR. PUJOL: And I'll ask one follow up on that. I heard some -- in the opening statements -- some suggestions that numbers could come from different places -- you know, that information could come from somewhere other than the DCM. I think that one issue that we have had here at different times is that -- or the reason that we are sort of looking for this trading account number from the DCM -- is we want to make sure we can synchronize the data we get on the Trade Capture Report with the data that comes from through an OCR Report. So, you know, we don't need to address that in detail right now, but just so you are aware -- for this to be useful to us -- we have to be able to synchronize it to other data sources that are already coming in the building. That's why that's one of the reasons why we sort of were looking to the DCMs as a natural focus for this.

So let's move on to, I think, a related set of accounts -- the names, dates of birth, addresses -- I think we can discuss those together. And again, to address some of the comments, the reason that we have gone to this level of detail is because we want to assure a unique identification. We don't want to worry about two John Smiths or, is John Smith the same as John S. Smith?

MS. SUTPHEN: You know, before you move on, I think it's important to note that the trading account number really resides at the FCM. The data -- the freeform data gets passed to the DCM, obviously, but the account is created and held -- and the useful information surrounding the account is at the FCM. So I think it's -- you know, I don't think we should just say the DCM is the repository for that data.

MR. FABIN: I agree with that. I just didn't want to speak on behalf of the FCMs since I'm with the DCO.

SPEAKER: And, Leslie, IBs would agree with that also. Thank you.

MR. PUJOL: And by the way, we -- you know -- we don't need to be overly formalistic. I mean, whenever somebody wants to speak up, speak up. I think that would be more useful.

MR. MARTINAITIS: Feel free to disagree with any typing that doesn't capture any ideas that are put out here. Thank you.

SPEAKER: All right. So do we want to

address the names, dates of birth, addresses?

SPEAKER: If I could, one thing I want to point out about names -- first name, middle name, last name. I think that for the FCM -- they have this information in their systems -- first and last name. Middle name is something that most systems don't capture today. And if you think about all the different applications that you fill out in your personal life, the way middle name is handled is very random. And so, what is a concern is the middle name.

MR. PUJOL: Just to follow up on something that Carl said. As we talk about FCM, if, in your answers, it's appropriate to distinguish clearing FCM or nonmember FCM or, you know, more granular, then please do so.

MR. OTT: Sebastian, I'd like to point out again that I totally agree that there could be more than one John Smith, but to me when you're combining the name with the address -- to me you're going to have something unique right there. I'd be very surprised to see John Smith at the same -- two of the same addresses. Therefore I'll say it again, I feel like the date of birth is not necessary if you're just trying to get a uniqueness out of this.

MS. SUTPHEN: And to enhance that, I don't believe the date of birth is collected in all cases at the FCM level. It's probably scanned when the account is opened, maybe on a driver's license or a passport, or something like that, but it's not actually coded into any kind of database, generally. Maybe you -- as was said earlier -- we estimate the age, but it's not typical practice to record the date of birth in our systems.

MR. MARTINAITIS: You mention about copying a license or so forth -- that raises an interesting point as well. I think it would be nice to distinguish between things that might be captured at some level, but that are not typically digitized and, therefore, you can say the data exists, but sending it into a report would be a whole different level of effort. So, for date of birth, is -- are you saying that that it probably

--

MS. SUTPHEN: That would generally be a document of some sort. It would not be in a digital form.

MR. MARTINAITIS: Okay. But again, I don't think it's a requirement at this point. So it may not be captured at all.

MR. FABIAN: I think we've kind of discussed this internally, and we've heard that in Canada it is illegal to request the date of birth from a citizen in Canada. You can provide it at will, but it is illegal to request it. So if there are Canadian accounts that are active on our exchanges that would be required to post that information, I think it may be an issue. I don't know if it's being requested by a Federal entity in the U.S., maybe it's not the same issue. But if it's being requested -- I believe is being requested by a firm, it is illegal to request that information. You can confirm that, but I just thought I would share that just so people would be aware that there is potentially an issue with that in Canada.

MR. PUJOL: When we talk about the firms here, are we -- is it always the clearing firm we can safely assume who will have this information, or --

MS. SUTPHEN: Well, ultimately the account ownership information is with the clearing firm. Often the executing firm doesn't know the ownership of the account, so -- yeah, your clearing firm, and even what ends up being on the trade register is really linked to what's -- the information at the clearing firm, I would say. So that distinction is really -- I mean, it's the clearing firm that is really the one that opens that particular type of account.

MR. PUJOL: Is that the case or is that not the case for trading account number?

MS. SCHRAMM: Speaking for introducing brokers, they often use a driving license or a passport in order to satisfy the need to know their customer. But if it isn't a requirement on the account form that they're filling out, or helping the customer to fill out, then they will not require any further documentation or recording of that information.

MR. TUBRIDY: Sebastian, to answer your question, yes, trading account would be with the clearing member.

MR. PUJOL: Thank you. Does anyone have anything further they want to say just in terms of who possesses those three data points -- those four? So let's move on now to number 6, 7, 8. Here, in this case, we're talking about an owner that is not a natural person. It's some sort of a legal entity.

SPEAKER: Before we move on, NFA ID number. That is --

MR. PUJOL: Oh, yes. Okay. Thank you.

SPEAKER: That is information that is currently not captured by the clearing member. It's available, but it's not recorded in any system.

MR. PUJOL: Thank you. All right, now let's move onto 6, 7 and 8. These are owners who are not natural persons.

MS. SUTPHEN: Sebastian, as a point of clarification, very often not natural person owners are behind an omnibus account of some sort. So if they're opening their account directly with the clearing firm and on the books and records of the clearing firm, then this information would be captured, but it would not necessarily be captured if they are dealing through an omnibus account of a foreign broker.

MR. PUJOL: All right. So that's a fair point. Thank you. Let's sort of leave out for now the omnibus account situation. Is this -- again this is information residing at the clearing firm level?

MS. SUTPHEN: It's at the clearing firm level.

MR. COOPER: Are you referring (interruption) point and time are you referring to?

MR. PUJOL: You know, I'm not sure by -- I would say at any moment in time. I don't know if that's a -- you know --

MR. COOPER: I mean, some of this data flows into a DCM, you know, for a larger trader. Or we also, you know, identify accounts for various other reasons. Member accounts are all identified at the CME. You know, sometimes -- you know -- because we see some trading activity and we want to know who it is -- once we identify an account, we put that in our databases. And we do that routinely, so -- you know, the DCM, you know, may have some of this data at various points, but that doesn't mean we have it for every account or we have it at every point in the cycle.

MR. PUJOL: You're describing it in sort of information that you collect as needed, or you might collect it pursuant to some various programs you have going on, but it's not for every account.

MR. COOPER: Correct.

MR. PUJOL: So, if we move on a little bit further down. At this point, I think we can assume the NFA ID answer is the same as it was for natural persons, correct?

SPEAKER: Yes.

MR. PUJOL: So --

MR. MARTINAITIS: I'm not sure if we covered this. The -- you were talking about when this information -- I'm sorry. Jim, you were talking about when this information is accurate. Whether, you know, at the initial opening of the account -- is the FCM the party -- the clearing FCM -- do they have the non-natural person name, business address, ID number? Is it maintained so that if things change, it's updated? Do they maintain these updates?

SPEAKER: Yes.

MS. SUTPHEN: Yes, to the best of their ability. Yes.

MR. PUJOL: In those cases, is it being fed to them? I mean, we've said clearing firm in a few cases here, but is it -- are they getting it from somewhere else?

MS. SUTPHEN: Well, they have to get it from the customer. I mean they have a fiduciary responsibility to keep that information -- and a regulatory responsibility to keep that information up to date. So, you know, it's part of KYC to make sure that you're having a constant contact with your customer and validating that information.

MR. MARTINAITIS: So there's not a third party in between? It's directly customer to clearing member?

MS. SUTPHEN: For ownership?

MR. MARTINAITIS: Yes.

MS. SUTPHEN: It's generally between the clearing firm and the owner.

SPEAKER: Okay. Thank you.

MR. TUBRIDY: Yes, just maybe said a different way, the process to open an account and to register an owner in the FCM system is the same whether it's a natural person or a non-natural person. And so you record all the same data points. The requirements are slightly different, but the main data points you do record -- especially these.

MR. COOPER: And if you're joint BD

under SEC rules, you have a duty under 17-A-3-A-16, or something, to refresh that information every 36 months so. That's assuming that your future systems and security systems all feed each -- feed the same database.

MR. PUJOL: Let's move on to the account controller questions. And I understand that, Jim, you raised an issue around whether our definition of account controller is appropriate? But -- so let's -- I'm not sure if we can answer this question with -- sort of, leaving the exact definition aside for a second -- but as we've defined controller in our documentation and in our proposal, at least, can we discuss who has that data?

MS. SUTPHEN: If the data exists anywhere, it would exist at either the executing firm or the clearing firm -- at the FCM, I would say. But I think here is where from -- you know, from 9 until number 13 it's where that data would be the most spotty right now. Where that would not be necessarily collected systematically if they're not a large trader reporting and, if we did collect it, it would not necessarily include all this information. And it would not necessarily be on the trade register.

MS. BERDANSKY: Leslie, you stated, you know, if you did collect it, what would be the instances when you would be collecting it?

MS. SUTPHEN: It has to do with user IDs and trying to map them to the person who is responsible for trading and most large FMCs that maintain large electronic trading systems would have a database that would collect this information associated with the user IDs. But there -- as electronic trading has moved from screens into automated training, that kind of one-to-one association between a user ID and a controller has broken down and, in fact, a lot of times a user ID does not map to a controller. So, you know, everybody says Tag 50 and that's the operator of the trading system, but that operator is not necessarily the controller. So we in FCMs try to keep track of who is behind the user ID and try to get as much information as we can about them, for obvious reasons, but that doesn't necessarily mean that we have good information on whether they're a controller or not.

MR. FABIAN: I would reiterate that, too. I mean, a lot of the user IDs represent the person who is putting the order into the system, but that doesn't necessarily mean they are the person that's making the trading decision to initiate that order. So we don't definitely -- and I'm sure everybody is aware of that -- don't want to confuse the so-called user ID authorized trader with the account controller, even though in some cases they may very well be the same.

MR. TUBRIDY: And then similarly with the controller information -- so first name, middle name, last name, date of birth. In the FCM books and records systems, that information is not standard at all -- if at all recorded. Certainly, there's an identifier for large trader reporting, but that identifier is often times limited to just that -- an identifier -- without the specific name and address information.

MR. PUJOL: If we wanted to collect this information on a more systematic basis, and if it were easier to do so -- by synchronizing our definition with the large trader definition so that then you're expanding that existing process -- what would be involved in expanding that process?

MS. SUTPHEN: I think collecting that data you're basically lowering the threshold for that type of reporting. That's a manageable, finite project, but one issue you're going to find is that that particular report doesn't feed the trade register. That information is not on the trade register, so that would be only one piece of it. You would collect this information, but then how are you going to relate that to what you're actually seeing?

Is it the account number? Well, in some cases it would be. Is it the user ID? In some cases it would be. In some cases it would be neither of those things. So, I think the reporting and collecting of that information -- that's feasible. Big, but feasible. But, then again, what does that get you at that point? Is that going to get you what you really -- where you really want to be? No. I would say the answer is no.

MR. PUJOL: Just mechanically, what's involved in collecting the information? What are you doing to find that out?

MR. TUBRIDY: Well, currently, I believe this information is captured in the Form 40. So that, you know, that is in the written format at the moment. With a working group that's been formed by the FIA -- that several of us are part of -- we thought that maybe expanding the use -- electrifying the Form 40 -- might be a good way to capture this information.

MS. SUTPHEN: But just to expand a little bit on what you asked, I was speaking to Jim earlier because we had a project at Newedge to obtain just this sort of information for the Tag 50 values. With automated trading, our Tag 50s weren't being properly populated in all cases. So we had to go to the customer and find out how many ATSs they had and what sort of trading system they were using and try to come up with a way of registering that. That was a very time consuming process. I would say to obtain that information from a customer would often take several back and forths over a number of days to get exactly the information we needed. And given the definition of controller in the proposed rule, I believe that that would be quite a time consuming process to obtain that information right now.

MR. MORAN: If I could point out, too, just in terms of CME rules, you know, we have a rule relating to manager discretionary accounts. So that situations where there is a formal power of attorney in place -- and, you know, firms have -- clearing firms have certain responsibilities with respect to supervising that activity and making sure, you know, everything is done correctly. The rule does exempt proprietary operations that have employee traders. So, even though those -- the proprietary operation -- may empower their employees to enter orders and make trading decisions, we don't identify them as formal control -- quote, unquote -- controllers. And I think the same thing goes for large trader reporting. Normally, those names do not get on the CFTC Form 102. If there are multiple controllers, you know, firms can just write multiple and then just indicate who the, you know, the principal of the firm is, or the officer in charge of the trading activity.

MS. BERDANSKY: I believe Frank wanted to make a comment.

MR. FRANIAK: Yeah, can you hear me? Hello? Can you hear me? Hello?

SPEAKER: We can hear you.

MR. FRANIAK: Okay, great. I'm sorry, I'm getting -- every time I talk I get feedback. No, I was just going to say that in -- with regard to data points 2, 3, 4, 6 and 7, the administrator will have those in most cases, but as has been pointed out by one of the individuals there, very often middle name will not be available.

MR. PUJOL: Frank, could you walk us through a little bit because, honestly, I'm not sure that all of us have the same level of familiarity with the role that administrator plays and sort of what function you could play in the future in an OCR report?

MR. FRANIAK: Sure. The fund administrator provides a variety of services to a fund. The most pertinent, I think, for this discussion is the administrator will do the accounting for the fund and -- depending on the level of service the administrator is providing -- will also be processing investor data. So when an investor goes to subscribe to the fund, those documents come to the administrator. The administrator does the KYC AML work and, you know, a variety of other type things. So, again, depending on what type of administrator the fund has chosen, the administrator will have, A, the investor data and, B, the ownership percentages. One problem, however, that I need to point out is that the -- if you asked me the ownership percentages for a particular fund say for September 1, I cannot tell you those ownership percentages very often until September 10 or 15 or 20. In other words, there's a lag between the, you know, the end of the accounting period and the time when the accounting work is done. So I'm not sure what the timing of these reports needs to be, but for collective investment vehicles, there can be some, you know, issues with providing this data on a timely basis, depending what -- you know -- what the definition of timely is.

The other point I would just like to make is that, you know, I apologize for not preparing an opening statement, but one problem I see with this whole structure as it has been put forward is that it'll be very onerous, I think, for small commodity funds, small pools. The reason for this is that very often they use smaller admin firms. They can't afford the services of a firm like ours, which is sort of a mid-tier firm, or definitely not a larger firm.

And that's because it's a cost issue. They often have, you know, a large number of investors and a small amount of assets. So they end up going with smaller administration firms that are not generally very advanced technologically. And I believe that these firms will have a very difficult time responding to some of the requests that you have here. As a result of that, I think it will force a lot of these smaller funds to move to larger firms that, frankly -- up to now -- they just haven't been able to afford.

MR. CRAPPLE: Thank you. I'd ask the question why the account controller is focused on individuals as opposed to a CTA or CPO firm and if -- are we looking beyond the CTA and CPO firm to see who the controllers are and how is that defined?

SPEAKER: Fair question.

MR. PUJOL: Let me move on for a second, but I do want to come back to that as -- in our sort of -- once we finish the chart, we can go back to some of those more complicated issues.

The next data point I want to talk about is number 15. This is something that again, Jim, you mentioned there were some issues around. But the concept we want to capture is, you know, what orders are being generated by an ATS and what orders aren't? And so if anybody has any thoughts on sort of the ability to capture that information and the best way to transmit it, or if it's just something that's not capturable in this context.

MR. COOPER: I would like to echo Jim's thoughts that -- I just -- I don't understand why you need that in this report, and it goes to an overall sort of reaction that I have -- although we didn't make an opening statement -- but it certainly is supportive of your efforts here as, you know, being in charge of the market regulation function. I think it'd be great to have enhanced surveillance of aggregate activity, of commonly controlled or owned accounts across multiple clearing firms. But when I think about the complications and complexities of actually -- after we get this information identifying the matches, I start being worried about the information that's coming in, especially hearing about dates of birth which would be great pieces of information to identify matches. I think -- with that -- you could just go with last name, date of birth, and maybe zip code, and then you'd have a decent match to start identifying the matches. But I do -- I am concerned that as it's currently proposed, the proposal violates the KIS rule which is, keep it simple. Because, you know, what are we trying -- this is a surveillance --

MR. PUJOL: Can you leave out an "s"?

MR. COOPER: Yeah, that's for savings, I guess. Because it'd be so expensive anyway to build this, it won't be in savings. But I do wonder whether or not, you know, this is a surveillance tool, right? It's not -- do you really need, you know, the Post Office where you're going to serve the subpoena on the MOU factor, that you identify with it? If you can go to the clearing firm or the foreign broker, for that matter, through the FSA to get the address to serve the subpoena, you don't have to have it all in this report.

MR. MORAN: It seems like what will happen is most accounts will come in -- as they can be either/or -- and, in this day and age, many accounts will use, you know -- sometimes they'll trade manually or they'll use some piece of functionality that comes with most front-end trading screens that might give them some kind of automated ability. So you'll be -- you'll have an indicator that says it could be either/or, and it's not really going to be a helpful piece of data.

You know, like I said, I think what we're talking about here is reference information of account owners and controllers. It is information about who's behind a certain account number. And that ownership information is a different set of data and it comes from a different place than the transactional type of data which relates to how somebody might be entering a particular order, on a particular day.

So that's where, you know, we feel that it just is not -- this is not the right place to add an automated system identifier.

MS. SUTPHEN: And I don't think that you -- any of the readily available identifiers will enable you to identify whether it's an automated system or not. It's not -- we don't use account number or user ID to identify those systems right now, so you would have to create some new -- brand new field and try to implement that. I mean, what -- we've all been trying to track that ourselves, but you're not going to have a nice, standardized, easy identifier the way things are done currently.

MR. PUJOL: Does anyone want to add anything there? Any CFTC folks on that one? Nope? Okay.

We have a series of questions now that have to do with sort of helping us integrate this into a large trader reporting system. These are data points 16, 17, and 18. In the spreadsheet, the special account number -- if one has been assigned -- an indication of whether this is a reportable account; the date the account became reportable.

MR. COOPER: Again I'd ask why you need all this in this report? I don't know how the plumbing works necessarily in all the FCMs, but if there's a special account number, fine, you can report that. But then why do you need this additional detail, because wouldn't your other databases have some of that information anyway?

MR. PUJOL: No, that's a fair question. But let's just assume for a second that we did want to receive that information. Is it possible to receive it?

MR. FABIAN: Can I just ask a question? What is the difference between the special account number and the large trader reportable account? I mean, how are you identifying the number that is supplied on the 102? Which category you report -- are you categorizing that? And is that the special account number or is that the large trader reportable account?

MR. MARTINAITIS: The number on the Form

102 would be the special account number. I think the second, number 17, large trader reportable account -- yes or no, basically -- I mean, there could be the case I presuppose that for a trading account number, a FCM could assign a special account number to that trading account right from the get-go before they even recognize that it's a reportable. I mean, we've seen that. We know some companies do do that because we have the data on it. So this next line, item 17, is basically saying, okay, even though you provided a special account number, you know, has that special account reached the reportable status for large trader reporting?

MR. COOPER: In which commodity over the last 30 days? I mean, why do you want that information on this report?

MR. MARTINAITIS: Well, part of it obviously can be used as a double check for completeness of large trader reporting.

MR. FABIAN: The question I would ask is if some firms assign that account number, whether it's a reportable account or not? And then it comes through on this report, it may be misleading as to whether that's a reportable account or not, when you compare it to, you know -- maybe there's a reportable account number assigned to it? It's not a reportable trader. And when you compare it to your large trader information, you say, oh, looks like maybe this one we're not receiving large trader information and, in fact, there's no reason to receive large trader information. So it seems like it might be somewhat confusing as well.

MR. TUBRIDY: In terms of what's available, if -- when you submit large trader information, there's an account associated with that large trader reporting. So from an FC perspective, that's available. If a special account number is assigned, then that would be available as well, but the date the account becomes reportable is not available. And if you think about what Karl just mentioned, is it could be reportable today, not reportable tomorrow, go for months and not be reportable, then pop back up. You know, it's just not a data point that the systems are capturing.

MR. PUJOL: Gary, do you have anything further you wanted to say or ask about the date?

MR. MARTINAITIS: No, not on the date, no.

MR. PUJOL: All right, on the account number?

MR. MARTINAITIS: No, actually, one question I have goes all the back to item number 1 --

MR. PUJOL: Oh, go for it.

MR. MARTINAITIS: -- and that's the trading account number. And as Sebastian has said, that's the trading account number that's actually coming to the CFTC on the Trade Capture Report. And I think a few people have mentioned today that those exact same account numbers are known by the FCMs, and I was wondering if that's really true? Do the FCMs really know the exact account numbers that are in the Trade Capture Report that the CFT receives?

MR. MORAN: If you're referring to execution accounts versus final clearing accounts -- I mean, I think there could be two different firms involved. So one firm can execute, but the trade really is cleared and carried at a different firm. And it is that second firm that actually is carrying the customer account, and has the relationship, and holds the customer account on its books, that we're proposing be identified in this process. Certainly on the transactional records there'll still be a record of the executing firm, but again, the executing firm may not know who that ultimate customer is and they may not have all the information behind that account ownership. They may be dealing with, say, an account controller which could be a CTA or something of that nature. They're executing the trade, and then they give the trade up -- pursuant to a give-up agreement -- to another firm and that's where it actually ends up in the account where it's going to be cleared. So what we're proposing is that would be the account identified as the account owner.

MR. TUBRIDY: Just to add to that, I'm going to be given a few minutes at the end to walk you through some examples of, I think, what you're after, Gary. And that is, does the trade register -- the trade capture information -- tie directly back to the trading account number at the FCM? And there are times when it doesn't tie directly back, but it is traceable. And so I'll walk you through that with some slides that I prepared, whenever you want.

MR. PUJOL: How long would your presentation take with the slides that you prepared?

MR. TUBRIDY: Probably no more than 10 minutes.

MR. PUJOL: It might be beneficial to go through that now and then save some of our questions until afterwards, after you're finished.

MR. TUBRIDY: Okay, I'll be happy to do that. Did everybody get this document? I think we have a few extra copies up here if anybody needs it.

MR. PUJOL: I can have it for you on the screen here as well. Just give me some cues for the pages.

MR. TUBRIDY: Okay. Just a little background on this and myself I should have given in the beginning. I'm Ray Tubridy. I'm with State Street Global Markets, but I'm here representing this FIA Working Group that has been formed to address the OCR requirements. So everything I say is my opinion and not that of State Street and the opinions of this committee that we form.

These are preliminary. This is working -- this group we formed is a Working Group, and we're working very hard to try to come up with recommendations, or being able to just deliver what the requirements are seeking. One thing I will point out that it is a little bit difficult within this group -- working towards an end goal -- that we're not really clear what system capabilities exist on the CFTC side, so we are somewhat handcuffed in terms of some of the solutions and the recommendations that we are making. So please recognize that we're kind of working a little bit in the dark.

So the background on these slides pertains to processes or process practices that FCMs employed to get trades cleared. As I read through the OCR proposal, the reliance on the trade registered data was what jumped out at me, as being a potential disconnect in being able to tie back the trade registered data to the actual large trader information. And the reason for that is basically it falls into two categories. You have what firms use or refer to as short codes where trades flow through various systems, whether they be front-end trading systems or through executing brokers or wherever the trade source may come into play. That then, ultimately, gets converted at the end of the day by the broker's systems internally so that the account reference in the registered data is a reference for that client, specific for that client, but it's not the ultimate residing or resting place of the trade on the FCM's books.

So that's just a little bit of background. I'll walk through the slides, and it should become clearer what I'm describing.

So, on slide number 2, it's titled "Give-Up Trade." Client A places an order with an executing broker. The executing broker places that order to the Exchange with a reference number, 12345, which to the executing broker identifies Client A. For executing broker on the register, the executing broker's register, you will see 12345. The executing broker back office then will allocate that trade to the clearing broker through the clearinghouse and they may reference another -- in most cases reference another account that the clearing broker will recognize. So in this case, they allocate the trade to Client A, short code ABCDE. Clearing broker sees that trade in the clearinghouse system, has rules built to recognize that -- whether they be people, processes, or system processes.

They see that trade in ABCDE and they accept that trade and then in their system, they add to that ABCDE a prefix of 123. So the client, the clearing broker's client, gets a statement that says 123ABCDE. And that's what the clearing broker and the client then use for settlement purposes, highlighting the fact that the clearing broker's register will show ABCDE and that trade will not tie directly back to the bookkeeping entry in the FCM's books. Any questions on that?

MR. GOLLEY: Yeah, I have a question. In this diagram, what is the Trade Capture Report account number?

MR. TUBRIDY: I'm sorry?

MS. SUTPHEN: He wants to know what ends up on the Trade Capture Report.

MR. TUBRIDY: The Trade Capture Report, which -- it's the register, the trade register -- for the clearing broker will be ABCDE.

MS. BERDANSKY: So that's what would show up on the Trade Capture Report we're getting from the Exchanges?

MR. TUBRIDY: Yes.

MR. MORAN: Well, from the Exchange we would show you both the executing level and the clearing level. So you'd see both in different lines of data.

MR. GOLLEY: So in this example we'd see 12345 in one field and ABCDEF -- or ABCDE -- in another field?

MR. MORAN: On a different line of data you would see those two different account numbers. One would be the executing broker's line. The other would be the carrying broker's transaction.

MR. GOLLEY: Thank you.

MR. TUBRIDY: And let me just say it again that this is -- these are practices that firms have employed over the years. So it's not, you know, the ABCDE is an identifier for a specific client which is following the rules.

MR. PUJOL: Let me interrupt you because I want to make sure I haven't misunderstood because Jim, you're saying that -- I mean, this slide here refers to trade registers shows ABCDE, but Jim, you're saying it shows both 12345 and ABCDE? Is that right?

MR. MORAN: When the executing firm submits the execution, there'll be a line of data that gets recorded in the trade capture. But then there will be another line which is called a give-up record, which basically is an equal-and-opposite record that undoes that first transaction and accomplishes the sending of that transaction to the carrying broker. We call these give-up transactions. And then the carrying broker, when they accept the trade, populates a line in their database saying that they have bought or sold whatever the trade is. So it essentially gets transferred from the executing broker to the carrying broker. And that happens during the trading day. And typically by 7 p.m. All that is done, and the final clearing cycle is run.

MR. TUBRIDY: Okay. The next slide shows the second category I was speaking about that does not fully reveal the ultimate resting place for the trade. It pertains to average price trades. So again, the client places an order with the executing broker and the executing broker executes that order and, due to the market, is executed over multiple prices and expected to do so. And so the client has instructed the broker that this will be averaged at some point later in the day when the order is completed or orders are completed. So the executing broker will record that execution identifier for that client as APS12. The executing broker's back office will allocate that trade to the clearing broker as 123APS12. The clearing broker will claim it as 123APS12.

So on the executing broker's register that Jim just described, you'll see on the executing side and the clearing side the same thing, 123APS12. But that's the ultimate resting place for that order, then it gets processed on the clearing broker's side, away from the Exchange system within the vendor's system, that has an application for average pricing trades internally. And so they take that APS -- or that 123APS12 trade across all executed portions of the order, average it, and provide the weighted average price to the ultimate resting place in my example, 123ABCDE. So you have just --maybe in simple terms, you have a bunch of trades that are coming into you under this identifier, 123APS12, that get combined and a weighted average price is calculated. So you have one transaction for the one account. One weighted average price goes to another account entirely, which is 123ABCDE. And this is very typical.

This happens every day -- firms are doing this, average pricing trades. Typically, what they do is they'll take in all the trades in this single account -- that they get from the executing broker -- and they will average it and allocate it across multiple accounts internally. Those accounts internal are never recognized on the trade register.

MR. GOLLEY: Ray, in this example,

Client A receives one transaction, but in the clearing broker there's multiple transactions, multiple trades, that are ultimately being reported with different account numbers on them. And we'd want to have the OCR data available for all the individual accounts in addition to Client A. Am I correct?

MR. TUBRIDY: Well, I believe that's what you want but the system doesn't -- the Exchange system doesn't ever see those trades in the detailed accounts. And that's the point I'm trying to highlight.

MR. GOLLEY: So there's no record of the individual accounts that made up the sum of --

MR. TUBRIDY: There is on the FCM's books.

MR. GOLLEY: But not at the --

MR. TUBRIDY: Not in the register, not in the Trade Capture.

MR. COOPER: Ray, is this always done, or usually done, in the context of a CTA or one account controller? Is there doing a magic account program, for instance?

MR. TUBRIDY: It is for one account controller, yes, but the controller can control multiple accounts.

MR. FAY: Can I jump in right here now? In what we see in the Trade Capture Report, which is our trade register, the new format -- we get every single trade execution and then the register does an allocation offset/onset for the average pricing.

MR. TUBRIDY: Okay. And real quick, just to illustrate one more scenario, again, it's a process that firms have adopted to kind of supplement, maybe, missing information, or do things because the systems don't fully support what ultimately has to be done for the client. In this case, Client A executes a trade with short code ABCDE. The client will also -- so this is a situation where the client is self executing and placing orders with their executing and clearing broker -- so the broker will execute a trade for that same client, but using a different short code, UVXYZ.

At the end of the day, those trades will be shown in the trade register or the Trade Capture Report as ABCDE or UVXYZ, exactly how they were executed. But the FCM will run a process at the end of the day that takes both of those accounts and flips them to the account 123ABCDE. And the reason for this is typically there are different commission structures depending on who's executing the trade. And so you use the multiple accounts to identify which execution direction this came -- the trade came from -- and then you commission it appropriately.

MR. NOWLIN: It's kind of hard to look at this in the abstract, but I believe that in the Trade Capture Report through the allocations that we're actually capturing all this information -- as Jim Fay said earlier, you know -- with the onsets and offsets, we're able to track give-ups, transfers, all sorts of -- in average pricing in our allocation, which is in the allocation block of the TCR. And I'd be happy to entertain more discussion about this. We can go into real world examples. We can pull up the data and show you some allocations, including give-ups, average pricing, and transfers, but I believe we're capturing those account numbers.

MR. TUBRIDY: You're capturing a lot of it, but you're not capturing all of it. And that's what I wanted to alert you to. When I read the proposal, this is -- and I worked in operations for many years -- I know there's some information you're not capturing.

MR. GOLLEY: What is happening at the FCM that's not happening -- that's not happening at the DCM, in terms of this multiple account?

MR. TUBRIDY: Well, the simplest example is the average pricing. It's -- the firms are average pricing the trade using their own systems and not using the Exchange systems. So there is no back-and-forth communication between that process and the Exchange process, and so you don't get the ultimate detail.

MR. ANGUISH: The firms have the choice

whether they use the clearing system to do the average pricing or whether they do it at the firm.

MR. TUBRIDY: And so typically if the trades that were done to be averaged are for that FCM's clients solely, they'll use their internal system. If it's to be distributed through other clearing brokers, they'll use the Exchange system.

MS. BERDANSKY: There seems to be a little bit of disconnect here, I think, between on the CFTC side and what we have and, I think, what Ray believes that we have. And I'm wondering -- I think the Exchanges that we probably made the most progress with on the Trade Capture Report are CME and ICE. So I'm wondering if Mark and Jim maybe want to add to this and clarify?

MR. MORAN: You know, I think what Ray is pointing out here is there are a lot of different variations. This average price example is actually an average price and a give-up at the same time. You could also have average pricing where it's just one firm involved. You can have average pricing where, you know, the firm uses its own system and then brings the trades back. So there is some complexity. I think in general, though, the Exchange rules require that the owning account does come into the Exchange. And, in fact, there's a process called Post Execution Allocation Rule that was changed, you know, three, four, or five years ago -- something like that -- where the CFTC and the NFA have rules that allow managed account groups to do an allocation after the fact.

And those, you know -- that is one circumstance where you might see an execution number that is different from, you know, the end allocations which come in through the give-up process and sometimes through the average pricing system as well, or sometimes both.

MR. TUBRIDY: Just to talk to that point, in terms of the rule, the firms take the approach that the trade has to have a client identifier. And these short codes and these average price accounts are client-specific identifiers. They're just not the ultimate account that the broker settles with the client.

MR. FABIAN: I think the point that Karl made is worthwhile and from my experience -- and I worked with Ray for a couple of years -- it's a CTA or a CPO where they're making the trading decision. They place an order. It gets multiple fills. It comes back into an account that trader owns. And then internally it gets broken out to other accounts that are controlled by that trader, but we don't necessarily see those.

MR. GOLLEY: Ray, on the example that you've given, who's the counter party in that transaction? Is it the clearinghouse themselves or what do they identify as the account counterpart? I mean, who's on the other end of that trade?

MR. TUBRIDY: If the trade is executed by another broker and given to the clearing broker, the counter party is -- the counter party for the clearing broker -- is the executing broker. But once the trade settles, at that point the counter party is the CME or the Exchange.

MR. ANGUISH: Once it clears?

MR. TUBRIDY: Once it clears, yes.

MR. MARTINAITIS: So in this particular example here, going back to this again, with the FCM -- if we gave FCM account number UVXYZ, would they be able to identify the trader -- the owner of that account? Would they recognize that account?

MR. TUBRIDY: Yes.

MR. PUJOL: Ray, did you want to walk us through the data elements chart that you have here?

MR. TUBRIDY: No, I think you guys -- with this chart that we started with, we're capturing all of this information. I think it's redundant. Although, you know, what I will just point out that what we did was we took the OCR requirements and we identified the reporting vehicles that we believe they already exist in or might be expanded to support what might be missing. So I don't think -- unless you want me to go through it -- it's somewhat redundant.

MR. PUJOL: Okay. All right. I think just in the interest of time, I'm going to skip a few of these items and I want to talk about, obviously, something that's on our minds -- and I'm sure yours as well -- omnibus accounts. And I just want to open it up to in general -- we realized this would have a significant impact on those accounts and just start off by just your thoughts on -- I'll share with you a little bit of our thinking.

One of our concerns was, if we don't bring in omnibus accounts -- I mean, not only the merits of having that information -- but if we don't bring them in, then you're creating an incentive to trade through omnibus accounts. That's an assumption that we're making. If you want to -- we're interested now in your feedback as to whether or not that is a valid concern or not?

MS. SUTPHEN: I'll make one comment. When an FCM allows a client to have an omnibus account, if it's a -- you know, the FCM -- if it wants to have a relationship with someone that's profitable for them and know their customer, et cetera, omnibus accounts are generally used in cases where the FCM has an economic disincentive to be the direct intermediary with the end user. So it's not -- I don't think that any FCM would be really comfortable with having any kind of large customer go through some other broker's omnibus account. I think they would prefer to have the relationship themselves, in general. It's not, you know -- I think -- I don't think omnibus accounts are generally used to hide trading activity. It's really just a matter of aggregating a lot of trading activity from other -- maybe other countries or smaller entities where it makes sense to aggregate them to an omnibus account level.

MS. BERDANSKY: Could you envision a situation, though, if this proposal goes through to a final rule where people really might not want it disclosed who owns that account -- or it might be an incentive where maybe in the past it hasn't

-- but to actually just hide it through the omnibus account?

MS. SUTPHEN: You know, omnibus accounts have been around for so many years and they certainly haven't been used that way. I don't think the FCM would be too comfortable with that, honestly. I mean, it's their balance sheet at the end of the day. I don't think they want some unknown entity putting their balance sheet at risk.

MR. MORAN: I would say, first of all, you know, that there's additional cost if someone was going through multiple different firms rather than directly through one firm. So that's kind of a disincentive. You know, the other thing that Exchange rules allow for -- I mean, if we have a need to get beyond, you know, what's in the omnibus account, I think a large trader -- the rules relating to large trader reporting accommodate for this, and certainly on the transaction side, as well. If we saw an omnibus account engaging in certain activity, we right away would be asking to identify, you know, what's behind that omnibus account? And we always -- within the DCM rules we have that power to do so -- and clearing firms would be obligated to assist us in that process. And in the event that they didn't cooperate, you know, we could, you know, disconnect them or, you know, not allow them to trade on the markets. So, you know, I think there are a lot of disincentives for that to happen already. And, you know, certainly it's something that we'd have to watch for -- that somebody could do an abuse through an omnibus account; we are always going to vigilant on that part.

But the majority of business coming through, omnibus tends to be more small, retail accounts. And, you know, there's a whole lot of structure within the industry for this to exist. And, you know, provides incentives for smaller firms to go out and raise business -- foreign firms to come into the markets and, you know, to basically shut off that -- or tell the foreign firm that they had to turn over all of their accounts to a U.S. clearing firm -- would be a huge disincentive for business to come to the markets, which generally would not be a good thing.

MR. FOLEY: I would say I think, too, you have a concern especially in the foreign markets that the accounts may be coming in through a foreign broker which in turn has omnibus accounts on its books. That foreign broker isn't going to always know who the underlying customers are. The foreign broker may have -- there may be laws, privacy laws, in the countries there that would prohibit the foreign broker from sharing that information on a routine basis, as opposed to through the MOUs that CFTC and the SEC have entered into. And so you might end up actually closing out a fair amount of foreign business from the U.S. -- I'm sorry, into the U.S. -- and you might also have a case where if the customer is disclosed to the U.S. FCM, that that U.S. FCM would then be required to be registered in that foreign country, and that would then put that FCM subject to conflicting regulation and just would not be workable, I think.

MR. FABIAN: ICE has similar rules that Jim spoke of requiring clearing members to either get the information or assist their clients in getting -- the omnibus clients -- in getting the information to the Exchange. We quite often have the need to request information about an omnibus account and rarely do we run into situations where there are any issues with respect to providing that information when requested.

MR. PUJOL: The privacy concerns that were mentioned -- so you don't face them?

MR. FABIAN: Sometimes. Depends on which country you're requesting the information. The information that's coming out -- sometimes they, you know, they have to consider their local jurisdiction laws and regulations, but, you know, we have ongoing conversations with them and eventually we usually end up getting the data.

MR. OTT: And Sebastian, we've also noticed during our electronic auditor reviews in which we request the auto trail for a particular account the clearing firm will say, well, that's actually an omnibus account on our books -- and can't say it has or has not experienced any problems at all -- with actually having the nonmember omnibus account cooperating with us to get the information we need for the electronic audit trail.

MR. PUJOL: Jim, you mentioned a concern I want to make sure that I understand in addition to the privacy issues, to the extent they arise. You mentioned people may not want to reveal the customer to the FCM, right? The foreign broker, for example? Can you -- is that a competitive concern, that they just don't want to share the customer list? Or what's the --

MR. MORAN: Yeah, I think I was referring to the competitive thing where if a, you know, foreign FCM has a lot of customers and they have to identify all those to the U.S. broker, you know, what is their role? I mean, that's, you know -- they may just decide rather than bring that, you know -- promote certain markets to their customers -- they'll just promote other markets where they don't have to go through that kind of procedure.

MR. PUJOL: Does anybody want to talk any further about omnibus? No?

Once last thing I wanted to go back to -- George, you had raised a question a while ago. I think it was you, maybe it was Kevin, with respect to the treatment of CPOs and CTAs and who the controller is there? Is that right? Could you just sort of bring that to our attention again if it's --

MR. CRAPPLE: In our business we have total discretion over all the accounts we manage and decide where the proposal of -- we don't have to disclose information about the ultimate account owners unless they're 10 percent owners of a pool, which is a very unusual situation in a big, public pool -- that would really never be the case.

So I'm looking at the form and it -- instead of -- and, of course, we're a large trader and we have an NFA number and all, but the account controller information all seems to be ended in individuals. I guess I'd ask why and how many individuals in a CPO or CTA are providing this data?

MR. PUJOL: So basically your point is you have just a large number of controllers and how --

MR. CRAPPLE: Well, we have about -- we have a substantial -- quite a few shareholders of the company.

MR. PUJOL: Okay. All right.

MR. COOPER: Well, also a sophisticated trading advisor might be trading an account or a fund around, you know, around the clock and have three different shifts a day of traders minding the account. I just don't know why you'd need that information in this report? You have the CTA entity. I don't think this report can ever be -- if you try to make this report be the alpha to omega for Division of Enforcement to just bring, you know, bring an enforcement action -- just based on the data that comes out of this report -- I think you're never going to get this off the ground.

So, again, I would say keep it simple and try to give yourself a functioning tool. You know, maybe you can build on it later, but just to try to get something off the ground that is a useful tool both for you and for the market regulation functions of the Exchanges, I think would be a better way to go.

MR. PUJOL: We're going to take a break in a few minutes and move on, and then after that we'll move on to our second sort of series of topics. But before we do that, I just wanted to give anyone a chance if there's anything that's sort of been left unsaid in terms of data points that should or should not be reported, or that would be very problematic to report, or that you think could be -- we could get to the same place, in terms of unique identification in a more efficient manner than what we've discussed here?

And one question that we had sort of

thought of at one point is, for example, instead of sending us the names and addresses and all these things to try to get to a unique identifier, would there be an appetite for an industry-created unique identifier, for example? Just want to open it up to just, you know, whatever you want us to take away as we go back and think about what our next step should be.

MS. SUTPHEN: In the Working Group I think we've all agreed that it would be nice to have some kind of industry standardized unique identifier. I think our caveat is that this would be something new that would require major re-architecture of lots of different systems, and it couldn't be implemented overnight. So, you know, I don't have a problem with the idea of unique identifier. I think it's a good idea. I just think it's something that we need to phase in on a practical timeline.

MS. BERDANSKY: Do you think what you said that it would take some time to phase in, but it's something that people may have an appetite for, is there a preference for that? I mean, I think we've acknowledged in our proposal that even as proposed, we think this would take a while to implement. Do you think --

MS. SUTPHEN: More than 18 months. And I think, you know, there's been some dancing around here, but I think the definition of controller really does need to be tightened up a bit before we come up with this unique identifier because I think right now trying to impose it on our existing definitions is quite difficult.

MR. TUBRIDY: Just one other thing that I wanted to point out. Within the group that we're working on, we've, you know -- and I've read and it was very clear in the proposal when it comes to talking about costs associated with supporting this initiative -- that you want very specific costs, and we're trying to get to that but we're a ways away from that. But in our first polling of 13 firms doing an average implementation of costs and ongoing costs, it averaged to about $18 million a firm which was --

MR. PUJOL: Are those costs -- I mean, if we modify the proposal in some, you know -- in certain ways -- where's the biggest savings? You know, if you were to take a look at those $18 million, is there some specific thing we're requesting or two or three that are the bulk of that or are these sort of IT costs that would have to be incurred no matter what to get even a little bit of this information?

MS. SUTPHEN: They're not really IT costs, per se. They're actually the data input and the maintenance of the static data is the bulk of the costs. So insofar as you could simplify the data requirement and reduce it, obviously maintaining it would be much simpler and much cheaper.

MR. PUJOL: And when you say reduce, you mean a smaller number of accounts?

MS. SUTPHEN: Smaller number of accounts and smaller number of controllers for start, and then possibly data that we already have as opposed to data that we haven't been traditionally collecting in the past.

MR. PUJOL: You talked about that there might be an appetite for an industry-created identifier. Have your discussions reached a point where you think about who's creating it, how it's distributed?

MS. SUTPHEN: It's funny because there's been some back and forth in the Working Group. The Working Groups consist of people like me who generally work on the front- office side and have to assign user IDs and trading platforms, and people like Ray who work on the back-office side and assign account numbers and do allocations, and we both are passing it off to each other. So I would say -- not unlike what my colleagues on the Exchanges have done today -- so I would say we're not quite ready to propose that yet.

MS. BERDANSKY: It doesn't sound much different than CFTC and what division is going to do what --

MR. PUJOL: Are DCMs part of those conversations?

MS. SUTPHEN: Absolutely. The Working Group has been -- the FIA Working Group has consisted of people from the Exchanges, people from the FCMs, and people from other interested parties, including vendors.

MR. MORAN: On the topic of the unique identifier, I mean I think, you know, our industry has had the account number for many, many years. We have large trader reporting for many, many years. We have a lot of experience. We have a lot of systems and expertise built up -- both at CFTC, at the Exchanges, at the firms -- and we believe that we have the data points that we need to do this job well and that it really would not be worthwhile to have to go and create a whole new structure, a whole new identifier, and then try to get every account registered with some unique identifier. That would be just such a gargantuan task, that it would be, you know, very expensive and very time consuming. Like I say, I think we can already do the job with the data that we have currently.

MR. FABIAN: Just for point of clarity on the FIA Working Group, I know there are some Exchanges involved. ICE Futures has not been involved --

MS. SUTPHEN: That's not true -- on the Working Group?

MR. FABIAN: Yes.

MS. SUTPHEN: ICE Futures has been involved.

MR. FABIAN: Has ICE Clear U.S. been involved in it?

MS. SUTPHEN: Yeah.

MR. FABIAN: Okay. ICE -- it just came to my attention yesterday that there was a Working Group. Our names have been added, but ICE Clear was added, ICE Futures was not. Just one point of clarity, that's all.

MR. PUJOL: One thing that hopefully will be addressed in the comments, but I just haven't given any thoughts right now, what your ideas are around a middle ground between every account being reported and just the large traders because I think that -- or at least want to make sure that you guys are sort of -- in your comments that that get some thought because I think inceptionally we want to do more than just large traders, but, you know, we are open to some -- open to tests around how we define that more.

MS. SUTPHEN: I mean, as Jim suggested, volume traded may be an interesting criteria to add because you might get some of the proprietary trading groups that don't go home with large positions at night, but do impact the markets.

MR. PUJOL: Does anyone have anything else? All right then. Let's take say a 15-minute break and then we'll reconvene? Thank you.

(Recess)

MR. PUJOL: All right, we're going to reconvene and get started again.

MR. GOLLEY: Good afternoon again, and thanks again for coming to participate in a panel and, more appropriately, for coming back from break. My name is Jerry Golley and I'm the deputy director for systems and services at CFTC, so my role is technical. And what I'm really interested in is hearing about the processes that take place already to communicate from the data sources all the way through to the DCM and ultimately to CFTC.

At CFTC we're intimately aware and knowledgeable about the process, the communication that happens between the DCM and CFTC, but we want to explore more in depth about what happens before we ever get the data.

So the purpose of this topic area is to get a clear understanding of the OCR rule and how it might be implemented. There are three areas at a high level we want to talk about. One is how will the DCMs provide the data to CFTC -- and we kind of have a good understanding of that and I'm going to kind of outline how we picture that happening. I want to understand what coordination would have to happen between the DCMs, the FCMs and, ultimately, the data sources. And then, also, the third topic would be privacy and technical security and how that might be implemented and what role CFTC might play to ensure that privacy and that technical security.

So I'd like to begin by summarizing my current view of how it might work from the DCM/CFTC view. The end result would be that the DCM would provide CFTC with the data file on a weekly basis via a secure FTP. The precise format of that data file would be defined by CFTC shortly after the rule was adopted. Current thinking is that that format would be a FIXML data format.

The first OCR data file received from each reporting entity would constitute a master file containing all the required data for the trading account numbers present in the Trade Capture Report during the past 30 days. Each subsequent OCR would identify the weekly additions, deletions, and amendments to the master file. Given that all the desired data element may not currently reside with the FCM, we want to get a better understanding of how the DCM might obtain, maintain, and secure that OCR data?

So to begin, what I'd like to do is talk about -- and have you guys tell us -- what is the data flow from the data source to the FCM to the DCM, currently, just from the standpoint of where Client A starts? They are a brand new client. They registered with FCM. How do they do that? How do they then go to the next level to -- you know, all the way through to the process so that the end result -- Client A ends up with the account number that's at the Trade Capture Report?

MR. PUJOL: Jerry, if I could add one thing. It might be helpful to maximize our understanding if you assume a situation where your client is the greatest possible number of steps removed from the DCM.

MR. TUBRIDY: Should I start from an FCM perspective? I'm boarding the client and then hand it off to the Exchanges? So I'm boarding a client -- you go through your typical KYC information, agree on your legal documentation, get all of the checks through from the KYC credit, what have you, and once all the requirements that the firm has outlined have been satisfied, you open the account. And you open the account within the system, recording the data that you've collected into the back office system. And then at that point, I think, is where FCMs do things differently.

There's, you know, some very basic things that are governed by rules and laws, but there are some free- form type information that can be added or can be omitted and you're not necessarily putting all the information in the same order. But, ultimately, what you put into the system will drive all of the proper communication to the client, to the Exchange, and to the CFTC, for large trader reporting purposes. But I just wanted to emphasize that, you know, within the system, you know, there's lines of data that are available to populate and there's some different approaches to how that data is populated.

MR. GOLLEY: Is there a standardized data collection effort for the FCMs? I mean, across all FCMs, are they collecting the same amount of data, the same information?

MS. SUTPHEN: No, I would say not. There's some general things you have to collect obviously, you know, net worth and name and address and tax IDs and things like that that I'm sure everybody collects, but different firms have different standards for what they want to know about their customer. You know, trading styles, things like that might vary quite a bit by firm.

MR. TUBRIDY: But one thing -- and this is one of the debates we had in our Working Group -- was that, you know, in the name and address portion of the system, you'll have six lines that you can populate the data in. And some firms may choose to use the first line for maybe -- just to reference the controller -- not required, but that's how they kind of keep track of the controller -- and then put the name and address information in subsequent lines. But one thing I'll point out is that the system itself knows -- you define within the system -- the mailing address. And so the system then points to the right lines within this kind of free-form area that can give what the true mailing address is. So that is available.

MS. SUTPHEN: One other point. The Tag 50, the operator IDs, that's not in the back office system. There's some exceptions that that data is held in kind of a customer relationship management system or in a support system. It's not, it's rarely held in the back office.

MR. GOLLEY: Okay. And then in your experience, is the communication between the client and the FCM electronic or paper?

MR. TUBRIDY: Well, it's a combination. You know, you do a lot through e-mail with filling out documents and, you know, sometimes the documents are filled out, you know, using a program or they're scanned PDFs that are just e-mailed.

MR. GOLLEY: Okay. And then the next step is the communication between the FCM and DCM. What's the mechanism, if you will?

MR. TUBRIDY: At that point there is no specific communication about clients until the client hits a reportable level. And once the client hits a reportable level the 102 is requested and that information is exchanged using the 102 form.

MS. SUTPHEN: Yeah. We're the ones who turn on the switch on whether they can start trading or not and processing the trades. At least in the U.S. the Exchange doesn't really give a go-live for a specific account. They assume we're doing that.

MR. GOLLEY: Going back to the first section, the first topic area, I had a question about the special account number. And we identified that the FCMs knew that special account number, do the DCMS also have privy to that number already?

MR. MORAN: Yeah, I mean, just to go back to, you know, the issue of the mechanism of relaying the data. First of all, there currently is no mechanism where this stuff routinely comes in an automated way. The point I was making earlier, if an account becomes reportable for 102, we send out a request for 102 which basically is a hard copy form. It may come to us via e-mail but usually firms are creating those by having a person actually type or write the information in. And then they e-mail it to us and then we have to have a keypuncher type that into a database.

So our proposal really is, kind of, that if what we want to build is an automated way to report account ownership and control information, you know, it really makes sense to have that 102 process and the OCR process as one. And basically, you know, because once you get the OCR reports in you will have, you know, most of the information you need that's on the 102 form. Maybe not everything. And maybe some of the stuff that's requested on the 102 is a little bit obsolete and that could be revised as well, but, you know, the bulk of it, and the key stuff -- the benefit I think for the industry would be, you know, firms could automate their processes more and so, instead of having people that are actually receiving these requests for 102 and writing out forms, you know, they can have an automated process that does that on their behalf. And from, you know, being a receiver of the data at the DCM, or the CFTC, you would also have the benefit of receiving the data electronically and not having to have somebody keypunch it.

Every time, you know, a person touches it and has to, you know, keypunch or whatever, or write out things, you know, there's an additional error point that could be introduced. So by having the stuff come off automatically, you're eliminating those points of mistakes and errors. So, again, we think we would definitely have to build something like this. The mechanism doesn't exist, but, you know, the idea would be that it would cover both of these reporting bases.

MR. GOLLEY: The problem with the 102 as I understand it is that it's only required for large traders. And if you have significant activity happening at the transaction level by a specific trader, we wouldn't be able to capture who they are. And if they were, you know, performing those trades on a set of accounts to disperse it so it was not recognizable as somebody doing a whole bunch of stuff that would be hidden.

MR. MORAN: Well, the idea would be if we had -- if we set the threshold at a volume level, as soon as an account reaches a certain volume, and I presume that would be, you know, at or below the reportable position level, then you would have an automatic identification of that account come in. So instead of, you know, when looking at large trader reports you might see a new account shows up one day and it's unknown to your system and so you have to send out a request saying please identify this account, it may take the firm, you know, a week or two to respond to that request. So, you know, for two weeks you don't really know who that account is. Obviously, you can make a phone call and get it immediately, but if it came in automatically -- say, every Friday, you know -- it would automatically be populated and most likely would be populated long before the account becomes reportable.

And your proposal includes both identifying the reportable account number and the trading accounts. This is basically a key to what's the relationship between the reportable and the trading account side. So that information would come in and you'd have both sets of data that could be easily populated in a database automatically.

MR. GOLLEY: I asked the question a moment ago, if the DCM knew the special account number for every account? And the answer as true. Yes, if it was a large trader they would know the special account number on the large trader. Is that correct?

MR. MORAN: Currently, yes, that's correct.

MR. GOLLEY: But that information is not pushed through to the TCR. Is that correct?

MR. MORAN: That is correct.

MR. COOPER: I'd put one caveat on there -- if they're reportable on your exchange. So, someone could be reportable in ICE, but not reportable on a product on CME. Then, obviously, the 102 form might not go to CME or to MIC Liffe US.

MR. GOLLEY: Okay. Thank you. Okay, so if this rule were imposed, what collaborations between reporting entities and the root data sources do you envision would be necessary to implement the OCR?

MS. SUTPHEN: Who wants to go first?

MR. MORAN: I think we would have to have a collaboration with the -- I mean, certainly with the firms, the DCMs, and the CFTC, as well.

MR. GOLLEY: So what would -- do you see CFTC kind of creating a forum to facilitate that, or is it directed -- is it managed from the DCM, and CFTC is invited?

MR. MORAN: I don't know if that makes a whole lot of difference, but I know that if part of the arrangement is that data has to be provided to the CFTC, certainly your technology people would want to be present and understand, you know, what -- how the data is going to be set up, what the protocol is for transmission?

You know, you mentioned FIXML. Currently there is no FIXML report for this; we would have to create one. So we would have to define the data elements of the FIXML. We would have to go to the FIXML Standard Committee, get that approved, and then, you know, publish a document. And this would be a collaborative effort that would involve, you know, all of the exchanges, all of the firms, and the CFTC as well.

MR. COOPER: Yeah, I'd agree with Jim. There would need to be a standard -- a set of standards that would be industry-wide so the FCMS -- even with just one standard, one format, one set of protocols around timing and whatnot is burdensome enough, but the exchanges couldn't have separate formats, et cetera.

MS. SUTPHEN: And you would have to get our large vendors involved in this as well because it would involve some pretty substantial changes to their systems.

MS. BERDANSKY: When you say your large

vendors, could you be a little more specific on what type of vendors?

MS. SUTPHEN: SunGard and, you know, the back office vendors. And also the trading platform vendors because, remember, this data has to get past -- the back office doesn't come in until the trade has already gone to the managing engine, so you're going to have to make sure that the trade -- the trading information -- gets conveyed on the trading API, as well.

MR. ANGUISH: That's if you want to see it on the trade register. If you want to look it up later you wouldn't have to have it on the trade (inaudible).

MR. GOLLEY: What are the primary issues that you believe -- that will require agreement among reporting entities and the reporting -- and the root data sources to implement the OCR? In other words, what are the issues that are going to be raised at that point?

MR. TUBRIDY: Jerry, one of the things that in the group we've debated -- maybe argued --

is the controller information. So today the CFTC collects that from the client themselves -- the controller themselves -- and that, you know, that is a piece of the information that, you know, we're kind of stuck on what to do. You know, we thinking amongst ourselves think, you know, electrifying the 102, doing the same with the Form 440, would obviously make that information more useable across datasets. What are your thoughts on that?

MR. GOLLEY: I'm a technology guy so I just take the data in. (Laughter.)

MS. BERDANSKY: Remember what we were talking about earlier, one division kind of throwing it over?

(Laughter.)

MR. GOLLEY: Sebastian, I'd be interested to hear what you had to say.

MR. PUJOL: I've already had my turn at the mic.

MR. TUBRIDY: I was going to say I think the important thing to keep in mind, too, is that in terms of the more you drill down from who the customer is to whom the controllers within the customers are -- the FCMs rely for that information on the customer. They have no way to verify most of that information that comes in, so the customer says, there are two controllers and, point of fact, there are 10. You know, the FCMs can't be responsible for knowing that information. That information, as Leslie said, we really should go from the customer straight to the CFTC.

MS. SUTPHEN: I mean, we have in our client document that they're responsible for letting us know who the controllers are and for verifying that traders are authorized. But, you know, practically speaking, they could have 15 different people using the same user ID or same API and we wouldn't necessarily know that that was the case technologically. I mean, we have legal documentation in place and it says we have the right to audit it, but we can't -- we don't have a technological way of auditing that.

MR. FABIAN: From our point of view, I

mean, this may be the unpopular view, but we have stated that we thought that this reporting process should be going directly to the Commission. And from my brief knowledge of it, I mean, the Form 440, as I understand it, is filed directly with the Commission. It doesn't really go through the FCM. So the controlling information is being provided to the Commission. And even though the 102s also go to each of the reporting entities, you know, it seems like -- as has been raised before -- there's a divergence of an FCM having to report the five or six different reporting entities, when it would seem more efficient to report to a single location, and then a format for doing that is standardized with one entity.

Obviously, each of the reporting firms have to, you know -- and I'm speaking more with a bias from the reporting entity as opposed to the firms that have to report this because they're still going to have to report it, one way or the other, but at least they're reporting to one entity, as opposed to several entities.

And as I understand it, the Commission would be expecting each reporting entity to develop rules that require the information to be reported to the reporting entity -- which, again, leads to a situation where you have multiple SROs trying to enforce the reporting of this data. So, I mean, again, like I said, I think it may be the unpopular recommendation, but, you know -- ICE has said that we think it's appropriate for this to be reported to the Commission directly.

You've got the 102s, you get the Form 440s, and you get the TCR information from the exchanges. And you can compile it and then, you know, we can get a feed of that from one location, one source, one dataflow.

MR. GOLLEY: Directly to the CFTC from whom?

MR. FABIAN: From the, excuse me, from the root data sources.

MR. GOLLEY: From the trader?

MR. FABIAN: The traders and the firms.

MR. ROGERS: I have a question. From

that viewpoint, where would ICE expect to get the data for its own purposes?

MR. FABIAN: Either the CFTC can send it to us as a reporting entity or exchange -- not a reporting entity in this case; it was an exchange. We could download it, but we'd only need for those accounts that trade on our exchange.

MR. PUJOL: I want to follow up on that, Mark. If -- how could we ensure, if we were to follow that model, that the trading account numbers coming through from the FCMs match the trading account numbers that are on the TCRs?

MR. FABIAN: Well, you would be requesting that information for them as part of the data and we'd be providing the trading account numbers, the clearing account numbers, and the trading to the execution account numbers to you, through the TCR.

MR. PUJOL: I think, and there's -- I know there's other people here around the table from the CFTC that know better than I do, but I think that we have had a problem in the past and someone asked the question earlier, does -- would the FCM know exactly the trading account number that we get from the DCM? Because, at least, I know in past times when we've done comparisons, we've found that they're not actually identical. That oftentimes there is some additional content in the exchange-provided number, so that if you have computer systems here trying to align those things, it doesn't work.

MR. OTT: But we would have the exact same problem, wouldn't we?

MS. BERDANSKY: But wouldn't the exchanges then have the information to clean it up if we're giving it to the Commission?

MR. OTT: I guess, Rachel, my understanding is that in that trade cash report, basically everything we have is being flowed into the Commission. So I guess my question is, what information does the Exchange have that we're not giving to you? Because it was my impression that everything we had was being given to you.

MS. BERDANSKY: We get, you know -- we

do get the trade data that's coming through on the trade capture report, but if I understand this correctly from talking with other people, the Commission -- that in the past, it's just what Sebastian has said. The number that's come through on the trade capture report isn't essentially the same as the one that might be coming through the FCM. So, you all would probably be the best ones who actually would have the data to match it up.

MR. PUJOL: Joe, it's not that you're not providing the information. That number is there, but it might -- there might be some additional characters that have been added. Then our system doesn't recognize it as actually the same account number. And the presumption that we're making is that if the character is being added by the Exchange's system, then you would know sort of by what logic characters are added and you'd be able to remove them for that comparison.

MR. TUBRIDY: I think you're back on the

situation I was describing earlier, which is the short code and the average price trades where that will cause the trade register information or account to be different from the larger trader that we're submitting.

MR. KIRILENKO: We've run this, a little bit of test on this at one point in time where we did receive -- we asked the FCM to send us their -- the trading account numbers, I believe, would be in the trade register account. And then we, of course, matched it up against the trade register and, you know, they didn't match very much. And in fact, we had to send the account numbers we got in the trade register back to the FCM. And when they looked at them they go, well, these aren't really our account numbers. They look like trader IDs. I mean, I recognize some of the initials. They're initials of some of our traders. They're not really account numbers. So that's where some of the problem is that we saw. So --

MS. BERDANSKY: So I guess the question on our part is, you know, if this was to work, that the data came directly to the Commission and, you know, didn't go to the Exchange, how are we going to clean it up? Someone has to be responsible.

MR. FABIAN: I guess the same way that we would be cleaning it up because --

MS. BERDANSKY: I think you all have more information than we have to do it because you're the ones who were originally passing this number along and you know how it gets changed in your system.

MR. COOPER: I think the FCM report, whether it's to the Exchange or to the CFTC would have to be reporting what both the short code, you know, and with the full account number, is because either we're going to have to ask that information or you're going to have to ask that information.

MR. FABIAN: And I'm not sure what is meant by information added by the Exchange? I mean, if we're being reported a short code -- as given a short code as the clearing code, that's what we would pass along. So, if later the FCM, let's say, came to us and gave us account information and we see a full length account number -- where on our trade register we had a truncated account code -- we'd have the same question I think. So it's just a matter of who would go about saying, okay, there's a discrepancy here? Please explain why the account number that you have on your books is not what you're passing through on as the clearing account number on the trade register?

MR. OTT: And that's right. I mean, Dan just told me that we're not changing anything at all on the account numbers that the firm is passing through to us.

MS. SCHRAMM: Well, if I haven't convinced you already that the IBs really shouldn't be included in this at all, I suspect that getting a weekly report from 1,300 registered entities saying nothing has changed every week would convince you that they shouldn't be in this category.

MR. TUBRIDY: We talked about how we

might address this difference between the short code that's in the register versus the ultimate clearing account, client account. One idea was to provide those short codes -- and there are some hurdles with doing that just based on the systems that we have available -- but that was one idea. And that would get included in the -- I don't know. One idea was to include in the related accounts, which kind of ties back all of the accounts to the single controller based on that special ID. So that was one idea.

Another idea that was floated was the firms provide the register date to the CFTC, or to the DCM, or somebody. So we have all of that. We have it in the right format at the end of the day and so it is available.

MR. MORAN: We think it would be a lot of work to do this reconciliation process. It's not something that, I see me, as a DCM, would look forward to doing. It would be very expensive, but it is one of the reasons if you do all accounts and pick up all the very small retail accounts that, you know, the cost becomes exponentially greater because you'll have to do this reconciliation, you know, with a greater number of accounts.

MS. BERDANSKY: Jim, could you even begin to estimate how much less your cost would be if we had a volume threshold, say of, you know, 100 trades a day or something like that? Or 100 trades in a week?

MR. MORAN: Yeah, I don't have --

MS. BERDANSKY: How that starts to affect the cost?

MR. MORAN: I think, for our response by October 7th, we'll work on that, but I don't have that information correct right now -- but we do know it would be very expensive.

MR. TUBRIDY: Just one point. The survey that we did in this working group to analyze the costs of the 13 firms that submitted information, those 13 firms represented 534,000 accounts. So, just to kind of give you some idea of the magnitude of accounts.

MR. GOLLEY: On a related question tying directly to what you just said, what percentage of those accounts would be above a specific threshold of 100 trades a day or whatever?

MS. SUTPHEN: We did some work at NewEdge based on -- not on volume but on revenue. And that's the usual 80/20 rule but, I mean, of the -- you know, we had 50,000 accounts and less than 10 percent of them accounted for 90 percent of the activity. So that's probably a pretty good rule of thumb.

MR. GOLLEY: When you say activity, do you mean volume or transactions?

MS. SUTPHEN: We make money on volume, not positions. Well, on both if there's interest rates, but right now it's on volume.

MR. GOLLEY: Actually, Leslie, if I could ask sort of a follow up to something you had said previously, you mentioned you were collecting information with respect to a controller, but I guess the concern you've expressed is that that information is just -- you're asking for it. You have no way of verifying. And I mean, is that basically the concern around controller -- that it's non- verifiable and, therefore, not worth the trouble?

MS. SUTPHEN: Well, I mean, the client's obligated to tell us who their controllers are. I mean, it's in our account documentation, but I'm just saying we don't really have a way of -- sort of, we have to trust them that they're giving us that information. We don't have a way of looking at the user IDs or the trading activity and necessarily identifying that there's multiple controllers.

MR. TUBRIDY: Maybe in a different example, if the client designates advisor ABC to be their controller, we don't know who at investment advisor ABC is making the trading decisions. That we don't have any access to. So we know ABC, but that's it.

MR. PUJOL: So those designations could be essentially -- they're not natural persons, they might be entities who then have -- okay.

MR. GOLLEY: Okay. So in the scenario when client A submits their new account, they're under the assumption that their data is going to be private and secure. With this rule we would pass that information on, the FCMs would hold it, all this confidential information. It would pass on to the DCM. The DCM would then report it to CFTC and there is an assumption of privacy and security throughout the process. What level of involvement, specifically regulation, might CFTC have to impose to ensure that privacy and security are maintained?

MS. SUTPHEN: You know, that's a difficult question to answer, but I will tell you that -- and Jim will tell you this, too -- we have had clients, particularly ones using algorithms that are extremely concerned about having their data reverse engineered and that's why they want to aggregate it as much as possible. So I think that it kind of argues for the end user reporting directly to you and not passing the information through either of us or the TCM because they're concerned that either of us are going to reverse engineer what they're doing.

MR. PUJOL: Do you see a need or a value at all to CFTC regulations that might limit the use of that data by anybody who is sort of put through on its way to us?

MR. TUBRIDY: I'm sure it wouldn't hurt. You know, we are oftentimes specifically spelling out in the documentation that we will maintain, you know, strict security around the client information and not give it out to anybody other than the regulator, upon request. So something coming from you, you know, in this new world that's stating that it will be secure, I think would help the clients.

MR. MORAN: I mean, we do handle large trader data. We've been handling it for many years with a lot of protections. And I would presume that any requirement would be that the same protections would be placed on this data as well.

MR. GOLLEY: One of the primary reasons

why the Commission has proposed that the DCM report the data to us is the problem that when we get the trade capture report, that account number doesn't always seem to go back down the stream in the same format that we get it in. So we get the trade capture report with an account number and if we ask the FCMs, it's a different number, or they may not understand what we're asking for, et cetera.

So, in light of that, let's assume for a moment that we moved the requirement of the data from coming from DCM to the FCM, for example. And what -- at that point, what are the issues that would be involved that would have to be solved for data to make sure the data matched? Because ultimately, what we're trying to do is match our -- we're trying to identify the records at the transaction level. So if it pushed down, what are the data issues -- other data issues that would come up?

MS. BERDANSKY: I guess, and I would just add one more point to that, is that we've heard from most of the exchanges at the table, their view is that maybe this really should be coming from the firms and not the DCMs. Do you all have a view that it should be coming -- does anyone have a view that it should be coming from the exchanges?

MS. SUTPHEN: Well, the trade register data is going to be standardized from the Exchange. If you start to ask us for it you're going to get it in -- right now in a very non-standardized way because we all capture it in different ways. So that would be one reason.

As to the account numbers flowing through and becoming consistent, I think we've tried to get that to happen ourselves for years. The give up process is fairly messy. It's not only that, brokers don't like to put long account numbers on before they put a trade in, so you have to give them something fairly easy to use or they won't use an account number. So there's all kinds of messiness in the business that makes it very difficult for us to put the ultimate account number for the clearing firm on a trade before it goes in and make sure that it's attached to the trade the whole way across. We all would have liked that. Everybody in operations would have liked that, but it's -- we're a long ways from being able to do that.

MR. TUBRIDY: Yeah. I think that the simple answer is if you could rely on the register information completely then we wouldn't be talking about this. And so I think we'd have to go back to our Working Group and find out if, you know, if it's feasible to get that completely cleaned up so it could be relied on.

MR. ROGERS: Would the application of unique identifier make things better or worse in this circumstance? I mean, from a level of effort perspective?

MS. SUTPHEN: It would be better. It would be better, but okay, let's say we come up with a unique identifier. We have a lot of work to do to get that identifier onto the trades for all accounts and for all controllers. So, yes, I mean, a unique identifier. You'd have to automate it so that people don't have to key it in. You'd have to set the trade up to begin. It would be not simple to implement. Once it's implemented it would be great, but it's not a one year process to get that in place.

MR. GOLLEY: I have a higher level question. What would the unique identifier identify? Would it identify the trader? The controller? The owner?

MS. SUTPHEN: I think you're supposed to tell us that, right? (Laughter)

MR. GOLLEY: All of the above. Okay, let's assume for a moment again we're back to OCR, it goes through the DCM. What systems can be put in place, or processes can be put in place -- now we're, you know, two years past implementation? How would it function from a standpoint of making sure that we get all the information we need? So, you know, day one we implement, we've got all the accounts identified for the past 30 days, what's the mechanism's process to make sure that ongoing we continue to get those updates all the way through to the client?

MR. PUJOL: In that regard I think the proposal calls for a change report which is submitted only if there is a change. So maybe I don't know if either an addition or to Jerry's question, you know, is there a better way and something different to do other than that?

MR. COOPER: I would suggest that by reducing the fields to those that are kept electronically in customer -- you know, electronic customer static data so that then the systems could recognize a change, and then the system could generate -- when needed -- a change report. That is the best way. But to the extent that you've got 27 different data fields, some of which may live in different systems, some of which may exist only on paper currently, you're just asking for, you know, non-compliance and the system to fall down, basically.

MR. GOLLEY: Okay. So the assumption is, you know, the end of the week comes and the

DCM identifies 3,000 new accounts but they don't have the corresponding OCR. What would be trigged next? Would you -- that's kind of what I'm asking for, if somebody has to be accountable for the completion of -- the complete set data -- complete data set -- so the DCM is in a prime position to identify what's missing? There has to be some way of communicating down to the FCM to say we're missing this information. The FCM then has to have the ability to either pull that information from their files or contact the client and push it back up.

MR. COOPER: Jerry, I'm assuming that the CFTC would be looking to -- just to point this out -- that you're going to be looking to us to have sprung some sort of technology-driven exception report so we'll identify all the accounts that traded on our exchange in the previous week. And if we don't see it from each FCM, and if the system sees that we don't have a change report from a new one, then that's going to be an exception. But what can't be an exception-driven process from the DCM would be if, you know, Sally Smith got married and changed her name to Sally Brown or Sally Smith moved from, you know, First Street to Second Street, obviously we can't do.

MR. TUBRIDY: Can I just back up to your previous question? And then I want to follow up on Carl's comment.

Talking about the unique identifier, another thing to consider is all the systems that would have to be updated to contain that identifier, you know, notwithstanding we don't know what we're identifying yet. But all the systems would have to be updated. Everybody -- the communication between the firms and the clients, to give them that unique identifier, that's going to take a lot of time and a lot of coordination. But just, you know, just thinking about all the systems that you're going to have to change file formats for, order routing, execution, all of that. So it's a big undertaking. I'm not saying it's not the right ultimate idea, but I would try to get there without changing every system that's involved.

In terms of, Jerry, I'm a little bit confused about what we're doing and the way you're describing the OCR reporting. Are you assuming that we're going to give you all of the accounts that are reportable, like within the last 30 days and then keep building on that as these accounts become reportable?

MR. GOLLEY: That's exactly right.

MR. TUBRIDY: Okay. Because we are doing that. In large trader, we're giving the reportable accounts.

MR. GOLLEY: It's going beyond that. Not just reportable from a large trader standpoint, but all accounts.

MS. BERDANSKY: I think we're using the wrong term. I mean, I think initially we had, you know, want to collect this for all the active accounts, whatever the past -- I don't know what number of days or months that we use?

SPEAKER: Thirty days.

MS. BERDANSKY: Within 30 days. But then, moving forward we'd get a weekly change file. If there's any, you know -- for any new accounts that have been added or, you know, any change to the old information -- a new address, a new controller -- that's what the change file would cover.

MR. PUJOL: And if nothing changes then you don't need to resubmit that data for that account.

MR. TUBRIDY: Okay. And you know, I guess to really pinpoint what needs to be done, I think we'd have to get this all, you know, on a white board, or something. But in terms of capturing some of the things that you said, like we don't have the controller right now, we don't have that information. We don't have the ability to tell you when an account goes reportable. It just appears in a file or on a report. And then we don't know -- we don't know when it comes off not being reportable either, you know, because the position just drops below the level. And so, you know, systems would have to be enhanced to be able to capture that.

And then, in terms of changing account information, like, you know, simple things like you want to change the way an account closes out. You know, whether it's FIFO, or LIFO, or whatever? When you go into that table, the new account -- the name and address table -- when you make that change on trades closing out, that'll generate a change report. And the change reports that the systems generate are really not very friendly in terms of telling you what was changed. So, you know, that would have to be improved, as well.

MR. GOLLEY: And just to reiterate, the OCR rule would encompass all accounts, not just large trader accounts. So when you have a new account -- I've made the assumption that a new account is established when you get a new client, new client A, or new client A begins a new -- splits off into another -- I mean, what does create a new account?

MS. SUTPHEN: It's usually based on how

the client themselves wants to account for their trading. So very often they'll ask for new accounts to identify new trading strategies, new traders, you know. Gosh, we just -- we add -- I would say the bulk of the new accounts that we add are for existing accounts, not for new accounts. In a new account, sure, you're going to have new accounts -- numbers for new clients, but, you know, new clients, they don't get -- just a few week. It's not on the institutional side. So, most account numbers have to do with wanting to enable the client to do subaccounting of some sort.

MR. GOLLEY: And the number that's reported as the account number on the TCR, is that a number that's generated from the DCM or the FCM?

SPEAKERS: FCM.

MR. GOLLEY: So the FCM generates the number. The DCM reports it down to us. So, okay.

MS. SUTPHEN: And there is no standardization in that number. You probably know that already from looking at the trade register, but it's -- even across -- I mean, I've worked at multiple firms on the street, as has Ray, and no firm follows the same protocol in how they create account numbers.

MR. TUBRIDY: Right. And the systems, too, feeding them. Like, one front end might have the account number left justified, right justified, filled with zeros, filled with, you know, whatever. And, you know, that's what you're seeing in the trade register.

MR. GOLLEY: Are some of them alphanumeric, too?

MR. TUBRIDY: Oh, sure. Yeah. But, you know, you'll see a lot of that -- a lot of that noise in the register file because the firm will be left justified and what the FCM has done is set up a rule that just pulls it in and right justifies it or just looks in certain fields. And so, there's lots of ways that that information is not connecting.

MR. COOPER: And also remember the way this is going to work, as you've written the rule now. So Sally Smith opens an account on January 2nd, doesn't trade for three months, so no report happens. Then she trades one lot on Komax Gold in, you know, the first week of May. So a report goes to CME, which is passed on to CFTC. Three weeks later, she trades one lot of gold on MIC Liffe US. We -- that's a brand new report that her FCM opened -- you know, creates and sends to us. MIC Liffe US, which we then pass -- so, I mean, it's going to be a bunch of -- it all depends on which exchange the account is active on. So it will be new reports and then -- you know, I don't know where the change reports go. I guess the change reports will have to go to those DCMs that have had a previous report, so the system would have to track all that.

MR. OTT: And I can't speak for the rest of the exchanges, but I can speak for Kansas City in that a large percentage of our volume is based on intermarket spreads between Kansas City, Chicago, Minneapolis. So it's going to be a huge number of accounts that we're going to report, CME is going to report, and Minneapolis is going to be reporting. You're going to get the same information from three exchanges on a lot of accounts. And that's -- again, I'm sure other exchanges have similar problems, as well.

MR. GOLLEY: How -- if this OCR rule was approved, the proposal is that it would be implemented in 18 months. There's been some comments about that not being long enough. What would be an appropriate timeframe, and why?

MS. SUTPHEN: I think we'd prefer to finish doing our work, you know, we've got a comment that's coming back and I think we've been trying to put some estimates around that on timelines, and I don't think we're quite ready with that information yet.

MR. TUBRIDY: But one concern that's come out of the group is that with the Dodd-Frank legislation, and the work that is expected to onboard the centrally cleared swapped client, it's the same group of people that support that, for that initiative, as the OCR initiative, at all the firms. So -- so we're really staring down a couple of big initiatives.

MR. GOLLEY: And trust me. At CFTC we're feeling that same pain.

MR. FABIAN: I'd reiterate that point as well. I mean, with the sum of the unknowns out there, you know, any estimate that we make now based on current information, you know, could change drastically based on future information, so.

MR. BOOTH: Just to add to that as well, I mean, don't underestimate the inability to control the vendors in this as well. It's not just the people who are in the firms and the exchanges, but, you know, the SunGards of this world because they're going to be busy on everything. We don't always have the influence we'd like over them.

MS. BERDANSKY: So if we were moving forward with this and we do convene an industry group, I guess what I'm hearing is it is essential to include the vendors, such as SunGard, and all the various back office systems.

MR. GOLLEY: In the beginning comment area when people were talking there was, I think, a couple of different comments that there might be other ways to get this information faster. Fundamentally, I view the OCR, or at least getting the ability to tie the transaction to the large traders, paramount to what we do at the Commission. So what are some of the ideas at this table of other ways we can get that connection created?

MR. TUBRIDY: Yeah, we've talked about that in terms of, you know, we know where the datasets are that have most of the data that you're requiring in OCR. Some of those, like the Form 440 doesn't maybe go quite as far as it needs to to support that but we think that, you know, one idea that was floated was enhance the dataset that the piece fits best in. So if it's controller information, enhance the Form 440. If it's client information or firm information, enhance the 102. And not knowing how your systems work or how you're organizing the data when you receive it, you know, the thought was -- or the hope was -- that you could pull all of these data points together. Maybe you get three files today. Maybe you need to get five files. And maybe, you know, the fifth file might be a name and address information like from the firms or through the DCM, however it needs to flow.

You know, I mentioned earlier about trade files -- at the end of the day, we could provide you with a complete snapshot of all the trades. You know, you raise the point of, that would have to be reconciled with the register. But, so -- but anyways, that was one idea -- was fill it out. These are the things we're talking about with the Working Group and so we don't have a clear agreement or recommendation at the moment, but that's where we're headed.

MS. BERDANSKY: If I understand what you're saying, these ideas, they're all linked to kind of large traders. And again, I think that, you know, what we've heard today is, you know, you really do need this for every trade out there. For the one lot. For the two lot. And we've heard you loud and clear. And as we said in the proposal, it's something that we are really seriously considering here and will take onboard in moving forward. But I think we have to be clear that, you know, going just, you know -- identifying this for just large traders isn't enough either.

MR. TUBRIDY: Yeah. And I'm not limiting it to that. You know, we could give you, you know, our complete set of client information in the format, you know, and obviously this is, you know -- there's work that needs to be done in order to extract it and deliver it, but it's there. It's data.

Trades, you know, we could -- I mean, there's different ways to approach it. If you're looking for patterns of trading, or large volume traders in the day that go home with no position, you know -- producing reports that show that, that's not difficult either. But we can give you, like I said, the complete list of clients, all the trades, all the positions, large trader, you know, small trader, whatever. I mean, the basic theme in our thoughts is that let's leverage what we have and try not to revamp systems if we can at all avoid it.

MR. ROGERS: So are you saying then there might be greater flexibility if we weren't constraining ourselves to the concept of just two types of file structures? Because I don't know that necessarily there is that constraint, necessarily. I mean, ideas around what something might look like would be very interesting to consider.

MR. TUBRIDY: Yes, that's what we're suggesting.

MR. ROGERS: All right.

MS. BERDANSKY: I think we would definitely invite you to include that. I know you all are still meeting and to include that in your comment. As John said, that's something that we would definitely consider and we'd want to consider all possibilities and try to, you know, do this in a way that is, you know, it serves our needs but also serves your needs and is, you know, less burdensome.

MR. MORAN: I mean, I think -- just to make one more comment on that -- I mean, if we can leverage the existing systems and that's -- we definitely would need to do, make changes to meet this requirement in any way, shape, or form. It's the amount of changes that we would have to do. So if we included everything that's currently in the proposal it becomes a much, much bigger thing. If we can focus it on things that are more easier to perform, but yet still perform -- meet the objectives of getting, you know, a name on each transaction, or at least the larger transactional accounts, you know -- that's, I think, what we're hoping that we can do because that can be done with a lot less expense, in a much more reasonable time. Whereas, if we're starting to talk about bigger things, like having unique identifiers for every account, that's when you start getting into, you know, just massive, massive projects and greatly increasing the risk that, you know, the project won't be successfully completed. So it would be much more -- it probably would be better for you and everyone here if we can make progress in a much more reasonable way, in a shorter period of time than to go many, many years without any progress, so.

MR. PUJOL: Jim, I'm not sure if I've heard different things from different folks here, but is everybody onboard with the idea that a unique identifier is or is not a good idea? Because it seems like I've heard, Jim, you've suggested that would add some work and maybe some of the FIA folks --

MS. SUTPHEN: Well, no, I mean, it's a good idea, but is it a practical idea, is, I think, what we're trying to get at. And I think, I mean, we've got to do some more work on that. I think, in all honesty, a new number that has to be assigned somehow or other is not a practical idea. So what we have to come up with is a unique identifier that is some combination of existing data that can be mapped. I don't think we can -- if we have to start tagging trades with brand new numbers -- it's a big project.

MR. PUJOL: So at that point it's preferable -- I know there's been some concern about date of birth, but at least name and address are preferable to you. Is that right?

MS. SUTPHEN: Yes.

MR. SHILTS: Well, just the idea about a unique identifier. There's probably a lot of ways you can go about getting that. Combining several pieces of information that you already have may give you a unique identifier if you know, you know, what firm, you know, their name, their account number, and you put all that stuff together and nobody at that firm has the same account numbers? If that's true, then that becomes a unique identifier. So I think just the idea about a unique identifier might not -- is not necessarily a brand new thing that we have to start generating. Just a thought.

MR. ANGUISH: Don't you want to -- sorry. Don't you want to identify individuals though, even if it's across firms? I mean --

MR. SHILTS: Well, yeah.

MR. ANGUISH: Yeah. Well, so if, you know, the unique identifier would include the firm name, and the account number at the firm, and the person's name, and their dog's name. I don't know. Some combination.

MR. COOPER: Yeah, but to follow up on Keith's point, I thought what we were really trying to see is, Sally Smith's trades at Citi. Let's say she hammers the buy -- the bid -- and then, you know, moves the market and then gets off a big sell with a manipulated price. I thought that's what you were trying -- you know, in her Goldman account. Sorry. I don't mean to bring -- reference any FCOs by name.

MR. PUJOL: Yeah. I know Keith represents (inaudible). I think you guys are both right because even if the identifier includes the name of two different firms then it's not unique anymore. It's different. It's got --

MS. SUTPHEN: We struggle with coming up -- you know, the client names are free form text. Most of our systems are really not modern and so, if you put an extra space in there by accident, or whatever, you've got a brand new client. We tried to get around that by assigning a number to the client. But guess what? Depending on -- the London office may assign the number and then they open another account in Tokyo, and they assign another number and pretty soon you've got the same problem all over again. So, if you want to try to do that within a firm it's already difficult. If you're going to try to do it across firms it's probably pretty difficult.

MR. PUJOL: Right. I want to go back to something you were suggesting about, you know, there are potentially different reports that could be submitted that make this a little bit easier. And following up on John's point that we're not necessarily bound to two -- an OCR and a TCR are the different reports that you have in mind -- do they still allow us to basically enrich the databases in which the TCRs reside? Or would they -- are you envisioning something that still has a sufficient connectivity to the TCR or is it such a separate report that you can analyze that report richly but you can't link it to other things?

MR. TUBRIDY: The idea -- yes. The idea would be to try to give you the same information you're getting out of the TCR. The problem, as Jerry points out, is that would have to be reconciled to the TCR. And maybe we'd have to come up with some kind of an understanding of what's involved in that. Today firms do reconcile their books to the TCR every single day. You know, not necessarily based on that account number though; based on, you know, the number of trades at a particular price in a particular contract. And so, you know, if we were comfortable with putting that responsibility on the FCM, if you were comfortable with that, and then the FCM provided you with an equivalent of the TCR -- each FCM provides that -- that would show you the ultimate account number. So those are just some loose thoughts.

MR. PUJOL: No, no. I understand you're sort of thinking off the top of your head because, certainly, I think one thing we'd want to avoid is having, you know -- whereas we're trying to create increased connectivity between databases, I think we'd want to avoid a situation where we now have to have a third source that we independently analyze.

MR. TUBRIDY: Right. Yeah. No, I get that.

MS. BERDANSKY: I think the key for us is -- if we got those type of reports -- is just to be able to integrate it into our existing -- you know, it, of course, would have to be standardized and like Sebastian said, really the ability to state -- to really integrate it into our system, so we can use it, you know, and have one big picture which is the goal of this whole project.

MR. TUBRIDY: And then if the data did

come from the FCM, would we then be able to capture that account partitioning that you identified in one of your diagrams? Would that be spelled out?

MR. PUJOL: We'd eliminate it, you know.

MR. TUBRIDY: You would show the aggregation?

MR. PUJOL: Yeah. We would show you the ultimate resting place for that trade. So you wouldn't see all the short codes or the APS suspense accounts that are used.

MR. GOLLEY: Okay. I think we're kind of trying to wrap it up, so I just want to -- I've kind of got -- I've got a better understanding of how this might play out, and some other ideas. Is there anybody that wants to say their last bit of peace? Rachel?

MS. BERDANSKY: You know, I just want to thank everybody. I know how much time that people put into thinking about these issues before attending and, you know, statements and presentations. And this has been helpful and we certainly will take this onboard together with the comments.

MR. PUJOL: And I think, you know, we've said this in the proposal, but it's probably worth repeating, that we are certainly looking to be educated here. So the time and effort that you put not only into today but into your written comments I think will pay off because we will read them carefully and we will listen to what's being said. Thank you.

MR. GOLLEY: Thank you very much.

MR. COOPER: I'd just like to supplement our comments. Obviously we'll submit a written comment as well, but I guess I'd like to highlight a concern that -- you know, we've been through advanced notice proposed rulemaking a year ago now-ish, right? And now we have this proposed rule.

Thankfully, the comment period has been extended through October 7th, so thank you for that. But still, it seems like we're an awfully long ways down, sort of, the road towards something when we're having, sort of, this level of still dialogue on, you know, basically white boarding -- what a solution will look like.

So I guess I have a concern about that because I think one thing that certainly comes to my mind out of this discussion is we need an industry-wide solution in a common format, common protocols, and it just seems like we're still a ways away from that.

And with, procedurally, the proposed rulemaking out there, it seems like we're close to the, you know, commission potentially acting when we don't really know how procedurally -- you know, how the systems are going to work.

MR. GOLLEY: As Rachel pointed out, it's kind of an educational process for us but the fact that this need has been there for multiple years indicates how important this relationship is. I mean, to get this OCR information is critical. And what we're trying to do is identify the best way to do it that will get us what we need that will impact the markets the least, so.

MS. BERDANSKY: I guess I would also add to that is that, you know, after getting the comments, looking at them and thinking about what was said today, that, you know, if we were to come up with a, you know, final rule that was dramatically different -- I mean, it's one thing to be dramatically different if we had, you know, all this stuff out here and we just narrow it down, but if it was going to fundamentally kind of change, you know -- yes, we're convinced it really shouldn't be on the exchanges to give it to us -- we're going to go look to the FCMS -- then we would probably, I think very likely, repropose and have more opportunity for comment.

MR. TUBRIDY: I just wanted to say a couple of things. Thank you for bringing us here and listening to our concerns and your thoughts and, you know, the work that's gone into analyzing this.

You know, we would love to have representation from the CFTC on our Working Group to help, you know, work through these things because we think that they're -- you know, like I said earlier, we can only go so far in what we can do versus what you're able to do on your side. So I just want to put that out there. We welcome your participation.

MR. MARTINAITIS: I do have one final question before we wrap it up. This is for IBs and CTA CPLs, if we turn our attention back to the 28 data points that are in the currently proposed OCR, are any of those data points -- does that data solely reside at the IB level, or the CTA CPL level, or is it elsewhere, like at a FCM?

MS. SCHRAMM: Speaking for IBS, no. None of that information is exclusive to the IB level. The IB often, as we said before, will use a piece of government issued ID in order to know his customer in order to fulfill those requirements. But as long as the FCM has a certain type of paperwork they want filled out, they require certain information, they have equal information.

MR. PUJOL: All right. I think unless

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anyone has anything further, thank you very much for coming, everybody.

(Whereupon, at 4:22 p.m., the PROCEEDINGS were adjourned.)

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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