CME Group

October 16, 2012

VIA FEDERAL EXPRESS

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Account Ownership and Control Report - RIN 3038-AD 31, Fed. Reg. Vol. 77, No. 144 (July 26, 2012)

Dear Mr. Stawick:

CME Group Inc. ("CME Group")[1] appreciates the opportunity to comment on the Commodity Futures Trading Commission's (the "CFTC" or "Commission") proposed rulemaking ("Release") with respect to the collection of certain ownership, control and related information for position and trading accounts which meet certain threshold criteria. The Release states that the information collected will enhance market transparency, increase the Commission's trade practice and market surveillance capabilities by leveraging existing surveillance systems and data, and facilitate the Commission's enforcement and research programs.

CME Group, through its four exchanges, has deep experience as a Self-Regulatory Organization ("SRO") and has long collected information relating to owners and controllers of trades and positions in its markets. CME Group understands the CFTC's desire for more information, and supports modernizing how that data is collected and stored by regulators. CME Group believes that the CFTC should consider

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[1] For the record, CME Group is the holding company of four separate Exchanges, including the Chicago Mercantile Exchange Inc. ("CME"), the Board of Trade of the City of Chicago, Inc. ("CBOT"), the New York Mercantile Exchange, Inc. ("NYMEX"), and the Commodity Exchange, Inc. ("COMEX") (collectively, the "CME Group Exchanges" or "Exchanges"). The CME Group Exchanges offer the widest range of benchmark products available across all major asset classes, including futures and options on futures based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities, and alternative investment products. Moreover, the Exchanges serve the hedging, risk management, and trading needs of our global customer base by facilitating transactions through CME Globex® electronic trading platform, our open outcry trading facilities in New York and Chicago, and privately negotiated transactions. CME Clearing is one of the largest central counterparty clearing services in the world; it provides clearing and settlement services for exchange-traded contracts and over-the-counter ("OTC") derivatives contracts through CME ClearPort®. The CME ClearPort® service mitigates counterparty credit risks, provides transparency to OTC transactions, and brings to bear the exchange's market surveillance monitoring tools.

the SRO's needs for this data as well as their own needs, and urges the CFTC to set up efficient mechanisms that can feed both CFTC and SRO systems on a cost effective basis in any final rulemaking.

I. Background

The Commission has withdrawn its previous 2010 account ownership and control ("OCR") reporting rule and has published a new notice of proposed rulemaking on OCR. The new proposal introduces three new Form 102 versions (102A, 102B, and 102S) and adds new and different data requirements to each form; expands the data collected on Form 40 (Statement of Reporting Trader); and introduces a new reporting form for omnibus volume threshold accounts (Proposed Form 71). Further, the new rule requires separate reports depending on the type of trigger (position threshold, volume threshold, or swap position threshold).

II. The Notice of Proposed rulemaking creates redundancies and requests unnecessary information

When last proposed in 2010, the OCR requirement was a once-a-week file that would identify owners and controllers of position accounts and any trading accounts that were associated with the position accounts. Following the CFTC's 2010 proposed rulemaking, an industry user group comprised of a number of FCMs and Exchanges undertook a cooperative and time intensive process to develop a workable method that would leverage existing systems and processes to provide OCR reports. This industry solution would have achieved the Commission's goals of account identification and would have done so in an efficient manner, while minimizing disruption or massive changes to FCM account processing. We believe that the proposed industry solution is a better option because, although costly, it is significantly cheaper than the estimated costs of the method in the CFTC's 2010 proposal.

While incorporating some parts of the industry proposal, the most recent CFTC rulemaking abandons the idea of a once weekly relationship/reference file in favor of a much more costly and complex set of requirements that require FCMs to keep track of whether an account exceeded a position threshold, a volume threshold, or a swap position threshold. Further, it requires a different Form 102 depending on the type of trigger, and requires the form by the start of the next business day.

The identification of account ownership and control information only needs to be reported by an FCM once. A regime that requires multiple reports—of virtually the same information—is inefficient, unnecessary, and will impose substantial and unjustified costs on the industry without commensurate regulatory benefit. Rather than adopting the proposed regime, the Commission should institute a single Form 102 that contains the basic reference information for an account. We support the use of the proposed Form 102 FIA has submitted with its comment letter on the Release. Based on our experience in reporting data to the Commission, we believe that the Commission's systems can and should use a common set of reference data so that a previously identified account does not need to be re-reported based upon a different trigger.

Moreover, for FCMs to create automated methods to populate this data, it is important that the fields be limited to those records that an FCM obtains in its regular onboarding processes. If the Commission requires the inclusion of many unnecessary data points as it proposes, FCMs will need to revise their onboarding procedures to obtain that data for every account so that it can be recorded in a system and eventually be extracted for the automated reports, which would be, among other things, incredibly costly. One good example of an unnecessary data field is the direct market access (DMA) indicator

proposed by the CFTC for volume threshold reports. This is not data that would be expected to be among an FCM's reference database store, as it does not concern account ownership and control information, but rather information about connectivity. Further, under the current definition of DMA in the proposal, this would include virtually all market participants that had access to some type of GUI to enter orders, which would be nearly everyone. It is hard to understand what regulatory value the DMA indicator has when most accounts will fall under this category. Requiring this data may force substantial process change at the firms to obtain the data upfront and record it in the firm's reference database with other account information.

Similarly, we believe that it is unnecessary to require that the data be refreshed every six months, as proposed by the Commission. CME Group has had experience with a two-year refresh process, and we believe that is a more reasonable time period within which to conduct a refresh. The proposed change would require significant system changes on both the FCM and SRO side without any identifiable regulatory benefit.

One final area of concern is that the Commission has also included swap reports in the new OCR proposal. The industry and some SROs have gone through great expense and effort to institute the Part 20 rules, which require the submission of swap positions with a Form 102 spreadsheet identifying each account. Further, the Commission has written extensive rules on Swap Data Repository reporting that could begin as early as this month for registered entities. SDR reporting has an intricate and complicated set of rules for identification of trades, products, and legal entities. Firms, market participants, clearing houses, and SDR applicants are working feverishly to meet the swap reporting requirement dates. Requiring swap reporting as part of OCR, to accomplish reporting that is already being done under Part 20 - and soon to be duplicated under SDR reporting with new unique legal entity identifiers - is unnecessary and imposes additional unjustified costs on the industry. We submit that the Commission should remove any new requirements for swap participant identification of swaps not included in 4d exemptions (swaps that have 4d exemptions are carried like futures and subject to all futures reporting).

III. Any solution that CFTC imposes should look to satisfy the data needs of SROs in addition to those of the CFTC

SROs have statutory duties to monitor positions and transactions in their markets. As the Commission is aware, CME Group has long spent significant time and resources towards the identification of large participants, and is highly dependent on Form 102 and trading account identification. Should the Commission develop a system that involves FCMs or other participants submitting Form 102 or Form 40 data into some type of system, it should ensure that there are easy and efficient ways for the data to also be provided to relevant SROs in an equally efficient manner.

IV. Request for comment items

Question (1): 50 contract reportable volume level; CME Group believes this level is too low. This will increase the cost to all parties, as there will be significantly more data to process, check, and correct without commensurate regulatory benefit. We believe that reporting should be weekly and that a more reasonable level is 250 contracts bought or sold during a calendar week.

Question (2): We believe a three day reporting period on a Form 102 is reasonable. However, as mentioned above, swaps are part of SDR reporting and including them in OCR will simply create duplicate work.

Question (6): If implemented as proposed, this aspect of the Commission's regime would take substantial time to develop, test, and implement. In addition to new systems, it will also involve process changes both at FCMs in taking in data and recording it, as well as changes at SROs. We believe that it realistically will take 18 months to implement this rule.

Question (8): CME Group believes the most efficient manner for this reporting is to assign special accounts to each new trading account. When a position is reported, the report will contain the special account and all related accounts. If the trigger was a volume report, the report will include the trading account, the special account, and all other related trading accounts. With this method, a single report gives all the necessary information. However, if the volume threshold is too low, this may mean that firms have to spend a lot of resources assigning special account numbers to small retail accounts that otherwise would not be reportable. This could unduly burden firms catering to smaller accounts, as they may have more accounts and have more work to do, when identifying these smaller accounts has the least amount of regulatory value.

Question (10): Volume accounts should be reported at the carrying broker level. This is where the account ownership and control information resides, not at executing brokers.

Question (17): Form 102s do not need to be provided to SDRs, as swap reporting will use the Legal entity identifier. The LEI is intended to allow for aggregation of all swap trades reported to the SDR.

V. The Commission has not accurately estimated the costs of the proposed rules.

The Commission estimates of the annual cost of OCR vary wildly from a few million dollars to $162 million dollars depending on the method of reporting chosen. CME Group does not believe that either of these numbers is correct. In particular, the Commission estimates do not appear to take into consideration the process changes that firms would need to engage in to obtain all OCR data, nor do they contain estimates for changes that SROs might have to institute to their systems to incorporate the three tiered reporting method. CME Group does not believe that the Commission has satisfied its obligations under the Commodity Exchange Act regarding cost benefit analyses.

CME Group thanks the Commission for the opportunity to comment on this matter. We would be happy to discuss any of these issues with Commission staff. If you have any comments or questions, please feel free to contact me at (312) 435-3671 or Jim.Moran@cmegroup.com; or Christal Lint, Executive Director, Associate General Counsel at (312) 930-4527 or Christal.Lint@cmegroup.com.

Sincerely,

James P. Moran
Executive Director
Global Market Regulation Strategic and Technology Initiatives

cc: Honorable Gary Gensler, Chairman
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott O'Malia, Commissioner
Honorable Mark Wetjen, Commissioner

Division of Market Oversight
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