J.P.Morgan

January 11, 2013

Ms. Sauntia Warfield
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street
Washington, DC 20581

Re: Comments in Response to The Chicago Mercantile Exchange Inc.'s Amended Submission #12-391R: Adoption of New Chapter 10 (Regulatory Reporting of Swap Data) and Rule 1001 (Regulatory Reporting of Swap Data)

Dear Ms. Warfield:

JPMorgan Chase & Co., its subsidiaries and affiliates (collectively "JPMorgan") appreciate the opportunity to provide comments in response to The Chicago Mercantile Exchange Inc.'s ("CME") Amended Submission #12-391R dated December 6, 2012.[1] CME's amended submission requests that the Commodity Futures Trading Commission ("CFTC" or the "Commission") review and approve proposed Chapter 10 and Rule 1001 of CME's Swap Data Repository ("SDR") Rulebook through the CFTC's formal approval process under CFTC Rule 40.5.[2] CME's proposed Rule 1001 generally provides that CME's clearinghouse will report swap "creation and continuation data" to CME's captive SDR for all swaps cleared at CME's clearinghouse.[3]

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[1] CME submitted an amended request to its original submission dated November 9, 2012. The amended request can be found at: http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul120612cme001.pdf.

CME's original submission can be found at:
http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul110912cme005.pdf.

[2] *See* 17 CFR sec. 40.5 (Voluntary submission of rules for Commission review and approval). CME requests that proposed Rule 1001 become effective on the next business day following the date of the CFTC's approval.

[3] The text of CME's proposed Rule 1001 provides:

> For all swaps cleared by the Clearing House, the Clearing House shall report available creation and continuation data to CME's [SDR] for purposes of complying with applicable CFTC rules governing the regulatory reporting of swaps. Upon the request of a counterparty to a swap cleared at the Clearing House, the Clearing House shall provide the same creation and continuation data to [an SDR] selected by the counterparty as the Clearing House provided to CME's [SDR] under the preceding sentence.

JPMorgan submits this letter to express our serious concerns regarding CME's proposed Rule 1001 for several reasons that are detailed in sections I and II below.[4] In short, we respectfully request that the Commission disapprove CME's proposed Rule 1001 and similar arrangements proposed by other swap market utilities for two primary reasons. First, anticompetitive tying arrangements such as CME's proposed Rule 1001 are inconsistent with the plain language and intent of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") and the CFTC's regulations,[5] which establish a comprehensive reporting and recordkeeping framework for swap data. Second, if the Commission approves CME's proposed Rule 1001 (or similar arrangements proposed by other swap market utilities), it would likely delay compliance with the CFTC's reporting timelines and result in additional costs for reporting counterparties who already have spent hundreds of millions of dollars over the last year in order to comply with the CFTC's Reporting Rules.

JPMorgan strongly supports the Dodd-Frank Act's goal of increasing transparency in the swaps market. To that end, JPMorgan is committed to the effective implementation of the CFTC's Reporting Rules. In advance of our registration with the Commission as a swap dealer, we built a comprehensive reporting infrastructure, established connections with an SDR of our choosing, tested internal systems, conducted real-time messaging submissions and participated in industry-sponsored *fora* to identify and address a myriad of interpretive issues regarding swap data reporting. Notwithstanding these good faith efforts to comply with the CFTC's Reporting Rules, we are uncertain of how to meet full compliance with those rules given CFTC staff's recent withdrawal of certain interpretive questions regarding reporting requirements for cleared swaps and the Commission's consideration of CME's proposed Rule 1001.

I. The Commission should disapprove CME's proposed Rule 1001 and any similar anticompetitive tying arrangement that is proposed by a swap market utility because these types of arrangements are inconsistent with the plain language of the Commodity Exchange Act ("CEA"), the CFTC's regulations and the CFTC's interpretations thereof.

[4] JPMorgan's concerns are applicable to any similar anticompetitive arrangement in which a swap market utility ties or bundles essential services such as clearing, reporting or execution with other services regardless of whether those other services are ancillary. Under these arrangements, a swap market utility prevents a market participant from utilizing essential services unless such participant also utilizes the utility's other services.

[5] The CFTC's reporting and recordkeeping framework for swaps data are found in Part 45 (reporting and recordkeeping of swap data), Part 43 (real-time reporting of swap data) and Part 46 (reporting of pre-enactment swaps) (collectively, the "CFTC's Reporting Rules"). *See Swap Data Recordkeeping and Report Requirements*, 77 FR 2136 (Jan. 13, 2012); *Real-time Public Reporting of Swap Transaction Data*, 77 FR 1182 (Jan. 9, 2012), which was later corrected by 77 FR 2909 (Jan. 20, 2012); and *Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps*, 77 FR 35200 (Aug. 13, 2012).

The plain language of the CEA prohibits anticompetitive tying arrangements such as CME's proposed Rule 1001. Section 21(f)(1) of the CEA prohibits an SDR from adopting any rule or taking any action that results in any unreasonable restraint of trade or imposing any material anticompetitive burden on the trading, clearing, or reporting of transactions.[6] Based on a plain reading of the statutory language, CME's proposed Rule 1001 would impose a material anticompetitive burden on market participants who wish to clear their swaps and report those swaps to the SDR of their choice. In practice, CME's proposed rule would unreasonably force market participants such as JPMorgan to establish data connections to CME's captive SDR and to report required swap continuation data to that SDR if we choose to clear on CME's clearinghouse. Such reporting would occur notwithstanding the fact that we have already established open SDR connections, which would be used for the reporting of swap creation data ahead of clearing under CFTC Rule 45.3. In addition, CME's proposed Rule 1001 would impose material anticompetitive burdens on CME's competitors operating derivatives clearing organizations ("DCOs") and those operating or seeking to operate registered SDRs.

CME's amended submission mischaracterizes its reporting obligation with respect to cleared swaps under Part 45 of the CFTC's regulations. CME's amended submission requests that the Commission amend its rules to remove what CME describes as duplicative reporting obligations for DCOs under Parts 39 and 45 of the CFTC's regulations.[7] CME's amended submission and its proposed Rule 1001 fail to acknowledge, however, the key difference between a DCO's reporting obligations under Parts 39 and 45 of the CFTC's regulations and the rights and responsibilities of reporting counterparties under Part 45.[8] As a result of their failure to acknowledge this difference, CME's proposed rule in effect would: (1) override the rights and responsibilities of reporting counterparties under CFTC regulations to select and submit required swap creation data for bilateral swaps to an SDR of the reporting counterparties' choosing; (2) incorrectly treat swap data resulting from the clearing of a bilateral swap as new swap creation data;[9] (3) lead to data fragmentation of swap data in violation of the CFTC's regulations; and (4)

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[6] *See* 7 U.S.C. 24a(f)(1) (2012).

[7] *See* CME's amended submission at 1-2.

[8] The term "reporting counterparty" is defined in CFTC Rule 45.1 as "the counterparty required to report swap data pursuant to [Part 45], selected as provided in [CFTC Rule] 45.8."

[9] CME's proposed Rule 1001 informally refers to the term "swap creation data." Part 45 of the CFTC's regulations actually uses the term "required swap creation data" and defines that term to mean "all primary economic terms data for a swap in the swap asset class in question, and all confirmation data for the swap." 17 CFR sec. 45.1. For cleared swaps, CFTC Rule 45.3(b) requires DCOs to report confirmation data to include the primary economic terms ("PET") data along with the "internal identifiers assigned by automated systems of the [DCO] to the two transactions resulting from novation to the clearing house." *Id.* While CFTC Rules 45.3(b) and (c) require a DCO to report all confirmation data for a swap that is accepted for clearing, Part 45 still requires the reporting counterparty (not a DCO) to report PET data for a bilaterally executed swap to an SDR as soon as technologically practicable after execution. *See* 17 CFR sec. 45.3(b)(1).

be inconsistent with the CFTC's stated objectives with respect to real-time public reporting under Part 43 of the CFTC's regulations.

1) *Overrides reporting obligations of reporting counterparties.* The determination of who has the reporting obligation with respect to bilateral swaps is set forth in CFTC Rules 45.8 and 45.10.[10] In contrast to the assertions made in CME's amended submission, a DCO only has a reporting obligation for required swap creation data under Part 45 when: (1) an uncleared, bilateral swap is submitted and accepted for clearing; and (2) the reporting counterparty to the uncleared, bilateral swap does not submit the swap creation data within the applicable reporting deadlines. CFTC Rules 45.3(b)(1) and 45.10 state that the reporting counterparty (as determined by CFTC Rule 45.8) chooses the single SDR into which the required swap creation data is reported. For cleared swaps, CFTC Rule 45.10(b) provides that the reporting counterparty notifies a DCO of the identity of the SDR into which it has reported data with respect to such swaps. Only in the case when a reporting counterparty has not submitted PET data to an SDR, does a DCO have the right to choose the SDR into which required swap creation data is reported.[11] In this instance (and only in this instance), CFTC Rule 45.10 provides that DCOs must notify the swap counterparties of the identity of the SDR into which the DCO reported required swap creation data. If a DCO had the right to choose the SDR for all cleared swaps, the CFTC's regulations would have expressly provided this right. Thus, when a reporting counterparty like JPMorgan decides to report its PET data within the applicable reporting deadlines for an uncleared, bilateral swap, it has the implied right to choose its SDR.[12]

2) *Incorrectly treats data resulting from the creation of two cleared swaps as new swap creation data.* Moreover, CME's amended submission incorrectly treats as new "swap creation data" the swap data that results from the novation of a bilaterally-executed swap. In particular, CFTC Rule 45.3 contemplates that cleared swaps are the result of a novation of an original bilateral swap, which is given up to a DCO for clearing.[13] Through the clearing process, the DCO creates two separately cleared swaps, one with

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[10] *See* 17 CFR secs. 45.8 and 45.10.

[11] *See* 17 CFR sec.45.3(b)(1). DCOs do have a reporting obligation to report confirmation data. However, this obligation does not supplant or supersede a reporting counterparty's obligation to report PET data with respect to a bilateral swap before it is cleared.

[12] This implied right is supported by CFTC Rule 45.10(b)(1)(ii), which provides that at the time the bilateral swap is submitted for clearing, the reporting counterparty shall transmit to the DCO the identity of the SDR where swap creation data was reported and the unique swap identifier for the original, bilateral swap.

[13] *See* 17 CFR sec. 45.3.

the reporting counterparty and the other with the non-reporting counterparty. A novation is defined as a "life cycle event" under CFTC Rule 45.1.[14] CFTC Rule 45.3 provides that life cycle events are reportable as "required swap continuation data." Thus, CME's treatment of a novation through clearing as anything but a life cycle event is inconsistent with the CFTC's regulations.[15]

3) *Would lead to data fragmentation.* If PET data for the original, bilateral swap is reported into the SDR of the reporting counterparty's choosing and, post clearing, subsequent required swap creation and continuation data is reported into CME's captive SDR, this reporting of data into two SDRs would result in a violation of CFTC regulations and in data fragmentation with respect to a bilateral swap that is subsequently cleared.[16] CFTC Rule 45.10 requires that all data for a given swap be reported to a single SDR, which is the original SDR into which the PET data report for the original bilateral swap is made. As noted above, since a novation is a life cycle event, required swap continuation data relating to the two cleared swaps at a DCO (which were created through the novation of the original, bilaterally-executed swap) must be reported into the SDR where the reporting counterparty has already submitted PET data relating to the original swap. Notwithstanding the transparency goals of the Dodd-Frank Act and the CFTC's Reporting Rule, CME proposed Rule 1001 would result in less transparency to the Commission since CME's proposed rule would spread swap data across numerous SDRs.

4) *The CFTC's stated objectives in its real-time public reporting rulemaking supports the rejection of CME's proposed Rule 1001.* In the adopting release to the CFTC's real-time public reporting rulemaking, the CFTC made clear that the "reporting party" has the reporting obligation with respect to bilateral swaps that are presented for clearing.[17] In response to a comment regarding whether a DCO should be authorized to be the reporting party when a bilateral swap is cleared, the CFTC's adopting release states that "[t]he

[14] CFTC Rule 45.1 provides that a "life-cycle event" includes by example changes to a swap resulting from an assignment or novation, including novations that occur through clearing. *See* 17 CFR sec. 45.1.

[15] The same principle should apply when a DCO performs portfolio compression and netting exercises. That is, cleared swaps that are the result of portfolio compression and netting exercises undertaken by a DCO should be reported by the DCO into the SDR chosen by the party to the original uncleared swap (and which is now facing the DCO under the cleared swap).

[16] We appreciate that the Commission has issued time-limited no-action letter to address this concern in the interim (expiring on June 30, 2013). *See* CFTC No-Action Letter 12-55 (Dec. 10, 2012). This no-action letter, however, does not eliminate a reporting counterparty's obligation to report required swap continuation data for cleared swaps after the expiry of the relief set out in the no-action letter. The letter merely delays until July 1, 2013 what will become a significant operational problem for reporting counterparties.

[17] *See* 77 FR at 1198, 1237. Part 43 uses and defines the term "reporting party" instead of "reporting counterparty." The definitions of "reporting party" under Part 43 and "reporting counterparty" under Part 45 are nearly identical.

> Commission agrees that the reporting party to an off-facility swap which is cleared should be able to contract with third parties (including DCOs or confirmation/matching service providers) to meet its reporting obligations under [P]art 43 ."[18] The adopting release then goes on to state that "[i]n this circumstance, the Commission notes that the obligation to report remains with the reporting party."[19] While the CFTC's regulations do not require Part 43 swap data and Part 45 swap data to be sent to the same SDR, its regulations do create an incentive to do so. Specifically, the Commission states in its cost-benefit analysis to Part 43, "the Commission has reduced the costs of reporting by coordinating the data fields in Appendix A to part 43 with those data fields that are expected to be required in [P]art 45 . . . [t]his coordination is expected to reduce costs by allowing reporting parties . . . to send one set of data to an SDR for the purpose of satisfying the requirements of both rules."[20] Thus, CME's proposed Rule 1001 would be inconsistent with the CFTC's objective in reducing costs arising out of compliance with the CFTC's Reporting Rules.

The text of the CFTC's regulations expressly prohibits anticompetitive tying arrangements such as CME's proposed Rule 1001. CFTC Rule 49.27(a)(1) provides, in relevant part, that a registered SDR shall provide its services to market participants on a fair, open and equal basis.[21] Further to this mandate, CFTC Rule 49.27(a)(2) prohibits a registered SDR from tying or bundling the offering of mandated regulatory services with other ancillary services that an SDR may provide to its market participants.[22] Although the Commission did not define the term "ancillary services," it made clear that bundling arrangements that tie non-SDR services with SDR services are prohibited.[23] Notwithstanding the plain language of CFTC Rule 49.27(a)(2), CME's proposed Rule 1001 would do just that: unlawfully bundle a non-SDR service (*i.e.*, clearing) with its SDR services.

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[18] *Id.* at 1198.

[19] *Id.* at n.148.

[20] 77 FR at 1237.

[21] *See* 17 CFR sec. 49.27(a); *Swap Data Repositories: Registration Standards, Duties and Core Principles*, 76 FR 54538 (Sept. 1, 2011).

[22] *See id.*

[23] For reasons not stated in the adopting release for Part 49 of the CFTC's regulations, the Commission decided not to address comments raised by the Depository Trust & Clearing Corporation ("DTCC") and MarkitSERV, which expressly spoke to these issues. *See* 76 FR at 54570. Instead, the Commission chose to address these comments in CFTC staff's frequently asked questions document on reporting cleared swaps, which is discussed below.

Anticompetitive tying arrangements such as CME's proposed Rule 1001 violate one of the CFTC's stated objectives in its Part 45 adopting release. Part 45 of the CFTC's regulations generally places reporting obligations on one of the counterparties to a swap transaction and designates that counterparty as the reporting counterparty to the original bilateral swap.[24] As noted above, the right to select and use an SDR is the right of the reporting counterparty in all but one instance. The one instance or exception to this general rule is when: (1) a swap is submitted and accepted for clearing before the applicable reporting deadline; and (2) the reporting counterparty does not submit the PET data report within such deadline. CME's proposed rule would convert the one exception into the general rule. This result is not only unfounded, it is inconsistent with the Commission's stated objectives in its Part 45 adopting release. In particular, the preamble to the CFTC's adopting release for Part 45 notes that "requiring that all cleared swaps be reported only to DCOs registered as SDRs would create a non-level playing field for competition between DCO-SDRs and non-DCO-SDRs."[25] CME's proposed Rule 1001, if approved, would contravene this objective; *i.e.*, it would promote the non-level playing field that the Commission expressly sought to prevent in issuing Part 45.[26]

CFTC commissioners' and CFTC staff's interpretive statements support the rejection of anticompetitive tying arrangements such as CME's proposed Rule 1001. Since the adoption of the CFTC's Reporting Rules several months ago, CFTC commissioners and CFTC staff have provided interpretive guidance upon which market participants have relied in anticipation of the compliance dates for those rules. That interpretive guidance supports the rejection of anticompetitive tying arrangements such as CME's proposed Rule 1001.

1) *CFTC Staff Guidance*. The clearest guidance regarding these arrangements was set forth in CFTC staff's Frequently Asked Questions in the Reporting of Cleared Swaps ("FAQs"), which was published on October 9, 2012.[27] In response to the question of "[m]ay a DCM, SEF or DCO that is also registered as an SDR or legally affiliated with an SDR require counterparties to use their 'captive' SDR for reporting swap

[24] *See* 77 FR at 2198.

[25] 77 FR at 2186 (emphasis added).

[26] As a rebuttal to comment letters submitted in opposition to its proposed rule, CME's amended submission makes reference to DTCC's ownership structure to suggest that reporting to DTCC unfairly advantages other market participants. On September 19, 2012, the Commission provisionally approved DTCC's SDR registration application, which included information regarding DTCC's ownership structure. We think CME's reference in its amended submission to DTCC's ownership structure is irrelevant to the legal analysis of whether the forced reporting of required swap continuation data to CME's captive SDR is consistent with the CEA, CFTC regulations and CFTC commissioner and staff interpretations of Parts 45 and 49 of the CFTC's regulations.

[27] CFTC staff's FAQ can be found at:
http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/clearedswapreporting_faq_final.pdf.

transactions," CFTC staff emphatically said "no." In particular, CFTC staff unambiguously stated:

> As set forth in [CFTC Rule] 49.27(a) of the Commission's Regulations, SDRs are prohibited from tying or bundling the offering of mandated SDR services with other "ancillary" services. In this situation, the DCM, SEF or DCO, as a registered SDR, would be tying/bundling its SDR services with its offering of trading or clearing services. Market participants may choose to use a DCM's, SEF's or DCO's SDR for reporting swap transactions, but a DCM, SEF or DCO as part of its offering of trading or clearing services cannot require that market participants use its affiliated or "captive" SDR for reporting. Such a result would be inconsistent with the intent of Section 21 and [CFTC Rule] 49.27(a) of the Commission's Regulations relating to the reporting of transactions.[28]

Following CFTC's staff publication of its FAQ document, market participants continued to build their reporting infrastructures in reliance on CFTC staff's interpretive guidance. Over a month later, however, CFTC staff withdrew this question notwithstanding the industry's reliance on the CFTC's adopting releases to Parts 45 and 49, as well as CFTC staff's FAQ document on the reporting of cleared swaps. With most of the deadlines for reporting already in effect, JPMorgan and all other market participants would now have to conduct detailed requirements analysis, build, test and implement connectivity to CME's affiliated SDR, and any other DCO that wishes to impose bundled clearing and reporting arrangements, per our obligations as a reporting counterparty under Part 45. This build-out would further increase development costs for reporting counterparties in order to comply with the CFTC's Reporting Rules.

2) *Commissioner-Staff Colloquy at CFTC Open Meeting*. In addition to the publication of CFTC staff's FAQs, Commissioner Bart Chilton and the CFTC's Director for the Division of Clearing and Risk, Ananda Radhakrishnan, engaged in a colloquy during an open meeting to discuss the CFTC's final rulemaking adopting core principles for DCOs.[29] In particular, Mr. Radhakrishnan affirmed to Commissioner Chilton that "a

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[28] *Id.*

[29] CFTC, *Open Meeting to Discuss a Final Rule on Derivatives Clearing Organization General Provisions and Core Principles; a Final Rule on Position Limits for Futures and Swaps; and a Notice of Proposed Amendment to*

registered SDR, consistent with the principles of open access, shall not tie or bundle the offering of mandated regulatory services with other ancillary services that an SDR may provide to market participants."[30]

3) *CFTC Chairman Gary Gensler's Statements to Senate Agriculture Committee Chairwoman Debbie Stabenow*. CFTC Chairman Gary Gensler has made statements under oath to Congress that are consistent with Mr. Radhakrishnan's affirmation and CFTC staff's interpretation regarding the prohibition of anticompetitive tying arrangements such as CME's proposed Rule 1001. On December 1, 2011, Senate Committee on Agriculture, Nutrition and Forestry Chairwoman Debbie Stabenow asked Chairman Gensler to answer a question regarding the CFTC's treatment of clearing and reporting tying arrangements. In a written response dated May 1, 2012, Chairman Gensler stated that "[f]or DCOs that also choose to register and serve as SDRs, the anti-bundling provisions in the SDR final rule will apply." Thus, Chairman Gensler's statements provide further color as to the Commission's intent when it issued Part 49 of the CFTC's regulations.

II. **The Commission should disapprove CME's proposed Rule 1001 and any similar anticompetitive tying arrangement because such arrangements would create significant and costly operational challenges for reporting counterparties and would unnecessarily delay compliance with the CFTC's established reporting timelines.**

CME's proposed Rule 1001 would unnecessarily delay compliance with the CFTC's reporting timelines. The sudden change in the CFTC's position with respect to anticompetitive tying arrangements would unnecessarily delay compliance with the CFTC's reporting timelines. As noted above, JPMorgan and other market participants who fall within the definition of "reporting counterparty" have invested significant sums over a multi-year period in order to build reporting infrastructures, have hired and trained employees and have tested connectivity to other registered SDRs in anticipation of those reporting timelines. Anticompetitive tying arrangements such as CME's proposed Rule 1001 in practice would force a reporting counterparty to report its required swap continuation data for all cleared swaps to a DCO's affiliated and captive SDR notwithstanding the fact that the reporting counterparty may choose to submit PET data to its chosen SDR. These arrangements would require JPMorgan and other market participants to invest significant amounts of additional time and money (on top of what already is in place and

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Effective Date for Swap Regulation (Oct. 18, 2011) (colloquy between CFTC Commissioner Bart Chilton and Mr. Ananda Radhakrishnan).

[30] *Id.*

has been spent) to establish and test connectivity to CME. Indeed, JPMorgan and other market participants would have to spend similar amounts of time and money if any other swap market utility put in place similar tying arrangements.

CME's proposed Rule 1001 does not specify how reporting services will be priced. CME's proposed Rule 1001 is deficient in that it does not provide adequate notice to market participants regarding CME's proposed pricing structure for its reporting services. Specifically, CME's proposed rule states that it will send swap trade data to an additional SDR if instructed by the counterparties to such trade. The proposal is silent, however, as to the costs or process associated with sending such data to an additional SDR. It is expected that reporting counterparties would be responsible for paying the fees associated with the reporting of PET data and required swap continuation data. In effect, CME's proposed Rule 1001 would require reporting counterparties to pay for the reporting of confirmation data as well as required swap continuation data irrespective of the fact that the reporting counterparty already has paid to report PET data to a different SDR. As such, CME's proposed Rule 1001 would inhibit market participants' ability to choose an SDR with pricing that they find economically acceptable. Moreover, CME's proposal to provide duplicate reporting to an SDR at the request of the reporting counterparty would not relieve the reporting counterparty from having to report into CME's SDR and would unnecessarily increase the costs of reporting for reporting counterparties under Part 45. Finally, it is important to note that regardless of the fee schedule that CME sets at the outset, JPMorgan and other market participants would become captive users of CME's SDR. As a result, JPMorgan and others would not be able to move their reporting to another SDR if at some point in the future CME decides to raise their fees to exorbitant amounts.[31]

Anticompetitive tying arrangements such as CME's proposed Rule 1001 would likely increase operational and systemic risks. Anticompetitive tying arrangements would likely increase operational and systemic risks since swap data would be fragmented across multiple SDRs for swaps within the same asset class. Counterparties would have to submit required swap continuation data and reconcile positions across multiple SDRs rather than just one or two SDRs within the same asset class. These arrangements would make it difficult for us to manage our operational risks if we are forced to report and clear at the same swap market utility. In addition, if clearing and reporting are inextricably linked, factors other than risk reduction may drive the decision over which clearinghouse we use.

[31] JPMorgan and other market participants have an economic incentive to reduce the costs associated with compliance with the CFTC Reporting Rules. Contrary to the assertion made by some, we believe that no additional burdens would be placed on reporting counterparties or non-reporting counterparties if the Commission were to reject CME's proposed Rule 1001.

We respectfully disagree with CME's assertion that reporting required swap continuation data to CME's captive SDR is the "easiest, fastest, and cheapest . . . ."[32] Indeed, reporting swap data to CME's affiliated SDR is the "easiest, fastest and cheapest" method of reporting for CME. This method, however, is not the "easiest, fastest and cheapest" for reporting counterparties who would have the obligation to report PET data and required swap continuation data across multiple SDRs for the same asset class.

III. **Conclusion**.

As noted above, JPMorgan is committed to the effective implementation of the CFTC's Reporting Rules and full compliance with the CFTC's interpretive guidance of those rules. However, we are concerned that the CFTC's sudden change of position with respect to anticompetitive tying arrangements would not only prevent JPMorgan and other similarly situated market participants from complying with the timelines set forth in the CFTC's Reporting Rules, it would create new costs and burdens in addition to increasing operational and systemic risks. The CFTC's withdrawal of interpretive statements on the reporting of cleared swaps depreciates the value of the CFTC's future interpretive releases or FAQs regarding reporting and creates unnecessary regulatory uncertainty. Unfortunately, this uncertainty dis-incentivizes market participants from investing in infrastructure to implement financial reforms until all interpretive issues are clarified.

[32] *See* CME's amended submission at 2.

Thank you for your consideration of our concerns. Again, we appreciate the opportunity to comment on this matter. Please feel free to contact the undersigned or Carl E. Kennedy if you have any questions regarding our comments.

Very truly yours,

Alessandro Cocco/CEK

Alessandro Cocco
Managing Director,
Associate General Counsel

cc: Chairman Gary Gensler
Commissioner Jill Sommers
Commissioner Bart Chilton
Commissioner Scott D. O'Malia
Commissioner Mark Wetjen
Dan Berkowitz, General Counsel
Ananda Radhakrishnan, Director of the Division of Clearing and Risk
Richard Shilts, Acting Director of the Division of Market Oversight