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VIA ELECTRONIC SUBMISSION

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Notice of Proposed Rulemaking, *Swap Data Recordkeeping and Reporting Requirements* (RIN 3038-AE31)

Dear Mr. Kirkpatrick:

I. INTRODUCTION

On behalf of The Commercial Energy Working Group (the "**Working Group**"), Eversheds Sutherland (US) LLP submits this letter in response to the request for public comment on the Commodity Futures Trading Commission's (the "**CFTC**" or "**Commission**") Notice of Proposed Rulemaking, *Swap Data Recordkeeping and Reporting Requirements* (the "**Proposed Rule**").[1] The Working Group appreciates the opportunity to provide comments on the Proposed Rule and looks forward to working with the Commission while it continues the process of improving and simplifying its swap reporting rules.

The Working Group supports the majority of the changes included in the Proposed Rule. Collectively, those changes will simplify, streamline, and improve the reporting process for swap markets generally as well for non-financial end-users. However, there are a few provisions of the Proposed Rule that should be amended to avoid unintended adverse consequences for commercial energy firms.

The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial, and residential consumers. Members of the Working Group are producers, processors, merchandisers, and owners of energy commodities. Among the members of the Working Group are some of the largest users of energy derivatives in the United States and globally. The Working Group advocates regarding regulatory, legislative, and market developments with respect to the trading of

[1] *See* Notice of Proposed Rulemaking, *Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 21,578 (Apr. 17, 2020), https://www.cftc.gov/sites/default/files/2020/04/2020-04407a.pdf.

energy commodities, including derivatives and other contracts that reference energy commodities.

II. COMMENTS OF THE WORKING GROUP

1. The Working Group Strongly Supports a Number of the Simplifications and Improvements Included in the Proposed Rule

A number of the proposed changes to the CFTC's reporting requirements would simplify the CFTC's swap data reporting paradigm and lower the reporting-related compliance burden for commercial end-users in several ways.

First, the streamlining and extension of the creation data submission deadline for swaps with a reporting counterparty that is not a swap dealer ("**SD**"), major swap participant ("**MSP**"), or derivatives clearing organization to the second business day following the execution date[2] strikes an appropriate balance between providing end-users enough time to report accurately while incurring a limited compliance burden and the Commission receiving swap data in a timely manner.

Second, the current quarterly valuation reporting obligation for uncleared swaps with a non-SD/MSP reporting counterparty[3] can impose a material compliance burden on a reporting counterparty, especially when the swap at issue is a bespoke instrument like a virtual power purchase agreement. When comparing that burden to the very limited regulatory value that the Commission receives from that valuation data, the CFTC's proposal to remove this reporting obligation reflects a proper weighting of the costs and benefits underlying that obligation.

Third, as noted in the Working Group's prior comments,[4] the requirement for reporting counterparties to report both primary economic terms data and confirmation data with respect to a transaction is unnecessarily duplicative and costly. Therefore, the Working Group strongly supports the CFTC's proposal to remove the confirmation data reporting requirement from Part 45.[5]

Fourth, the Working Group supports the Commission's changes in the Proposed Rule that would make the data elements required to be reported and publicly disseminated under Part 43 of the CFTC Regulations a "harmonized subset of the swap data elements in [A]ppendix 1 to [P]art 45."[6] As noted in the Working Group 2017 Comments, the data

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2 Proposed CFTC Regulation 45.3(b)(2).

3 CFTC Regulation 45.4(d)(2).

4 *See* Working Group Comment Letter to the CFTC Re Request for Comment, *Review of Swap Data Recordkeeping and Reporting Requirements* (May 27, 2014), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=59890&SearchText=; Working Group Comment Letter to the CFTC Re CFTC Letter 17-33, *Division of Market Oversight Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations* (Aug. 21, 2017) (the "**Working Group 2017 Comments**"), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=61281&SearchText=.

5 *See* Proposed Rule at 21,584.

6 *See* Proposed Rule at 21,610.

elements reportable under Parts 45 and 43 should be harmonized to simplify, streamline, and improve swap data reporting.

Fifth, the Commission's proposed removal of the option for reporting counterparties to report state data to satisfy their continuation data reporting obligations[7] is another change that will improve the effectiveness and efficiency of the CFTC's Part 45 reporting regime. While this change would not have a specific impact on commercial end-users, the Working Group, as discussed further below, believes that improvements in the accuracy and ease of use of the data the Commission receives under Part 45 will cause Part 20 large trader reporting to be redundant and unnecessary.

2. The Commission Should Refine the Approach to the Calculation of Notional Amounts of Commodity Swaps for Its Own Regulatory Purposes

As a conceptual matter, the Working Group is supportive of the Commission and foreign regulators adopting a global baseline set of uniform data fields and standards with respect to derivatives reporting. Therefore, the Working Group is generally in favor of the Commission establishing "technical standards for certain swap data elements according to the CDE Technical Guidance, where possible,"[8] but also requiring "additional CFTC specific data elements that support the Commission's regulatory responsibilities."[9]

However, the Working Group is concerned that a few of the CDE Technical Guidance data elements do not properly measure what they are intended to capture. To address this issue, the Working Group recommends that the CFTC create its own specific data elements for its own regulatory purposes. In particular, the CDE Technical Guidance's data element "notional amount" and a number of related data elements, when applied to commodity derivatives, do not reflect market reality and the Commission should adopt a "regulatory notional amount" data element that does.

Specifically, the data element "notional amount" as applied to commodity derivatives in the Commission's Draft Technical Specification Document (the "**Draft Technical Specifications**")[10] (which is the same as the "notional amount" element in the CDE Technical Guidance) is incongruous with how the commodity markets operate and consider risk. Commodity derivative market participants typically do not measure their derivatives activity in terms of notional amounts denominated in an amount of a particular currency. Notional amount, if measured at all, is thought of in terms of the measure of the underlying volume of the relevant commodity (*e.g.*, barrels for crude oil). This ensures a consistent metric to measure activity. Said another way, it can be more relevant to analyze trading activity in terms of volume than in terms of the dollar value of that volume. For example, a crude oil producer that hedges an annual volume of 1 million barrels would not view its level of trading as doubled if the price of crude oil doubled over a year.

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7 Proposed Rule at 21,616.

8 Proposed Rule at 21,610.

9 Proposed Rule at 21,610.

10 *See* CFTC Technical Specification Document (Feb. 20, 2020), https://www.cftc.gov/media/3496/DMO_Part43_45TechnicalSpecification022020/download.

Even though notional amount is far from a perfect metric for commodity derivatives markets, the Working Group understands the desire of regulators to use it as a means to make comparisons across derivatives markets and the need for the CFTC to measure notional amounts for its own regulatory purposes. In measuring notional amounts for its own regulatory purposes, the Commission should use a metric that does so accurately, and the approach under the CDE Technical Guidance does not do so with respect to commodity derivatives.

At a high-level, the data element of notional amount for commodity derivatives in both the CDE Technical Guidance and the CFTC's Draft Technical Specifications is defined as the relevant price multiplied by the "total notional quantity."[11] The Working Group understands that the "total notional quantity" of a commodity derivative is the sum of the notional volumes "delivered" under the derivative.[12] This is different than the total notional quantity of an interest rate swap, which is just the stated notional amount.

This difference is best illustrated by example. The total notional quantity of a ten-year $50 million interest rate swap is $50 million, and the total notional quantity for a thirty-year $50 million interest rate swap is also $50 million. However, the total notional quantity of a one-year swap based on 10,000 barrels of crude oil is 10,000 barrels, while the total notional quantity of a 30-year crude oil swap based on 10,000 barrels a year is 300,000. The periodic settlement payments for the interest rate swap and the crude oil swap are based on the stated notional quantity (*i.e.,* $50 million and 10,000 barrels), but for interest rate swaps, the term of the swap does not impact the total notional quantity, while the term of the swap significantly impacts total notional quantity for the crude oil swap.

To properly reflect notional amounts for CFTC regulatory purposes across asset classes, the Working Group suggests that the total notional quantity of a commodity derivative should be the total notional quantity of the relevant commodity delivered over a one-month period, regardless of the settlement frequency. So a natural gas swap with an annual settlement period and notional volume of 120,000 MMBTU would have a total notional quantity of 10,000 MMBTU, while a natural gas swap with a daily settlement period and a notional volume of 1,000 MMBTU would have a total notional quantity of 30,000 MMBTU. In the alternative, the Commission could also calculate notional amount using price multiplied by notional quantity. Notional quantity is defined in the CFTC's Draft Technical Specifications as essentially the quantity of a commodity per scheduled settlement period (*e.g.,* 1,000 MMBTU for the daily gas swap noted in the prior sentence).[13]

In addition to an inaccurate representation of quantity, the CDE Technical Guidance's definition of "price" for purposes of the notional amount of commodity derivatives is incorrect, and the Commission should amend how price is viewed when determining notional amounts of commodity options and float-for-float commodity swaps for its own regulatory purposes.

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11 *See* Draft Technical Specifications at 36.

12 *See* Draft Technical Specifications at 12.

13 *See* Draft Technical Specifications at 11.

First, with respect to options, the CDE Technical Guidance, and, consequently, the CFTC's Draft Technical Specifications, define price for the notional amount of a commodity option as the strike price. Using the strike price leads to an inaccurate notional amount for options. As options, prior to exercise, do not represent firm commitments to "make or take delivery," they should not be treated as having a notional amount equal to that of transactions without contingent obligations. The notional value of options should be adjusted in some manner to reflect the likelihood that they will be exercised. That can be accomplished by delta adjusting the options, which can be a complex process. A simpler approach that still reflects an approximate likelihood that an option will be exercised is to calculate the notional amount of an option by multiplying the total notional quantity of the option by the option premium.

Not accounting for the likelihood that an option will be struck can result in incongruous outcomes. Take, for example, the owner of a power plant who hedges the price of electricity by buying a put option with a strike price of $15 when the day-ahead price of power is $17.00 and who mitigates the cost of the put option by selling a far out-of-the-money call option at a strike price of $45. If the total notional quantity of the option is 10 MW, then the notional amount of the option most likely to be exercised, the put option, would be $150 while the notional amount of the far out-of-the-money call option would be $450, or three times greater than the put option.

To avoid this type of outcome, the Working Group suggests that the CFTC approach calculating notional amount for options for its own regulatory purposes using either of the following approaches, both of which, to some degree, account for the probability of an option being struck:

Suggested Method 1: Premium multiplied by the relevant quantity.

Suggested Method 2: Option delta multiplied by the price of the underlying commodity multiplied by the relevant quantity.

With respect to the option delta in the Suggested Method 2 above, market participants should be able to use: (i) deltas published by exchanges, when available; or (ii) their own deltas calculated using reasonable assumptions, when no exchange delta is available. This approach is consistent with the approach to the treatment of options under MiFID II's position limits regime.[14]

Second, the CDE Technical Guidance and Draft Technical Specifications' approach to the price of float-for-float commodity swaps does not reflect the manner in which the market prices those transactions. Specifically, under both sets of guidance, the notional amount of a float-for-float commodity swap or basis swap is calculated using "the last available spot price at the time of the transaction of the underlying asset of the leg with no spread and the total notional quantity of the leg with no spread." As the Commission knows, for commodity derivatives market participants, the price of float-for-float swaps is the difference between the two prices (the data element "spread") and not the price of one of the legs. This approach to price reflects how market participants view commodity price

[14] *See* Questions and Answers on MiFID II and MiFIR Commodity Derivatives Topics at 19 (Mar. 27, 2019), https://www.esma.europa.eu/sites/default/files/library/esma70-872942901-36_qas_commodity_derivatives.pdf.

risk exposure and, in fact, the CDE Technical Guidance and Draft Technical Specifications acknowledge this.[15]

As an example, a shipper on a natural gas pipeline that sells its gas at index is exposed to the difference between the price of natural gas at the injection location and the delivery location – not changes in the absolute price of natural gas. Or, a crude oil refiner that purchases crude oil at a floating price and sells gasoline at a floating price is exposed to changes in the difference between the prices of crude oil and gasoline – not changes in the absolute price of either commodity. To properly reflect this market view and the related risk, the Working Group suggests that, for its own regulatory purposes, the CFTC calculate the notional amount of float-for-float swaps as the "spread" multiplied by the relevant quantity.

3. If the Commission Does Not Refine Its Approach to the Calculation of Notional Amounts of Commodity Swaps, There Will Be Material Consequences for Energy Swap Markets

If the Commission does not adopt a version of the data element "notional amount" for its own purposes in line with the suggestions above, there will likely be significant adverse consequences for energy swap markets. Specifically, while there is some variation among market participants on the approach to the calculation of notional amount (*e.g.*, certain market participants delta adjust their options while others use the premium-based method noted above), the suggested approaches from the Working Group represent the general consensus of energy market participants as to how notional amount should be calculated for commodity derivatives.[16] The Working Group's suggested approaches were developed in response to the CFTC's directive to use "industry standard practices" to calculate notional amount[17] and the limited guidance provided in the Swap Entity FAQ.[18]

As industry market participants have structured their businesses based on variations of the suggested approaches above, if the CFTC's guidance on the calculation of notional amount for physical commodity swaps were to deviate significantly from them, it would have the same effect as significantly lowering the SD *de minimis* threshold, which former Chairman Giancarlo noted would likely result in unregistered market participants lowering

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15 *See* Draft Technical Specifications at 19.

16 *See*, *e.g.*, Working Group Comment Submission to CPMI IOSCO on the Consultative Report, *Harmonisation of Critical OTC Derivatives Data Elements (Other Than UTI and UPI) – Third Batch* (Sept. 2017); Coalition Comment Letter to the CFTC, *"Notional Amount" Calculation Methodology Under Swap Dealer De Minimis Determination (RIN 3235-AK65) and Other CFTC Swap Regulations* (Sept. 20, 2012); Futures Industry Association Principal Traders Group Comment Letter to the CFTC, *Request for Confirmation on Notional Amount Calculation Methodology for Swaptions* (Dec. 20, 2012).

17 *See* Joint Final Rule, Joint Interim Final Rule, and Interpretations, *Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant," and "Eligible Contract Participant,"* 77 Fed. Reg. 30,596, 30,670 at n.902 (May 23, 2012), http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-10562a.pdf.

18 *See* Frequently Asked Questions (FAQ) - Division of Swap Dealer and Intermediary Oversight Responds to FAQs About Swap Entities ("**Swap Entity FAQ**") https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/swapentities_faq_final.pdf.

their swaps activity to accommodate the lower threshold rather than registering as an SD.[19] In short, if the Commission intends to measure entities' compliance with the SD *de minimis* threshold using its proposed "notional amount" data element, *de minimis* SDs will likely cut their swap dealing activity significantly to remain below the *de minimis* threshold. As noted in prior comments, that would have meaningful adverse consequences for the energy swap markets.[20] To avoid such an outcome, if the Commission intends to use a particular data element to monitor *de minimis* swap dealing, it should do so using a new "regulatory notional amount" data element that resembles the Working Group's proposed approach set out above.

4. The Commission Should Not Require Counterparties to Report Whether a Transaction Constitutes Swap Dealing Activity

In Question 36 in the Proposed Rule, the Commission states that it "is considering requiring reporting counterparties to indicate whether a specific swap: (1) Was entered into for dealing purposes (as opposed to hedging, investing, or proprietary trading); and/or (2) need not be considered in determining whether a person is a swap dealer or need not be counted towards a person's de minimis threshold…pursuant to one of the exclusions or exceptions in the swap dealer definition."[21] The Commission should not require market participants to report whether a transaction constitutes swap dealing activity. The determination of whether a transaction is swap dealing activity can be a heavily facts-and-circumstances-based determination. Because of this, many energy swap market participants measure their status with respect to the SD *de minimis* threshold not by identifying their specific swap dealing transactions, but by comparing the amount of their swap activity that cannot be easily categorized as a hedge or a speculative transaction to the *de minimis* threshold.

This is a conservative and over inclusive measure that serves as an early warning system with respect to the SD *de minimis* threshold and that allows these market participants to avoid having to invest material time and resources in making determinations as to whether particular transactions are swap dealing activity at the time of their execution. To require market participants to report whether a swap is swap dealing activity would require many market participants to engage in careful, time consuming, and potentially expensive analysis of the character of swaps prior to their reporting. To the extent the Commission would like to use reporting data to monitor compliance with the SD *de minimis* threshold, it should use a combination of the "regulatory notional amount" data element discussed above and its special call power to do so.

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[19] *See* House Committee on Agriculture, Hearing Examining the Upcoming Agenda for the CFTC at 54:00 (July 25, 2018), https://www.youtube.com/watch?v=indHENC2_2U&feature=youtu.be (Chairman Giancarlo responding to a question from Representative Ann Kuster).

[20] *See* Working Group Comment Letter to the CFTC Re Notice of Proposed Rulemaking, *De Minimis Exception to the Swap Dealer Definition* (Aug. 13, 2018), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=61791&SearchText=.

[21] Proposed Rule at 21,614.

5. The Commission Should Carefully Consider the Burden Certain New Proposed Reporting Requirements Might Have on Smaller Swap Dealers

As part of the Proposed Rule, the Commission has proposed new reporting obligations that could impose material compliance costs on smaller SDs. The Working Group is concerned that when combined with other granular potential new reporting obligations, such as the verification obligations discussed below in Section 8 and the reporting requirements included in the Commission's proposed capital requirements,[22] the business models of smaller non-bank SDs may become less viable.

Specifically, the Proposed Rule's collateral-related reporting paradigm[23] is duplicative of what the Commission proposed in its Proposed Capital Rule.[24] In the Proposed Capital Rule, the Commission proposed a weekly position and margin reporting obligation, which would require that SDs report margin information showing: (i) the total initial margin posted by the SD with each counterparty; (ii) the total initial margin collected by the SD from each counterparty; and (iii) the net variation margin paid or collected over the previous week with each counterparty.[25] The reporting framework under the Proposed Capital Rule would supply the Commission with much of the information it would garner under its collateral reporting paradigm set out in the Proposed Rule. Further, as the paradigm in the Proposed Capital Rule would require reporting on a portfolio level rather than a transaction level, it would strike the proper balance of limiting unnecessary burdens on SDs while providing the Commission with pertinent information.

In addition, in the Proposed Rule, the Commission asks whether the identity of a counterparty's ultimate parent should be required to be reported on a transaction-level basis.[26] This would be both unnecessary and burdensome for SDs and reporting counterparties. This type of counterparty identifying information is collected through the LEI process. In fact, the underlying purpose of the LEI construct was to provide regulators with this type of information.[27] As such, if the Commission is concerned that it does not

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22 *See* Proposed Rule, *Certain Swap Data Repository and Data Reporting Requirements*, 84 Fed. Reg. 21,044 (May 13, 2019) (the "**2019 Reporting Proposal**"), https://www.cftc.gov/sites/default/files/2019/05/2019-08788a.pdf; Working Group Comment Letter to the CFTC Re Proposed Rule, *Certain Swap Data Repository and Data Reporting Requirements* (Oct. 14, 2019) (the "**Working Group October 2019 Comments**"), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62215&SearchText=.

23 *See* Proposed CFTC Regulation 45.4.

24 *See* Notice of Proposed Rulemaking, *Capital Requirements of Swap Dealers and Major Swap Participants*, 81 Fed. Reg. 91,252 (Dec. 16, 2016) (the "**Proposed Capital Rule**"), https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2016-29368a.pdf.

25 Proposed Capital Rule at 91,280.

26 Proposed Rule at 21,611.

27 *See* Final Rule, *Swap Data Recordkeeping and Reporting Requirements*, 77 Fed. Reg. 2,136, 2,165 (Jan. 13, 2012), https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2011-33199a.pdf (discussing the obligation of reporting level two reference data, consisting of the identity of the counterparty's ultimate parent).

have access to quality identifying information, then appropriate changes should be made to the LEI system.

6. The Commission Should Examine Whether Its Part 20 Large Trader Regime Is Necessary

In the Proposed Rule, the Commission ask whether the CFTC should review Part 20 (Large Trader Reporting for Physical Commodity Swaps) to determine whether it would be appropriate to sunset Part 20 reporting according to CFTC Regulation 20.9.[28] The Working Group recommends that once improvements set out in the Proposed Rule are implemented, the Commission should examine its Part 20 large trader reporting program with an eye towards ending it as superfluous given the higher data quality that should result from such improvements. Further, the Commission should commit to review its Part 20 large trader reporting program in any final rule that emerges from the Proposed Rule.

7. The Commission Should Impose Additional Reporting Responsibilities on Financial End-Users – Not Financial Entities

The Proposed Rule would impose additional reporting-related burdens on financial entities. Specifically, the Proposed Rule would (i) require financial entity reporting counterparties to generate UTIs for off-facility swaps[29] and (ii) require financial entities to obtain LEIs for certain swap counterparties. The Working Group does not necessarily object to true financial entities (*e.g.,* non-SD banks) carrying additional reporting burdens as they tend to be better situated to do so than their non-financial counterparties. However, the definition of "financial entity" is over-inclusive in two ways that impact commercial energy firms.

First, the last prong of the definition of "financial entity" includes "…a person predominantly engaged in activities that are in the business of banking, or in activities that are financial in nature, as defined in [S]ection 4(k) of the Bank Holding Company Act of 1956."[30] Therefore, whether something is financial in nature is based on Section 4(k) of the Bank Holding Company Act of 1956 ("**BHC Act**") and its accompanying regulations, specifically Regulation Y. Certain provisions of the BHC Act and Regulation Y were drafted so as to allow banks to engage in some activities that are generally not viewed as financial in nature, but nonetheless call those activities "financial" to allow banks to engage in them. Included in the list of "financial" "non-financial" activities is the trading of certain physical commodities where the entity in question takes flash title of the commodity.

Certain commercial energy firms will rely on one marketing entity to sell the physical production of its affiliates. For example, a power generator might use one legal entity to market or sell the production of a number of affiliated generation facilities and the marketing entity takes flash title when standing in between its affiliates and the purchasers of the power. To the extent that the marketing entity does not have physical assets on its balance sheet other than the power it markets and does not have other sources of revenue, it is at risk of being a financial entity.

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28 Proposed Rule at 21,614.

29 Proposed Rule at 21,592.

30 Commodity Exchange Act ("**CEA**") Section 2(h)(7)(C)(i)(VIII).

Second, CEA Section 2(h)(7)(D) is overly limiting in the relief from the definition of "financial entity" it provides to so-called central treasury units ("**CTU**"). One of the things that prevents a CTU from qualifying for the definitional relief in CEA Section 2(h)(7)(D) is if a CTU enters into any swap for purposes other than hedging.[31] The limitation can cause CTUs of commercial energy firms that engage in price discovery swaps to be financial entities.

In sum, the over-inclusive nature of the "financial entity" definition causes a number of types of entities to be captured by the definition that do not inherently have the additional reporting-related resources that the Commission points to when stating that financial entities should be able to handle the additional reporting requirements set out in the Proposed Rule.[32] Therefore, the Commission should rely on the definition of "financial end-user" from Part 23 of the CFTC Regulations. That definition likely captures the universe of entities the CFTC believes can undertake the proposed additional reporting obligations, but it does not suffer from the same over-inclusiveness as the "financial entity" definition.

8. The Working Group's Concerns with the CFTC's Proposed Verification Process Remain

As set forth in the Working Group October 2019 Comments,[33] the Working Group has significant concerns with the swap data repository ("**SDR**") verification process as proposed in the 2019 Reporting Proposal, including the timelines connected to the 2019 Reporting Proposal.[34] While the Working Group agrees with the rationale underlying that verification process – limiting the number of data reporting errors – it does not believe the proposed process would adequately address the problem.

However, as set out in the Working Group October 2019 Comments, one potential method to reduce the incidence of data reporting errors would be to establish a clear and uniform set of data standards across SDRs. The Proposed Rule would do so,[35] and therefore, the Working Group supports that effort. Nevertheless, the Working Group's concerns with the verification process set out in the 2019 Reporting Proposal remain and should be considered as the Commission moves forward with the overhaul of its swaps reporting regime.

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31 CEA Section 2(h)(7)(D)(iv).

32 Proposed Rule at 21,599 (noting that the CFTC preliminarily believes financial entity reporting counterparties already have obtained, through anti-money laundering compliance processes, the information necessary to be issued an LEI for the non-reporting counterparty).

33 Working Group Comment Letter to the CFTC Re Proposed Rule, *Certain Swap Data Repository and Data Reporting Requirements* (Oct. 14, 2019), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62215&SearchText=.

34 *See* Proposed Rule, *Certain Swap Data Repository and Data Reporting Requirements*, 84 Fed. Reg. 21,044 (May 13, 2019), https://www.cftc.gov/sites/default/files/2019/05/2019-08788a.pdf.

35 *See* Proposed Part 45, Appendix 1 (Swap Data Elements); *see also* Draft Technical Specifications.

III. CONCLUSION

The Working Group appreciates this opportunity to comment on the Proposed Rule and respectfully requests that the Commission consider the Working Group's comments when finalizing the Proposed Rule.

If you have any questions, please contact the undersigned.

Respectfully submitted,
/s/ Alexander S. Holtan
Alexander S. Holtan

Counsel to The Commercial Energy Working Group