their original intention. However, it is important to realize that commodities trading does not pose financial risk. Commodities traders use derivatives for hedging purposes and not out of financial interest.
Switzerland's new Financial Market Infrastructure Act (FMIA) is aimed at implementing in Switzerland the regulation of derivatives trading agreed at the G-20 summit in Pittsburgh in 2009. It regulates exchanges, clearing houses and financial infrastructure. It constitutes a new set of rules to align Swiss rules with Dodd-Frank and EMIR in regard to the full range of derivatives trading. The Swiss took a wait-and-see approach in creating their own regulations. They sought to avoid adding an additional layer of complexity and took a pragmatic approach, taking the most effective components of the US and EU approaches.

The final, impressively attended, panel of the 35th Bürgenstock Meeting was entitled "Price Discovery - The Fragile Link between the Physical Market & Futures". Before OPEC took control of their own resources, major oil companies moved oil through their internal supply chains at opaque prices. In response to the breakdown of these supply chains, the industry developed derivatives, futures markets and price reporting agencies. This seemingly efficient system of price discovery mechanisms has been called into question since the price spike ranging to USD 150 in 2008, ushering in a period of unprecedented regulation.

Moderator **John Brunton**, Program Director at Global Energy, spoke of two transition periods in the history of the oil market. In the first, a few integrated players managed the entire oil production chain, keeping the price of oil at 2-20 dollars per barrel. When OPEC nations took control of their oil, the situation changed and led to the second transition period of higher prices and greater risk. In reaction, price reporting agencies grew increasing sophisticated. High prices lead markets to find other sources of supply. This was the case after the price spikes of the early 1980s. Prices overshot the market, leading to a correction. The more recent renewed rise in the oil prices coincided with a surge in other commodities in a commercial super cycle. Now that the price has back off record highs, some fear it may have peaked. Mr. Brunton, however, indicated that he is more bullish when it comes to oil futures.

**Norman Hay**, Recent-Chairman of the Board (summer 2014) of Cargill International SA in Geneva, spoke of the development of today's derivatives industry. Starting in Chicago in the 1880s-90s, it was originally a cash business. The word 'derivatives' means 'derived from cash'. Today it has become a top-heavy edifice, a 975 trillion dollar market of sell-side derivatives. This is an incomprehensible figure, which only serves to underline the importance of physical price discovery. It is the underlying instrument upon which the entire business is based. Inefficient physical price discovery can and has led to serious market disruption. Mr. Hay believes that the public has little idea about where prices for the basic goods they consume come from. The industry has a vast education job to do. Commodities trading delivers real goods and services to people and plays an essential societal role. It is impossible to get rid of risk. Someone has to hold that risk somewhere. To best prepare for it, the market demands a solid foundation of price discovery, and society does too.

**Peter Caddy**, Director, Head of Business Development at Argus, made a distinction between what he sees are two major issues confronting the industry today: price discovery and price identification. Price discovery occurs between the buyer and the seller. It may or may not occur on an electric platform. For a commodity it takes place under a specific contract. Price identification, on the other hand, occurs through a reporting operation which identifies prices. Such agencies need a methodology to ensure consistent results.
There is a misconception that arises around price identification. The price they state is not the end price for the commodity; it is the price the agency comes up with through its methodology. Published prices under different methodologies will be different and are inherently just a momentary snapshot. Another common misconception is that the price of a futures contract is the price of the commodity itself.
In regard to regulation, Mr. Caddy is concerned about its impact on benchmarking and price discovery. Bad regulation is a considerable threat. He'd like to see a return to principles-based and not rule-based policy.

From the viewpoint of a physical trader, **Julie Lerner**, Founder & CEO of PanXchange, e-trading has not been effective in terms of price discovery and price identification so far. Many were burned when the Internet bubble burst. Many companies think they offer e-trading, but if you have desks full of brokers, then your process is not STP. The approach his company is taking resembles a bulletin board where offers and bids are posted, take it or leave it, enabling even complex trades to be made efficiently.
It is a misconception to think that transparency kills margins. Everything is totally transparent through technology today. The essential skill now is assessment. The key to a successful e-platform is to avoid emulating the offline world and to strategically go where it cannot.

SFOA's new Chairman, **Dan Day-Robinson** was joined by FIA President & CEO **Walt Lukken** at the podium. They thanked the panelists, moderators, speakers, organizers and sponsors for a successful 35th Bürgenstock Meeting. They also pointed out the obvious, that the no conference would be possible with the conference participants. As the Bürgenstock Meeting continues to reinvent itself, to evolve and remain relevant to the cutting edge issues of the industry, it will remain a vital conference for many years to come.

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## THURSDAY 25 SEPTEMBER 2014

The newly named SFOA Chairman, **Dan Day-Robinson**, opened the Thursday session of the 35th Bürgenstock Meeting. He launched what would prove to be the theme of the day, commodities, by pointing out that SFOA was originally the Swiss Commodities and Futures Association. Commodities trading has a long tradition in this country and particularly Geneva remains an important hub. Thirty percent of oil is traded there, and despite the unfounded rumors of an industry flight to Singapore, the commodities industry remains alive and thriving in Geneva.
Chairman Day-Robinson also hinted at major changes to come at SFOA regarding commodities and derivatives. SFOA is in its second year of close cooperation with the FIA and FIA Europe. He thanked them for injecting new excitement into the Bürgenstock Meeting.
He then introduced the keynote speaker, **Norman Hay**, Former Chairman of Cargill International.
Norman Hay came well prepared with an impressive visual presentation reflecting the vast industry knowledge he has accumulated in the course of a 38-year career at Cargill. He counseled, with tongue in cheek, that prediction is especially difficult about the future, and then on a more serious note, that it is important when looking at statistics to bear in mind that correlation does not imply causation. He listed the price drivers of the last 50 years, which include population growth, the decoupling of gold and paper currency, the deregulation of markets, freer movement of capital, currency debasement, interest rate manipulation and then finally GDP growth.
Mr. Hay made an interesting comparison of our socio-economic situation today with that of the 13 & 14th centuries which according to author Barbara Tuchmann hold up a 'distant mirror' to some of the issues we face today. Among her prescient quotes are: "When the gap between ideal and real becomes too wide, the system breaks down," and "For belligerent purposes, the 14th century, like the 20th, commanded a technology more sophisticated than the mental and moral capacity that guided its use."
In more recent times, the decoupling of gold and paper currency was the most momentous occurrence in the past 50 years. There has generally been a loss of transparency in the currency markets, leaving them at the whim of our governments. Not that this is anything new. Currency debasement, a tool of great power, has been going on for millennia. Governments and central banks also manipulate interest rates to influence the trajectory of currencies.
Mr. Hay went on to illustrate his point by tracking the development of crude oil prices over three periods extending back to the early 1960s. In the first period, the oil market was flat, subdued and well-controlled by a handful of big players who owned the entirely supply chain. When OPEC seized control of the oil lying beneath its members' land in the 1970s, this previously staid market erupted and oil prices spiked, peaking in 1980-83. As the economy adjusted to the new circumstances and other sources of supply came online, the price eased some, only to spike again to over 100 dollars a barrel in 2011. Crude oil prices have remained high since then.
Another interesting point made by Mr. Hay was the vast impact and importance of China as a global economic player. It consumes 53.5 of all cement, 47.7% of the world's iron ore, 46.6% of its coal and 45.4% of all steel. And though its population growth spiked a few years ago, its impressive GDP has remained robust.
He went on to trace the trail of trading outcomes in general terms. Big bull markets arise from low prices. This leads to rapid commercial infrastructure investment. Traders and trading companies expand hugely. A disaggregated supply chain means that no one company dominates a complete chain. This ushers in a period of irrational exuberance, which is inevitably followed by a price collapse as mistakes are made, which is then followed by a period of flat markets, low volatility, low liquidity and tough times. Large companies use the opportunity to dominate the supply chain, which ultimately lowers prices and the whole cycle begins again. Mr. Hay hammered his point home by tracking the percentage of silver in a Roman denarius in relation to the price of wheat in Egypt.
Despite his early caveat about predicting the future, he went on to do so: population growth will continue, as will the decoupling of gold and paper. Currencies will be further debased, always have, always will. Governments and central banks will continue to manipulate interest rates, tough trending down from their current near-zero or even below zero rates might seem improbable. He is confident about future GDP growth. China will continue to grow, but not at its current rate. The wild cards the global economy faces today are geopolitical ones: failed states, Middle Eastern disintegration, Ukraine... all could be factors that change the picture.

Thursday's first panel discussion on "Benchmarks" was moderated by **Emma Davey**, Director, Membership & Corporate Affairs at FIA Europe. Concern over the methods used to set prices across financial and commodities markets, in particular, scandals such as that involving the LIBOR benchmark, has led to increased scrutiny by regulators and market participants alike.

**Matt Chamberlain**, Head of Business Development for the London Metal Exchange, painted a picture of London as a world center for industrial metals trading. It is a market in transition, with benchmarks wrestling with an exchange price discovery model. There is a clear element of game theory around price discovery, many want to use it, but not many want to contribute to it. There is a moral hazard when few people contribute and take the risk, while the rest freeload. In reaction to flagging faith in benchmarks, Mr. Chamberlain sees a huge migration from quote-based to transaction-based pricing.

**Dave Ernsberger** is the Global Editorial Director, Oil at Platts, which is a press-reporting organization representing a flagship benchmark for oil prices. In regard to whether the market has responded to the crisis appropriately, he pointed out the new obligations that come with operating in a competitive market space and the increased need for editorial judgment today. The critical lesson is that there is no single solution for the benchmark issue. Organizations must continually challenge the data and information received, and exercise self-regulation since price reporting agencies are not yet regulated. More data is not necessarily the answer; it is more a question of the quality of data.

Panelist **Patrick Fay**, Director, Listed Derivatives - Russell Indexes, at Russell Investments, which licenses products to non-exchange platforms, spoke of the recent challenges faced by both ICE and CME as they attempted to address the benchmark issue. They tried to poll 8-12 buy-side participants, but had trouble getting responses, and ended up chasing down participants for cooperation. Eventually, they had to move to an algorithm process. In the discussion regarding benchmark ownership, Mr. Fay mentioned that the value of any particular benchmark may increase if scarcity is created, such as through exclusive licenses. One person's commercial reasonableness is another person's exorbitant rate.

**Stephen Obie**, Partner at Jones Day, was actively involved in the LIBOR case and evaluation of benchmark regulation. The national gas industry is where questions over benchmarks began. It was the first time regulators got involved and looked into how industries were calculated and could be manipulated. The CTFC launched an enormous investigation and had a major learning curve to master regarding trading in the face of the collapse of Enron. Their greatest challenge proved to be access to data. They ultimately decided to sue publications for information, as the scandal broke regarding the over-reporting of newspaper circulation. Other areas of unregulated price supports and trading set the scene leading to the LIBOR scandal. According to Mr. Obie, today, the CTFC seems to have global jurisdiction in mind. Among the primarily issues confronting the industry moving forward is who owns the data and how will it be monetized.

**Gregory Mocek**, Partner at Cadwalader Wickersham & Taft, is involved in regulatory work in the field of commodities. When asked whether he thought that regulatory authorizes are in a better position today to spot irregularities, Mr. Mocek explained that when the government first discovered there was an issue at Enron there was a massive dumping of data, leaving the CTFC to dig through what data remained. When commodity prices are low, no one really cares, but there is a lot more interest when they are high. People have now become a lot more concerned about the physical part in commodities trading and that it is not regulated. Mr. Mocek is not sure, however, that governments should be involved in the regulation of such important markets. They tend to take a heavy handed approach and it is essential to realize that one shoe size does not fit every market. Such government intervention and increased scrutiny has led to a pullback in the publishing of prices as companies are loath to stick out their necks.

**William Knottenbett**, Senior Marketing Director, Europe, Middle East and Africa (EMEA) for CME Group, has vast experience when it comes to benchmarks. He too has witnessed a pullback regarding the publishing of prices. In the silver market, for example, participation has become insufficient to support proper price discovery. He pointed to the bilateral risk associated with being part of setting a price as a cause of this lack of participation. The market is moving towards a cleared solution, which hopefully will encourage more people to get involved.

The second panel discussion on Thursday morning was entitled, "Challenges in Commodity Trade Finance". It was hosted by **Nicolette de Joncaire**, Journalist at l'AGEFI. The panel set out to discuss whether there truly is a shortage of financing liquidity and whether the consequences of Basel II/III might have unintended effects on the commodities trade.

**Christophe Salmon**, Chief Financial Officer, EMEA for Trafigura, sees a diversity of sources of liquidity in terms of the number of financial partners, increasingly beyond the banking sector as well as in terms of maturities. Deals today quickly move into high numbers and require the cooperation of top management. He feels that we need to find a way to bring the numbers down in terms of packaging so that small players can also participate. He suggests a new approach in which the last stage in the chain, delivery, is partly financed by banks and investors. In regard to MiFID, one consequence that Mr. Salmon sees is a movement in the derivatives business from OTC to a more regulated environment. His company currently does 85% of its hedging on cleared platforms.

**Claude Chaubert**, Member of the Management Committee at Crédit Agricole Suisse, noted that banks have retreated in terms of balance sheet size and volume. The impact of Basel II and III has been to make capital scarce. There is a need to go to more secure lending, while banks need to diversify as well. Banks have the liquidity, but not the knowledge in commodities. They need hedging specialists and compliance people, the latter of which is truly in short supply. To serve the industry you need to have the right approach; quality over quantity. In regard to institutional investors, Mr. Chaubert does not see them as a threat because they must rely on banks, which in turn are lacking the relevant expertise. No one can survive in the long term in this business by speculating. Doing business has never been easy, and now there are additional factors to consider, among them, complicated legal issues such as sanctions, which tend to be written too broadly and need interpretation. Regulators have still not fully understood what traders do; they use derivatives for hedging purposes only. Things have become so complicated, that small companies need consulting firms to help them navigate compliance issues and reporting.

**George Bellord**, Director at BPL Global, wondered if it is possible for investors to fill the liquidity gaps and pointed to institutional investors, such as insurance companies, as the "Holy Grail" of liquidity. He too mentioned the lack of expertise among banks as hindering the entry of such institutional investors into the liquidity pool, causing them to shy away from such investments. He sees a real need to educate investors about the sector as a whole as the way forward towards greater involvement by such institutional investors. The commodities industry must move cautiously. They cannot afford to be seen as cowboys; after all, it is the industry that feeds the world.

**Guillaume de La Ville**, Head of Trade Finance at Peakom SA, has noted that some banks are actively developing commodities trading expertise. While some are going it alone, others are participating in syndicates. Among the challenges being faced is a mismatch between perceived risks among investors who have had bad experiences due to a lack of knowledge. Trading is still associated with speculation. We need to find a way to bridge the gap between the perceived risk and the more secure reality. He sees a need to provide a bridge for liquidity to flow to small players. One challenge to this type of financing is the lack of letters of credit. These players still must go to the banks for financing, while large traders have found ways to diversify their sources of liquidity. This is leading to industry consolidation.

After the lunch break, the afternoon session kicked off with a panel discussion entitled, "GTSA Presents: Regulation & Transparency". It was moderated by Dr. Cyril Pasche, Research Program Director for Swiss Financial Institute (SFI).

**Victoria Attwood Scott**, Global Head of Compliance for Mecuria, spoke of how the plethora of regulations sweeping through the financial market, as well as health, safety and environmental regulations involved in physical delivery are affecting commodities trading, leading trading houses to replicate the infrastructures and processes in banks. It is essential to assure access to capital, which means daily interaction with banks. Banks require strict compliance protocols. They need to understand a commodity traders exposure to risk and their business model. Banks do ask questions trade by trade, cargo by cargo. Expectations and standards are effectively applied to us and all commodities traders.

**Brian Lewis**, Compliance Director at Gunvor, stated that while the commitment by the G-20 was to reduce risk in the financial markets, there has since been significant mission creep. The fit is particularly uncomfortably when it comes to application of regulations intended for financials on the trading of physical commodities. Commodities trading has gone on for thousands of years, and while the common perception may be that it is unregulated, the truth is that with EMIR, Dodd-Frank, MiFID among them, there a multitude of different regulations to deal with today. No single piece of regulation applies solely to commodities trading and the regulatory framework currently in use is based on equities. It is important to remember that commodities trading firms are not hedge funds. Their business is to move commodities from where they are produced to where they are needed. Such trading firms actually use hedging themselves to mitigate risk. Commodities trading firms live from the arbitrage between areas of production and consumption. Mr. Lewis would like to see a body set up to assist market participants with compliance.

In response to that call, **Simon Puleston Jones**, pointed out that FIA Europe does play such a role in the commodities industry, coordinating between the CMC, IFED, ISAA as well as trade associations such as the GFMA. With no vested interest, FIA Europe is the melting pot in which all the stakeholders can come together in the interest of the industry as a whole.

**Philippe Berta**, Attorney at Law at Philau, lent his legal expertise to the discussion of sanctions and their impact on the industry. Sanctions have been part of the regulatory world for the past seven years, leading to the growing importance of compliance divisions. All entities in the supply chain must comply or be exposed to risks. To finance trade transactions, the flow of payments must run through banks with automatic screening lists for sanctions on the Swiss, EU, USA, UN and global levels. Transactions out of compliance are flagged and stopped. This can pose severe problems on cargo en route and ultimately the trader risks the loss of the value of the cargo, while the bank takes on the financial risk. Traders also face criminal risk. BNP Paribas, France's largest bank, was punished by the United States for evading American sanctions for doing business with Cuba, Iran and the Sudan: an almost $9 billion fine, a guilty plea to criminal charges of conspiracy and falsifying records and a suspension of its right to clear certain dollar transactions. While many companies have been punished for sanctions violations in the past, the amount of the fine in this case broke all records. The USA is now systematically placing bank after bank in its vizier, even for violations before 2007. Banks are getting the message that if they want to work in US dollar, they must comply. Mr. Berta sees no conflict regarding voluntary disclosure; economic prosperity and due diligence are not in opposition.

**Stephane Graber** is Secretary General of the GTSA. The GTSA is an association which represents the interests of the Swiss-based community of international commodity trading, finance, freighting of goods and related services. A new regime of ever-increasing regulation has arisen in the wake of the 2008 crisis, designed to improve the stability of financial markets and to ward off new financial crises. While originally designed for the financial industry, these regulations are also now impacting physical commodities trading and creating confusion between the two distinctly different industries. If the trading of commodities is to be regulated, then its particular characteristics and set of existing regulations must first be considered.

Mr. Graber spoke of the Swiss approach to creating a body of regulation in line with EU and EU jurisdictions. Until business is on a global level, Switzerland must compete in what is a very international contest. Nevertheless, Switzerland is not an island and must deal with the international legal framework. Swiss regulations must be consistent with international regulations to be effective.

**Jean-Yves De Both**, Partner at Schellenberg, Wittmer, pointed out that regulations will bring a reduction of systemic risk, which was