

February 4, 2016

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: RIN 3038-AE16; Comments on the CFTC Notice of Proposed Rulemaking,
“Alternative to Fingerprinting Requirement for Foreign Natural Persons.”**

Dear Mr. Kirkpatrick:

On behalf of The Commercial Energy Working Group (the “**Working Group**”), Sutherland Asbill & Brennan LLP hereby submits this letter in response to the request for public comment set forth in the Commodity Futures Trading Commission’s (the “**Commission**”) notice of proposed rulemaking titled “Alternative to Fingerprinting Requirement for Foreign Natural Persons” (the “**Fingerprinting NOPR**”).¹ The Working Group appreciates the opportunity to provide comments on this proposed rule.

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 considers and responds to requests for comment regarding regulatory and legislative developments with respect to the trading of energy commodities, including derivatives and other contracts that reference energy commodities.

The Working Group fully supports the Commission’s efforts to ensure the fitness of all principals and associated persons of registered entities. The Working Group also supports alleviating some of the undue burden associated with providing a fingerprint card pursuant to Part 3 of the Commission’s regulations (the “**Fingerprinting Requirement**”). The Working Group believes that the Commission should expand the relief proposed in the Fingerprinting

¹ See 81 Fed. Reg. 1359 (Jan. 12, 2016).

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NOPR to *all* individuals, and not just foreign natural persons, that are principals or associated persons of registered entities subject to the Fingerprinting Requirement.² This approach, rooted in fairness, would provide equal treatment to U.S. residents and non-U.S. residents alike.

Specifically, in response to Question #4 in the Fingerprinting NOPR,³ the Working Group posits that registered entities should be able to rely on a criminal history background check, subject to all the conditions set forth in proposed § 3.21(e)(2), for all associated persons and principals in order to satisfy the Fingerprinting Requirement. Rather than choosing a select group to be eligible for the proposed alternative, the Working Group respectfully requests that the Commission extend the proposed alternative to the Fingerprinting Requirement to all natural persons.

The Working Group appreciates this opportunity to provide comments on the Fingerprinting NOPR and respectfully requests that the Commission consider the comments set forth herein as it develops a final rule.

If you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ David T. McIndoe
David T. McIndoe
Cheryl I. Aaron

Counsel to The Commercial Energy Working Group

² As defined in the Fingerprinting NOPR, proposed § 3.21(e)(1)(ii).

³ Should the Commission use another measure to determine whether an individual should be eligible for the proposed alternative to the Fingerprinting Requirement?