



August 28, 2023

Christopher Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street NW  
Washington, D.C. 20581

**Re: Large Trader Reporting Requirements (RIN 3038-AF27)**

Dear Mr. Kirkpatrick:

The Futures Industry Association<sup>1</sup> (“**FIA**”) appreciates the opportunity to respond to the Commodity Futures Trading Commission’s (“**CFTC**”) Large Trader Reporting Requirements Notice of Proposed Rulemaking (“**Proposed Rule**”)<sup>2</sup> and accompanying Guidebook for Part 17.00 (“**Proposed Guidebook**”).<sup>3</sup> FIA members are reporting firms under the CFTC’s Part 17 large trader reporting regime, vendors who support the reporting of large trader data, and exchanges who will receive such data; thus, many FIA members will be directly impacted by the Proposed Rule and Proposed Guidebook. FIA supports the CFTC’s efforts to modernize the large trader reporting process and transition from the 80-byte reporting format to a FIXML reporting format.

FIA developed a working group of reporting firm members and vendors (“**FIA Working Group**”) to provide feedback to CFTC Staff in advance of the Proposed Rule. The FIA Working Group appreciates the efforts of Staff to consider its feedback. Although Staff have addressed many of the FIA Working Group’s concerns, there remain outstanding issues that the CFTC should address to accomplish the goal of modernizing its reporting rules in a way that promotes the transparency and quality of data. Below is an executive summary of FIA’s comments:

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<sup>1</sup> FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries, as well as technology vendors, lawyers and other professionals serving the industry. FIA’s mission is to support open, transparent and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct.

<sup>2</sup> Large Trader Reporting Requirements, 88 Fed. Reg. 41522 (June 27, 2023) (to be codified at 17 C.F.R. Part 17) (“**Proposed Rule**”).

<sup>3</sup> Guidebook for Part 17.00, Version 1.0, Commodity Futures Trading Commission, [https://www.cftc.gov/media/8701/GuidebookPart17\\_053123/download](https://www.cftc.gov/media/8701/GuidebookPart17_053123/download) (May 30, 2023) (“**Proposed Guidebook**”).

- Reporting firms, particularly smaller firms and foreign brokers, need additional clarity, in writing, on the types of data to report for certain data elements. We have included specific requests for clarification in **Appendix A**.
- The CFTC should obtain static data from one centralized source (*i.e.*, the relevant exchange) rather than requiring each reporting firm to submit the same data. We identified seven data elements that constitute static data that the CFTC should obtain from the exchanges, not reporting firms.
- The Proposed Rule should confirm prior guidance from CFTC Staff that change updates, corrections, and amendments would not be required for certain late claimed give-up or transfer activity. We have included hypotheticals illustrating CFTC Staff's prior guidance on this point in **Appendix B**.
- The CFTC should confirm the scope of authority delegated to the Director of the Office of Data and Technology to promote certainty about potential changes going forward. Notably, the delegation of authority should not permit additions, deletions, or amendments of data elements to be made without notice and comment rulemaking.
- The CFTC should commit to a transparent process to amend or update the form, manner, coding structure, and electronic data transmission procedures in the guidebook and provide reporting firms with a reasonable amount of time to implement such amendments or updates.
- Reporting firms should only be obligated to include a legal entity identifier in large trader reports if the large trader has provided the LEI to the reporting firm.
- The proposed 365-day compliance period from the date of publication of a final rule to transition to the new reporting regime does not provide sufficient time for reporting firms to comply with a new large trader reporting rule because the CFTC has yet to finalize changes to one of the primary means of submitting data to the CFTC – the PERT Portal. FIA proposes that the 365-day compliance period should not commence until after the CFTC finalizes changes to the PERT Portal submission process. Alternatively, the CFTC should provide a longer compliance period (*i.e.*, 24 months) from the date of finalizing the final rule in order to take into account forthcoming changes to the PERT Portal.
- CFTC Staff should consult with reporting firms regarding revisions to the PERT Portal. We view such changes as an important part of the large trader reporting regime and this rulemaking and note that testing of the portal by reporting firms will be a key part of the implementation process.
- The CFTC's cost-benefit analysis significantly underestimates the costs that the Proposed Rule imposes upon reporting firms. FIA's requested modifications to

the Proposed Rule and Proposed Guidebook, as described herein, are meant to decrease unnecessary costs for reporting firms.

**A. Reporting firms need additional clarity, in writing, on the data to report for certain data elements.**

According to the Proposed Rule, the CFTC utilizes large trader reports: (i) for market surveillance programs; (ii) for enforcement of speculative position limits; (iii) as the basis for the weekly Commitments of Traders report; and (iv) for market analysis and research projects.<sup>4</sup> In order for each of these use cases to be successful and accurate, it is critical that each reporting firm understand precisely what is to be reported, on an element-by-element basis. To achieve the goal of uniform data, the written instructions to reporting firms should be clear, self-explanatory, and prescriptive to limit the level of discretion necessary to interpret the data for submission. When each reporting firm understands the requirements, and is able to provide data pursuant to consistent and clear instructions, the data used to support the CFTC's goals will provide the highest level of value.

In reviewing the Proposed Rule and Proposed Guidebook, the FIA Working Group identified data elements where reporting firms need additional clarity, in writing, to ensure a common understanding of the CFTC's expectations for the data element. FIA requests that the CFTC clarify these issues in writing, preferably in the Proposed Guidebook. For the benefit of the CFTC and Staff, **Appendix A** identifies the specific data elements where reporting firms require more written guidance. For each data element listed in **Appendix A**, FIA summarizes the source of its confusion, and if possible, how the CFTC could clarify the confusion in the Proposed Guidebook.

Leading up to issuance of the Proposed Rule and Proposed Guidebook, the FIA Working Group had numerous conversations with CFTC staff concerning draft versions of the Proposed Guidebook. FIA and its members greatly appreciated and benefitted from that dialogue. For example, CFTC staff made clear that certain of the changes in the Proposed Guidebook are driven by the onset of new markets, *i.e.*, event markets. CFTC Staff indicated for certain data elements that, currently, there were only a limited number of exchanges for which the data elements would be applicable, and enumerated certain of those exchanges by name. FIA believes that other participants should benefit from those conversations in the form of written guidance in the Proposed Guidebook that certain fields only apply to specific markets. Such written guidance should prevent inconsistent interpretations across reporting firms. Enhanced written instructions will most benefit smaller firms that may not have frequent conversations with CFTC Staff along with foreign brokers whose primary regulator is not the CFTC. To the extent FIA's reporting firm members have questions about various data fields, the CFTC should assume that smaller reporting firms and foreign brokers will struggle interpreting the instructions for the same data fields.

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<sup>4</sup> Proposed Rule at 41522-23.

FIA notes that lack of clarity in the data to submit will increase costs for all reporting firms. Such costs will be compounded when, for example, a foreign broker submits information that is inconsistent with its relevant clearing broker and/or clearing member. It is not uncommon for the CFTC and/or relevant exchange to reach out to the clearing broker or member in that situation and inquire as to the inconsistency. Firms must then spend time investigating the issue, revising the data as needed, and responding to the regulator. This reconciliation process is further complicated when there are several layers to the reporting chain. For example, there could be an omnibus foreign broker, a foreign affiliate of a US clearing member, and a US clearing member all involved in a trade. Each of these entities engages in large trader reporting, where appropriate. Inconsistencies amongst the various reporting layers can generate inquiries, which necessitate time and resources to resolve. FIA's requests for additional clarity and context should considerably decrease the number of potential inconsistencies between reporting firms, and thus, save the CFTC and reporting firms on unnecessary costs resolving discrepancies.

FIA understands the concern that being overly prescriptive or descriptive in the Proposed Rule or Proposed Guidebook could make the document(s) stale over time. However, absent clear and prescriptive instructions, there is a risk that multiple reporting firms adopt inconsistent interpretations of the required data, thus decreasing the value of the data as a whole. Furthermore, less prescriptive CFTC instructions have an inverse impact on costs for reporting firms that need to spend considerable time interpreting the relevant language. These additional costs could be avoided with a greater degree of written guidance. Again, FIA has identified the data elements that necessitate additional guidance in **Appendix A**.

**B. The CFTC should obtain static data from one centralized source rather than requiring each reporting firm to submit the same data.**

A number of the new data elements in the Proposed Rule represent “static” data about contract specifications that does not change over time and originates from the exchanges that list the applicable product. The relevant exchange is the golden source for this information. It is unnecessary to compound the burden of providing these data elements across each reporting entity because the data should not vary from firm-to-firm. Imposing an obligation on reporting firms to submit this data increases the risk of error which would inevitably necessitate a reconciliation process that only further increases the burden of the reporting regime.

FIA urges the CFTC to obtain the data elements summarized below from the single, centralized source that originates the data (the exchanges) rather than imposing an unnecessary burden across reporting firms to report the same set of data. With this background in mind, the CFTC should not require that reporting firms submit the following data elements:

1. **Data Element #14 – Product Type.** The Proposed Guidebook provides that the valid values for this field designate whether the product is a future, option on a

future, option on a combo, or commodity swap.<sup>5</sup> This information can be readily sourced from the exchange via the FIXML security type value.

2. **Data Element #18 – Listing Date.** Appendix C to the Proposed Rule defines the Listing Date as “Product listing date,” and the Proposed Guidebook explains that this field is “[o]nly required if a product with the same commodity code and maturity was previously knocked out and relisted.”<sup>6</sup> This data should be set by the applicable exchange and standardized per product. Therefore, the exchanges are best positioned to report this static data to the CFTC.
3. **Data Element #27 – Exercise Style.** The Proposed Guidebook explains that the valid values for this field designate whether the exercise style for an option is European, American, Bermuda, or “Other.”<sup>7</sup> The exercise style is set forth in the exchange contract specifications, and thus, the CFTC should obtain this information from the relevant exchange.<sup>8</sup>
4. **Data Element #28 – Payout Amount.** The Proposed Guidebook explains that the Payout Amount is the “[c]ash amount indicating the payout associated with the product. Only for Binary Options.”<sup>9</sup> Similar to the Exercise Style data element, the Payout Amount is set forth in the exchange contract specifications, and thus, the CFTC should obtain this information from the relevant exchange.<sup>10</sup>
5. **Data Element #29 – Payout Type.** The Proposed Guidebook provides that the valid values for this field are: (1) Vanilla; (2) Capped; (3) Digital (Binary); (4) Asian; (5) Barrier; (6) Digital Barrier; (7) Lookback; (8) Other path dependent; and (9) Other.<sup>11</sup> The payout type is dictated by the exchange, and thus, the CFTC should obtain this information from the relevant exchange.
6. **Data Element #30 – Underlying Contract ID.** According to the Proposed Guidebook, the CFTC is requesting “the instrument that forms the basis of an

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<sup>5</sup> Proposed Guidebook at 8-9.

<sup>6</sup> *Id.* at 9.

<sup>7</sup> *Id.* at 10-11.

<sup>8</sup> *See, e.g.*, Options on Three-Month SOFR Futures – Contract Specs, CME GROUP, <https://www.cmegroup.com/markets/interest-rates/stirs/three-month-sofr.contractSpecs.options.html#optionProductId=8849>.

<sup>9</sup> Proposed Guidebook at 11.

<sup>10</sup> *See, e.g.*, Contract specifications for event contracts, CME GROUP, <https://www.cmegroup.com/activetrader/event-contracts/contract-specifications-for-event-contracts.html>.

<sup>11</sup> Proposed Guidebook at 11.

option.”<sup>12</sup> This data is set forth in the exchange contract specifications, and thus, the CFTC should obtain this information from the relevant exchange.<sup>13</sup>

7. **Data Element #31 – Underlying Maturity Month Year.** The CFTC is requesting the “underlying delivery year and month (and day where applicable).”<sup>14</sup> This data is set by the exchange, and thus, the CFTC should obtain this information from the relevant exchange.

We note that FIA’s comments to specific data elements listed in **Appendix A** identifies the static data elements that the CFTC should remove from reporting firms’ large trader reporting obligations. As a less optimal alternative, if the CFTC chooses to require each reporting firm to report the above listed data elements independently, it should impose an obligation on the exchanges to provide this information directly to each reporting firm in a readily digestible format.

**C. The Proposed Rule should confirm prior guidance from CFTC Staff that change updates, corrections, and amendments would not be required for certain late claimed give-up or transfer activity.**

During the FIA Working Group’s conversations with CFTC Staff before the Proposed Rule and Proposed Guidebook were published, Staff provided written guidance to the FIA Working Group that change updates, corrections, or amendments to reports would not be required to account for certain late claimed give-up or certain transfer activity. This clarification was critical to the FIA Working Group members in terms of assessing the practicality of the reporting regime. However, this concept is not reflected in either the Proposed Rule or Proposed Guidebook. FIA requests that the CFTC commit this previously provided guidance to writing in the final rule or final guidebook in order to provide regulatory certainty that is consistent for all reporting firms, many of whom were not part of the FIA Working Group discussions with CFTC Staff. **Appendix B** contains a summary of the written guidance / response to hypotheticals that the FIA Working Group previously received from Staff.

Filing change updates to account for certain late claimed give-ups and transfers would substantially increase the number of filings that firms are required to make and significantly increase the complexity of reporting. Challenges would include recreating positions from a prior day in order to accurately file the change update. FIA greatly appreciated the CFTC Staff’s understanding and proposed approach on this issue during the consultative process before the Proposed Rule was published. Therefore, we request that the guidance in **Appendix B** be reflected in the final rule.

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<sup>12</sup> *Id.*

<sup>13</sup> *See, e.g.*, Options on Three-Month SOFR Futures – Contract Specs, CME GROUP, <https://www.cmegroup.com/markets/interest-rates/stirs/three-month-sofr.contractSpecs.options.html#optionProductId=8849>.

<sup>14</sup> Proposed Guidebook at 11.

**D. The CFTC should confirm the scope of authority delegated to the Director of the Office of Data and Technology to promote certainty about potential changes going forward.**

The Proposed Rule “delegate[s] authority to the Director of the Office of Data and Technology to designate a *submission standard* for [large trader reports.]”<sup>15</sup> Specifically, Proposed Rule 17.03(d) states: “the authority shall be designated to the Director of the Office of Data and Technology to determine the *form, manner, coding structure, and electronic data transmission procedures* for reporting the data elements in appendix C to this part and to determine whether to permit or require one or more particular data standards.”<sup>16</sup>

FIA supports the delegation of authority to the Office of Data and Technology rather than specific submission standards being included in the rule text. However, FIA would like to confirm its understanding that the delegation of authority does not permit the Office of Data and Technology to change the data elements to be reported, as listed in Appendix C to the Proposed Rule, or to modify the definitions or descriptions of the data elements to be reported as listed in the Proposed Rule or Proposed Guidebook. Our understanding, based upon the plain language of the delegation of authority in Proposed Rule 17.03(d), is that the Office of Data and Technology is only authorized to modify the form, manner, coding structure, and electronic data transmission procedures. Essentially, we understand the delegation to be limited to revisions to the Proposed Guidebook regarding changes to the FIXML reporting structure and changes to the mechanics of submission.

**E. The CFTC should commit to a transparent process to amend or update the form, manner, coding structure, and electronic data transmission procedures in the guidebook.**

The Proposed Rule should dictate a reasonable process for the CFTC to amend, update, or otherwise modify the Proposed Guidebook as it relates to the form, manner, coding structure, and electronic data transmission procedures, after adopting a final rule. Changing the form, manner, coding structure, and electronic data transmission processes in the guidebook could substantially impact how a reporting firm engages in large trader reporting. Namely, changes in reporting format in the future could require substantial infrastructure and technology developments for firms. And yet, the Proposed Rule does not establish any requirements or process to ensure that CFTC Staff will provide reasonable notice of any changes or consult with the reporting firms to develop a reasonable time period for implementation of such changes.

The CFTC should add language to the Proposed Rule, or as a less optimal alternative, to the Proposed Guidebook, indicating that, with regards to the form, manner, coding structure, and electronic data transmission procedures, the CFTC Staff will consult with reporting firms, provide reasonable notice of changes, and allow a reasonable period for reporting firms to

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<sup>15</sup> Proposed Rule at 41532 (emphasis added).

<sup>16</sup> *Id.* at 41537-38 (emphasis added).

implement any changes. Furthermore, simply amending the guidebook available on the CFTC website does not provide sufficient notice of changes to reporting firms. Rather, the CFTC should require that CFTC Staff provide some form of public notice such as a press release or other affirmative statement that the CFTC Staff has amended the guidebook.

**F. Reporting firms should only be obligated to include a legal entity identifier in large trader reports if the large trader has provided the LEI to the reporting firm.**

The CFTC acknowledges in the Proposed Rule that “not all special account controllers possess a legal entity identifier.”<sup>17</sup> Indeed, there is no requirement under CFTC regulations that legal entities maintain an LEI for purposes of futures large trader reporting. As such, Data Element #10 – Special Account Controller LEI, is conditional.<sup>18</sup> However, the preamble to the Proposed Rule creates some ambiguity about the obligation of the reporting firm to report the LEI.

The preamble to the Proposed Rule states: “an LEI must be reported for special accounts for which the special account controller is eligible to receive an LEI, but an LEI need not be reported for special accounts for which the special account controller is ineligible for an LEI.”<sup>19</sup> Eligibility for an LEI is not the appropriate standard to impose on reporting firms. Although a special account controller may be eligible for an LEI, there is no requirement that they obtain one in connection with futures trading. The CFTC should not attempt to impose a requirement that special account controllers obtain an LEI by indirectly placing an obligation on reporting firms to require an LEI. Such a structure places reporting firms in the untenable position of enforcing a requirement that has not expressly been articulated in regulation.

FIA urges the CFTC to proceed with the conditionality standard articulated in the Data Dictionary (Section 2) of the Proposed Guidebook, *i.e.*, “[c]onditional on Large Trader *providing* LEI to the reporting firm.”<sup>20</sup> The “providing” standard accounts for the fact that there is no legal requirement to obtain an LEI. Additionally, it does not place the onus on the reporting firm to independently confirm whether a special account controller has an LEI, if the controller has not provided one to the reporting firm.

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<sup>17</sup> *Id.* at 41528.

<sup>18</sup> *Id.* at 41528; *see also* Proposed Guidebook at 8.

<sup>19</sup> Proposed Rule at 41528.

<sup>20</sup> Proposed Guidebook at 8 (emphasis added).

**G. The proposed 365-day compliance period from the date of publication of a final rule to transition to the new reporting regime does not provide sufficient time for reporting firms to comply with a new large trader reporting rule.**

The CFTC acknowledges that implementing the Proposed Rule will require technological infrastructure changes to reporting systems.<sup>21</sup> As such, the Proposed Rule suggests a compliance date 365 days following publication of the final rule.<sup>22</sup> FIA appreciates the CFTC's recognition of the time needed to implement these changes. For the reasons outlined below, FIA believes that additional time is necessary, and as such, recommends two potential alternatives. First, given that the PERT Portal (a web-based portal that reporting firms may use to submit large trader data), still requires revisions by CFTC Staff to align with this newly proposed large trader reporting regime, the 365-day compliance period should not commence until after the CFTC finalizes changes to the PERT Portal.<sup>23</sup> Second, in the event the CFTC does not want to tie the compliance period to the changes to the PERT Portal, FIA requests a 24-month compliance period from the date of publication of the final rule in order to take into account the build period that will be required for the CFTC to make the necessary changes to the PERT Portal submission methodology, and for reporting firms to implement the changes to the PERT Portal.

There are several factors that will determine how much time reporting firms ultimately need to implement the changes in the Proposed Rule, including (1) to what extent the CFTC provides the clarity requested and answers the questions asked herein; (2) whether the CFTC removes the fields identified as static data herein; (3) when the revised PERT Portal becomes available to the industry for feedback and testing;<sup>24</sup> (4) whether imperceptible issues arise during development and testing of both the PERT Portal and SFTP submission process; (5) the timing of publication of the final rule; and (6) the timing of testing and implementing corresponding changes to exchange large trader reporting. Given this range of factors, FIA views the CFTC's proposed 365-day implementation period starting from the date of publication of a final rule as an insufficient amount of time to implement the new large trader reporting regime.

With regards to imperceptible issues, FIA notes that a testing period for both the SFTP and PERT Portal submission process will be critical. Given the significant changes being made to large trader reporting, there are likely to be a number of questions and complications that arise during development and testing of both submission formats. For example, the formula used to properly calculate and populate Data Elements #34 and #35 - Contracts Bought / Sold, and Data Elements #46-49 - Long/Short Transfers Sent/Received, will require extensive testing. FIA welcomes a dialogue with CFTC staff during this time to efficiently resolve issues that arise.

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<sup>21</sup> Proposed Rule at 41531.

<sup>22</sup> *Id.*

<sup>23</sup> Per FIA's comment in Section H below, the CFTC should not finalize changes to the PERT Portal until reporting firms have a 3-month time period to test the submission and validation process under the revised PERT Portal.

<sup>24</sup> *See* Section H below.

With regards to the timing of publication of the final rule, FIA notes that many firms have “black out” periods towards the end of the calendar year, during which no technological updates or changes can be made. Moreover, FIA notes that it has separately advocated for the CFTC to codify the no-action relief regarding ownership and control reports (“OCR”) that currently exists in CFTC No-Action Letter No. 20-30.<sup>25</sup> In a recent request to extend the relief provided in No-Action Letter No. 20-30, FIA asked the CFTC to consider the timeline for finalization and implementation of any changes it is considering with regards to Part 17 large trader reporting. Implementing changes to the OCR reporting regime and the Part 17 large trader reporting regime simultaneously would be challenging for firms, strain resources, and impact the time period needed for implementation of changes to both regimes.

#### **H. The CFTC Staff should consult with reporting firms regarding revisions to the PERT Portal.**

The CFTC acknowledges in the Proposed Rule that “reporting firms’ technological capabilities may vary based on relative size and experience of a given reporting firm.”<sup>26</sup> Given this variability, the Proposed Guidebook contemplates two submission methods: (1) a secure file transfer protocol; or (2) the aforementioned, web-based PERT Portal.<sup>27</sup> FIA supports the continued operation of the PERT Portal as one means of reporting.

FIA understands that changes to the PERT Portal are forthcoming. We view such changes as a key part of the large trader reporting regime and this rulemaking. Indeed, FIA feels strongly that changes to the PERT Portal should happen simultaneous with the implementation of the final rule. We request industry consultation and input into the revision process for the PERT Portal. Furthermore, prior to finalizing any changes to the PERT Portal, the CFTC should provide reporting firms with a three-month period to test the submission and validation process for the revised PERT Portal. This testing process should support the ability to test, at minimum, for five consecutive days to permit firms to analyze day-over-day changes that may give rise to particular challenges or concerns. FIA also requests the following specific functionality additions or changes to the PERT Portal:

- Automatic creation of a unique identifier to serve as Data Element #6 – Report ID;
- Search functionality that allows a firm to pull a prior report using a specific Report ID (Data Element #6);

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<sup>25</sup> See No-Action Letter No. 20-30, Extension of Conditional Time-Limited No-Action Relief from Filing Certain Ownership and Control Reports (OCR) Required by Parts 17, 18, and 20 of the Commission’s Regulations (Sept. 25, 2020), available at <https://www.cftc.gov/PressRoom/PressReleases/8255-20>.

<sup>26</sup> Proposed Rule at 41526.

<sup>27</sup> *Id.*

- A clear process for making changes to previous reports filed using the PERT Portal; and
- Allow reporting firms using the PERT Portal to export their filed reports as a FIXML file that can then be submitted to the relevant exchanges. This would decrease the burden on reporting firms by avoiding the need to input the same information multiple times when complying with both CFTC and the relevant exchange large trader reporting rules.

**I. The CFTC’s cost-benefit analysis significantly underestimates the costs imposed upon reporting firms, and FIA’s requested modifications are meant to minimize costs.**

FIA has concerns that the CFTC’s proposed cost-benefit analysis drastically underestimates the potential costs that reporting entities will incur in order to change reporting systems from the existing baseline to the newly proposed regime. The CFTC estimates that approximately 74 reporting firms with automated reporting systems will incur a one-time cost, per entity, of \$89,400 (\$29,800 per entity to change to the new reporting format and \$59,600 per entity to report new data elements) and annual ongoing costs per entity of \$7,152 (\$3,576 per entity to shift to the new reporting format and \$3,576 per entity to report new data elements).<sup>28</sup>

The members of the FIA Working Group have considerable experience in the costs necessary to report under the existing large trader reporting rule, and they also have spent the past several years providing feedback to CFTC Staff regarding the CFTC’s efforts to modernize the large trader reporting rule. Based upon the collective experience of the FIA Working Group, FIA projects the actual costs to implement changes, depending upon the size of the firm, to be approximately 3 to 5 times the CFTC’s estimated one-time implementation cost, and that ongoing annual costs should reflect approximately 15% of the one-time cost.

As stated previously, FIA supports the CFTC’s goal to modernize its large trader reporting rules and infrastructure. FIA’s requested modifications to the Proposed Rule, contained in this comment letter, are meant to balance the CFTC’s policy objectives with the costs to reporting entities, which FIA expects to be significant. We strongly encourage the CFTC to adopt our requested modifications as one way to minimize the costs associated with this rule.

## **Conclusion**

If the CFTC or any member of staff have any questions concerning the matters discussed herein or need any additional information, please contact Natalie Tynan, Associate General Counsel, Head of Technology Documentation Strategy at [ntynan@fia.org](mailto:ntynan@fia.org) or (202) 772-3025.

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<sup>28</sup> *Id.* at 41533-34. The FIA Working Group is primarily comprised of reporting entities that report on an automated rather than a manual basis. The CFTC’s cost-benefit analysis for manual reporting firms are considerably lower than automated reporting firms.

Mr. Christopher Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Allison Lurton".

Allison Lurton  
General Counsel and Chief Legal Officer

cc: Rostin Behnam, Chairman  
Kristin N. Johnson, Commissioner  
Christy Goldsmith Romero, Commissioner  
Summer K. Mersinger, Commissioner  
Caroline D. Pham, Commissioner  
Owen Kopon, Associate Chief Counsel, Division of Market Oversight  
Paul Chaffin, Assistant Chief Counsel, Division of Market Oversight  
James Fay, IT Specialist, Division of Data  
Daniel Prager, Research Economist, Office of the Chief Economist

**Appendix A: Data Element Comments**

Below please find a table with FIA’s comments on specific data elements listed in Appendix C to Part 17 in the Proposed Rule and elaborated on in the Proposed Guidebook.

Data Element Number & Name	Comment/Question
1 – Total Message Count	<i>See Data Element #6 below.</i>
3 – Sender ID	<p>Please clarify how this data element is different from Data Element #9 – Reporting Firm ID. What is being accounted for by this field: (a) reporting on behalf of foreign brokers and affiliates; and/or (b) reporting through a vendor?</p> <p>FIA supported the previous valid values language used in an earlier draft, <i>i.e.</i>, “[u]se either CFTC issued 3 character reporting ID or name of servicing firm.” Consider including that language in the description of this data element.</p>
6 – Report ID	<p>The instruction in the Proposed Guidebook is that this data element is “[a] unique identifier assigned to each position report.”<sup>29</sup> Please confirm that this identifier is for a position report on a given day as opposed to lines within a position report.</p>
7 – Record Type (Action)	<i>See Data Element #6 above.</i>
10 – Special Account Controller LEI	<i>See Section F above. Per FIA’s request, the instruction should clarify that this data element is conditional upon the large trader providing an LEI to the reporting firm.</i>
12 – Exchange Indicator	<p>FIA requests further specificity on this field. The Proposed Guidebook references a document from ISO 20022 that has two MIC columns, which do not always align.<sup>30</sup> Which column in the linked document is the CFTC proposing that reporting firms use?</p>
13 – Commodity Clearing Code	<p>FIA requests that the CFTC modify the name of this data element to “Clearing Code,” which is industry standard terminology.</p>

<sup>29</sup> Proposed Guidebook at 6.

<sup>30</sup> Market identifier codes, ISO 20022, <https://www.iso20022.org/10383/iso-10383-market-identifier-codes>.

Data Element Number & Name	Comment/Question
14 – Product Type	<p>FIA views this data element as static data; <i>see</i> Section B above. Alternatively, if the CFTC insists on reporting entities submitting this data, FIA requires further specificity regarding the definitions of “Commodity Swap” and “Options on Combos,” which are not readily understood terms when reporting large trader data to the CFTC.</p>
15 – Ticker Symbol	<p>The explanation of this data element in the Proposed Guidebook merely repeats the definition (“Ticker symbol of the product traded”).<sup>31</sup> This term is not self-explanatory to the FIA Working Group, so the CFTC should provide increased guidance regarding the nature of this data. If this data comes from the relevant exchange, there should be a requirement that the exchanges provide the Ticker Symbol to the reporting firms.</p> <p>CFTC Staff provided verbal guidance to the FIA Working Group regarding the relevance of this field for particular exchanges. <i>See</i> Section A above regarding sharing such guidance with all reporting firms.</p>
18 – Listing Date	<p>FIA views this data element as static data; <i>see</i> Section B above.</p> <p>CFTC Staff provided verbal guidance to the FIA Working Group that this data element would currently only apply to a limited number of exchanges. <i>See</i> Section A above regarding sharing this guidance with all reporting firms.</p>
27 – Exercise Style	<p>FIA views this data element as static data; <i>see</i> Section B above.</p>
28 – Payout Amount	<p>FIA views this data element as static data; <i>see</i> Section B above.</p>
29 – Payout Type	<p>FIA views this data element as static data; <i>see</i> Section B above.</p>
30 – Underlying Contract ID	<p>FIA views this data element as static data; <i>see</i> Section B above.</p> <p>Per the Proposed Guidebook, this data element requires the submission of “[t]he instrument that forms the basis of an</p>

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<sup>31</sup> Proposed Guidebook at 9.

Data Element Number & Name	Comment/Question
	option. Only required for options for which the underlying is an exchange-traded instrument.” <sup>32</sup> The character range of 20 as a valid value for this data element presents limitations because an option could exercise into multiple futures that would not fit within the 20 character range. For example, the name of a crush option.
31 – Underlying Maturity Month Year	FIA views this data element as static data; <i>see</i> Section B above.
44 – Long Options Expired	FIA notes that in certain circumstances firms may choose to keep options open; for example, to ensure that they do not receive any late breaking notices. This practice may result in situations where expired options are included in the large trader file.
45 – Short Options Expired	<i>See</i> Data Element #44 – Long Options Expired, above.
46 – Long Options Exercised	Under certain circumstances, a central counterparty may deliver an option assignment later in the day to a clearing member, which in turn prevents a clearing member from processing the exercise on the same day. Under these circumstances, clearing members may process such assignments on the following day and report those option exercises on a going forward basis.
47 – Short Options Exercised	<i>See</i> Data Element #46 – Long Options Exercised, above.
50 – Long Transfers Sent	The instructions in the Proposed Guidebook explain: “[d]o not include give-ups,” <sup>33</sup> but the document does not provide guidance for a reporting firm to distinguish between a transfer and a give-up. FIA requests that the CFTC provide additional clarity on the definition of a transfer vs. a give-up. This distinction is critical to the transfer fields being populated accurately, but also to Data Element #34- Contracts Bought and Data Element #35 – Contracts Sold being calculated accurately.
51 – Long Transfers Received	<i>See</i> Data Element #50 – Long Transfers Sent, above.
52 – Short Transfers Sent	<i>See</i> Data Element #50 – Long Transfers Sent, above.

<sup>32</sup> *Id.* at 11.

<sup>33</sup> *Id.* at 16.

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<b>Data Element Number &amp; Name</b>	<b>Comment/Question</b>
53 – Short Transfers Received	<i>See Data Element #50 – Long Transfers Sent, above.</i>

**Appendix B: Reporting Certain Late Claimed Give-Up and Transfer Activity**

**Example 1:**

Client ABC Inc. is a corporate proprietary firm that owns and controls their own positions. This client has one account at FCM A and another at FCM B. Client executes a buy of 100 lots of Coffee and a buy of 300 lots of Corn with FCM A on 2/13/23. The current CFTC reportable level for Coffee is 50 and the current CFTC reportable level for Corn is 250.

For report date 2/13/23, FCM A reports:

<b>Data Elements</b>	<b><i>Coffee</i></b>	<b><i>Corn</i></b>
Report Date (#8)	2023-02-13	2023-02-13
Long Position (#32)	100	300
Short Position (#33)	0	0
Contracts Bought (#34)	100	300
Contracts Sold (#35)	0	0
Long Transfers Sent (#50)	0	0
Long Transfers Received (#51)	0	0
Short Transfers Sent (#52)	0	0
Short Transfers Received (#53)	0	0

On 2/22/23, Client's open long position of 100 lots in Coffee is transferred from FCM A to FCM B, and Client has no current open Coffee positions at FCM B. Moreover, 100 out of the 300 open long position in Corn is transferred from FCM A to FCM B, and Client has no current open Corn positions at FCM B.

For report date 2/22/23, FCM A reports:

<b>Data Elements</b>	<b><i>Coffee</i></b>	<b><i>Corn</i></b>
Report Date (#8)	2023-02-22	2023-02-22
Long Position (#32)	0	200
Short Position (#33)	0	0
Contracts Bought (#34)	0	0
Contracts Sold (#35)	0	0
Long Transfers Sent (#50)	100	100
Long Transfers Received (#51)	0	0
Short Transfers Sent (#52)	0	0
Short Transfers Received (#53)	0	0

For report date 2/22/23, FCM B reports:

<b>Data Elements</b>	<b>Coffee</b>	<b>Corn – Not reportable</b>
Report Date (#8)	2023-02-22	
Long Position (#32)	100	
Short Position (#33)	0	
Contracts Bought (#34)	0	
Contracts Sold (#35)	0	
Long Transfers Sent (#50)	0	
Long Transfers Received (#51)	100	
Short Transfers Sent (#52)	0	
Short Transfers Received (#53)	0	

**Example 2:**

Client ABC Inc. is a corporate proprietary firm that has an execution-only relationship with FCM A and buys 100 lots of Coffee and 300 lots of Corn on 2/13/23. The trades are not given up in clearing on T (2/13/23), and are in suspense with FCM A overnight. On T+1 (2/14/23), the trades are given up by FCM A to FCM B and the entire 100 lot Coffee and 300 lot Corn position is claimed by FCM B. FCM B has a clearing account for the owner, ABC Inc. ABC Inc. does not have any other Coffee or Corn positions with FCM B.

FCM A does not report anything on report date 2/13/23, given the execution-only relationship. Similarly, FCM B is not in a position to report anything for report date 2/13/23 because the trades have not been claimed yet in clearing.

For report date 2/14/2023, FCM B reports as follows:

<b>Data Elements</b>	<b>Coffee</b>	<b>Corn</b>
Report Date (#8)	2023-02-14	2023-02-14
Long Position (#32)	100	300
Short Position (#33)	0	0
Contracts Bought (#34)	100, as the trades were given up on this day.	300, as the trades were given up on this day.
Contracts Sold (#35)	0	0
Long Transfers Sent (#50)	0	0
Long Transfers Received (#51)	0	0
Short Transfers Sent (#52)	0	0
Short Transfers Received (#53)	0	0

**Example 3:**

Same fact pattern as Example 2, but on T+4 (2/17/23), the trades are given up by FCM A and claimed by FCM B. Because the claim has not occurred until T+4, this would likely be completed in clearing as an account transfer.

FCM A does not report anything, given the execution-only relationship. Similarly, FCM B does not report anything for report dates 2/13/23-2/16/23 because the trades have not been claimed yet. For report date 2/17/2023, FCM B reports as follows:

<b>Data Elements</b>	<b><i>Coffee</i></b>	<b><i>Corn</i></b>
Report Date (#8)	2023-02-17	2023-02-17
Long Position (#32)	100	300
Short Position (#33)	0	0
Contracts Bought (#34)	0	0
Contracts Sold (#35)	0	0
Long Transfers Sent (#50)	0	0
Long Transfers Received (#51)	If it can be recorded as a give-up, then put it in the “Contracts Bought” field. If not, record it as a transfer.	If it can be recorded as a give-up, then put it in the “Contracts Bought” field. If not, record it as a transfer.
Short Transfers Sent (#52)	0	0
Short Transfers Received (#53)	0	0