

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

February 22, 2024



Japanese Bankers Association

**Comments on the Proposed Rules: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AF26)**

Dear Mr. Kirkpatrick:

We, the Japanese Bankers Association (JBA), would like to express our gratitude for this opportunity to comment on the Proposed Rules: “Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements” (“Proposed Rules”) issued by the Commodity Futures Trading Commission (CFTC) in December 2023. We respectfully expect that the following comments will contribute to your further discussion.

[General Comments]

We understand that the Proposed Rules are intended to ensure that the CFTC continues to receive accurate, complete, and high-quality data on swap transactions and would like to express our respect to the CFTC’s efforts to that end.

However, as pointed out by some Commissioners, the proposal to add CFTC-specific data elements not required to be reported in other jurisdictions is not consistent with the promotion of “global harmonization” advocated by the Financial Stability Board (FSB) as well as the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO), and may also impose excessive compliance burdens on market participants. Therefore, the CFTC is requested to make a careful determination on this issue.

(Supplementary explanation)

To our understanding, for the reporting of OTC derivatives transactions, respective jurisdictions have currently introduced the Critical Data Elements (CDE) including identifiers, such as Unique Transaction Identifier (UTI)/Unique Product Identifier (UPI), in light of “global harmonization.”

The Proposed Rules, however, significantly add CFTC-specific data elements that are not required to be reported in other jurisdictions.

Given that there are many market participants who report OTC derivatives transaction data in multiple jurisdictions, in the case of that a certain jurisdiction significantly adds jurisdiction-specific data elements, these market participants will be required to develop different systems and workflows according to each jurisdiction’s requirements, which will increase compliance costs.

Further, if this proposal triggers the movement of adopting additional jurisdiction-specific data elements in other jurisdictions, the types and number of transaction data elements that market

participants should report will increase. As a result, this will not only cause an increase of compliance costs as mentioned above but also complicate the transaction reporting systems and thereby may impact the accuracy of reported data.

If the CFTC nevertheless determines to adopt the additional CFTC-specific data elements, it is desirable that the CFTC limit them to truly necessary elements and also explain to market participants how adding such CFTC-specific data elements will contribute to systemic risk mitigation, market monitoring, and market abuse prevention.

Of the proposed additional CFTC-specific data elements, we have commented, in “[Comments on Specific Data Elements]” below, on those data elements that would particularly require a careful determination and reasons thereof.

[Comments on Specific Data Elements]

• **#14 “Mandatory clearing indicator” in CFTC Technical Specification**

Definition for Data Element:

An indicator of whether the swap transaction is subject to mandatory clearing under the Commission’s regulations.

(Comment)

“Mandatory clearing indicator,” which is one of the data elements proposed to be added to “Clearing” category, will require significant compliance burdens for financial institutions and it is difficult to report their accurate values. This is because the complex logic to assess various contractual terms and conditions of transactions, such as Optionality, Amortization and types of Floating Index, will need to be established in the transaction reporting systems.

As for this data element, we believe that, from the perspective of enhancing data accuracy, the approach to develop a system that enables market infrastructures (e.g. central counterparty (CCP), swap data repositories (SDR)) to centrally report data with Mandatory/Voluntary flag is more effective than the approach to require respective financial institutions to report this element.

• **#42 “USD equivalent regulatory notional amount” in CFTC Technical Specification**

Definition for Data Element:

For the entire swap transaction (not leg by leg), provide the USD equivalent notional amount that represents the entire overall transaction for tracking notional volume.

Generally, calculate USD equivalent notional using methodologies described in the revised CDE Technical Guidance – version 3: Harmonization of critical OTC derivatives data elements (other than UTI and UPI), 2.70 Notional amount.

With respect to swaps denominated in non-notional terms (e.g., many non-financial commodity swaps), methodologies described in existing guidance should be used if they differ from the revised CDE Technical Guidance – version 3: Harmonization of critical OTC derivatives data elements (other than UTI and UPI), 2.70 Notional amount. If guidance does not exist, calculate USD equivalent notional for the entire overall transaction using market standard, economically reasonable, and analytically supported methods.

In all cases, this data element should be delta adjusted for trades with embedded optionality or embedded leverage.

(Comment)

In the case of that respective financial institutions calculate and report their USD equivalent notional amount, comparable data will not be collected. As a result, it is assumed that the accuracy of the collected data may not be ensured.

Therefore, we believe that market infrastructures (e.g. CCP, SDR) centrally calculate USD equivalent notional amount, or regulators convert the notional amount of reported transaction data to USD, will improve the data effectiveness more than the proposed approach.

(End)