



April 11, 2024

**Via Electronic Submission**

Christopher Kirkpatrick  
Secretary of the Commission  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements (RIN 3038–AF26)**

Dear Mr. Kirkpatrick:

ICE Trade Vault, LLC, (“ICE Trade Vault”) appreciates the opportunity to provide comments on the Proposed Amendments by the Commodity Futures Trading Commission (“CFTC” or “Commission”) to regulations Part 43 and Part 45 (“Proposed Amendments or Proposal”).<sup>1</sup> As background, ICE Trade Vault is a wholly owned subsidiary of Intercontinental Exchange, Inc. (“ICE”) and operates as a Swap Data Repository (“SDR”) in the commodity, credit, foreign exchange and interest rate asset classes and has a global customer base of over 700 participants. ICE Trade Vault appreciates the opportunity to submit this letter, and we look forward to continued discussions of these issues with the Commission and CFTC Staff.

**I. Executive Summary**

As an operator of SDRs, ICE Trade Vault supports the Commission’s goal to receive accurate and high-quality swap data and supports the Commission’s efforts to harmonize swap data reporting rules with global regulations and international data reporting standards. ICE however questions the benefit for introducing substantial new changes to the swap data reporting rules given the recent rule amendments. In 2022, the CFTC implemented amendments to Parts 43, 45 and 49 to better harmonize swap data reporting frameworks with other jurisdictions and to streamline data reporting. The rule amendments were a significant change to the swap reporting regime and required time-consuming industry efforts to update reporting systems to comply with the new regime.<sup>2</sup> In 2023, the CFTC issued an order amending Parts 43 and 45 to require the

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<sup>1</sup> 88 Fed. Reg. 90046, Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements (December 28, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-12-28/pdf/2023-28350.pdf>; and Proposed parts 43/45 Technical Specification changes v3.3 (December 13, 2023), [https://www.cftc.gov/media/9926/Part43\\_45TechnicalSpecification12132023REDLINE/download](https://www.cftc.gov/media/9926/Part43_45TechnicalSpecification12132023REDLINE/download)

<sup>2</sup> 85 FR 75503, Swap Data Reporting and Recordkeeping, (Nov. 25, 2020), [https://www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf?utm\\_source=govdelivery](https://www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf?utm_source=govdelivery).

use of Unique Product Identifiers (“UPIs”) for the credit, interest rate, equities and foreign exchange asset classes.<sup>3</sup> The CFTC also issued Technical Specifications for its swap data reporting fields in 2020, and amended them in September 2021, August 2022 and March 2023. All of these recent CFTC reporting rule and Technical Specification amendments required significant systems related development, resources and expense to SDRs and their customers. The CFTC is now proposing to again amend the swap reporting rules to implement UPIs in the “other commodity” asset class, to add numerous new data fields and to further update the Technical Specifications. While ICE Trade Vault supports the proposal to implement UPIs in the “other commodity” asset class, we do not believe the other proposed amendments are designed to meet the CFTC’s goals of streamlining data reporting and global harmonization and suggest the proposed changes would place unnecessary burdens and significant costs on SDRs and market participants with minimal benefit to data quality.

In particular, the Proposal would impose additional obligations on the reporting of swaps in the “other commodity” asset class including adding many CFTC specific data fields. ICE Trade Vault notes that commodity swaps are often executed between two commercial end-users and as such the reporting party is a commercial-end user and not a financial institution or swap dealer. Market participants have already spent considerable resources building their systems to address the current swap reporting rules and recent amendments. The proposed new amendments would introduce significant changes and additional costs on commercial end-users reporting commodity swap transactions and could increase their reporting and hedging costs. As discussed below, ICE Trade Vault suggests the Commission simplify the proposed new reporting obligations for commodity swaps and lessen the burden on reporting parties.

ICE Trade Vault’s key observations and recommendations are as follows:

- The proposed amendments do not further the CFTC’s objectives to streamline reporting and to right-size the number of reportable data fields.<sup>4</sup> The Proposal would instead result in a substantial increase in the reportable data fields including 30 data fields unique to the CFTC regime and not globally harmonized. ICE recommends the Commission:
  - Remove proposed fields that are not part of core transaction information.
  - Remove data fields that would require reporting of information parties do not currently possess.
  - Not require data fields included in UPI reference data to be reported. This creates unnecessary burdens and costs for market participants to subscribe to the UPI service and to also update their systems to source and report additional data elements to the CFTC.

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<sup>3</sup> 88 Fed. Reg. 11790, Order Designating the Unique Product Identifier and Product Classification System To Be Used in Recordkeeping and Swap Data Reporting. <https://www.cftc.gov/sites/default/files/2023/02/2023-03661a.pdf>

<sup>4</sup> The Division of Market Oversight undertook a comprehensive review of the swap data reporting regulations in 2017 through its Roadmap to Achieve High Quality Swaps Data. <https://www.cftc.gov/PressRoom/PressReleases/pr7585-17>. The Roadmap outlined key objectives to streamline reporting to ‘right-size’ the number of reportable data elements and to facilitate the ability of the CFTC to receive accurate, complete, and high quality transaction data that it can aggregate effectively to fulfill its regulatory oversight function.

- The Commission has not accurately captured the costs to implement the proposed changes to reportable fields and Technical Specifications, nor has the Commission articulated the benefits of these proposed changes and how those benefits outweigh the substantial costs.
- The compliance date should be a minimum of one year after finalization of the reportable fields, Technical Specifications and publication of the final SDR Guidebook, whichever is later. Trade Vault also recommends the Commission allow an additional year for implementation after the CFTC publishes the order designating implementation of UPIs in the “other commodity” asset class. Lastly, Trade Vault notes that the Proposal does not address the ISO 20022 implementation and requests the Commission provide clarity on the timing of the ISO 20022 standard implementation.

## II. Additional Data Fields

The Proposed Amendments would expand the number of required reportable data fields to approximately 177 from 128. The CFTC is proposing to add 30 new data fields that would be reported solely to the CFTC and are not aligned nor required under other global swap reporting regimes. ICE Trade Vault questions the necessity of the CFTC jurisdictional fields, particularly as adding non-conforming data fields conflicts with the CFTC’s goals of international data harmonization.<sup>5</sup> Instead of imposing additional data fields, ICE Trade Vault recommends that the CFTC work with the industry to analyze gaps in the current reporting rules and UPI attributes to identify information needed by the Commission but not currently reported. It is possible that the CFTC could obtain missing data without implementing new reporting requirements by working with global industry groups such as the Derivatives Service Bureau (“DSB”) and Regulatory Oversight Committee (“ROC”)<sup>6</sup> to enhance UPI templates or to amend the Critical Data Elements (“CDE”) instead of mandating CFTC-jurisdictional fields.

In addition, many of the new proposed data fields would require market participants to collect information not currently captured in their operational systems. For example, derivative clearing organizations (“DCO”) would be required to collect additional information related to the proposed Counterparty Designation fields, e.g. Swap Dealer (SD), Major Swap Participant (MSP), Non-SD/MSP (please refer to newly proposed Technical Specification Fields #s 28, 29 and 30). In addition, the Commission is proposing to require the reporting of a “Yes” or “No” indicator of whether the transaction is subject to mandatory clearing (see Technical Specification Field #14). DCOs do not currently have this information and should not be required to undertake the analysis

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<sup>5</sup> The Commission emphasized in both the final 2020 and Proposed Amendments that “international harmonization, when widely implemented, would allow market participants to report swap data to several jurisdictions in the same format, allowing for potential cost savings” and “would also allow the Commission to potentially receive more standardized information regarding swaps reported to TRs regulated by other authorities.” 85 FR 75540, Swap Data Reporting and Recordkeeping, (Nov. 25, 2020), [https://www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf?utm\\_source=govdelivery\\_and](https://www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf?utm_source=govdelivery_and) 88 FR at 90060, Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements (December 28, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-12-28/pdf/2023-28350.pdf>.

<sup>6</sup> The Regulatory Oversight Committee (ROC) is a group of financial markets regulators and other public authorities who work to improve the quality of data used in financial data reporting and harmonize standards across jurisdictions. <https://www.leiroc.org/>

to determine whether a trade is subject to the clearing mandate. The Commission is also proposing to require DCO's to report the "Large Notional Off-Facility Swap Election Indicator" (see Technical Specification Field #20). This field is not clearing related and a DCO is not a party to the trade execution. As such, ICE recommends the Commission remove proposed data fields that are not part of core transaction information and that reporting parties do not currently have.

### **III. Unique Product Identifier for the Commodities Asset Class**

The CFTC is proposing to designate a UPI system for the "other commodity" asset class and introduce a new process for reporting commodity swaps that (a) implements the use of UPIs and (b) complies with the geographic masking requirements under the existing swaps reporting regime. Under the Proposal, the reporting party would be required to determine whether a commodity swap is subject to the geographic masking requirements. If the reporting party determines that the geographic masking requirements apply, it must query the DSB to receive two separate UPIs to satisfy the reporting obligations under both Parts 43 and 45. ICE Trade Vault believes the requirement to report two separate UPIs for a commodity swap transaction would be a significant and costly build for reporting parties and other third-party service providers to obtain two UPIs for a single transaction.<sup>7</sup> The proposed requirement is not required by other, non-US swaps reporting regimes, and thus would contradict the global harmonization and streamlining of reporting processes that regulators, market participants and SDRs have worked to achieve over the years.

ICE Trade Vault is aware of several industry proposals recommending the CFTC adopt a simplified process for commodity UPI reporting.<sup>8</sup> ICE Trade Vault is supportive of an alternative that would satisfy the masking obligations and implement commodities UPIs while minimizing the costs and burden of additional reporting processes to SDRs and reporting parties.

### **IV. Compliance Date**

#### Implementation of Final Rules

ICE Trade Vault recommends the compliance date be no earlier than 365 days after the publication of the final Part 43 and Part 45 rule amendments, final Technical Specifications and final SDR Guidebook, whichever is later. ICE Trade Vault also recommends the Commission allow an additional 365 days after CFTC publication of the order designating implementation of commodity UPIs for implementation of UPIs for the "other commodity" asset class given that the UPI provider does not currently reflect the needed underlier IDs utilized by North American commodities market participants. In addition, the International Swaps and Derivatives Association (ISDA) is currently updating the Commodities Reference Prices (CRP) which would be required by the UPI provider to accurately create Commodities UPIs. Trade Vault requests that UPIs for

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<sup>7</sup> ICE Trade Vault owns and operates ICE eConfirm which is a third-party service provider under the CFTC swap data reporting rules. The proposed process to obtain two UPIs is unnecessarily complex and costly to both reporting parties and third-party service providers such as ICE eConfirm.

<sup>8</sup> ISDA and the Commercial Energy Working Group have both proposed solutions to simplify commodities UPI reporting. Trade Vault would be supportive of either proposal.



the “other commodity” asset class be implemented only after the UPI provider and ISDA update the CRP and UPIs to include the missing underlier IDs.

### ISO 20022 implementation

The Proposal does not address the ISO 20022 implementation. The ISO 20022 will be a key and substantive component of the Commission’s reporting rules for market participants, however there is little information or clarity on potential timing and scope of implementation. ICE Trade Vault requests the Commission update market participants on timing related to the ISO 20022 standard implementation, including:

- Clarification that the CFTC is not expecting ISO 20022 to go-live until after the compliance date of the Proposal;
- New approximate timing of ISO 20022 compliance date, including the expected publication of usage guidelines; and
- Consideration that any usage of ISO 20022 be harmonized across North American regulators.

## **V. Cost-Benefit Considerations**

The CFTC has proposed changes that substantially differ from current data reporting requirements and processes. ICE Trade Vault believes the Commission should substantiate the additional costs borne by the SDR and market participants and provide more complete data demonstrating the benefits of new, burdensome requirements on SDRs, reporting parties and other market participants, including the proposals to report two UPIs for certain products in the “other commodity” asset class.

In response to the assessment of costs related to the proposed CDE and CFTC-specific data fields, ICE Trade Vault believes that the Commission has significantly underestimated the costs to implement these changes and incorrectly assumed that SDRs and reporting entities simply “need to modify their electronic systems to accommodate the new proposed CFTC data elements.”<sup>9</sup> The Commission has failed to account for the personnel needed within a software development lifecycle including requirement writers, software developers, quality assurance personnel, and business and compliance staff who are all necessary to design, build, test and release system changes. In addition to the technical changes needed to implement new data fields, SDR staff participate in industry working groups and work with Commission staff to receive technical guidance. SDR staff must also update system related documentation including policies and procedures and technical customer guidebooks. Lastly, SDR staff must review and approve changes throughout the entire implementation of system changes.

For the implementation of CFTC specific data fields, the Commission has incorrectly assumed that the “essential price-forming details of the swap are readily available to the reporting entity to send to an SDR without incurring significant costs.” The formats and allowable values proposed by the Commission are not aligned with industry standards and not currently stored within trade capture and electronic confirmation systems. Reporting parties would have to map, transform, and store a CFTC reporting-only value that is otherwise not utilized nor beneficial for any other

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<sup>9</sup> 88 Federal Register 90046, on 90062.



purpose. As such, we do not believe the benefit of requiring these new fields outweighs the costs of modifying trade capture and confirmation systems.

Finally, ICE Trade Vault suggests based on its previous experience implementing SDR rule changes, that a more appropriate cost estimate would be no less than 10,000 hours which is substantially higher than the 500-1000 hours the Commission has cited in its cost-benefit analysis.<sup>10</sup> ICE Trade Vault believes the Commission should substantiate the additional costs borne by the SDR and market participants and provide more complete data demonstrating the benefits of new, burdensome requirements on SDRs, reporting parties and other market participants, including the proposals to report two UPIs for certain products in the “other commodity” asset class.

## **VI. Miscellaneous Comments**

- Placement of New Fields in the SDR Guidebook Should Be at the End of the Document. Part 49 requires SDRs to submit certain reports to the CFTC. The SDR Guidebook provides instructions to SDRs for submitting reports to the Commission and SDRs must adhere to the requirements defined in the SDR Guidebook. Trade Vault requests that any new fields be added to the end of the Guidebook reports and not placed in the middle. Placing the new fields in the middle of the Guidebook will require the SDR to entirely rebuild the report versus amending the report to add new fields. This will allow for efficiencies and cost reduction to the SDR when building revised reports for the Commission.
- Publication of the SDR Guidebook to Market Participants. Previous SDR Guidebooks required certain fields be sent to the CFTC even though they were not contained within the Technical Specifications. This created issues with customers as the SDR was requiring fields not contained in Parts 43 and 45. The SDR Guidebook should not contain fields not captured within the Technical Specification.
- Upgrading of Trades. Previous compliance dates for reporting rule changes required all open swaps to be updated to the relevant Technical Specifications. In addition, the Commission staff expected SDRs to produce ad hoc reports to reflect the status of trades not upgraded. Given the number of new fields being proposed by the Commission and the requirement to report two duplicate UPI workflows for masked commodity trades, it would be problematic for the Commission to require trades be upgraded on the same compliance date.

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<sup>10</sup> 88 FR 90046, on 90063



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Please do not hesitate to contact Kara Dutta (770.906.7812 or [kara.dutta@theice.com](mailto:kara.dutta@theice.com)) if you have any questions regarding our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kara Dutta', is positioned below the word 'Sincerely,'.

Kara Dutta  
General Counsel  
ICE Trade Vault, LLC

Cc: Honorable Rostin Behnam, Chairman  
Honorable Kristy Romero-Goldsmith, Commissioner  
Honorable Kristin Johnson, Commissioner  
Honorable Caroline Pham, Commissioner  
Honorable Summer Mersinger, Commissioner

## **Appendix I- Comments to the Technical Specifications for Parts 43 and 45 Swap Reporting and Public Dissemination Requirements**

The following are general comments to the proposed Technical Specifications.

- **#1.3.3 - Repeating data elements or leg-based products**

The Commission has added instructions for the reporting of products having two legs. By providing these instructions, the Commission is placing an unnecessary burden and cost on market participants by not allowing swaps to be reported as traded and as reflected within the market participant's trade capture systems. This in turn would result in market participants not accurately capturing trade details which creates further complexity when completing trade verifications and reconciliation with the SDR. Additionally, there is no SDR validation associated with this logic, nor would it be viable for the SDR to implement validations to ensure adherence to the CFTC's instructions. As such, Trade Vault questions the benefit to the Commission and suggests this new additional guidance be removed.

- **#1.3.4 - "Reporting Multiple Values"**

The Commission has added commentary to certain fields allowing multiple values, such as Field #117 and Footnote 68. However, the CFTC's comments are not contained within the definition of all fields currently allowing multiple values. The Commission should clarify which fields allow for the submission of multiple values by adding a column to the Technical Specification indicating where multiple values are allowed to be reported.

- **#60 - "Notional Quantity Schedule - Days of Week"**

The CFTC proposes to add a new field for "Notional Quantity Schedule - Days of Week". ICE notes that the validation for this new field references a field name of "days of the week" but this field does not exist in the Part 45 rules and the SDR would be unable to validate when these fields are required to be submitted. As such and since this proposed Technical Specification is not a required CDE or DSB field and aligned with global data harmonization efforts, ICE recommends the CFTC remove this field or add a "days of the week" field to the Part 45 rules so the SDR can perform the necessary validation.

In addition, ICE notes the proposed allowable values for the "Notional Quantity Schedule-Days of the Week" do not reflect North American electricity industry standard allowable values and in certain cases are incomplete. ICE believes the allowable values should reflect industry standard allowable values and should include applicable time zones (for example, EPT) and all industry holidays (for example, NERC and other Independent System (ISO) holiday schedules in addition to bank holidays).

- **#63 - "Notional Quantity Schedule - Hours From Thru"**

The Commission has proposed to add a technical specification for "Notional Quantity Schedule-Hours from Thru". ICE notes that the proposed validation for this new Technical Specification references an "Hours from Thru" field however this field does not exist in the Part 43 and Part 45 rules. As such and since this proposed Technical Specification is not a required



CDE or DSB field, ICE recommends that the CFTC remove this field from the Technical Specifications or add an “Hours from Thru” field to the Part 45 rules so the SDR can perform the necessary validation.

ICE further notes that the allowable values and format of the proposed “Notional Quantity Schedule-Hours from Thru” Technical Specification are not in the North American electric industry standard formats. Nineteen characters is not enough to reflect certain peak and off-peak schedules. In addition, limiting the value to a time format based on UTC adds unnecessary and burdensome work to map the various ISO and industry standard time formats for peak and off-peak schedules to those required for reporting. ICE suggests the Commission revise this Technical Specification as follows: 1) not require a time format; 2) allow options for peak or off-peak hours; and 3) allow options for all hours including Eastern Standard Time and Eastern Prevailing Time.

- **#66 - “Notional Quantity Schedule - Load Profile Type”**

The Commission has proposed to add a Technical Specification for “Notional Quantity Schedule-Load Profile Type”. ICE notes that the validation for this new field references a “Load Profile Type” field but this field does not exist in the Part 43 or Part 45 rules. As such and since this proposed Technical Specification is not required as a CDE or DSB field and aligned with global data harmonization efforts, ICE recommends the CFTC remove this field or add an “Load Profile Type” field to the Part 45 rules so the SDR can perform the required validation.

- **#140 - “Transaction Related”**

The Commission has proposed to add a technical specification for “Large notional off-facility swap election indicator.” Trade Vault recommends a validation condition be added to prevent both block trade election (proposed #139) and large notional off-facility swap election indicator (proposed #140) from being submitted as ‘True’ and to ensure that the SDRs can comply with time delays for the public dissemination of swap and transaction pricing data.

- **#Example 14 - “Back Reporting of Corrections to Expired/Terminated/Matured Swaps”**

Example 14 within the Technical Specifications does not accurately represent current or proposed workflows allowed within the scope of SDR validations:

- Submission 1 represents a USI submitted as a New-Trade (NEWT-TRAD) combination in 2018-04-01. As this predates the implementation of the CFTC Technical Specifications, the trade could not have been submitted with an Action type/Event type combination. Submission 2a would be rejected by the SDR action type validation.
- Submission 2b (NEWT/UPDT) contradicts Rule 45.5(f) which provides the same unique transaction ID be used when created and throughout the existence of the swap. Further, the NEWT/UPDT Action type/Event type combination conflicts with current validations. For example, Prior USI (proposed #149) is only allowed for event types `NOVA`, `CLRG`, `EXER`, `ALOC` and `CLAL`. Submission 2b (NEWT/UPDT) also contradicts footnote 131 which provides that NEWT/UPDT is only allowed for upgrading existing `exotic`, `complex`, or `non-standard` swaps.

Trade Vault recommends that the Commission work with SDRs and market participants to propose a limited set of Technical Specification fields and validations to be required on the back reporting of corrections to expired/terminated/matured swaps.

- **#Appendix F - “Allowable Action Type Sequences”**

The ‘Not Reported’ status is not a valid swap status and it is not information the SDR currently holds. The ‘Not Reported’ status can represent both ‘Open’ and ‘Expired’ swaps which is information only known by the reporting entity. Further, the Technical Specifications states that “when a swap is reported for a first time with the action type ‘New’, the status changes from ‘Not reported’ to ‘Open.’” This statement is not accurate since a ‘New’ swap reported for the first time can represent an ‘Open’ or ‘Expired’ swap. Further, the CFTC has not provided a list of valid status types or the criteria defining each status and assigned to a swap. As such, Trade Vault recommends removing the ‘Not Reported’ status from the Allowable Action type sequences.