



Via electronic submission

October 21, 2024

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

RE: Financial Data Transparency Act Joint Data Standards Rulemaking (RIN 3038-AF43)

Dear Mr. Kirkpatrick:

The Futures Industry Association (“**FIA**”)¹ appreciates the opportunity to respond to the proposed rule from the Office of the Comptroller of the Currency (“**OCC**”), Federal Reserve System (“**Federal Reserve**”), Federal Deposit Insurance Corporation (“**FDIC**”), National Credit Union Administration, Consumer Financial Protection Bureau (“**CFPB**”), Federal Housing Finance Agency, Commodity Futures Trading Commission (“**CFTC**”), Securities and Exchange Commission (“**SEC**”), and Department of the Treasury (“**Treasury**”) (collectively, the “**Agencies**”) on joint data standards pursuant to the Financial Data Transparency Act (“**FDTA**”) (“**Proposed Rule**”).² As you know, FIA member firms include clearing firms, exchanges, clearinghouses, and trading and commercial firms that have financial data regulatory reporting obligations and, in some instances, receive financial data reporting. As a result, the Proposed Rule would impact FIA members.

“Collections of Information” by the CFTC that we believe may be subject to the Proposed Rule include, but may not be limited to:

1. Large Trader Reports;
2. Position Limits;
3. Futures Volume, Open Interest, Price, Deliveries, and Exchanges of Futures; and

¹ 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, law firms and other professional service providers. 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.

² Financial Data Transparency Act Joint Data Standards, 89 Fed. Reg. 67890 (Aug. 22, 2024).

4. Ownership and Control Reports, Forms 102/102S, 40/40S, and 71 (Trading and Account Identification Reports).³

1. **The Agencies Should Further Consider Whether the Financial Instrument Global Identifier (“FIGI”) is the Appropriate Standard for Identifier of Financial Instruments.**

The Proposed Rule asserts that the FIGI is a “global non-proprietary identifier available under an open license.”⁴ It also briefly mentions consideration of CUSIP and ISIN for this identifier,⁵ but does not contain much in the way of analysis of either as alternatives. FIA has not yet formed an opinion on whether and which identifier should be used as the standard identifier of financial instruments. However, we have concerns that the FIGI is not entirely open license,⁶ and we believe further exploration, consideration, and comparison of alternatives are warranted.

We also have concerns that adoption of the FIGI could lead to increased operational risk. We believe certain instruments may have different FIGI numbers on different exchanges,⁷ meaning, firms would need to map these instruments and their FIGI numbers to different venues. Furthermore, when a firm receives a data file from an external source that does not use the FIGI, the firm would need to match the FIGI to the identifier used therein. The need for complex data mapping may create operational risk and room for error.

2. **With Standardization Comes Potential for Data Security Challenges.**

While FIA understands the purpose of the Joint Data Standards with regards to efficiency, transferability, readability, and interoperability, we are also concerned that standardization could lead to data security concerns. The Joint Data Standards will serve as a publicly available roadmap for how, at least in part, numerous records within financial institutions and government agencies will be stored. This information could provide bad actors with additional context to access systems unlawfully and then exploit the stored information.

We request that the Agencies conduct a further cost-benefit analysis of the Joint Data Standards that considers the potential increased risks associated with data security.

³ See Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President, *Information Collection Review*, available at <https://www.reginfo.gov/public/do/PRAMain> (where you can search “Current Inventory” by agency). We note, however, that “[e]ach implementing Agency may choose to further interpret the scope of the FDTA’s applicability to its own collections of information in the Agency-specific rulemakings.” 89 Fed. Reg. at 67895-6. FIA requests clarity on which collections of information are in scope, noting that some Agencies have hundreds of collections of information that will not all apply to a specific entity.

⁴ 89 Fed. Reg. at 67897.

⁵ *Id.*

⁶ Letter from Thomas Pinder, General Counsel, American Bankers Association, to Christopher Kirkpatrick, Secretary of the Commission, CFTC, Re: Proposed Rule: Financial Data Transparency Act Joint Data Standards Rulemaking, RIN number 3038-AF43 (August 2, 2024), at 4 (Sept. 3, 2024), available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=74523&SearchText=>.

⁷ See Allocation Rules for the Financial Instrument Global Identifier (FIGI) Standard (July 2022), at 6, available at <https://www.openfigi.com/assets/local/figi-allocation-rules.pdf> (“Equity instruments and equity options are allocated a FIGI at the Composite and Trading Venue level. For all other asset classes, only one FIGI gets assigned per security.”).

3. The Implementation Timeline for the Joint Data Standards Needs to Be Considered Carefully.

Each implementing agency is required to effectuate the Joint Data Standards into their own rules no later than two years after the final Joint Data Standards are promulgated.⁸

i. The CFTC Should Consider Several Factors, and Maintain an Open Dialogue with Industry, Regarding the Implementation of the Joint Data Standards into the CFTC's Rules.

With respect to the CFTC's implementation of the Joint Data Standards, we encourage the Commission to consider, among other things: (1) the timing of other rule implementations (whether or not those rules relate to affected data); (2) the time of year, recognizing that many firms freeze system developments/changes towards year-end; (3) the lead time needed to make changes, including collaboration with vendors; (4) the need for a testing period to ensure systems are operating correctly; and (5) the flexibility provided by the FDTA to implementing agencies, and the CFTC specifically.

Regarding the flexibility provided to the CFTC specifically, the Proposed Rule expressly notes that the CFTC is not required to adopt the Joint Data Standards in its rules; rather, the decision to adopt the Joint Data Standards is at the CFTC's discretion.⁹ Moreover, even if the CFTC chooses to adopt rules implementing the Joint Data Standards, the Proposed Rule expressly notes that "each implementing Agency (1) may scale data reporting requirements to reduce any unjustified burden on smaller entities affected by the regulations and (2) must seek to minimize disruptive changes to those entities or persons."¹⁰ It further notes that "nothing in the FDTA may be construed to prohibit an Agency from tailoring the data standards when those standards are adopted."¹¹

We encourage the CFTC to keep its discretionary authority, and the flexibility offered by the FDTA, in mind as it considers whether and how to implement the Joint Data Standards. We also encourage the CFTC to engage in robust discussions with industry stakeholders regarding whether and how to implement the Joint Data Standards.

ii. The CFTC Should Consider Part 17 Large Trader Reporting Implementation Timing and How it Relates to Joint Data Standards Implementation Timing.

The CFTC recently finalized a rule updating its large trader reporting regime under Part 17 of its regulations.¹² FIA was actively involved in commenting on and advocating regarding the changes made in this final rule. And now, post-finalization, FIA is working closely with its members on implementation of the final rule, which has a compliance date of June 3, 2026.¹³

Data fields to be reported via the new Part 17 reporting regime include: (1) Message Transmit Datetime; (2) Report Date; (3) Special Account Controller LEI; (4) Commodity Clearing Code; (5) Ticker Symbol;

⁸ See 89 Fed. Reg. at 67895.

⁹ *Id.* at 67894, fnt 7.

¹⁰ *Id.* at 67895(citation omitted). Note that, "[o]n May 3, 2024, the Secretary of the Treasury designated the CFTC as a covered agency under the FDTA." *Id.* at 67894, fnt 2 (citation omitted).

¹¹ *Id.* at 67895.

¹² See Large Trader Reporting Requirements, 89 Fed. Reg. 47439 (June 3, 2024).

¹³ See *id.* at 47439.

(6) Maturity Month Year; (7) Listing Date; (8) First Exercise Date; (9) Underlying Contract ID; and (10) Underlying Maturity Month Year.¹⁴ Each of these data fields appears to potentially be affected by the Proposed Rule. Certain of the date fields may be impacted by whether the final rule on Joint Data Standards ultimately includes ISO 8601 or a different date standard. The Special Account Controller LEI field may be impacted by whether the final rule ultimately includes ISO 17442–1:2020 or a different legal entity identifier standard. And finally, the various fields related to product codes and/or product identification may be impacted by whether the final rule ultimately includes ISO 10962 and FIGI or a different product identification standard(s).

Given the possible overlap between the data collected via the CFTC’s new Part 17 large trader reporting regime and the Joint Data Standards, we ask the CFTC to be cognizant of timelines for compliance of both rules. The industry is working towards implementation of Part 17 reporting now. However, the industry is unable, based upon only a Proposed Rule, to perceive what, if anything, they may need to incorporate into their ongoing implementation efforts to accommodate future Joint Data Standards. This puts the industry in the position of potentially having to revise their Part 17 reporting systems twice, which could be inefficient, costly and confusing for market participants. We strongly encourage the CFTC to consider this potential mis-aligned timing.

4. The Proposed Rule is Lacking in Cost-Benefit Analysis.

The Proposed Rule is lacking consideration of costs versus benefits of the Joint Data Standards. While the CFTC acknowledges that “certain collections of information may need revision to incorporate and ensure compatibility with, to the extent feasible, the joint standards,”¹⁵ it does not discuss how much such revisions would cost the industry. Indeed, Commissioner Pham, in her concurrence, agrees that “there is insufficient discussion of the impact and costs associated with the adoption of these new data standards that will apply across the banking and financial services sector . . .”¹⁶

We encourage all the Agencies, but particularly the CFTC, to engage in a cost-benefit analysis as it relates to the Joint Data Standards. FIA believes that this analysis is particularly important for the CFTC because implementation of the Joint Data Standards is at its discretion. Engaging in a thorough cost-benefit analysis will aid the CFTC in determining whether it should exercise its discretion with regards to implementation.

5. The Joint Data Standards May Present Challenges For Firms That Operate Outside the U.S.

FIA is concerned about complications with the Joint Data Standards that may present for firms who operate both within and outside the U.S. Whether memorialized in rules or regulations, or a matter of custom and practice, different countries and regions of the world may have their own standards with regards to data representation, including but perhaps not limited to, date format.

It would be challenging for a global entity to attempt to impose U.S.-based data standards on an enterprise-wide basis. Moreover, maintaining data standards within the U.S. that are different from the

¹⁴ See Guidebook for Part 17.00, Reports by Reporting Markets, Futures Commission Merchants, Clearing Members, and Foreign Brokers, Version 1.9, Part 2 – Data Dictionary (Apr. 16, 2024), *available at* <https://www.cftc.gov/PressRoom/PressReleases/8902-24>.

¹⁵ 89 Fed. Reg. at 67903.

¹⁶ *Id.* at 67908.

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rest of the enterprise globally would likely mean that various systems within the global entity struggle to communicate with each other and transfer data to and from each other.

FIA encourages the Agencies to consider issues related to global harmonization and enterprise-wide approaches and accommodations before finalizing the Joint Data Standards.

6. Conclusion

FIA thanks the Agencies for the opportunity to comment in response to this Proposed Rule. Should you have any questions about our comment, please do not hesitate to contact me at alurton@fia.org.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Allison Lurton". The signature is fluid and cursive, with a long horizontal flourish at the end.

Allison Lurton
General Counsel, Chief Legal Officer