

April 11, 2024

***Electronic submission***

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

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

Dear Mr. Kirkpatrick,

The International Swaps and Derivatives Association, Inc. (“ISDA”)<sup>1</sup> and the Securities Industry and Financial Markets Association (“SIFMA”)<sup>2</sup> (collectively, “the Associations” or “we”) appreciate the opportunity to provide the Commodity Futures Trading Commission (“CFTC” or “Commission”) with comments in response to the proposed revisions to Part 43 and Part 45 of the Commission’s regulations referenced above (“Proposed Amendments”).<sup>3</sup>

The Associations continue to support global harmonization and international standards for swap data reporting. Our members are subject to multiple global reporting jurisdictions, so are aligned with the Commission’s objective to “improve the harmonization of TRs data across FSB member jurisdictions.”<sup>4</sup> We believe that globally harmonized data elements for trade reporting will have

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<sup>1</sup> Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 77 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association’s website: [www.isda.org](http://www.isda.org).

<sup>2</sup> SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (“GFMA”). For more information, visit <http://www.sifma.org>.

<sup>3</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 version 3.3 “Technical Specification v3.3” (December 13, 2023), [https://www.cftc.gov/media/9926/Part43\\_45TechnicalSpecification12132023REDLINE/download](https://www.cftc.gov/media/9926/Part43_45TechnicalSpecification12132023REDLINE/download).

<sup>4</sup> Proposed Amendments, at 90048.

benefits for the efficiency of reporting and the quality of the reported data for regulatory use. We commend the Commission's efforts to adopt the global Unique Product Identifier and product classification system ("UPI") for swaps in the Commodities asset class through these Proposed Amendments.

Our response begins with several recommendations before turning to responses and feedback to the Proposed Amendments, based on the input of market participants.

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## I. Recommendations:

- ***Streamline and "Right-size" data requirements:*** The Commission's 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***<sup>5</sup> ("Roadmap"). The Roadmap outlined the CFTC's key objectives to streamline reporting to 'right-size' the number of reportable data elements to meet the CFTC's priority use-cases for swaps data, 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 Associations supported the Roadmap objectives.<sup>6</sup> We are therefore disappointed that the Proposed Amendments would result in a 40% increase in the number of required reportable data elements if adopted, which strays from the Roadmap objectives. We agree with Commissioner Pham's statement that "the Proposed Amendments to Parts 43 and 45 threaten to undo the progress made by expanding the data fields from 128 to closer to 200 by adding new data elements, many of which are specific to the CFTC and drive the Commission further away from international harmonization."<sup>7</sup> Therefore, we urge the CFTC to:
  - remove proposed fields which are not part of core transaction information;
  - remove data elements which would require reporting of information that reporting counterparties ("RCPs") do not currently have;
  - remove data elements which require reporting of static data. Reporting of static data on a trade-by-trade basis is not appropriate for trade reporting and results in identical information being sent repeatedly to the swap data repository ("SDR"), increasing message volumes without commensurate visibility into systemic risk; and
  - to every extent possible, product attributes which are part of the UPI reference data should not be mandated as new CFTC data elements since the UPI code will be reportable to the CFTC, and the Derivatives Service Bureau ("DSB") as UPI Service Provider is designated by the Financial Stability Board ("FSB") to maintain a 'golden source' reference data library for UPIs, so doing so would be duplicative.
  
- ***Align with global harmonization standards:*** The Commission emphasized in the 2020 final Swap Data Recordkeeping and Reporting rule ("2020 Final Rules") and reiterated in the Proposed Amendments that "international harmonization, when widely implemented, would allow market participants to report swap data to several jurisdictions in the same format, resulting in potential cost savings" and allowing "the Commission to potentially receive more standardized information regarding swaps reported to TRs regulated by other authorities."<sup>8</sup> Since the Commission recognizes the importance of global harmonization, we question why the Proposed Amendments contemplates adding 30 data elements which would be reported solely to the CFTC. The

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<sup>5</sup> CFTC Division of Market Oversight Announces Review of Swaps Reporting Regulations (July 10, 2017), <https://www.cftc.gov/PressRoom/PressReleases/pr7585-17>.

<sup>6</sup> Joint ISDA and SIFMA Response to Roadmap to Achieve High Quality Swaps Data (August 21, 2017), <https://www.isda.org/a/wZiDE/isda-sifma-comments-cftc-dmo-roadmap-swap-data-reporting-21-aug-2017-final.pdf>.

<sup>7</sup> Proposed Amendments, at 90080.

<sup>8</sup> 85 FR 75503, Swap Data Recordkeeping and Reporting Requirements (Nov. 25, 2020), at 75540 [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) and Proposed Amendments, at 90060.

Associations agree with the view expressed by Commissioner Pham<sup>9</sup> regarding resolution of harmonization issues, as covered at the CFTC’s Global Markets Advisory Committee (“GMAC”) November 6, 2023 meeting<sup>10</sup> and with the GMAC adoption of recommendations from its Technical Issues Subcommittee.<sup>11</sup> We would welcome the opportunity to work collaboratively with the CFTC on analysis and resolutions. It appears that in certain cases, CFTC-only fields are being proposed to close possible gaps in current global UPI template attributes, for example, and mandating jurisdiction-specific builds via additional CFTC-only fields as a way to obtain information. We recommend that instead, further analysis is performed so that the CFTC can work with the DSB or the Regulatory Oversight Committee (“ROC”) to enhance UPI templates or critical OTC derivatives data elements (“CDE”) at the global level, in order for the CFTC to then pull any needed attributes directly from the global UPI or CDE, instead of adding data elements at a single-jurisdictional level.

- ***Rule proposals substantiated by cost-benefit analysis:*** Certain proposals which would mandate an obligation significantly different from the current requirements should be substantiated by more complete data which demonstrates the need to impose new, substantive burdens on RCPs and other market participants. Examples include the proposals to report two UPIs for certain products in the Commodity Asset Class, Special Entity, or other counterparty static data. Each material change to swap data reporting requirements should be introduced by the Commission with specific cost and benefit analyses.
- ***Continued dialogue between CFTC Staff and industry:*** As a general comment, the enclosed responses are provided in the context of the Proposed Amendments. After the CFTC finalizes the set of required data elements of Part 43 appendix A and Part 45 appendix 1, the industry may need to perform a final assessment, which can only be done when market participants have clear visibility and context of the final, full set of reportable fields, to provide any additional feedback on aspects of the Parts 43/45 Technical Specification version 3.3 (“Technical Specification v3.3”), such as potential validation challenges.
- ***Use technology to reduce costs, improve data quality and drive consistent implementation:*** The open-source Common Domain Model (“CDM”) is a standardized set of digital representations for derivatives trade events and processes that occur through the lifecycle of a trade.<sup>12</sup> The CDM is having a transformative impact in one of its many use cases – the area of derivatives trade reporting. The ISDA Digital Regulatory Reporting (“DRR”)<sup>13</sup> is an industry-mutualized initiative to develop a digitized representation of trade reporting rules and market practices based on common industry interpretation. DRR turns trade reporting rules into machine-executable code, which can be used for submission to trade repositories (“TRs”). DRR code can be centrally developed and deployed, making DRR reusable and scalable for multiple reporting jurisdictions, meaning that those who adopt the DRR are implementing an unambiguous, machine-executable

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<sup>9</sup> Proposed Amendments, at 90079.

<sup>10</sup> CFTC Global Markets Advisory Committee Advances Key Recommendations (February 8, 2024), <https://www.cftc.gov/PressRoom/PressReleases/8860-24>

<sup>11</sup> These GMAC recommendations were also submitted as comments on the Proposed Amendments, <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=73351&SearchText=>.

<sup>12</sup> CDM InfoHub <https://www.isda.org/cdm/>.

<sup>13</sup> DRR InfoHub <https://www.isda.org/2023/04/04/drr-infohub/>.

representation of industry interpretation of reporting rules. The DRR is open to all and has the ability to better facilitate consistent implementation of reporting rules and market practices. We encourage the regulatory community, including the CFTC, to continue engagement about DRR, view the code, and offer feedback or guidance.

## II. Responses to specific questions

Comments on proposed Parts 43/45 Technical Specification v3.3 appear in the matrix entitled “Comments to proposed Technical Specification v3.3” at the end of this letter.

### ***Q1. Are there any data elements not included in the proposed Data Element Appendices that commenters believe are necessary to facilitate further standardization of reporting?***

There are challenges with reporting varying schedules for Variable Notional Swaps (VNS) trades, since schedules can be created for more than just notional, such as price and spread, and there is currently no globally harmonized guidance. We encourage the Commission as a member of the ROC and ROC Executive Committee<sup>14</sup> to raise the topic to be included in the next CDE public consultation (e.g., v4).

For cleared OTC trades, there are two methods that Derivatives Clearing Organizations (“DCOs”) use to manage the risk associated with outstanding market exposures – the Collateralized to Market (“CTM”) model and the Settle to Market (“STM”) model. Currently, there is no globally harmonized guidance on whether there is a need to or how to identify when a record that is submitted for a trade has a CTM or STM model applying to the transaction. We request that the CFTC, as a member of the ROC, to raise the topic to be included in the next CDE public consultation (e.g., v4).

### ***Q2. For proposed data element #30 Counterparty 2 special entity, are there any impediments that reporting entities would experience in providing additional information related to special entities, such as whether counterparty 2 is a “utility special entity”?***

#### Utility Special Entity (“USE”)

The level of difficulty to timely and accurately determine whether a Counterparty 2 is a USE is high, as no industry-agreed documentation requesting this information from the counterparty exists. For RCPs that are registered Swap Dealers (“SDs”) as they have reached the threshold to be deemed a SD per the de minimis exception, USE is not currently captured in reporting systems, since it is not required by SD RCPs for compliance under current requirements.

The costs to change systems to obtain, pull in, track and report this information for Part 45 will be substantive and may require targeted, manual counterparty outreach. As such, we believe an appropriate cost-benefit analysis for this requirement would be warranted, particularly for SD RCPs who have no other need and/or use for this data.

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<sup>14</sup> The Regulatory Oversight Committee (ROC) members, available at <https://www.leiroc.org/about/membersandobservers/index.htm>.

Lastly, consistent with our above recommendations, counterparty-level data required to be reported on a trade-by-trade basis will result in the same data being repeatedly sent to the SDR, which increases message volumes without commensurate visibility on the part of the regulator to assess systemic risk.

Therefore, we are not supportive of a requirement to report USE for Counterparty 2.

Special Entity (“SE”) #30

The Associations oppose the addition of proposed data element #30 “Counterparty 2 Special Entity” altogether as it would add significant burden to the industry to obtain and maintain this information. More specifically:

- The industry would be building this requirement *only* for the CFTC, as no other global regulator mandates this requirement.
- For a transaction that is subject to the Commission’s external business conduct requirements<sup>15</sup>, SD RCPs parties will have this information via documentation exchanged bilaterally between the counterparties prior to trading. However, not all CFTC-reportable trades and RCPs are subject to these external business conduct requirements. For instance, non-SD (non-dealer) RCPs, including DCOs and Swap Execution Facilities (“SEFs”), may not currently collect this data from counterparties and would have to build and potentially initiate a counterparty outreach to obtain this information.
- Further, the definition of SE includes six types of sub-entities<sup>16</sup> which non-SD RCPs, including DCOs and SEFs, do not already collect from participants and one of which requires an election and notification of the election to a SD or major-swap participant.<sup>17</sup> Non- SD RCPs will not have this election information so would be unable to identify these SEs. If mandated, this would result in additional static data that non-SD RCPs would need to collect from each participant.
- Finally, SE is static data which CFTC is asking RCPs to report *for each transaction*. Consistent with our above recommendations, trade reporting is not the appropriate vehicle to provide static data, as it results in the same information being submitted repeatedly on a trade-by-trade basis to the SDR, increasing message volumes without commensurate visibility into systemic risk.

We therefore request that CFTC eliminate proposed data element #30 “Counterparty 2 Special Entity.”<sup>18</sup>

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<sup>15</sup> Part 23.400 et. seq.

<sup>16</sup> §23.401(c).

<sup>17</sup> §23.401(c)(6).

<sup>18</sup> If, however, despite industry feedback, the CFTC does move ahead with mandating #30, then we request that the CFTC help ease the burden by publishing and maintaining a publicly available list of special entities on the CFTC’s website, or work with the ROC and Global Legal Entity Identifier Foundation (“GLEIF”) to have such information added to the GLEIF golden source of entity information, prior to #30 going live.

***Q3. For proposed data element #116 Swap pricing method, are there additional allowable values other than those published in the Technical Specification that reporting entities believe may be applicable for this data element?***

We do not believe there are additional values required for #116, however, we believe that several CFTC-only fields, including #116, are being proposed due to gaps in current UPI or CDE. The CFTC may be seeking information that should be part of the global UPI or CDE, and is proposing a jurisdiction-specific build via additional CFTC-only fields as a result. Instead, the CFTC should work closely with the DSB or ROC to enhance UPI templates and the globally harmonized CDE recommendations, so that the Commission will then be able to go to the global DSB UPI template or Reference Data Library, for example, and pull the attribute it desires directly – instead of adding data elements at a single-jurisdictional level.

Please also see comments for data element #116 in “Comments to proposed Technical Specification v3.3”.

***Q4. For proposed data element #42 USD equivalent regulatory notional amount, are there impediments that reporting entities would experience in calculating and reporting USD equivalent notional amount? The Commission also seeks comment on the cited calculation methodology and the utility of the notional values calculated according to the methodology.***

Requiring that each individual RCP converts the notional amount to a USD equivalent will yield fragmented and less meaningful results as compared to using a centralized conversion approach.

In addition, a requirement to exchange a notional amount may create variances in how each market participant reports, as different foreign exchange rates could be used. We strongly recommend either the removal of this CFTC-specific data element, or moving the conversion more centrally to the CFTC or SDR as part of data analysis dashboards. Using a centralized approach, the CFTC can ensure that a consistent reference exchange rate is used across all conversions for each currency, the same point is used when converting (mid, bid or ask), and the conversion is performed only when the Commission finds it necessary.

Therefore, we recommend the removal of proposed data element #42 “USD equivalent regulatory notional amount”.

***Q5. Days of week: Are there scenarios where the “Days of Week” for delivery vary over the duration of a transaction that necessitates the reporting of multiple “Days of Week” occurrences for a single transaction? Alternatively, is the reporting of a single occurrence of “Days of the Week” sufficient, and can this value be derived from commonly known and available data related to the referenced hub?***

The Associations believe that the Allowable Values for CFTC reporting should be further assessed by the CFTC to be more appropriate for North America. For Commodities data elements in the Proposed Amendments, the CFTC proposes values taken from the European Securities and Markets Authority (“ESMA”) European Market Infrastructure Regulation (“EMIR”) Refit. While we agree and support global harmonization across jurisdictions, the EMIR field values are aligned with



European gas/power trading, which trades differently from North American gas/power, so EMIR values may not be viable for North America.

Electricity contracts do not follow bank holidays, they follow North American Reliability Council (NERC)<sup>19</sup> holidays. Nor would the distinction of Weekdays or Weekends be of much value because the physical electricity markets are not trading to terms of simply Weekdays, Weekends, or a specific day of the week; rather they are traded in the concept of peak and off-peak hours within a given weekday, and off-peak hours over the weekend. Therefore, it would be more meaningful to describe the unit of derivative expression in the way they are traded, such as the Allowable Values of “On-Peak” or “Off-Peak” used in #66 “Notional amounts and quantities” of the Proposed Amendments.

***Q6. Hours from Thru: Are there scenarios where the “Hours from Thru” for delivery vary over the duration of a transaction that necessitates the reporting of multiple “Hours from Thru” occurrences for a single transaction? Alternatively, is the reporting of a single occurrence of “Hours from Thru” sufficient, and can this value be derived from commonly known and available data related to the referenced hub?***

There can be multiple occurrences of this value for “Hours from Thru”.

We ask the CFTC to provide examples for reporting of the 12 proposed commodities-related non-monetary notional quantity schedule fields (#57-68) in final Technical Specification v3.3, to reduce uncertainties and improve consistency of the data reported.

***Q7. Load Profile Type: Are there scenarios where the “Load Profile Type” (e.g. Peak, Off-Peak) for delivery varies over the duration of a transaction that necessitates the reporting of multiple “Load Profile Type” occurrences for a single transaction? Alternatively, is the reporting of a single occurrence of “Load Profile Type” sufficient, and can this value be derived from commonly known and available data related to the referenced hub?***

No comments at this time, however, as noted in our response to Question 6, we request that the CFTC provide examples for reporting of the 12 proposed commodities-related non-monetary notional quantity schedule fields (#57-68), which include the data elements related to load profile type.

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<sup>19</sup> <https://www.nerc.com/AboutNERC/Pages/default.aspx>.

### III. Unique Product Identifier – Commodities Asset Class

For the Commodities asset class under proposed Part 43, RCPs would be required to report to SDRs a UPI that limits the geographic detail of the underlying asset per Appendix E of Part 43 (“Geographically Limited Identifier”). SDRs would disseminate the Geographically Limited Identifier that is reported to them by RCPs. For Part 45, however, the Proposed Amendments highlight that the Geographically Limited Identifier will not satisfy Part 45 requirements, since it would not include specific delivery and pricing point details. Therefore, the CFTC proposes that a second UPI, containing the specific delivery and pricing point details, would be reported by RCPs to SDRs.

The Associations do not support the CFTC’s proposal to report two UPIs for a swap transaction, as we believe it will be a significant and costly build for RCPs and other key parties in the reporting infrastructure to obtain and maintain two UPIs for a single transaction. Notably, if required, market participants would be forced to build this only for the CFTC, as no other jurisdiction has specified the same mandate, running counter to efforts towards global harmonization. In addition, it is not currently clear from the proposal whether, when considering the global UPI System, the UPI Service Provider would be able to accommodate such a dual UPI model. In addition, the UPI Service Provider is not a CFTC-registered entity so the Commission may not have control over timing to complete any UPI Service Provider process or template changes needed.

Instead, the Associations, whose members include SDRs, propose the following approach:

- The RCP submits to the SDR one global UPI for purposes of Part 43 and Part 45;
- For the Part 43 public ticker, the SDR would pull the Classification of Financial Instruments (“CFI”)<sup>20</sup> code from the UPI Service Provider. The SDR would publicly disseminate the CFI code;
- We performed an initial comparison of CFI attributes furnished by UPI Service Provider documentation (see below – Diagram 1) versus what is currently Part 43 reported per certain SDR message specifications for Commodities trades that require masking, with respect to the underlier under Part 43. Based on such analysis, we propose that, in addition to the CFI, the below attributes would be publicly disseminated by the SDR:
  - Commodity Instrument ID – Leg 1<sup>21</sup>
  - Commodity Instrument ID – Leg 2<sup>22</sup>
  - Maturity Date of the Underlier

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<sup>20</sup> ISO 10962, available at <https://www.iso.org/obp/ui/en/#iso:std:iso:10962:ed-5:v1:en>.

<sup>21</sup> Which includes the “mask” for the underlier.

<sup>22</sup> Which includes the “mask” for the underlier.

**Diagram 1: Commodities asset class CFI levels and attributes from “DSB Product Definitions Annex 5 – Commodities”<sup>23</sup>**

**2 CFI Enumerations**

Source: ISO 10962 (CFI Code) – Third edition 2015-07-15

**2.1 Commodities Swaps**

Char Category	Char Group	Char Att#1	Char Att#2	CharAtt#3	Char Att#4
Category	Group	Underlying asset	Return or payout trigger	Not Used	Delivery
<b>S</b> Swaps	<b>T</b> Commodities	<b>J</b> Energy <b>K</b> Metals <b>A</b> Agriculture <b>N</b> Environmental <b>G</b> Freight <b>P</b> Polypropylene Products <b>T</b> Paper <b>S</b> Fertilizer <b>I</b> Index <b>Q</b> Multi Commodity <b>M</b> Other	<b>C</b> Contract for Difference (CFD) <b>T</b> Total Return	<b>X</b> NA	<b>C</b> Cash <b>P</b> Physical <b>E</b> Elect at Settlement

**2.2 Commodities Options**

Char Category	Char Group	Char Att#1	Char Att#2	CharAtt#3	Char Att#4
Category	Group	Underlying asset	Option Style and Type	Valuation Method or Trigger	Delivery
<b>H</b> Nonlisted and Complex Listed Options	<b>T</b> Commodities	<b>J</b> Energy <b>K</b> Metals <b>A</b> Agriculture <b>N</b> Environmental <b>G</b> Freight <b>P</b> Polypropylene Products <b>T</b> Paper <b>S</b> Fertilizer <b>I</b> Index <b>Q</b> Multi Commodity <b>O</b> Options <b>R</b> Forwards <b>F</b> Futures <b>W</b> Swap <b>M</b> Other	<b>A</b> European-Call <b>B</b> American-Call <b>C</b> Bermudan-Call <b>D</b> European-Put <b>E</b> American-Put <b>F</b> Bermudan-Put <b>G</b> European-Chooser <b>H</b> American-Chooser <b>I</b> Bermudan-Chooser	<b>V</b> Vanilla <b>A</b> Asian <b>D</b> Digital (Binary) <b>B</b> Barrier <b>G</b> Digital Barrier <b>L</b> Lookback <b>P</b> Other Path Dependent <b>M</b> Other	<b>C</b> Cash <b>P</b> Physical <b>E</b> Elect at Exercise

**2.3 Commodities Forwards**

Char Category	Char Group	Char Att#1	Char Att#2	CharAtt#3	Char Att#4
Category	Group	Underlying asset	Unused	Return or payout trigger	Delivery
<b>J</b> Forwards	<b>T</b> Commodities	<b>J</b> Energy <b>K</b> Metals <b>A</b> Agriculture <b>N</b> Environmental <b>G</b> Freight <b>P</b> Polypropylene Products <b>T</b> Paper <b>S</b> Fertilizer <b>I</b> Index <b>B</b> Basket <b>M</b> Other	<b>X</b> NA	<b>C</b> Contract for Difference (CFD) <b>F</b> Forward price of underlying instrument	<b>C</b> Cash <b>P</b> Physical

We believe that this approach will be less burdensome for builds for several reasons, including:

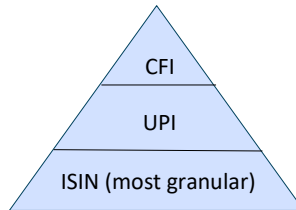
- Both the UPI and CFI are already supported by the global UPI Service Provider, as well as industry participants and key parties in the reporting infrastructure who have gone live with UPI obligations;
- The reference data of the UPI has a relationship with that of the CFI and International Securities Identification Number (“ISIN”)<sup>24</sup> global standards identifiers. The CFI, UPI and

<sup>23</sup> DSB PROD Product Definitions - Annex 5 Commodities (July 2019), <https://www.anna-dsb.com/download/dsb-prod-product-definitions-annex-5-commodities/>.

<sup>24</sup> ISO 6166, available at <https://www.iso.org/obp/ui/en/#iso:std:iso:6166:ed-8:v1:en>.

ISIN sit at different levels of an attribute data hierarchy, each offering increasing levels of granularity. The CFI sits at the less granular end of the attribute hierarchy than the UPI, so we believe the CFI would be appropriate for Part 43 public tape purposes, in the manner described earlier.

Diagram 2<sup>25</sup>



## IV. Implementation and Timing

***Q8. Is the proposed compliance date of 365 days after publication of a final rule in the Federal Register an adequate amount of time for compliance with respect to the additional data elements in the Data Element Appendices? If not, please propose an alternative timeline and provide reasons supporting that alternative timeline.***

a) Compliance date of final rules

The Commission has proposed that the compliance date for the rules be “365 days following publication of a final rule in the Federal Register.”

- The SDRs need to develop and finalize message specifications after CFTC publishes the final rule and Technical Specification v3.3. This work cannot commence until the final requirements are known, including for Part 43 appendix A and Part 45 appendix 1. The work is necessary so that the functionality of the SDRs is able to support the final requirements.
- The SDR work includes developing their respective final message specifications to include CFTC’s final changes, and incorporating any changes made to the SDR Guidebook. Industry participants are dependent on the SDR final message specifications to build – they are not able to begin the review, design, build and test (e.g. “implement”) without the finalized SDR message specifications of each relevant SDR.
- Therefore, in practice, the proposed “365 days following publication of a final rule in the Federal Register” would provide a much shorter implementation period for market participants, and sufficient time would not be available for SDRs and industry participants to review, design, build and adequately test as necessary for successful implementation of the amendments. The precedent from the 2020 Final Rules clearly demonstrated that 18 months from final rule publication is needed for implementation of substantive changes, such as the Proposed Amendments.

Therefore, we propose that the compliance date be clarified to “18 months following publication of a final rule in the Federal Register” in order to provide the SDRs approximately six months to produce final message specifications and the industry one year to implement.

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<sup>25</sup> ANNA-Derivative Service Bureau (DSB) “So what’s in the CFI, UPI, and OTC ISIN? (April 27, 2020), <https://www.anna-dsb.com/2020/04/27/so-whats-in-the-cfi-upi-and-otc-isin/>.

b) Upgrading (“UPDT”) of Commodities trades – Timeframe

We ask the CFTC to clarify whether it will require upgrading of Commodities trades which are open at the time of go-live of the Proposed Amendments to the new data requirements, and if so, confirm that only upgrade of the UPI for Part 45 is required, since a Part 43 upgrade is not necessary. In addition, once a Commodities UPI go-live date is clearer, we propose that the CFTC work with the industry on a reasonable time period for parties to complete upgrades of Commodities trades to the new, amended rules, if required.

Similar to the prior UPI go-lives for Rates, Equities, Credit, and FX, our understanding is that upgrades would only apply for swaps that are open at the time of Commodities UPI go-live, not for swaps that have matured, terminated or otherwise closed as of Commodities UPI go-live date. Certainty in the final rule would be appreciated.

c) ISO 20022 implementation

With respect to the Commission’s Part 43, Part 45 and Part 49 swap data reporting requirements, the preamble in the Part 45 2020 Final Rules notes “...because comprehensive and unambiguous rules regarding reporting format will ensure the quality and usefulness of the data, the Commission will mandate ISO 20022 for reporting...”<sup>26</sup>

The ISO 20022 will be a key and substantive component of the Commission’s swap data reporting rules for market participants, however there is little information or clarity on potential timing of implementation. CFTC No-Action Letter 22-03 states for the UPI and ISO 20022 standards “[t]he Division now expects those standards to be available for implementation no later than Q4 2023.”<sup>27</sup> Since we are currently in Q1 2024, the Associations respectfully request updates on timing related to the ISO 20022 standard implementation, including:

- Clarification that CFTC is not expecting ISO 20022 to go-live at the same time as the compliance date of the current set of Proposed Amendments;
- New approximate timing of ISO 20022 compliance date;
- Approximate timing of publication of CFTC usage guidelines for ISO 20022. We recommend that CFTC make the usage guidelines available on its website, in addition to mySWIFT, for industry’s ease of access;
- Regarding the ISO 20022 usage guidelines, which are developed by individual regulators, we urge the CFTC to work with the U.S. Securities and Exchange Commission and Canadian regulators to produce, to the extent possible, one uniform usage guideline to help drive consistency in reporting for North America.

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<sup>26</sup> Fed. Reg. 85 FR 75536.

<sup>27</sup> CFTC No-Action Letter 22-03 (January 31, 2022), <https://www.cftc.gov/csl/22-03/download>.

## V. Supplemental Comments

### ***Errors and Omissions reporting for previously reported swaps that have matured, terminated or otherwise closed (i.e. “dead swaps”) – all asset classes***

When new or amended reporting requirements go-live after a swap has matured, terminated, or otherwise closed (i.e., “dead swaps”), unique but significant challenges arise to report complete and correct data for such dead swaps. We request the Commission help to resolve these challenges no later than the compliance date of the final amendments.

For example, the Proposed Amendments, once finalized and implemented, will move the CFTC’s swap data reporting rules to a revised validation framework. Dead swaps which need to be corrected or submitted due to omission will no longer be able to be submitted to the SDR using pre-compliance date validation parameters. The direct impact of this is that RCPs will have to build the capability to allow for reporting of errors and omissions for dead swaps with post-compliance date validation parameters, including possibly obtaining data not currently in their reporting environment and building one-off solutions.

Currently, for dead swaps which need to be corrected due to an error or omission, the RCP cannot report the corrected data using the SDR validation rules that applied when the swap was still live. Instead, the RCP is required to use the validation rules that exist at the time when the corrected data is submitted to the SDR.

With each rule amendment (e.g. 2020 Final Rules, UPI January 2024 compliance date<sup>28</sup>, and the Proposed Amendments), these implementation burdens are exacerbated, since parties are asked to report additional and/or new data of each of the various amendments *for swaps that have matured, terminated or otherwise closed*. SDRs are currently not permitted to implement relaxed validations for such dead swaps under the current Technical Specifications.

The Associations ask that the CFTC work with SDRs and RCPs to assess viable solutions, including relaxed SDR validations, for correcting data for dead swaps, and provide an approach to SDRs and RCPs before the CFTC finalizes any additional required reporting fields.<sup>29</sup> We propose that the solution be adopted no later than the compliance date of the Proposed Amendments. In addition, we ask the CFTC to consider any ISO 20022 schema aspects in its solution.

### ***Price (93)***

The global CDE treats “Price” (#2.50) the same for Part 43 public transparency and Part 45 regulatory reporting. In the Equities asset class, the CDE definition for Price, below, was adopted by CFTC in data element for Price (current #69, new #93):

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<sup>28</sup> 88 Fed. Reg. 11790, Order Designating the Unique Product Identifier and Product Classification System To Be Used in Recordkeeping and Swap Data Reporting (February 24, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-24/pdf/2023-03661.pdf>.

<sup>29</sup> One potential approach would be for SDRs to be allowed to offer validation parameters which permit RCPs to submit correction data for dead swaps which need to be corrected due to an error or omission using the validations rules that applied at the time the swap was live.

*“For equity swaps, portfolios swaps, and similar products, this data element refers to the initial price of the underlying or reference asset.”*

However, reporting the initial price per CDE #2.50 for CFTC reporting results in a situation where public price discovery does not occur on any transactions other than new trades (because upsizes, novations, partial terminations, and terminations do not reflect the price of the activity, but only the price of the position). Reporting the initial price will not provide accurate information, as the value populated in the “Price” (#93) field will become out of sync with the notional and valuation values (e.g. for equity swaps).

The Associations continue to support globally harmonized definitions and values. Therefore, we urge the CFTC as a member of the ROC to propose that the ROC consult on a CDE definition of “Price” (#2.50) for Equities that will consider public price transparency, and formulate a globally harmonized definition that can be adopted appropriately into multiple jurisdictional rules.

## VI. Comments to proposed Technical Specification v3.3

### Comments on Data elements:

#### D) Clearing category (1-14):

#	Source	Category	Data Element Name	Comments
5	CFTC	Clearing	Clearing member identifier source [NEW]	No comments at this time.
14	CFTC	Clearing	Mandatory clearing indicator [NEW]	<ol style="list-style-type: none"> <li>1. The definition says “An indicator of whether the swap transaction is subject to...”. We ask the CFTC to clarify whether #14 would be required to be reported at the product level or the level of the actual trade between the counterparties. Clarification is needed for trades where an exemption from mandatory clearing has been elected by one or both counterparties to the trade. In such cases, is the CFTC’s expectation that “Mandatory clearing indicator” (#14) would be reported “true” (as the product is subject to mandatory clearing) and the details of the elected clearing exemption reported under #12 “Clearing exceptions and exemptions – Counterparty 1” and/or #13 “Clearing exceptions and exemptions – Counterparty 2”.</li> <li>2. We request that the #14 “Mandatory clearing indicator” definition clarify that if a RCP populates #14 as “false,” then #12 “Clearing exceptions and exemptions – Counterparty 1” and #13 “Clearing exceptions and exemptions – Counterparty 2” are not required to be populated. In other words, # 12 and 13 are optional and need to be reported only if a product is subject to mandatory clearing (e.g. #14 reported as “true”) but the trade between the counterparties has not been cleared due to one or both counterparties to the trade electing a clearing exemption.</li> </ol>

#### II) Counterparty category (15-30):

#	Source	Category	Data Element Name	Comments
15	CDE	Counterparty	Counterparty 1 (reporting counterparty) [revised]	The Commission has previously assigned a meaning to “block trade” in Part 43 which does not exist in the same way to any other reporting jurisdiction. Although generally-speaking, the Associations support harmonizing with global guidance, it may cause inconsistencies in reporting to do so in this case.



#	Source	Category	Data Element Name	Comments
				<p>Therefore, to reduce confusion, we recommend that the CFTC revise the proposed definition of ‘Counterparty 2’ to use “pre-allocation” instead of “block”, specifically:</p> <p><i>“Identifier of the second counterparty to an OTC derivative transaction. In the case of an allocated derivative transaction executed by a fund manager on behalf of a fund, the fund, and not the fund manager is reported as the counterparty. However, if the allocation of the <u>pre-allocation swap</u> <del>block trade</del> to specific funds does not take place prior to the reporting deadline, then the fund manager executing the transaction on behalf of the fund can be reported as the counterparty.”</i></p>
16	CFTC	Counterparty	Counterparty 1 identifier source [NEW]	<p>Although we recognize that Varchar(72) is available for natural persons in existing data element “Counterparty 1 (reporting counterparty)”, which is a globally harmonized CDE data element, we are not aware of any actual use case where a natural person would act as the reporting counterparty to a CFTC-reportable OTC derivatives trade. Therefore, we ask CFTC to conduct an appropriate cost-benefit analysis of use cases of swaps within CFTC’s purview before mandating that RCPs build another data element related to natural persons for Counterparty 1, which notably would be another CFTC-only field.</p> <p>In the interim, we recommend that CFTC eliminate this data element<sup>30</sup>.</p>
17	CDE	Counterparty	Counterparty 2 [revised]	Please see response for #15 “Counterparty 1 (reporting counterparty)”.
28	CFTC	Counterparty	Counterparty 1 designation [NEW]	<p>We oppose the proposed addition of #28 “Counterparty 1 designation” and #29 “Counterparty 2 designation”. This information is static data which CFTC proposes to be reported for each trade. Trade reporting static data on a trade-by-trade basis is not appropriate and results in the same data being sent repeatedly to the SDRs, increasing message volumes without commensurate visibility into systemic risk.</p> <p>Our understanding is that SDRs already have this onboarded client static data. In addition, this registration-related information should be gathered from the golden source, which is the NFA/CFTC itself, and not via individual RCPs via trade reporting.</p> <p>We therefore request that the CFTC eliminate this data element.</p>

<sup>30</sup> If the CFTC elects to proceed with this data element, an alternative could be to make this data element “Optional” for all 5 asset classes until such time as an appropriate cost-benefit analysis can be completed.

#	Source	Category	Data Element Name	Comments
29	CFTC	Counterparty	Counterparty 2 designation [NEW]	<p>We oppose the proposed addition of #28 “Counterparty 1 designation” and #29 “Counterparty 2 designation”. Please refer to response to #28 “Counterparty 1 designation”.</p> <p>We therefore request that the CFTC eliminate this data element.</p>
30	CFTC	Counterparty	Counterparty 2 special entity [NEW]	<p>We request that the CFTC eliminate this data element – please see response to Question 2.</p> <p>If, however, despite industry feedback, the CFTC does move ahead with mandating #30, then we request that the CFTC help ease the burden by publishing and maintaining a publicly available list of special entities on the CFTC’s website, or work with the ROC and GLEIF to have such information added to the GLEIF golden source of entity information, prior to #30 going live.</p>

**III) Custom Baskets (31-36):**

#	Source	Category	Data Element Name	Comments
32	CDE	Custom Baskets	Custom basket code [NEW]	<ol style="list-style-type: none"> <li>1. Custom baskets are bespoke and customized to the requirements of a client. Because they are normally one-off by definition, it may not be feasible to standardize the data.</li> <li>2. The proposed Custom Baskets definition in §1.3.7 Technical Specification v3.3 is appropriate for Indices, but not Custom Baskets. For example, Custom Baskets would not normally have roll schedules, but Indices would. Therefore, for the category “Custom baskets” we instead propose the below definition for §1.3.7, which we believe to be more appropriate for Custom Baskets, including to differentiate them from Indices. In addition, we also ask that the CFTC as a member of the ROC, to raise the revised definition to the ROC for inclusion in the next CDE public consultation.</li> </ol> <p><i>“For trade reporting of Custom Baskets, market participants refer to a trade as being a “custom basket” if it is tailored for a specific client, either by the client, by the Swap Dealer, or by both, where the weightings, constituents, roll schedules, and/or other key attributes related to the characteristics of the basket, are agreed bilaterally with the client and are customized for that specific client.”</i></p>

#	Source	Category	Data Element Name	Comments
				<p>3. We agree that no custom basket field other than the existing “Custom basket indicator” should be Part 43 reportable, since this could reveal competitive strategies, proprietary information, or cause fingerprinting.</p> <p>4. For all the custom basket data elements, we reiterate the points made in the <a href="#">ISDA’s response to the ”Harmonisation of critical OTC derivatives data elements (other than UTI and UPI) Revised CDE Technical Guidance – version 3 Consultative Document (31 October 2022)</a> regarding custom baskets.</p> <p>5. Proposed footnote 86 states “<i>If more than one underlier exists, the swap should be considered a basket and the corresponding basket fields should be used.</i>”</p> <p>We request that the CFTC clarify how footnote 86 of #126 work with the definition of #32 Custom Basket Code, as footnote 86 seems to indicate that a Commodity Index would be reported as a Custom Basket? In addition, the descriptions for #32 through #36 state that these data elements are not reportable if no custom basket is involved. We ask the CFTC to provide clarifying examples, including expectations of how a Commodities Index (which is not a custom basket) should be reported using the custom basket fields #32 through #36.</p>
33	CDE (2.98)	Custom Baskets	Basket constituent Identifier [NEW]	<p>Footnote 36 for this field refers to Appendix G of the Technical Specification v3.3 for an example of how to report custom basket using the Custom Basket category of fields. However, Appendix G only provides an example for the Equity asset class. Since proposed field #33 is Conditional for all 5 asset classes, we ask the CFTC to provide examples in all the asset classes to help facilitate consistent reporting, particularly for Commodities, where the sources and identifiers for commodity constituents are unclear and not as standardized.</p> <p>We do not believe that the maximum of 350 alphanumeric characters will be sufficient for all cases to capture all the basket constituents identifiers of a custom basket.</p> <p>Please also refer to comments for #32 “Custom basket code”.</p>

#	Source	Category	Data Element Name	Comments
34	CDE (2.101)	Custom Baskets	Basket constituent identifier source [NEW]	We do not believe that the maximum of 350 alphanumeric characters will be sufficient for all cases to capture all the constituents' identifiers of a custom basket.  Please also refer to comments for #32 "Custom basket code".
35	CDE (2.99)	Custom Baskets	Basket constituent unit of measure [NEW]	Please refer to comments for #32 "Custom basket code".
36	CDE (2.100)	Custom Baskets	Basket constituent number of units [NEW]	Please refer to comments for #32 "Custom basket code".

IV) Events category (37-41):

#	Source	Category	Data Element Name	Comments
37	CDE	Events	Action Type [revised]	No comments.
38	CDE	Events	Event Type [revised]	The CFTC proposes to change the "Allocation" definition to align with CDE to " <i>The process by which portions of a single transaction (or multiple transactions) are allocated to one or multiple different counterparties and reported as new transactions.</i> "  The Associations do not find the proposed "Allocation" definition clear because: <ul style="list-style-type: none"> <li>• It seems to conflate booking model and the event;</li> <li>• An allocation is done on a single transaction;</li> <li>• The introduction of "...(<i>or multiple transactions</i>) are allocated..." causes confusion as it seems to point to a compression which is separate Event Type instead of an allocation.</li> </ul> For these reasons, we suggest the following clarifying revision to the proposed definition: "The process by which portions of a single transaction ( <del>or multiple transactions</del> ) are allocated to one or multiple different counterparties and reported as new transactions."
40	CDE	Events	Event identifier [revised]	We believe there to be a typo in the Definition: "Unique identifier to link transactions <del>entered</del> <b>entering</b> into and..."
41	CDE	Events	Event timestamp [revised]	No comments at this time.

**V) Notional Amounts and Quantities category (42 to 68):**

#	Source	Category	Data Element Name	Comments
42	CFTC	Notional Amounts and Quantities	USD equivalent regulatory notional amount [NEW]	Please see response to Question 4 regarding this field.  We request that CFTC eliminate this data element
57	CDE	Notional Amounts and Quantities	Notional quantity schedule - unadjusted date on which the associated notional quantity becomes effective [NEW]  [Notional quantity schedule – unadjusted date on which the associated notional quantity becomes - Leg1] [Notional quantity schedule – unadjusted date on which the associated notional quantity becomes - Leg2]	No comments at this time.
58	CDE	Notional Amounts and Quantities	Notional quantity schedule - unadjusted end date of the notional quantity [NEW] [Notional quantity schedule - unadjusted end date of the notional quantity-Leg1] [Notional quantity schedule - unadjusted end date of the notional quantity-Leg2]	No comments at this time.
59	CDE	Notional Amounts and Quantities	Notional quantity schedule - notional quantity [NEW] [Notional quantity schedule - notional quantity -Leg1] [Notional quantity schedule - notional quantity -Leg2]	No comments at this time.

#	Source	Category	Data Element Name	Comments
60	CFTC	Notional Amounts and Quantities	Notional quantity schedule - days of week [NEW] [Notional quantity schedule - days of week-Leg1] [Notional quantity schedule - days of week-Leg2]	<p>1. We believe the Allowable Values for CFTC reporting should be further assessed by the CFTC to be more appropriate for North America. For several Commodities data elements in the Proposed Amendments, CFTC proposes values taken from EMIR Refit. While we agree and support global harmonization across jurisdictions, the EMIR field values are aligned with European gas/power trading, which trades differently from North American gas/power, so EMIR values may not be viable for North America.</p> <p>2. While knowing information such whether holiday calendars apply is important to validate the quantity to total quantity in power trades, adding proposed Allowable Values ‘XBHL’ and ‘IBHL’ to #60 which is meant for days of week, unnecessarily complicates implementation. A simpler approach would be to add a Boolean field for “Holiday Calendar” to populate “True” when a holiday calendar applies, instead of mandating ‘XBHL’ and ‘IBHL’ for #60.</p> <p>3. We seek clarity from the CFTC on what the second part of the conditionality refers to for #60, #63, and #66, respectively:</p> <ul style="list-style-type: none"> <li>(i) “...and [Days of week] is not populated” (for #60 Notional quantity schedule - days of week)</li> <li>(ii) “...and [hours from thru] is not populated” (for #63 Notional quantity schedule - hours from thru [NEW])</li> <li>(iii) “...and [load profile type] is not populated” (for #66 Notional quantity schedule - load profile type)</li> </ul> <p>We ask the CFTC to clarify whether the second portion of the conditionality refers to a CFTC reportable field, UPI attribute, or something else. If the conditionality is referring to a CFTC reportable field for which it is a condition, then it appears to be circular logic. If the conditionality refers to something else (e.g. a UPI template attribute), we ask the CFTC to specify the reference more clearly within the conditionality of #60, #63 and #66 to reduce misinterpretations and improve consistency of reporting.</p> <p>4. Footnote 56 for #60 ‘Notional quantity schedule - days of week’ says:</p>

#	Source	Category	Data Element Name	Comments
				<p><i>“If the value remains constant throughout the life of the swap, populate this field with the appropriate value and do not populate the <b>associated effective date</b> and <b>end date fields</b>.”</i></p> <p>It is not clear precisely what the CFTC is referring to in the footnote. We ask the CFTC to clarify whether it means data element #61 where footnote 56 refers to <i>“<b>associated effective date</b>”</i> and whether it means data element #62 where footnote 56 refers to <i>“<b>end date</b>”</i>.</p> <p>If not, we ask the CFTC to please clarify and revise the footnote accordingly.</p> <p>If yes, we ask the CFTC to please specify this in the footnote to eliminate guesswork and reduce uncertainty for reporting. However, we note that the conditionalities of #61 and #62 seem to clash in logic with footnote 56, since #61 says “C if [Notional quantity schedule - days of week] is populated, else {blank}” and #62 says “C if [Notional quantity schedule - days of week] is populated, else {blank}”. To resolve, we propose that #61 and #62 be made Optional for Commodities, instead of Conditional.</p> <p>Similarly, we ask the CFTC to please clarify footnotes 57 and 58.</p> <p>5. We believe a similar clash in logic exists between footnote 57 for #64 (we think there may be a typo whereby footnote 57 should actually belong to #63, not #64) versus the conditionalities of #64 and #65. To resolve, we propose that #64 and #65 be made “Optional” for Commodities, instead of “Conditional”.</p> <p>6. Similarly, we think a similar clash in logic exists between footnote 58 for #66 versus the conditionalities of #67 and #68. To resolve, we propose that #67 and #68 be made “Optional” for Commodities, instead of “Conditional”.</p>
61	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted effective date of days of week [NEW]	Please see comments for #60.

#	Source	Category	Data Element Name	Comments
			[Notional quantity schedule - unadjusted effective date of the days of week-Leg1] [Notional quantity schedule - unadjusted effective date of days of week-Leg2]	
62	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted end date of days of week [NEW]  [Notional quantity schedule - unadjusted end date of days of week-Leg1] [Notional quantity schedule - unadjusted end date of days of week-Leg2]	Please see comments in #60.
63	CFTC	Notional Amounts and Quantities	Notional quantity schedule - hours from thru [NEW]  [Notional quantity schedule - hours from thru-Leg1] [Notional quantity schedule - hours from thru-Leg2]	Please see comments in #60 and response to Question 6.
64	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted effective date of hours from thru [NEW]  [Notional quantity schedule - unadjusted effective date of hours from thru-Leg1] [Notional quantity schedule - unadjusted effective date of hours from thru-Leg2]	Please see comments in #60 and response to Question 6.



#	Source	Category	Data Element Name	Comments
65	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted end date of hours from thru [NEW]  [Notional quantity schedule - unadjusted end date of hours from thru-Leg1]	Please see comments in #60 and response to Question 6.
66	CFTC	Notional Amounts and Quantities	Notional quantity schedule - load profile type [NEW] [Notional quantity schedule  [Notional quantity schedule – load profile type-Leg1] [Notional quantity schedule – load profile type-Leg2]	Please see comments in #60.
67	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted effective date of load profile type [NEW]  [Notional quantity schedule - unadjusted effective date of load profile type-Leg1] [Notional quantity schedule - unadjusted effective date of load profile type-Leg2]	Please see comments in #60.
68	CFTC	Notional Amounts and Quantities	Notional quantity schedule - unadjusted end date of load profile type [NEW]  [Notional quantity schedule - unadjusted end date of load profile type-Leg1] [Notional quantity schedule - unadjusted	Please see comments in #60.

#	Source	Category	Data Element Name	Comments
			end date of load profile type- Leg2]	

**VI) Payments category (77-88):**

#	Source	Category	Data Element Name	Comments
81	CDE	Payments	Other Payment type [revised]	No comments at this time.

**VII) Prices category (89-118) :**

#	Source	Category	Data Element Name	Comments
93	CDE	Prices	Price [revised]	We support the revised definition to align with CDE.  Please see comments in “Supplemental Comments” for Price.
97	CDE	Prices	Price schedule - unadjusted effective date of the price [NEW]	Our understanding is that this field would only need to be reported at time of execution, and if there are amendments. Our understanding is that reporting is not needed if there is no amendment.
98	CDE	Prices	Price schedule - unadjusted end date of the price [NEW]	No comments at this time.
99	CDE	Prices	Price schedule - price [NEW]	No comments at this time.
106	CDE	Prices	Strike price schedule – Unadjusted effective date of the strike price [NEW]	No comments at this time.
107	CDE	Prices	Strike price schedule – Unadjusted end date of the strike price [NEW]	No comments at this time.
108	CDE	Prices	Strike price schedule - strike price [NEW]	No comments at this time.

#	Source	Category	Data Element Name	Comments
113	CFTC	Prices	Option exercise end date [NEW]	We ask the CFTC to please clarify in the definition of this data element that Option exercise end date would be only reportable for American and Bermudan (not European or Exotics).
114	CFTC	Prices	Option exercise frequency period [NEW]	No comments at this time.
115	CFTC	Prices	Option exercise frequency period multiplier [NEW]	No comments at this time.
116	CFTC	Prices	Swap pricing method [NEW]  [Swap pricing method - Leg1] [Swap pricing method - Leg2]	<ol style="list-style-type: none"> <li>1. Please also see response to Question 3.</li> <li>2. #116 is “C” across 5 asset classes, but we do not believe that the proposed Allowable Values sufficiently covers all the asset classes. The result for reporting will be that “OTHR” will be reported in a high number of cases, which will not have value in terms of data aggregation for regulatory assessment.</li> <li>3. It is unclear how to conclude which Allowable Values to report. Please provide clarity in the final Technical Specification v3.3 by way of examples in each asset class. For example: <ul style="list-style-type: none"> <li>• What does CFTC expect for reporting of OIS trades which reset daily?</li> <li>• For Equities, we believe this field would be reported on the “equity leg” and not the “funding leg” - is our understanding correct?</li> </ul> </li> <li>4. TWAP already exists as an established industry abbreviation for “Time weighted average price” related to a type of guaranteed post-priced client order type. Therefore, for “Trade weighted average price” we request that CFTC revise the Char(4) Allowable Value to “TRWP.”</li> </ol>
117	CFTC	Prices	Pricing date schedule of the swap [NEW]	For the credit asset class, it is not clear what the CFTC’s expectations are for reporting this field. Therefore, to reduce inconsistent reporting, we request examples to be included in the final Technical Specification v3.3.

#	Source	Category	Data Element Name	Comments
			[Pricing date schedule of the swap - Leg1] [Pricing date schedule of the swap - Leg2]	
118	CFTC	Prices	Start and end time of the settlement window for the floating leg(s) [NEW]	We believe that it is not clear what the CFTC’s expectations are for reporting this field across the asset classes, therefore to promote consistent reporting, we request examples to be included for each of the 5 asset classes in the final Technical Specification v3.3.

**D) Product category (119-133):**

#	Source	Category	Data Element Name	Comments
123	CFTC	Product	Unique product identifier (UPI) [revised]	Please see response in section entitled “Unique Product Identifier – Commodities asset class.”
124	CFTC	Product	Physical delivery location [NEW]  [Physical Delivery Location-Leg1] [Physical Delivery Location-Leg2]	Not every commodity has a physical delivery location. We ask the CFTC to clarify in the definition of this data element that this field is only required if a commodity has a physical delivery location.
125	CFTC	Product	Pricing index location [NEW]  [Pricing Index Location-Leg1] [Pricing Index Location-Leg2]	No comments at this time.
126	CDE	Product	Underlier ID (Other) [NEW]  [Underlier ID (Other)-Leg1] [Underlier ID (Other)-Leg2]	<ol style="list-style-type: none"> <li>Proposed footnote 88 for data element #126 says: <i>“In line with the Underlier ID within the UPI reference data elements, as maintained by the UPI service provider, or in accordance to section 5.2 of the CPMI-IOSCO Technical Guidance: Harmonization of the Unique Product Identifier.”</i> <ul style="list-style-type: none"> <li>For the Commodities asset class, we ask the CFTC to please clarify whether “underlier ID within the UPI reference data elements as maintained by the UPI service provider” means the “reference rate” that is used in DSB Commodities templates to obtain a UPI.</li> </ul> </li> <li>Please also see our request for clarification in data element #32 regarding footnote 86.</li> </ol>

#	Source	Category	Data Element Name	Comments
				3. Please clarify whether #126 Underlier ID (Other) is expected to only ever have one value in each leg.
127	CDE	Product	Underlier ID (Other) source [NEW]  [Underlier ID (Other) source- Leg1] [Underlier ID (Other) source- Leg2]	No comments at this time.
128	CDE	Product	Underlying asset price source [NEW]  [Underlying asset price source - Leg1] [Underlying asset price source - Leg2]	No comments at this time.
129	CDE	Product	Underlying asset trading platform identifier [NEW]  [Underlying asset trading platform identifier - Leg1] [Underlying asset trading platform identifier - Leg2]	<p>1. This data element is challenging to implement because it would require an RCP to have “global” insight where each underlier can be traded. In addition, that insight would need to be kept up to date.</p> <p>2. If the CFTC were to require this field for reporting, it should provide clarity and a definition of what is considered to be a platform, including for MTF/OTF/SEFs, because definitions vary across jurisdictions. The CFTC is in an ideal position to help drive consistency of reporting by publishing a list of what are considered "platforms" for CFTC reporting on its website. In addition, if the CFTC were to require this field for reporting, please provide clarity on what is to be reported if the underlier is traded on more than one platform.</p> <p>3. Absent such clarity, we recommend that the CFTC remove this data element.</p>
130	CDE	Product	Crypto asset underlying indicator [NEW] [Crypto asset underlying indicator - Leg1] [Crypto asset underlying indicator	No comments at this time.

#	Source	Category	Data Element Name	Comments
			- Leg2]	
131	CFTC	Product	Physical commodity contract indicator [NEW]  [Physical commodity contract indicator - Leg1] [Physical commodity contract indicator - Leg2]	No comments at this time.
132	CFTC	Product	Product grade [NEW]  [Product grade - Leg1] [Product grade - Leg2]	We ask the CFTC to provide examples for reporting of #132 Product Grade in the final Technical Specification v3.3 to reduce uncertainties.
133	CFTC	Product	Maturity date of the underlier [NEW]  [Maturity date of the underlier - Leg1] [Maturity date of the underlier - Leg 2]	No comments at this time.

**VIII) Transaction category (138-153):**

#	Source	Category	Data Element Name	Comments
140	CFTC	Transaction related	Large notional off-facility swap election indicator [NEW]	<ol style="list-style-type: none"> <li>1. This field is currently reported to CFTC, however not on a “M”andatory basis as proposed by CFTC in the Proposed Amendments. The Associations, including our SDR members, believe it is not practicable to report as “M” for 5 asset classes. Instead, we propose that the CFTC adopt <i>what the industry has already built and is reporting to CFTC</i> (see “Exhibit for the Associations' response for #140”) for: <ul style="list-style-type: none"> <li>– Allowable Values (e.g. “Valid Values”)</li> <li>– Validation (e.g. “Business Rules (Inbound Field Names”) for Transaction reporting.</li> <li>– We support “NR” for Collateral and Valuation reporting.</li> </ul> </li> <li>2. We ask the CFTC to please clarify whether ‘Large notional off-facility swap election indicator’ (140) reported on the original new trade should persist through the life of the trade, even for post-trade events/amendments. In the final rule, we would appreciate the</li> </ol>

#	Source	Category	Data Element Name	Comments
				clarification that for amendments, apply the limit to the amended notional, as is current practice.

Exhibit for the Associations' response for #140 'Large notional off-facility swap election indicator'

Source	Field Category	Description of data field	Asset Class	Inbound Field	Outbound Field	Pre December 2nd 2022 - Report Field Names (Including Trade State, Valuation, and PPD Status reports and excluding Participant Submission Reports)	CFTC Re-Write Regulator Report Field Names (This column is applicable to the CFTC regulators ONLY and NOT applicable to Participant reports and NOT applicable to reports produced for the SEC and Canadian Regulators.)	PPD Inbound Field	PPD Disseminated	PPD Transformed	Rules - Trade State for NEWT, MODI, CORR, REVI	Rules - Trade State for TERM	Rules - Trade State for PRT O	Rules - PPD for NEWT, MODI, CORR, REVI	Rules - PPD for TERM	Rules - PPD for ERO R	Data Type	Valid Values	Business Rules (Inbound Field Names)
CFTC Guidebook	CFTC Guidebook	Indicator of whether an election has been made to report the swap transaction as a Large Notional Off-facility Swap by the reporting counterparty or as calculated by either the swap data repository acting on behalf of the reporting counterparty or by using a third party.	XA	Large notional off-facility swap election indicator	Large Notional Off-Facility Swap Election Indicator	New field for the rewrite	LrgNotOffFacSwapInd	Y	Y	N	C	C	C	C	C	C	Boolean	true false Blank	If blank and [SEF or DCM Indicator] = False, GTR will calculate for both Trade State and PPD. Must be blank if [SEF or DCM Indicator] = True

IX) Transaction category (138-153) (continued):

#	Source	Category	Data Element Name	Comments
141	CDE	Transaction related	Effective date [revised]	We agree that the revised footnote brings more clarity, so we support the change.
144	CDE	Transaction related	Reporting timestamp [revised]	We support the revised definition.
146	CFTC	Transaction related	SEF or DCM indicator [NEW]	1. This field is currently reported to the CFTC. We believe what is currently reported is still appropriate for the amended rules, and what the CFTC proposes is less clear than what currently exists. Therefore, we recommend that the CFTC adopts <i>what the industry has</i>

#	Source	Category	Data Element Name	Comments
				<p><i>already built and is reporting to the CFTC</i> (specifically what is shown in “Exhibit for the Associations’ response for #146”) for:</p> <ul style="list-style-type: none"> <li>– Validations (e.g. “Business Rules (Inbound Field Names”) for Transaction reporting.</li> <li>– We support “NR” for Collateral and Valuation reporting.</li> </ul> <p>2. We ask the CFTC to please clarify whether “SEF or DCM indicator” (146) reported on the original new trade should persist through the life of the trade, even for post-trade events/amendments.</p>

**Exhibit for the Associations’ response for #146 “SEF or DCM indicator”**

Field Category	Description of data field	Asset Class	Inbound Field Outbound field for Participant Submission Report Only	Rules – Trade State for NEWT, MODI, CORR, REVI	Rules – Trade State for TERM	Rules – Trade State for EROR	Rules – Trade State for PRTO	Rules – PPD for NEWT, MODI, CORR, REVI	Rules – PPD for TERM	Rules – PPD for EROR	Data Type	Valid Values	Business Rules
CFTC Guidebook	An indication of whether the swap was executed on or pursuant to the rules of a swap execution facility or designated contract market.	XA	<b>SEF or DCM Indicator (#146)</b>	R	O	O	O	R	O	O	Boolean	true false	Expectation: True for SEF/DCM trades executed on-facility. Per the description, false for trades executed off-facility, including continuation data submitted by firms that is executed off-facility, even if the NEWT was executed on a SEF/DCM.

**X) Transaction category (138-153) (continued):**

#	Source	Category	Data Element Name	Comments
147	CFTC	Transaction related	SEF or DCM anonymous execution indicator [NEW]	<p>This field is currently reported to the CFTC. We believe that what is currently reported is still appropriate for the Proposed Amendments, and what the CFTC proposes is less clear than what currently exists. Therefore, we propose that the CFTC adopts <i>what the industry has already built and is reporting to the CFTC</i> (specifically what is shown in “Exhibit for the Associations’ response for #147”) for:</p> <ul style="list-style-type: none"> <li>– Validations (e.g. “Business Rules (Inbound Field Names”) for Transaction reporting.</li> <li>– We support “NR” for Collateral and Valuation reporting.</li> <li>– We agree with the proposal that this field not be publicly disseminated.</li> </ul>



Exhibit for the Associations' response for #147 “SEF or DCM anonymous execution indicator”

Field Category	Description of data field	Asset Class	Inbound Field  Outbound field for Participant Submission Report Only	PPD Inbound Field	PPD Disseminated	Rules - Trade State for NEWT, MODI, CORR, REVI	Rules - Trade State for TERM	Rules - Trade State for EROR	Rules - Trade State for PRTO	Rules - PPD for NEWT, MODI, CORR, REVI	Rules - PPD for TERM	Rules - PPD for EROR	Data Type	Valid Values	Business Rules
CFTC Guidebook	Indicator of whether the swap was executed anonymously on a SEF or DCM. When set to true, counterparty details will be masked on reporting.	XA	SEF or DCM Anonymous Execution Indicator (#147)	Y	N	C	C	C	C	C	C	C	Boolean	true false	SEF and DCM: Required DCO: Required when [NoA - Action Type] = 'TERM' and ([Event Type] = 'CLRG' or = 'CLAL') NACK for all other submissions.

**XI Valuation category (155-162):**

#	Source	Category	Data Element Name	Comments
159	CDE	Valuation	Valuation Amount [revised]	<p>At the jurisdictional level, the Associations appreciate the CFTC’s revision of the definition to harmonize with that of the global CDE. Our understanding of the revised definition is that RCPs would continue to be required to report the “daily mark” referenced in the §45.1 definition of “valuation data”.</p> <p>At the global level, we would like to raise that the CDE definitional reference to “exit cost” in the second paragraph will cause industry confusion, since many market participants understand "exit cost" to mean ‘termination amount’, and it is customary to include, for instance, a liquidity adjustment and a credit value adjustment that takes into account the credit of the counterparty. We therefore believe there is a discrepancy between the first sentence and second sentence of the ROC’s CDE Valuation Amount definition, which will result in varying interpretations of Valuation Amount reporting across multiple reporting jurisdictions. We ask the CFTC as a member of the ROC, to raise the potential discrepancy to be included in the next CDE public consultation (e.g. v4).</p>
158	CDE	Valuation	Delta	There are multiple challenges as well as lack of clarity for Delta reporting, including but not limited to the ones listed below:

#	Source	Category	Data Element Name	Comments
				<p>1) The Delta definition of “ratio of the change in the price of an OTC derivative transaction to the change in the price of the underlier” could differ by asset class. To prevent inconsistencies in reporting, we request that CFTC provide, in the final Technical Specification v3.3, examples of what is expected to be reported in each asset class, including the examples of:</p> <ul style="list-style-type: none"> <li>a) What is the CFTC’s expectation for reporting Delta for a commodity asset class calendar option strip, where there could be delta for 12 contracts?</li> <li>b) What is the CFTC’s expectation for reporting Delta for an equity basket trade or an interest rate cap where there could have delta to each forward rate?</li> <li>c) What is the CFTC’s expectation for reporting Delta in the Interest Rates asset class, where Delta calculation is based on interest rate curve?</li> </ul>

**Other Comments**

**§1.3.3 “Repeating data elements or Leg-based products”**

Proposed §1.3.3 “Repeating data elements or Leg-based products” of the Technical Guidance v3.3 says:

*“Depending on the product being reported or market convention, a multi-leg or multi-stream product could report a particular data element more than once. An example is Notional amount (#31) [43] which could be reported as Notional amount–leg 1 and Notional amount–leg 2 by the submitter depending on the applicability to the product. Unless the data element is listed as “Leg,” it cannot be reported more than once. ~~with the exception of ‘Other payments’ related data elements (Refer to Section 1.3.6).~~ Generally speaking the validations included in the Technical Specification for leg-based data elements are meant to apply to the first leg (Leg 1). It should not, however, be presumed the validations apply to the second leg (Leg 2) similarly. This is due in large part to the conditionality between leg fields and in light of the fact that SDR-specific data elements can alter the application of the published validations in ways not contemplated in the Technical Specification. Given this, SDRs may incorporate other validations for leg-level data elements, should they deem it necessary. For products where the multi-leg or multi-stream concept is not applicable, report values in the designated data element for the first leg (Leg 1) for all fields that are specified as leg-based data elements. For products having two legs where one leg references a fixed value and the other leg references a floating value, Leg 1 elements should refer to the leg that references a fixed value and Leg 2 elements should refer to the leg that references a floating value. For products having two legs where each leg references a floating value respectively, the legs should be ordered based on the alphabetical ordering of the names of the respective underliers. In cases where the names of the respective underliers are the same, but they are differentiated by a tenor, Leg 1 elements should refer to the leg referencing the underlier with the shorter tenor.”*

Our interpretation of the CFTC’s proposed §1.3.3 is that for any product having two legs where each leg references a floating value respectively, the CFTC proposes to define legs based on *alphabet and tenor*.

However, industry participants have agreed a standardized way under EMIR (below) to order the legs to be used cross-jurisdictionally, whereby the legs are defined based on *spread and tenor*. TRs are required to cross-match Leg 1 and Leg 2 for matching, and although CFTC reporting is single-sided, market

participants have obligations across multiple reporting regimes and therefore agreed the market practice to reduce uncertainty. To facilitate globally consistent reporting, we recommend that the CFTC adopt the same for §1.3.3 so that for any product having two legs where each leg references a floating value, parties define legs based on *spread and tenor*, instead of the proposal to define legs based on *alphabet and tenor*, specifically:

**For Interest Rates:**

Note 1: Where 'higher spread' is used to determine the Buyer / Seller, the absolute values of each spread is to be applied, i.e. if the spreads were '0.0' and '-0.5', the spread of '-0.5' is the higher leg as the absolute value is higher than zero. If the spreads are '-0.1' and '-0.5', the higher spread would be '-0.5' as this is the higher absolute value. If the spreads are '-0.85' and '0.25', the higher spread would be '-0.85' as it is the higher absolute value despite the other spread being positive.

Note 2: Where the below table fails to determine Buyer then use the tiebreaker logic of Reverse ASCII Sort, first LEI. For the avoidance of doubt, the order is Z, Y, X, W, V, U, T, S, R, Q, P, O, N, M, L, K, J, I, H, G, F, E, D, C, B, A, 9, 8, 7, 6, 5, 4, 3, 2, 1, 0. The party whose LEI starts with the first value found in the list will be the Payer of Leg 1.

Asset Class	Base Product	Sub-Product	Transaction Type	Leg 1 / Leg 2 Proposal	Buyer (for Counterparty Side)	Seller (for Counterparty Side)
Interest Rate	IR Swap	Basis		Leg 1 = Leg with the higher spread (see Note 1) If both legs have the same spread, then: Leg 1 = Leg with the shortest reset period	Payer of Leg 1	Receiver of Leg 1
Interest Rate	IR Swap	Basis	OIS	As IR Swap Basis	Payer of Leg 1	Receiver of Leg 1
Interest Rate	Cross Currency	Basis		Leg 1 = The currency which appears first when sorted alphabetically by ISO 4217 standard.	Party receiving (i.e. paying interest on) the currency which appears first when sorted alphabetically by ISO 4217 standard	Party delivering (i.e. receiving interest on) the currency which appears first when sorted alphabetically by ISO 4217 standard

**For non-Interest Rates:**

More generally with regards to Leg 1/Leg 2 alignment, industry participants agreed the below market practice for EMIR Refit:

Item	Description
Reporting of funding leg for non-Rates products	For non-rates swaps, e.g. equity swaps, commodity swaps, the non-rates (equity/commodity) leg would be represented as leg 1, and the funding leg as leg 2.

**General formatting**

In a few places of the Technical Specification v3.3 Appendices there may be minor clean-up needed, such as:

- Example 16 “Daily Collateral and margin reporting” submissions refer to “Table 5 – Reporting Transactions with Portfolio Codes” but we believe this is meant to be Table 22.

The Associations appreciate the opportunity to comment on the CFTC's Proposed Amendments to the Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements. We welcome the opportunity to work collaboratively with the Commission on any of the comments or points raised in our responses. Please contact Eleanor Hsu at (212) 901-6051 should you have any questions or if we can provide additional information.

Sincerely,



Scott O'Malia  
Chief Executive Officer  
International Swaps and Derivatives Association, Inc.



Kenneth E. Bentsen, Jr.  
President and CEO  
SIFMA

cc: The Honorable Rostin Behnam, Chairman  
The Honorable Christy Goldsmith Romero, Commissioner  
The Honorable Kristin N. Johnson, Commissioner  
The Honorable Summer K. Mersinger, Commissioner  
The Honorable Caroline D. Pham, Commissioner