

May 20, 2026

Joshua Beale  
Acting Director  
Division of Market Oversight  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, DC 20581

**Re: Sunset of Large Trader Reporting (LTR) for Physical Commodity Swaps pursuant to Regulation 20.9**

Dear Acting Director Beale:

The International Swaps and Derivatives Association, Inc. (“ISDA”), the Futures Industry Association (“FIA”) and the Securities Industry and Financial Markets Association (“SIFMA”) (together, the “Associations”)<sup>1</sup> are writing to request that the U.S. Commodity Futures Trading Commission’s (“CFTC” or “Commission”) formally sunset the requirements related to certain physical commodity swap positions pursuant to Part 20 of the Commission’s regulations (the “Swaps LTR Rules”).

The Swaps LTR Rules, which were finalized in 2011, were expressly intended to operate as a temporary measure only until the Commission established a comprehensive swaps data reporting framework.<sup>2</sup> Indeed, when the Commission adopted the Swaps LTR Rules, it acknowledged that the rule no longer would be necessary once swap data repositories were fully operable.<sup>3</sup> A comprehensive framework for swaps reporting—now codified in Parts 43 and 45 of the Commission’s regulations—has long been fully implemented and provides the Commission with robust, transaction-level swap data for surveillance and oversight purposes. Moreover, swap data currently reported to the Commission enables effective surveillance of market participants’ compliance with position limits for economically equivalent swaps, rendering the Swaps LTR Rules unnecessary and duplicative.

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<sup>1</sup> Please see the Appendix for full descriptions of ISDA, FIA and SIFMA.

<sup>2</sup> CFTC regulation 20.9(a), 17 C.F.R. § 20.9(a).

<sup>3</sup> Federal Register: Large Trader Reporting for Physical Commodity Swaps, 76 Fed. Reg. 43851 at 43851 (Jul. 11, 2011). (The Commission acknowledged that the rule no longer would be necessary once “[swap data repositories] are capable of processing positional data in a manner that would enable the Commission to effectively oversee and surveil paired swaps trading and paired swap markets.”); *see also* Federal Register: Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 75503 at 75545 (Nov. 25, 2020) (In amending swap data reporting requirements in 2020, the Commission noted that it may address Part 20 reporting requirements in the future).

The Associations therefore appreciate the recent statements of CFTC Chairman Selig directing the agency to consider whether these requirements should be eliminated,<sup>4</sup> and respectfully request that the Commission expeditiously sunset these requirements. Declining to do so would require reporting counterparties to continue to expend critical time and resources identifying physical commodity swaps subject to the Swaps LTR Rules, converting the swap transactions into futures equivalent positions, validating position data, and submitting unnecessarily duplicative reports to the Commission. Our member firms have indicated that the annual cost of compliance with the Swaps LTR Rules can be well over \$1 million for a reporting firm. Taking into account the number of reporting firms, sunsetting the rules could save market participants tens of millions of dollars year over year.

To further support this request, we are attaching a prior comment letter from 2024<sup>5</sup> that provides a more comprehensive discussion of the relevant background and considerations and a copy of a petition to repeal the Swaps LTR Rules that was submitted to the CFTC in September 2025.<sup>6</sup> The Associations, individually and collectively, have engaged with the CFTC on this issue through the years and endorse the information set forth in the submissions as it reflects the extensive knowledge and experience of derivatives professionals within our membership.

Our members are committed to maintaining the safety and efficiency of the U.S. derivatives markets. Sunsetting the Swaps LTR Rules will eliminate unnecessary regulations consistent with Presidential directives, make good on the Commission's commitment to transition to a single, streamlined swaps reporting regime and allow market participants to redirect resources to areas that will deliver real value to the CFTC and public.

Sincerely,



Christopher Young  
Head of U.S. Public Policy  
International Swaps and Derivatives Association. Inc. (ISDA)

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<sup>4</sup> Michael Selig, Chairman, CFTC, Keynote Remarks at ISDA 40th Annual General Meeting (Apr. 30, 2026), <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig5>.

<sup>5</sup> Joint Response to Notice of Intent to Renew Collection 3038-0095; Large Trader Reporting for Physical Commodity Swaps, May 13, 2024, available at <https://www.isda.org/2024/05/14/isda-and-fia-response-to-cftc-on-swaps-ltr-rules/>.

<sup>6</sup> Petition for Repeal of a Rule (17 C.F.R. § 13.1): Large Trader Reporting for Physical Commodity Swaps, Sept. 22, 2025, available at <https://www.fia.org/fia/articles/fia-asks-cftc-sunset-swaps-ltr-rules>.



A handwritten signature in black ink, appearing to read 'Allison Lurton', written in a cursive style.

Allison Lurton  
General Counsel and Chief Legal Officer  
Futures Industry Association

A handwritten signature in black ink, appearing to read 'Kyle Brandon', written in a cursive style.

Kyle Brandon  
Managing Director, Head of Derivatives Policy  
Securities Industry and Financial Markets Association

## APPENDIX

| <b>Trade Association</b>   | <b>Overview</b>   |
|--|---|
| <b>International Swaps and Derivatives Association (ISDA)</b>        | <p>Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 76 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: <a href="http://www.isda.org">www.isda.org</a>. Follow us on <a href="#">LinkedIn</a> and <a href="#">YouTube</a>.</p> |
| <b>Futures Industry Association (FIA)</b>                            | <p>FIA is the leading trade organization for the futures, options, and cleared derivatives markets globally. FIA’s membership includes clearing firms, exchanges, clearinghouses, principal traders, asset managers, execution firms, commodity firms, end users, and those legal, technology, and other firms who serve this community. 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.</p>  |
| <b>Securities Industry and Financial Markets Association (SIFMA)</b> | <p>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</p>  |

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>.



May 13, 2024

VIA EMAIL: <https://comments.cftc.gov/>

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

**Re: Notice of Intent To Renew Collection 3038–0095;  
Large Trader Reporting for Physical Commodity Swaps**

Dear Mr. Kirkpatrick:

The Futures Industry Association, Inc. (“FIA”) and the International Swaps and Derivatives Association, Inc. (“ISDA”) (collectively, the “Associations”) appreciate the opportunity to submit comments in response to the Commission’s proposed request for approval from the Office of Management and Budget to continue to collect information related to certain physical commodity swap positions pursuant to Part 20 of the Commission’s regulations (the “Swaps LTR Rules”).<sup>1</sup> The Associations’ comments focus on the Commission’s question concerning “[w]hether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use.”<sup>2</sup> The answer to the Commission’s question is no.

**The Commission Should Sunset the Swaps LTR Rules**

The Commission issued the final Swaps LTR Rules on July 22, 2011, as a temporary swaps data collection measure to enable it “to administer its regulatory responsibilities under the Commodity Exchange Act by implementing and conducting effective surveillance of economically

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<sup>1</sup> FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, 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.

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.

<sup>2</sup> *Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0095; Large Trader Reporting for Physical Commodity Swaps*, 89 Fed. Reg. 19298, 19299 (Mar. 18, 2024).

equivalent physical commodity futures, options and swaps.”<sup>3</sup> Since adopting the Swaps LTR Rules, the Commission has jointly with the Securities and Exchange Commission further defined the term “swap,” authorized the registration of swap data repositories (“SDRs”), issued and amended the swap data reporting requirements in Parts 43 and 45 of the Commission’s regulations, and set federal position limits on economically equivalent swaps in Part 150 of the Commission’s regulations.<sup>4</sup> In addition, CFTC Staff has issued the Technical Specification for Parts 43 and 45 swap data reporting and a non-public Guidebook to SDRs (“SDR Guidebook”) that specifies the Part 49 swap data that SDRs must submit to the Commission.<sup>5</sup>

When it adopted the Swaps LTR Rules, the Commission acknowledged that the rule no longer would be necessary once “SDRs are capable of processing positional data in a manner that would enable the Commission to effectively oversee and surveil paired swaps trading and paired swap markets.”<sup>6</sup> Accordingly, it included a sunset provision that would render all or part of the Swaps LTR Rules ineffective upon a finding by the Commission that SDRs are “processing positional data . . . that . . . will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.”<sup>7</sup>

The utility and effectiveness of the Swaps LTR Rules as a mechanism for surveilling economically equivalent physical commodity futures, options and swaps has been overtaken by the Commission’s many other extensive regulatory requirements related to swap data reporting and position limits. The Associations, therefore, have advocated for the sunset of the Swaps LTR Rules since at least 2017.<sup>8</sup> Other swap dealers, clearing members and market participants also have commented on the appropriateness of sunsetting the Swaps LTR Rules.<sup>9</sup> And, in 2020, when it amended swap data reporting requirements, the Commission noted that it may address Part 20 reporting requirements in the future.<sup>10</sup>

For more than a decade, SDRs have been collecting and processing aggregated open commodity swap position data from reporting parties. Regulation 49.2(a) defines an “open swap” as “an executed swap transaction that has not reached maturity or expiration, and has not been fully exercised, closed out, or terminated.” An open swap is the equivalent of an open swap position.

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<sup>3</sup> *Large Trader Reporting for Physical Commodity Swaps*, 76 Fed. Reg. 43851 (July 22, 2011).

<sup>4</sup> 17 C.F.R. Part 150.

<sup>5</sup> *CFTC Technical Specification, Parts 43 and 45 Swap Data Reporting and Public Dissemination Requirements*, Ver. 3.2, March 1, 2023. The Associations are unaware of a publicly available version of, or citation to, the SDR Guidebook.

<sup>6</sup> 76 Fed. Reg. at 43857.

<sup>7</sup> CFTC regulation 20.9(a), 17 C.F.R. § 20.9(a).

<sup>8</sup> See, e.g., FIA Comments on CFTC Project KISS (RIN 3038-AE55), September 28, 2017; ISDA Comments on CFTC Project KISS (RIN 3038-AE55), September 29, 2017; ISDA-SIFMA Comments on Amendments to the Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AE31), Amendments to the Real-Time Public Reporting Requirements (RIN number 3038-AE60), Certain Swap Data Repository and Data Reporting Requirements (RIN number 3038-AE32), May 22, 2020.

<sup>9</sup> See, e.g., *Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 75503, 75545 (Nov. 25, 2020).

<sup>10</sup> *Id.*

Regulations 49.9 and 49.17 require SDRs to provide the Commission with detailed open swaps reports and electronic access to SDR swaps data. The SDR Guidebook contains instructions that SDRs must follow when submitting Part 49 reports to the Commission.<sup>11</sup> The Associations understand that the SDR Guidebook requires SDRs to include the following, among other, information about other commodity asset class open swaps in their Part 49 reports: counterparty identification, product type (e.g., crude oil, natural gas), notional quantity, prices and term. Because the Commission requires all SDRs to submit open swaps data in the same format, it has the ability to aggregate the open swap positions of all swap market participants. SDRs thus are processing and providing the Commission with the positional data it needs to surveil trading in the physical commodity swap and swaptions markets.<sup>12</sup>

The Swaps LTR Rules also should be sunset because the data provided to the Commission by SDRs enable it to surveil compliance by market participants with position limits on economically equivalent swaps. Moreover, the data collected under the Swaps LTR Rules do not serve their stated purpose of allowing the CFTC to monitor swaps subject to CFTC-set position limits because the definition of economically equivalent swap in Regulation 150.1 is materially different from the definition of “paired swap or paired swaption” in Regulation 20.1. An economically equivalent swap is, “with respect to a particular referenced contract, any swap that has *identical material contractual specifications, terms, and conditions* to such referenced contract.” (Emphasis added). In contrast, a paired swap or paired swaption is “an open swap or swaption that is: (1) *Directly or indirectly linked*, including being *partially* or fully settled on, or priced at a differential to, the price of any commodity futures contract listed in § 20.2; or (2) *Directly or indirectly linked*, including being *partially* or fully settled on, or priced at a differential to, the price of the same commodity for delivery at the same location or locations.” (Emphasis added). In other words, the swaps data collected under the Swaps LTR Rules are neither “identical” nor “equivalent” to the data the Commission needs to surveil economically equivalent swaps.

Finally, notwithstanding the lack of ongoing utility of the Swaps LTR Rules, Reporting entities (swap dealers and clearing members) continue to spend substantial time and resources identifying physical commodity swaps subject to the Swaps LTR Rules, converting the swap transactions into futures equivalent positions, validating position data, and submitting detailed and extensive reports to the Commission.<sup>13</sup> The Commission, in turn, invests significant time and resources reviewing and verifying the swaps data it receives from Reporting entities.

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<sup>11</sup> See, e.g., ICE Trade Vault, LLC comments on Proposed Amendments by the Commission to Part 43 and Part 45 of the Commission’s regulations (RIN 3038-AF26), p. 6, April 11, 2024.

<sup>12</sup> The extension of the unique product identifier mandate to the other commodity asset class will further enhance the CFTC’s ability to surveil trading in these markets. See *Notice of Proposed Rulemaking, Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements*, 88 Fed. Reg. 90046 (Dec. 28, 2023).

<sup>13</sup> The Commission’s estimated average burden hours per respondent of 14.33 woefully underestimates the actual burden per respondent of submitting reports under the Swaps LTR Rules. 89 Fed. Reg. at 19299. Just reading and attempting to understand the instructions in the 90-page Swaps LTR Guidebook takes many hours. Identifying in-scope swaps, calculating futures equivalent quantities, programing IT systems, verifying the accuracy of data inputs and outputs, and submitting and correcting reports takes each reporting party hundreds of manhours.

One particularly difficult data element to report is the Position Type Indicator, which is a data element contained in CFTC Staff Swaps LTR Guidebook (“Staff Swaps LTR Guidebook”), but was not contemplated or otherwise mentioned in the Swaps LTR Rules or the preamble.<sup>14</sup> The position type indicator requires Reporting entities to convert a paired swap transaction into one of four position types based upon the unique aspects of the transaction, and then report the resulting positions for a given position type. These position types are unique to the Staff Swaps LTR Guidebook and are not readily available in a Reporting entity’s books and records. Reporting this data element imposes a considerable burden on Reporting entities, yet the CFTC has never performed a cost-benefit analysis for this requirement because it is not in the Swaps LTR Rules.

### Conclusion

There is no continuing need for the temporary Swaps LTR Rules. Furthermore, by sunsetting the Swaps LTR Rules, the Commission could redirect its limited resources more efficiently to analyzing the swaps data provided by SDRs and surveilling compliance with position limits on economically equivalent swaps. Accordingly, the Commission should sunset the Swaps LTR Rules pursuant to Regulation 20.9.

Respectfully submitted,



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202 466 5460



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Christopher Young  
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cc: Karen De Los Santos  
Chief of Staff and Senior Advisor  
Office of Management and Budget  
[Karen.delossantos@omb.eop.gov](mailto:Karen.delossantos@omb.eop.gov)

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<sup>14</sup> The current version of the Staff Swaps LTR Guidebook is available here <https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/ltrguidebook062215.pdf>. Neither the list of data elements for a clearing organization to report under CFTC Rule 20.3(b) nor the list of data elements for Reporting entities to report under CFTC Rule 20.4(c) references a position type indicator data element.



September 22, 2025

**VIA EMAIL**

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

**Re: Petition for Repeal of a Rule (17 C.F.R. § 13.1):  
Large Trader Reporting for Physical Commodity Swaps**

Dear Mr. Kirkpatrick:

The Futures Industry Association, Inc. (“FIA”)<sup>1</sup> is writing to petition the Commodity Futures Trading Commission (“CFTC” or the “Commission”) pursuant to CFTC regulation 13.1<sup>2</sup> to sunset its regulations for large trader reporting for physical commodity swaps in Part 20 of the Commission’s regulations (the “Swaps LTR Rules”).<sup>3</sup> As described further below, FIA believes that the conditions set forth in regulation 20.9 for sunsetting the Swaps LTR Rules have been satisfied, and that repealing these onerous and duplicative reporting requirements through Commission order would be consistent with the directives in Executive Order 14192, Unleashing Prosperity Through Deregulation.<sup>4</sup>

**I. Background**

The Commission issued the final Swaps LTR Rules on July 22, 2011, as a temporary swaps data collection measure to enable it “to administer its regulatory responsibilities under the Commodity Exchange Act . . . by implementing and conducting effective surveillance of economically equivalent physical commodity futures, options and swaps”<sup>5</sup> and to “monitor and

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<sup>1</sup> FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, 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.

<sup>2</sup> 17 C.F.R. § 13.1 (“Any person may file a petition with the Secretariat of the Commission . . . for the issuance, amendment or repeal of a rule of general application.”).

<sup>3</sup> *Large Trader Reporting for Physical Commodity Swaps*, 76 Fed. Reg. 43851 (July 22, 2011).

<sup>4</sup> Executive Order 14192, Unleashing Prosperity Through Deregulation (Jan. 31, 2025), *available at* <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-prosperity-through-deregulation/>.

<sup>5</sup> Swaps LTR Rules, 76 Fed. Reg. at 43851.

enforce position limits.”<sup>6</sup> Since adopting the Swaps LTR Rules, though, the Commission’s regulatory regime governing swaps has changed dramatically. The Commission has jointly with the Securities and Exchange Commission further defined the term “swap,” authorized the registration of swap data repositories (“SDRs”), issued and amended the swap data reporting requirements in Parts 43 and 45 of the Commission’s regulations, and set federal position limits on economically equivalent swaps in Part 150 of the Commission’s regulations.<sup>7</sup> In addition, CFTC Staff has issued the Technical Specification for Parts 43 and 45 swap data reporting and a non-public Guidebook to SDRs (“SDR Guidebook”) that specifies the Part 49 swap data that SDRs must submit to the Commission.<sup>8</sup>

When it adopted the Swaps LTR Rules, the Commission itself acknowledged that the rule no longer would be necessary once “SDRs are capable of processing positional data in a manner that would enable the Commission to effectively oversee and surveil paired swaps trading and paired swap markets.”<sup>9</sup> Accordingly, it included a sunset provision in regulation 20.9 that would render all or part of the Swaps LTR Rules ineffective upon a finding by the Commission that SDRs are “processing positional data . . . that . . . will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.”<sup>10</sup>

The utility and effectiveness of the Swaps LTR Rules as a mechanism for surveilling economically equivalent physical commodity futures, options and swaps has therefore been overtaken by the Commission’s many other extensive regulatory requirements related to swap data reporting and position limits. As a result, FIA has advocated for the sunset of the Swaps LTR Rules.<sup>11</sup> Additionally, swap dealers, clearing members and other market participants also have commented on the appropriateness of sunseting the Swaps LTR Rules.<sup>12</sup> And, in 2020, when it amended swap data reporting requirements, the Commission noted that it may address Part 20 reporting requirements in the future.<sup>13</sup>

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<sup>6</sup> *Id.* at 43860.

<sup>7</sup> 17 C.F.R. Part 150.

<sup>8</sup> *CFTC Technical Specification, Parts 43 and 45 Swap Data Reporting and Public Dissemination Requirements*, Ver. 3.2, March 1, 2023. FIA is not aware of a publicly available version of the SDR Guidebook.

<sup>9</sup> 76 Fed. Reg. at 43857.

<sup>10</sup> CFTC regulation 20.9(a), 17 C.F.R. § 20.9(a).

<sup>11</sup> *See, e.g.*, FIA Comments on CFTC Project KISS (RIN 3038-AE55), September 28, 2017; ISDA-SIFMA Comments on Amendments to the Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AE31), Amendments to the Real-Time Public Reporting Requirements (RIN number 3038-AE60), Certain Swap Data Repository and Data Reporting Requirements (RIN number 3038-AE32), May 22, 2020; FIA-ISDA Comments on Notice of Intent To Renew Collection 3038-0095; Large Trader Reporting for Physical Commodity Swaps (RIN number 3038-0095), May 13, 2024.

<sup>12</sup> *See, e.g.*, *Swap Data Recordkeeping and Reporting Requirements*, 85 Fed. Reg. 75503, 75545 (Nov. 25, 2020).

<sup>13</sup> *Id.*

## II. The Commission Should Sunset the Swaps LTR Regulation

The Swaps LTR Rules were designed to assist the Commission with the goals described above by requiring clearing organizations and reporting entities to identify large traders to the Commission, and to submit ongoing reports to the Commission regarding paired swaps and swaptions. As noted above, though, the Commission recognized that swap data reporting rules under Parts 43, 45 and 49 may ultimately enable the Commission to obtain this information from other sources, and provided a mechanism to sunset the Part 20 reporting requirements when it was able to do so. FIA respectfully submits that the Commission can and does now obtain information from sources other than Part 20 that is sufficient for the Commission to accomplish the goals of the Swaps LTR Rules without imposing the significant costs associated with Part 20 reporting on swaps market participants.

### a. The Commission Has Access to Data Regarding Open Swaps and their Underlying Commodities

Reporting requirements under the Swaps LTR Rules are triggered by holding a reportable position in a “paired swap or paired swaption.”<sup>14</sup> The term “paired swaps or paired swaptions” is defined as “an open swap or swaption that is: (1) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of any commodity futures contract listed in § 20.2; or (2) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of the same commodity for delivery at the same location or locations.”<sup>15</sup> Therefore, clearing organizations and reporting entities are required to submit a report to the CFTC each day with information regarding “open swaps” that satisfy one or both of these conditions.

However, since the Swaps LTR Rules were finalized, the Commission has promulgated rules requiring the same information to be reported to SDRs and to the Commission. First, the Commission in 2020 amended regulations 49.9 and 49.17 in a way that requires SDRs to identify which swaps are “open swaps” as defined in Part 20. As amended, these regulations require SDRs to provide the Commission with detailed reports of “open swaps,” and to provide the Commission with electronic access to SDR swaps data.<sup>16</sup> In Part 49, an “open swap” is defined as “an executed swap transaction that has not reached maturity or expiration, and has not been fully exercised, closed out, or terminated.”<sup>17</sup> In the adopting release to the Part 49 amendments, the Commission stated that “the definition [of open swap] is intended to have the same function as the definitions of ‘open swap’ and ‘closed swap’ in part 20.”<sup>18</sup> Therefore, SDRs currently provide the

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<sup>14</sup> See CFTC regulation 20.4(b), 17 C.F.R. § 20.4(b).

<sup>15</sup> 17 C.F.R. § 20.1.

<sup>16</sup> CFTC regulations 49.9(a), 49.17, 17 C.F.R. §§ 49.9(a), 49.17.

<sup>17</sup> CFTC regulations 49.2(a), 17 C.F.R. §§ 49.2(a).

<sup>18</sup> *Certain Swap Data Repository and Data Reporting Requirements*, 85 Fed. Reg. 75601, 75605 (Nov. 25, 2020).

Commission with information as to which swaps qualify as “open swaps” as defined in the Swaps LTR Rules.

Second, SDRs currently collect and deliver to the Commission information as to the futures contracts and/or commodities underlying open swaps. For example, each Core Referenced Futures Contract listed in regulation 150.2, and many futures contracts not listed in regulation 150.2, are now also listed in Appendices B and F to the Commission’s Part 43 rules, which were adopted in 2012 and 2013, respectively.<sup>19</sup> SDRs must therefore collect information and identify whether a given swap “references” one of these futures contracts<sup>20</sup> or is “economically related to” such futures contracts<sup>21</sup> in order to comply with Part 43. Pursuant to regulation 49.17, SDRs can (to the extent they do not already) provide this information to the Commission.<sup>22</sup>

Additionally, the SDR Guidebook contains instructions that SDRs must follow when submitting Part 49 reports to the Commission.<sup>23</sup> FIA understands that the SDR Guidebook requires SDRs to include the following, among other, information about other commodity asset class open swaps in their Part 49 reports: counterparty identification, product type (*e.g.*, crude oil, natural gas), notional quantity, price and term. Because the Commission requires all SDRs to submit open swaps data in the same format, it has the ability to aggregate the open swap positions of all swap market participants. SDRs thus are processing and providing the Commission with the positional data it needs to surveil trading in the physical commodity swap and swaptions markets.<sup>24</sup>

Indeed, FIA believes that the data now available from Part 43 and 45 reporting is likely of a higher quality than Part 20 data because it is ingested and reported by a small number of SDRs rather than a larger number of swap dealers and clearing members, and it is more current because SDR data is reported on a T+1 basis whereas Part 20 data is reported on a T+2 basis.<sup>25</sup> Moreover, the Commission has expended significant efforts since the Swaps LTR Rules were promulgated to improve the quality and standardization of SDR reporting data, whereas the Swaps LTR Rules have not changed since 2011.

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<sup>19</sup> See 17 C.F.R. Part 43, appx. B and F.

<sup>20</sup> 17 C.F.R. § 43.4(c)(4)(ii).

<sup>21</sup> 17 C.F.R. § 43.6(b)(5).

<sup>22</sup> All of the regulations that require SDRs to collect this information were promulgated or amended after the Swaps LTR Rules, including regulations 43.4 (2020), 43.6 (2020), Appendix B to Part 43 (2012), Appendix F to Part 43 (2013), and the amendments to Part 150 (2021). As a result, the Commission was not aware that SDRs would have the information required by these regulations when it promulgated the Swaps LTR Rules in 2011.

<sup>23</sup> See, *e.g.*, ICE Trade Vault, LLC comments on Proposed Amendments by the Commission to Part 43 and Part 45 of the Commission’s regulations (RIN 3038-AF26), p. 6, April 11, 2024.

<sup>24</sup> The extension of the unique product identifier mandate to the other commodity asset class will further enhance the CFTC’s ability to surveil trading in these markets. See *Notice of Proposed Rulemaking, Real-Time Public Reporting Requirements and Swap Data Recordkeeping and Reporting Requirements*, 88 Fed. Reg. 90046 (Dec. 28, 2023).

<sup>25</sup> See 17 C.F.R. § 20.7(b), (c).

For these reasons, FIA believes that, as the Commission predicted in 2011, the Commission now has access to data from sources other than the Swaps LTR Rules that would allow it to conduct effective surveillance of economically equivalent physical commodity futures, options and swaps and to monitor and enforce position limits.

b. The Costs to Comply with the Swaps LTR Rules are Significant

Notwithstanding the lack of ongoing utility of the Swaps LTR Rules, reporting entities (swap dealers and clearing members) continue to spend substantial time and resources identifying physical commodity swaps subject to the Swaps LTR Rules, converting the swap transactions into futures equivalent positions, validating position data, and submitting detailed and extensive reports to the Commission.<sup>26</sup> The Commission, in turn, invests significant time and resources reviewing and verifying the swaps data it receives from reporting entities.

We understand that the cost to establish and maintain reporting systems for the Swaps LTR Rule can be well over \$1 million for individual firms. While reporting entities have already incurred some of these costs in the years since the Swaps LTR Rules became effective, firms report that they expect to incur similar additional costs in the near future to upgrade and replace outdated systems. Reporting entities must also invest on an ongoing basis in storage for Part 20 data and manpower to run and oversee the Part 20 reporting systems. We also note that reporting entities cannot leverage Part 43/45 data to perform Part 20 reporting because the relevant data is typically contained in completely different reporting systems with different coding standards. As a result, reporting entities must maintain two separate but duplicative reporting systems, and incur costs associated with systems upgrades and technology replacement twice.

One particularly difficult data element to report is the Position Type Indicator, which is a data element contained in CFTC Staff Swaps LTR Guidebook (“Staff Swaps LTR Guidebook”), but was not contemplated or otherwise mentioned in the Swaps LTR Rules or the preamble.<sup>27</sup> The Position Type Indicator requires reporting entities to convert a paired swap transaction into one of four position types based upon the unique aspects of the transaction, and then report the resulting positions for a given position type. These position types are unique to the Staff Swaps LTR Guidebook and are not readily available in a reporting entity’s books and records. Reporting this data element imposes a considerable burden on reporting entities, yet the CFTC has never performed a cost-benefit analysis for this requirement because it is not in the Swaps LTR Rules.

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<sup>26</sup> The Commission’s estimated average burden hours per respondent of 14.33 woefully underestimates the actual burden per respondent of submitting reports under the Swaps LTR Rules. 89 Fed. Reg. at 19299. Just reading and attempting to understand the instructions in the 90-page Swaps LTR Guidebook takes many hours. Identifying in-scope swaps, calculating futures equivalent quantities, programing IT systems, verifying the accuracy of data inputs and outputs, and submitting and correcting reports takes each reporting party hundreds of manhours.

<sup>27</sup> The current version of the Staff Swaps LTR Guidebook is available at: <https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/ltrguidebook062215.pdf>. Neither the list of data elements for a clearing organization to report under CFTC Rule 20.3(b) nor the list of data elements for Reporting entities to report under CFTC Rule 20.4(c) references a position type indicator data element.

c. Sunsetting the Swaps LTR Rules Would be Consistent with Presidential Directives

In the first month of the new Administration, President Trump signed Executive Order 14192, which is intended to “significantly reduce the private expenditures required to comply with Federal regulations to secure America’s economic prosperity.”<sup>28</sup> Among other things, that Executive Order requires executive branch agencies to: (1) identify at least 10 regulations to be repealed each time they propose or finalize a new regulation, and (2) ensure that any incremental costs associated with new regulations are offset by the repeal of existing regulations.<sup>29</sup>

In the coming months, Congress may require the Commission to promulgate new regulations implementing the pending market structure legislation for digital assets, and the Commission will also likely need to issue new planned and unplanned regulations that further the Commission’s priorities.<sup>30</sup> As with most regulations, these new regulations are likely to impose some degree of costs on market participants. Therefore, not only has sunsetting the Swaps LTR Rules been sound governance for several years (as FIA has argued before), but doing so now would also be consistent with the goals of Executive Order 14192 and enable the Commission to promulgate new regulations by repealing the several duplicative and unnecessarily costly regulations in Part 20.<sup>31</sup>

### III. Conclusion

There is no continuing need for the temporary Swaps LTR Rules. Furthermore, by sunsetting the Swaps LTR Rules, the Commission could redirect its limited resources more efficiently to analyzing the swaps data provided by SDRs and surveilling compliance with position limits on economically equivalent swaps. Accordingly, the Commission should sunset the Swaps LTR Rules pursuant to Regulation 20.9 by Commission order.

Respectfully submitted,



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<sup>28</sup> See Executive Order 14192, Unleashing Prosperity Through Deregulation at § 1 (Jan. 31, 2025).

<sup>29</sup> See *id.* at §§ 3(a), (c).

<sup>30</sup> See, e.g., CFTC, Agency Rule List – Spring 2025, available at [https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3038&csrf\\_token=7BE3EA9C6188DAFB49E2CA39E9866E600C51B3A63261D931FB15C33FB702C4781C8152F652277D5F6385EDCA67ECD271B5E7](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3038&csrf_token=7BE3EA9C6188DAFB49E2CA39E9866E600C51B3A63261D931FB15C33FB702C4781C8152F652277D5F6385EDCA67ECD271B5E7).

<sup>31</sup> FIA also notes that, pursuant to regulation 20.9, the Swaps LTR Rules can be sunset by Commission order without necessarily engaging in a full rulemaking process.