



July 22, 2024

Via Electronic Submission

Vincent McGonagle  
Director, Division of Market Oversight  
U.S. Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

**Re: Request for Extended No-Action Relief from Certain Reporting Requirements Under Parts 17, 18 and 20 of the Commission's Regulations**

Dear Mr. McGonagle:

On September 25, 2020, in response to a combined request from the Futures Industry Association (“FIA”),<sup>1</sup> the Commodity Markets Council (“CMC”),<sup>2</sup> and the International Swaps and Derivatives Association (“ISDA”),<sup>3</sup> the Division of Market Oversight (“DMO”) issued CFTC No-Action Letter No. 20-30 (“**Letter No. 20-30**”). In Letter No. 20-30, DMO provided extended no-action relief from certain enumerated reporting obligations implemented by the Commission’s Ownership and Control Reports (“OCR”) final rule.<sup>4</sup> Letter No. 20-30 was extended by CFTC No-Action Letter No. 23-14 (“**Letter No. 23-14**”). The no-action relief provided by Letter No. 23-14 remains in effect with respect to covered obligations “until the

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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> CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal, and soft commodities. Its industry member firms also include regular users and members of swap execution facilities as well as designated contract markets. Along with these market participants, CMC members also include regulated derivatives exchanges and price reporting agencies.

<sup>3</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 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: [www.isda.org](http://www.isda.org).

<sup>4</sup> Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, 78 Fed. Reg. 69,178 (Nov. 18, 2013) (“**Final Rule**”).



earlier of: (a) the applicable effective date or compliance date of a Commission action addressing such obligation or (b) September 30, 2024.”

On June 14, 2018, in response to a request from DMO, FIA and CMC filed a joint Petition for Amendment of the Ownership and Control Reports (the “**Petition**”). The Petition requested, among other things, that the Commission codify the no-action relief provided in CFTC No-Action Letter No. 17-45 (“**Letter No. 17-45**”),<sup>5</sup> streamline and right-size the OCR data that reporting entities are required to submit, and sunset Part 20 (as originally intended by the Commission).<sup>6</sup> The Commission has not yet acted on the Petition. Thus, the relief in Letter No. 23-14 will expire by its terms on September 30, 2024.

Members of FIA, CMC, and ISDA are directly impacted by the Final Rule. FIA has explained in a series of letters that, notwithstanding considerable effort, persons obligated under the Final Rule to report information on any of New Form 102A, New Form 102B, New Form 102S, and New Form 40/40S (collectively, “**Reporting Parties**”) are, and will continue to be, unable to fully comply with certain aspects of the Final Rule due to some of its problematic requirements.<sup>7</sup> Consequently, Reporting Parties have relied in good faith on the relief provided in Letter No. 17-45 (extended by Letter No. 20-30, which was extended by Letter No. 23-14) for over six years.

For the reasons explained in prior letters and in the Petition, and due to the longstanding nature of this relief, FIA, CMC, and ISDA *strongly urge* DMO to extend the no-action relief in Letter No. 23-14 until the later of the applicable effective date or compliance date of a Commission action addressing the obligations in Letter No. 23-14. We believe an extension until Commission action, rather than time-limited relief, will allow Staff to revise the OCR rule without the repeated distraction of extending no-action relief. As a less optimal alternative, FIA, CMC, and ISDA request that DMO extend the no-action relief in Letter No. 23-14 until the earlier of: (a) the applicable compliance date of a Commission action addressing the obligations in Letter No. 23-14; and (b) 11:59 pm eastern time on September 30, 2025.

Separately, FIA, CMC, and ISDA strongly urge the Commission to act on the Petition. When acting on the Petition, we ask the Commission to consider the timeline for implementation of Part 17 large trader reporting amendments pursuant to the Commission’s recently finalized rule. Implementing changes to the OCR reporting regime and the Part 17 large trader reporting regime simultaneously would be challenging for firms and strain resources.

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<sup>5</sup> The relief provided in Letter No. 17-45 was extended by Letter No. 20-30.

<sup>6</sup> The Petition updated an earlier petition that FIA filed on June 26, 2015. The earlier petition sought to amend certain aspects of the OCR rule to address regulatory gaps and conflicts that effectively prevent reporting parties from complying with the Final Rule.

<sup>7</sup> See Letter from Allison Lurton, Senior Vice President and General Counsel, FIA, to Amir Zaidi, Director, Division of Market Oversight, CFTC (Aug. 15, 2016); Letter from Allison Lurton, Senior Vice President and General Counsel, FIA, to Amir Zaidi, Director, Division of Market Oversight, CFTC (June 9, 2017); Letter from Allison Lurton, Senior Vice President and General Counsel, FIA, to Vincent McGonagle, Director, Division of Market Oversight, CFTC (Feb. 24, 2016).



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FIA, CMC, and/or ISDA are available to discuss potential permanent solutions to the issues created by the current requirements of the OCR Final Rule. Please contact the undersigned if you have any questions about the relief requested herein.

Sincerely Yours,

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& General Counsel  
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/s/Kevin Batteh

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cc: Owen Kopon, Associate Chief Counsel, Division of Market Oversight  
Natalie Tynan, Associate General Counsel, Head of Tech. Documentation Strategy, FIA



The undersigned hereby certify that the material facts set forth in this letter are true and complete to the best of our knowledge, information and belief.<sup>8</sup>

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Allison Lurton

/s/ Kevin Batteh

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Kevin Batteh

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Eleanor Hsu

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<sup>8</sup> In addition, we hereby agree that, if at any time prior to the issuance of a no-action letter, any material statement made in this letter ceases to be true and complete, we will ensure that Commission Staff is informed promptly in writing of all materially changed facts and circumstances.