U.S. COMMODITY FUTURES TRADING COMMISSION
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Division of
Market Oversight

Rahul Varma
Acting Director

Re: Request for a No-Action Position Concerning the Commission's Swap Data Error Correction Notification Regulations

I. Introduction

The Division of Market Oversight ("DMO" or the "Division") of the Commodity Futures Trading Commission (the "Commission" or "CFTC") is issuing this letter in response to a request dated June 27, 2025 (the "Request")[1] from the International Swaps and Derivatives Association ("ISDA") and the Securities Industry and Financial Markets Association ("SIFMA") pursuant to Commission Regulation 140.99.[2]

ISDA and SIFMA requested that the Division issue a letter stating that the Division will not recommend the Commission commence an enforcement action against a reporting counterparty that fails to submit a swap data error correction notification with respect to an error if, at the time the reporting counterparty initially discovers and assesses the impact of an error, the reporting counterparty makes a reasonable determination that the number of reportable trades affected by the error does not exceed five percent of the reporting counterparty's open swaps for the relevant asset class in swaps for which it was the reporting counterparty.

II. Background

In November 2020, the Commission issued a final rule amending the swap reporting regulations contained in Part 43 and Part 45 of the Commission's regulations.[3] Among other things, those amendments introduced a requirement that a swap execution facility ("SEF"), designated contract market ("DCM"), or reporting counterparty notify Commission staff if it will not timely correct a swap data error or errors.[4] SEFs, DCMs, and reporting counterparties must correct any swap reporting errors "as soon as technologically practicable after discovery" and "[i]n all cases . . . within seven business days after discovery."[5] If a SEF, DCM, or reporting counterparty determines it will fail to timely correct a swap reporting error, it shall notify the Director of the

[1] Letter from C. Young to R. Varma and T. Kaouk re: Request for a No-Action Position Concerning the Commission's Swap Data Error Correction Notification Regulations (June 27, 2025).
[2] 17 C.F.R. § 140.99.
[3] Final Rule, Certain Swap Data Repository and Data Reporting Requirements, 85 Fed. Reg. 75601 (Nov. 25, 2020).
[4] *See* 17 C.F.R. § 43.3(e)(1)(ii); 17 C.F.R. § 45.14(a)(1)(ii).
[5] 17 C.F.R. § 43.3(e)(1)(i); 17 C.F.R. § 45.14(a)(1)(i).

Division of Data ("DOD") or their designee.[6] Such notification shall be made to staff within 12 hours of a SEF, DCM, or reporting counterparty's determination that it will fail to timely correct an error.[7] The notification "shall be in the form and manner, and according to the instructions, specified by the Director of [DOD] in concurrence with the Director of [DMO], or such other employee or employees of the Commission as the respective Director may designate."[8] Further, "[u]nless otherwise instructed by the Director of [DOD]" or their designee, such notification "shall include an initial assessment of the scope of the error or errors that were discovered, and shall include an initial remediation plan for correcting the error or errors, if an initial remediation plan exists."[9]

On June 10, 2022, DOD staff published a staff advisory setting out the form and manner for submitting notifications required under Regulations 43.3(e)(1)(ii) and 45.14(a)(1)(ii).[10] That advisory enumerated information sufficient to provide an initial assessment of the scope of the error and to present an initial remediation plan. The advisory also included a form to capture such information, and provided an email inbox to receive notifications.

SEFs, DCMs, and reporting counterparties generally began to comply with the swap reporting error correction notification requirements on or shortly after December 5, 2022.[11] DOD currently receives approximately 150 notifications per month from SEFs, DCMs, and reporting counterparties.[12]

III. Requested No-Action Position

Regulations 43.3(e)(1)(ii) and 45.14(a)(1)(ii) require SEFs, DCMs, and reporting counterparties to submit swap reporting error notifications for all errors that cannot be timely corrected, regardless of the materiality of the error. ISDA and SIFMA requested a no-action position with respect to the requirement to submit notifications for errors that do not exceed a certain threshold, as discussed below.[13]

ISDA and SIFMA provide two justifications for the requested no-action position. First, they state that the error correction notification requirements require reporting counterparties to "expend substantial resources."[14] ISDA and SIFMA represent that "there can be many reasons that a reporting counterparty may need longer than seven business days to correct even an immaterial error," including that necessary code changes may take longer than seven days to design and test regardless of the population of trades or events impacted by an error.[15] Second, ISDA and SIFMA

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[6] 17 C.F.R. § 43.3(e)(1)(ii); 17 C.F.R. § 45.14(a)(1)(ii).
[7] *Id.*
[8] *Id.*
[9] *Id.*
[10] *See* CFTC Letter No. 22-06 (June 10, 2022), *available* at https://www.cftc.gov/csl/22-06/download.
[11] The November 2020 amendments to Part 43 and 45 had a compliance date of May 25, 2022. On January 31, 2022, DOD issued a no-action letter with respect to certain requirements, including Regulations 43.3(e) and 45.14, and that no-action position expired on December 5, 2022. *See* CFTC Letter No. 22-03 (Jan. 31, 2022), *available at* https://www.cftc.gov/csl/22-03/download.
[12] *See also* Final Rule, Certain Swap Data Repository and Data Reporting Requirements, 85 Fed. Reg. 75601, 75634 (Nov. 25, 2020) (estimating the Commission would receive approximately 1,729 notifications each year).
[13] *See* Request at 2.
[14] *Id.*
[15] *Id.*

state that they believe Commissions staff "are inundate[d]" with swap reporting error notifications.[16]

ISDA and SIFMA requested that the Division take a no-action position for any reporting counterparty that fails to submit a notification required by Regulations 43.3(e)(1)(ii) or 45.14(a)(1)(ii) "if, at the time the reporting counterparty initially discovers and assesses the impact of the error, the reporting counterparty makes a reasonable determination that the number of reportable trades affected by the error does not exceed five percent of the reporting counterparty's open swaps for the relevant asset class in swaps for which it was the reporting counterparty."[17] ISDA and SIFMA propose that "[t]he relevant five percent threshold per asset shall be calculated by the reporting counterparty as part of the verification process under Commission Regulation 45.14 (*e.g.*, if the reporting counterparty is a swap dealer, the threshold will be calculated once every thirty calendar days based on the number of open swaps at the time the swap dealer performs the verification)."[18] ISDA and SIFMA also note that "to the extent the Commission needs additional information, reporting counterparties remain subject to their record retention obligations and the Commission can access to those records on request."[19]

IV. No-Action Position

After considering the Request and related facts and circumstances, the Division believes that a no-action position is warranted. Based on ISDA and SIFMA's representations and staff's discussions with various reporting counterparties during the past two and a half years, staff understands that submitting swap reporting error notifications imposes an unreasonable burden on reporting counterparties, given that the notifications have not been utilized as originally intended.

Accordingly, the Division will not recommend the Commission take an enforcement action against a reporting counterparty that fails to submit a swap data error correction notification with respect to an error if, at the time the reporting counterparty initially discovers and assesses the impact of an error, the reporting counterparty makes a reasonable determination that the number of reportable trades affected by the error does not exceed five percent of the reporting counterparty's open swaps for the relevant asset class in swaps for which it was the reporting counterparty.[20] The relevant five percent threshold per asset class shall be calculated by the reporting counterparty based on open swaps for purposes of the verification process required under Commission Regulation 45.14.[21]

This no-action position shall expire upon the applicable compliance date of Commission action addressing the notification obligations in Regulation 43.3(e)(1)(ii) and 45.14(a)(1)(ii). For

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[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] The no-action position provided in this letter is not intended to restrict reporting counterparties from voluntarily contacting Commission staff about errors. For example, if a reporting counterparty identifies an error that does not exceed the relevant five percent threshold but that the reporting counterparty believes may significantly impact data quality for the Commission or for users of publicly disseminated swap transaction and pricing data, staff welcome outreach or a swap reporting error notification to alert the Commission of such an error.
[21] 17 C.F.R. § 45.14(b).

purposes of this no-action position, the term "Commission action" may include a rulemaking or order addressing an obligation covered by the no-action position set forth in this letter.

V. Conclusion

This letter and the no-action position taken herein represent the views of the Division only, and do not necessarily represent the positions or views of the Commission or of any other Commission division or office. This letter and the no-action position taken herein are not binding on the Commission.[22] Except as explicitly provided in this letter, the no-action position taken herein does not excuse persons from compliance with any applicable requirements of the CEA or Commission regulations. Further, this letter, and the no-action position contained herein, are based upon the representations made to the Division. Any different, changed, or omitted material facts or circumstances may render this letter void. As with all no-action letters, the Division retains the authority to, in its discretion, further condition, modify, suspend, terminate or otherwise restrict the terms of the no-action position provided herein.

If you have any questions concerning this correspondence, please contact Owen Kopon, Division of Market Oversight, at (202) 418-5360 or okopon@cftc.gov, Paul Chaffin, Division of Market Oversight, at (202) 418-5185 or pchaffin@cftc.gov, or Isabella Bergstein, Division of Market Oversight, at (202) 993-1384 or ibergstein@cftc.gov.

Sincerely,

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[22] *See* 17 C.F.R. § 140.99(a)(2) ("A no-action letter binds only the issuing Division… and not the Commission or other Commission staff.").