

## Cabinet News and Views

Informed analysis for the financial services industry



### CFTC Extends OCR Final Rule Relief



By **Peter Y. Malyshev**  
Partner | Financial Regulation



By **Nikita B. Cotton**  
Associate | Financial Regulation

On September 22, 2023, the Commodity Futures Trading Commission's (the "CFTC" or the "Commission") Division of Market Oversight [extended](#) its no-action position regarding certain large trader reporting ("LTR") obligations for futures, options and swaps under parts 17, 18 and 20 of the CFTC's final rule on Ownership and Control Reports (see 78 Federal Register 69178; hereinafter, the "OCR Final Rule"). The no-action position granted in CFTC Letter No. 23-14 is an extension of relief from compliance with certain requirements under the OCR Final Rule that has been granted by the DMO since 2014, and will remain in effect until the earlier of a Commission action addressing the reporting obligations or September 30, 2024. This relief applies to electronic submission of trader identification and market participant data on several forms: Form 40, Form 71 and Form 102 (including Forms 102A, 102B and 102S) (collectively, the "OCR Forms").

Since the adoption of the OCR Final Rule in November 2013, reporting entities (*i.e.*, futures commissions merchants, clearing members and foreign brokers) have struggled with identifying and providing the data in many of the fields in the OCR Forms. Recognizing the complexity of the filing requirements of the OCR Forms, in 2016, the CFTC [published](#) the OCR Technical Guidance. However, as the series of CFTC no-action letters indicate, market participants remain unable to comply with many of the requirements.

The no-action relief extends the date for required compliance to, among other things, (i) report information relating to (a) certain account owners, originators and controllers and (b) reportable account volume levels associated with designated contract markets and swap execution facilities and (ii) file change updates. Relief provided in this no-action letter is very fact-specific and conditional upon compliance with other provisions of the OCR Final Rule and does not relieve reporting entities from the filing of OCR Forms.

In their request for an extension of the no-action relief, three industry groups (namely, the Futures Industry Association (“FIA”), Commodity Markets Council (“CMC”) and International Swaps and Derivatives Association (“ISDA”)) expressed the inability of reporting entities to achieve full compliance with several of the OCR Forms “due to some of [the OCR Final Rule’s] problematic requirements.” FIA and CMC had previously [submitted](#) a petition to the Commission requesting, among other things, the codification of certain no-action positions taken with respect to the OCR Final Rule, the streamlining and “right-siz[ing]” of the reportable data and a withdrawal of Part 20 in its entirety. In connection with September’s extension of the no-action relief, CFTC Commissioner Summer K. Mersinger [expressed](#) support for “a rulemaking that could address these OCR issues on a permanent basis,” which is [included](#) in the Commission’s 2023 agenda.

---