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CFTC Staff Extends No-Action Position for Certain Reporting Obligations Under the Ownership and Control Reports Final Rule

September 22, 2023

Washington, D.C. — The Commodity Futures Trading Commission's Division of Market Oversight (DMO) today issued a no-action letter that extends the current no-action position for reporting obligations under the ownership and control reports final rule (OCR Final Rule (<https://www.federalregister.gov/documents/2013/11/18/2013-26789/ownership-and-control-reports-forms-102102s-4040s-and-71>)). The OCR Final Rule, approved in 2013, requires the electronic submission of trader identification and market participant data.

DMO is extending its no-action position to address continuing compliance difficulties associated with certain OCR reporting obligations that were identified by reporting parties and market participants. The position announced today extends DMO's previously provided position under CFTC Letter No. 20-30 (<https://www.cftc.gov/csl/20-30/download>), such that DMO will not recommend the CFTC commence an enforcement action in the following circumstances:

- Accurately reporting a trading account owner's (TAC) and volume threshold account (VTA) owner's name within three business days following the day on which the account became reportable;
- Failure to report certain TAC and VTA controller (VTAC) identifying information;
- Failure to provide the level of confidence a reporting party has in the accuracy of the information provided to it by its customers or counterparties;
- Failure to report a volume threshold account based on a reportable trading volume level of 50 contracts (provided such reporting party reports instead based on a reportable trading volume level of 250 or more contracts per day);
- Failure to report on Form 102S certain omnibus account originator and consolidated account owner information (conditioned on electronically reporting consolidated account counterparty information instead);
- Failure to report additional TAC and VTAC identifying information (conditioned on DMO being able to obtain TAC-identifying information from the special account controller and VTAC-identifying information from the VTA owner or the reporting firm);
- Failure to submit refresh updates to Forms 102A, 102B, and 102S (conditioned on filing timely and complete change updates);
- Use of the same contact information for all 10% owners and parent companies (Identified Party) on question 8 on Forms 40 and 40S (conditioned on the means of communication provided being monitored by a person or persons who promptly provide(s) contact information for a representative of the relevant Identified Party authorized to discuss OCR information with CFTC staff);
- Failure to answer question 12 on Forms 40 and 40S regarding those who directly or indirectly influence or exercise authority over, but do not control, a reporting party's trading; and

- Failure to file change updates to Forms 40 or 40S other than in response to a special call pursuant to §§ 18.04 or 20.5(b).

The no-action position will remain in effect until the earlier of: (a) the later of the applicable effective date or compliance date of a Commission action, such as a rulemaking or order, addressing such obligations and (b) September 30, 2024. DMO plans to use the extended period to consider whether to recommend the CFTC pursue changes to the OCR Final Rule.

Detailed information on the mechanics of reporting required by the OCR Final Rule and other relevant OCR Final Rule implementation information will be provided on the OCR homepage (<https://www.cftc.gov/Forms/OCR/index.htm>).

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