

# Public Statements & Remarks

## Statement of Commissioner Summer K. Mersinger Regarding Extension of Staff No-Action Position Regarding Ownership and Control Reports

September 22, 2023

I support extension of the staff no-action relief in Letter No. 20-30 from certain reporting obligations under the Commission's Ownership and Control Reports ("OCR") final rules. No-action relief is appropriate because various aspects of the OCR rules are unworkable or otherwise problematic in terms of implementation and compliance. As I have previously said, "when one of our rules needs to be fixed because it is unworkable, ambiguous, or inefficient, corrective action by notice-and-comment rulemaking is the gold standard because it allows the Commission to hear from stakeholders and develop regulatory solutions that provide certainty."<sup>[1]</sup>

Yet, it is troubling that this relief is another instance of successive extensions of staff no-action relief on issues that the Commission has failed to address permanently. This is the 12<sup>th</sup> time during my tenure as a Commissioner that I have commented on seemingly endless staff no-action relief or other band-aids and workarounds undertaken when the Commission avoids tackling difficult issues.<sup>[2]</sup>

I appreciate that a rulemaking that could address these OCR issues on a permanent basis is included in the Commission's "Agency Rule List" published in the Spring 2023 "Unified Agenda of Regulatory and Deregulatory Actions."<sup>[3]</sup> But I note that the target date stated in that Agency Rule List for the issuance of a notice of proposed rulemaking regarding the OCR rules is not until March 2024.

This is the 7<sup>th</sup> no-action letter that will be issued regarding the OCR rules since they were adopted a decade ago in 2013. It is my understanding that there has been engagement between staff and stakeholders about these rules over the years, including written communications and a petition for rulemaking. Under the circumstances, I urge staff and the Commission to develop and issue an OCR proposed rulemaking soon – so that staff is not compelled to issue yet another extension when this one expires a year from now.

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[1] Dissenting Statement of Commissioner Summer K. Mersinger Regarding CFTC's Regulatory Agenda, section entitled "'Kicking the Can Down the Road' Rather than Working on Rulemaking Solutions" (January 9, 2023), available at Dissenting Statement of Commissioner Summer K. Mersinger Regarding CFTC's Regulatory Agenda | CFTC (<https://www.cftc.gov/PressRoom/SpeechesTestimony/mersingerstatement010923>).

[2] See Statement of Commissioner Summer K. Mersinger on Revision and Extension of Staff No-Action Positions for Swaps Intended to be Cleared (February 2, 2023) (listing previous Statements at n.3), available at Statement of Commissioner Summer K. Mersinger on Revision and Extension of Staff No-Action Positions for Swaps Intended to be Cleared | CFTC (<https://www.cftc.gov/PressRoom/SpeechesTestimony/mersingerstatement020223>).

[3] See Regulatory Information Service Center, Unified Agenda of Regulatory and Deregulatory Actions (Spring 2022), available at Agency Rule List - Spring 2023 (reginfo.gov) ([https://www.reginfo.gov/public/do/eAgendaMain?](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3038&csrf_token=E8E9F0700F7A4D2C99221E64D861757)

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