August 24, 2026

Submitted via Regulations.gov
Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Submitted via SEC Internet Comment Form
Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Joint Request for Comment on Further Definition of "Swap" and "Security-Based Swap" and on Alternative Compliance (CFTC RIN 3038-AF71; SEC RIN 3235-AN79)
Joint Request for Comment on Swap and Security-Based Swap Data Reporting (CFTC RIN 3038–AF70; SEC RIN 3235–AN78)

Dear Secretary Kirkpatrick and Secretary Countryman:

The Wholesale Markets Brokers Association, Americas ("**WMBAA**")[1] appreciates the opportunity to submit a comment letter to the Commodity Futures Trading Commission ("**CFTC**") and the Securities and Exchange Commission ("**SEC**" and, collectively with the CFTC, the "**Commissions**") in response to the Commissions' joint requests for comment regarding (i) further definition of "swap" and "security-based swap" and alternative compliance ("**Swap Definitions RFC**"),[2] and (ii) swap and security-based swap data reporting ("**Swap Reporting RFC**" and, together with the Swap Definition RFC, the "**RFCs**").[3]

WMBAA members each operate CFTC-registered swap execution facilities ("**SEFs**") as well as other trading venues for a variety of financial products around the world, and many members also operate SEC-registered security-based swap execution facilities ("**SBSEFs**"). The WMBAA has worked diligently to identify areas within the SEF and SBSEF regulatory regimes where recommendations for improvement would be helpful, and the WMBAA commends the Commissions' efforts to simplify and harmonize these regulatory requirements. We stand ready to work with the SEC and CFTC on this important harmonization initiative, and we encourage the Commissions to undertake a similar exercise as the RFCs with respect to SEF and SBSEF registration, regulation, and examination.[4]

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[1] The WMBAA is an independent industry body representing the largest inter-dealer brokers operating in the North American wholesale markets across a broad range of financial products.

[2] *See* 91 Fed. Reg. 37873 (June 24, 2026) ("Swap Definitions RFC").

[3] *See* 91 Fed. Reg. 37877 (June 24, 2026) ("Swap Reporting RFC").

[4] While the RFCs do not directly focus on SEF or SBSEF regulatory issues, the questions posed in both requests reflect the importance of harmonizing and right-sizing the SEF and SBSEF regulatory frameworks. The WMBAA strongly encourages the SEC and CFTC to consider this a top priority. For example, the statutory framework permits swaps and security-based swaps to be executed "by any means of interstate commerce," and does not prescribe a particular type of prescriptive execution method. The existing rules do not utilize this flexibility, instead limiting trading in the most liquid Made Available to Trade ("**MAT**") swaps to electronic order book or RFQ

The WMBAA's recommendations in this comment letter are organized around two related concerns. First, with respect to the Swap Definitions RFC, the WMBAA believes the Commissions should reduce unnecessary burdens, particularly those created when products based on securities indexes move between CFTC and SEC frameworks. Second, with respect to the Swap Reporting RFC, the WMBAA believes the Commissions should use this rulemaking to further harmonize CFTC and SEC reporting requirements.

I. Regulatory Burdens Imposed by the "Swap" and "Security-Based Swap" Definitions

The WMBAA believes that there is a need for additional clarity and safe harbors for products that are based on a securities index that transitions between narrow-based and broad-based, and vice versa.[5] The current regulatory framework imposes substantial and recurring compliance burdens that are divorced from any corresponding regulatory or investor-protection benefit.

In particular, the definition of a "narrow-based security index" is complex and necessitates a four-part analysis. To determine whether a given index is a "narrow-based security index," market participants must analyze the index's component securities and their weighting, and evaluate whether the index satisfies any one of four different tests. In addition, for certain types of products such as credit default swaps, market participants must conduct further analyses to determine the appropriate classification.[6] Not only is this analysis complex and resource-intensive, but it creates ongoing obligations.

As the Commissions have previously recognized, indexes can "migrate" from narrow-based to broad-based and vice versa due to changes in the composition of the index, the relative weighting of the component securities, and the market capitalization and average daily trading volume of the component securities.[7] Accordingly, market participants are required to conduct

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functionality. While the WMBAA strongly supports the CFTC's recent proposal to remove the order book requirement allowing SEFs not to offer an order book for permitted transactions, the WMBAA encourages the Commissions to use this opportunity to reexamine how the framework could better reflect Congressional intent. In addition, the Commissions should additionally consider the significant differences between futures trading on exchanges, securities trading on national securities exchanges, and over the counter swaps and security-based swaps trading on SEFs and SBSEFs. In practice, the vast majority of SEFs and SBSEFs are non-MAT, permitted transactions that are pre-arranged in off-SEF liquidity pools and brought to an SEF for execution and trade reporting only. As a result, swap markets are fundamentally different than stock exchanges, and their regulatory treatment should reflect this. The WMBAA believes the Commissions should use this opportunity to revise SEF and SBSEF rules to promote the growth of competitive, vibrant swaps markets without impeding liquidity formation where it naturally exists.

[5] *See* Swap Definitions RFC at 37876 (asking whether the Commissions "[s]hould [] revise or clarify those rules or provide additional clarity, transition rules, or safe harbors for products that are based on a securities index that transitions between narrow-based and broad-based, or vice versa?").

[6] *See* 17 C.F.R. § 1.3; 17 C.F.R. § 240.3a68-1b.

[7] *See* 77 Fed. Reg. 48208 (Aug. 13, 2012).

this analysis on a continuous basis, monitoring each relevant index over time to determine whether, and when, a product's regulatory classification has changed.

Whether an index is broad- or narrow-based determines its regulatory treatment. Swaps on broad-based security indexes are subject to the jurisdiction of the CFTC and SEF execution, while swaps on narrow-based security indexes are security-based swaps subject to the jurisdiction of the SEC and SBSEF execution. As set forth in the Swap Definitions RFC, there are differences between the regulatory frameworks that the CFTC and SEC, respectively, apply to swaps and security-based swaps.

In most respects, however, these differences are technical and immaterial to investors or market integrity protections. In either case, the transactions are subject to the comprehensive oversight of a federal financial regulator and subject to the same categories of protections: trade practice and market surveillance, real-time and regulatory reporting, recordkeeping, and customer- and market-integrity safeguards. Accordingly, the current regulatory framework imposes substantial compliance burdens on market participants for little-to-no regulatory benefit. A product that shifts from one classification to the other does not become materially riskier or less transparent to investors. The costs of continuously monitoring for, and reacting to, such migrations fall on market participants without any commensurate gain in market integrity or investor protection.

In order to streamline regulatory burdens and reduce unnecessary compliance costs, the WMBAA recommends that the Commissions extend existing safe harbors for products that are based on a securities index that transitions between a broad- and narrow-based index. The WMBAA believes that it would be appropriate to lengthen the existing tolerance and grace periods such that market participants would only need to conduct this analysis on an annual basis. Alternatively, the WMBAA would encourage the Commissions to provide lists of commonly referenced securities indexes, identifying which are broad-based and which are narrow-based, and to update those lists on a periodic basis. This way, market participants could reasonably rely on the published classifications rather than independently performing the complex analysis for each index on an ongoing basis, thereby providing certainty and eliminating duplicative and resource-intensive compliance work.

II. Regulatory Burdens Imposed by Swap Reporting Requirements

As an initial matter, the WMBAA supports the comments offered in response to the Swap Reporting RFC by the International Swaps and Derivatives Association, Inc. and the Securities Industry and Financial Markets Association. The WMBAA believes that this feedback, particularly with respect to streamlining and clarifying reporting requirements, will "help make [] reporting more meaningful for policymakers and market participants by providing better and more consistent data" and "reduce unnecessary operational complexity, minimize compliance costs, and enhance market efficiencies, without compromising regulatory oversight."

Additionally, as previously stated, the WMBAA supports the harmonization of the swap and security-based swap reporting frameworks and recommends that the Commissions streamline their respective requirements to the extent practicable. Different sets of reporting

requirements yield minimal corresponding benefit, if any, while imposing operational complexity and compliance costs on market participants.

The WMBAA further believes that the reporting regimes under Parts 43 and 45 and Regulation SBSR should not impose affirmative regulatory reporting burdens on SEFs or SBSEFs. The reporting frameworks should instead remain focused on the parties to the trade. Trading venues should be able to facilitate reporting on behalf of those counterparties, but the regulatory framework should preserve this option without turning voluntary services into additional regulatory requirements. Imposing additional regulatory liability on trade execution venues – who were not designed or intended to carry out trade reporting functions – would create onerous operational burdens without meaningful enhancements to regulatory oversight.

III. Conclusion

The WMBAA appreciates the opportunity to submit this comment letter and supports the Commissions' efforts to streamline regulatory requirements regarding swaps and security-based swaps. By promoting greater harmonization, reducing unnecessary complexity and enhancing regulatory clarity, the Commissions can improve market efficiency while maintaining effective and comprehensive regulatory oversight. The WMBAA looks forward to continued opportunities to work with the Commissions towards these shared objectives.