

CLIENT ALERT

# Big Changes to Large Trader Reporting Rules: CFTC Revamps Part 17

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## AUTHORS

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On April 30, 2024, the Commodity Futures Trading Commission (“**CFTC**”) adopted amendments to the Part 17 large trader reporting requirements for futures and options (“**Futures Reporting Rule**”).<sup>1</sup> The Futures Reporting Rule modernizes certain technical aspects of the reporting requirements and attempts to align the reporting of futures positions with the reporting structures of other CFTC reporting rules. Broadly, the Futures Reporting Rule: (1) removes the historic 80-character data submission standard and delegates authority to the Director of the Office of Data and Technology (“**ODT**”) to determine the form and manner for Part 17 large trader reports submissions;<sup>2</sup> and (2) makes certain changes to the data elements to be included in large trader reports.

The amendments become effective 60 days after publication in the Federal Register. The compliance deadline is two years after publication for futures commission merchants, clearing members, foreign brokers, and designated contract markets (collectively, “**reporting firms**”) that are required to make large trader reports, with testing being available on the CFTC Portal approximately six months after publication. An updated Part 17 Guidebook, reflecting the revised submission standard, was released with the Futures Reporting Rule.

<sup>1</sup> Large Trader Reporting Requirements (to be codified at 17 C.F.R. pt. 17), available [here](#) (“**Futures Reporting Rule**”).

<sup>2</sup> The delegation to ODT appears to be a delegation to the Division of Data because the Division of Data was previously named ODT.

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### **Background**

Part 17 of the CFTC's Regulations specifies the large trader report requirements for futures and options. Rule 17.00(a) requires reporting firms to submit daily position reports that include positions in open contracts for so-called special accounts (futures and options trader accounts that exceed CFTC-set reporting levels).<sup>3</sup> The CFTC uses these reports for, among other things, generating the weekly Commitments of Traders report for the benefit of the industry and public. These reports also support the CFTC's Market Surveillance Program through which CFTC staff monitor the daily activities of large traders, key price relationships, and relevant supply and demand factors to identify and address potential manipulation, fraud, or other market disruptions. Prior to implementation of the Futures Reporting Rule, Rule 17.00(g) required reporting firms to follow an 80-character submission standard when submitting their large trader reports to the CFTC.<sup>4</sup> The CFTC explained that this format is outdated, error prone, and does not allow for automated data quality checks.<sup>5</sup> Furthermore, the 80-character submission standard is unique relative to other CFTC reporting standards, which complicates the agency's ability to integrate Part 17 reports with other datasets.<sup>6</sup>

### **Revised Submission Standard**

The Futures Reporting Rule modernizes Part 17 large trader reporting by replacing the historic 80-character submission standard with a different data submission standard to be determined pursuant to the authority of the Director of ODT.<sup>7</sup> Under the Futures Reporting Rule, the Director of ODT will determine the form, manner, coding structure, and electronic data transmission procedures for large trader reporting, with these determinations being codified in the official Part 17 Guidebook.

Contemporaneously with the publication of the Futures Reporting Rule, the CFTC published a revised edition of the Part 17 Guidebook, which designated Financial Information eXchange Markup Language ("FIXML") as the new data submission standard for Part 17 large trader reports. The revised Part 17 Guidebook is available [here](#). According to the Futures Reporting Rule, "specifying the form and manner for reporting through a Part 17 Guidebook will bring the [Part 17 large trader] reports in line with various other Commission reporting streams, for which, rather than embedding technical reporting details into regulation text, the Commission has delegated authority to staff to set the form and manner for reporting through a published technical specification or guidebook."<sup>8</sup>

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<sup>3</sup> *Id.* at 6.

<sup>4</sup> *Id.* at 7 & 18.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.* at 38-39.

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While the use of an accompanying guidebook to publish data submission form and manner requirements is consistent with how the CFTC addresses reporting standards under Parts 16, 20, 43, and 45 of its regulations, such an approach raises concerns because unintended issues may arise for impacted parties and reporting firms. In her dissenting statement, Commissioner Caroline Pham highlighted the fact that under the Futures Reporting Rule, the Director of ODT may amend the form and manner in which data is submitted (e.g., change the submission standard from FIXML to a different method), without offering prior notice to reporting firms.<sup>9</sup> Commissioner Pham stated that “even seemingly minor changes to reporting requirements require firms to identify and allocate technology budget and resources; program and test reporting logic; and implement controls, among other things.”<sup>10</sup> In the case of Part 17, should the Director of ODT alter the data submission standard from FIXML, or make other changes to the Guidebook, without first working with reporting firms, or at least offering them sufficient prior notice of contemplated changes, reporting firms could find themselves scrambling to comply with new and different requirements and expending considerable resources to do so.

### ***Revising Data Elements and Moving to Appendix C***

The Futures Reporting Rule adds a new Appendix C to Part 17 containing the data elements to be included in Part 17 reports. It removes the data elements to be included in large trader reports from Rule 17.00(g) and relocates them to Appendix C of Part 17. The approach of organizing data elements in an appendix, rather than within the text of a regulation, is consistent with the treatment of data elements required to be reported under other CFTC reporting regimes. The data elements listed in Appendix C are organized into four categories.

1. Data elements that have historically been included in Part 17 larger trader reports, such as “Long Position” and “Short Position” in options and futures contracts;
2. New data elements used to facilitate processing of data, including data elements necessary to facilitate FIXML reporting, such as “Total Message Count,” “Sender ID,” and information identifying time of submission;
3. New product-related data elements that, where applicable, enable the CFTC to identify and distinguish the futures or option contract pertaining to the reported position, such as “Maturity Time,” “First Exercise Date,” and “Strike Level.” These data elements will permit the CFTC to draw more granular distinctions between certain contracts for reportable positions. They will also enable reporting firms to accurately represent terms of particular contracts, such as bounded or barrier contracts, contracts with non-price or non-numeric strikes, and other innovative contracts, that are held in special accounts; and

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<sup>9</sup> Dissenting Statement of Commissioner Caroline D. Pham on Large Trader Reporting Rule (April 30, 2024), available [here](#).

<sup>10</sup> *Id.*

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4. New data elements that concern the nature and quantity of day-to-day changes in positions, such as “Payout Amounts,” “Product-Specific Terms,” and “Cap Level,” that provide the CFTC with additional information to support its surveillance program and assist CFTC staff in linking position data.<sup>11</sup>

### ***Conclusion***

The Futures Reporting Rule overhauls the Part 17 large trader reporting rules and generally harmonizes Part 17 with other CFTC reporting regimes. While the Futures Reporting Rule provides for a two-year compliance period, reporting firms and entities impacted by these amendments should not delay initiating an assessment of their current systems and processes. Firms should begin the implementation process as soon as possible, to ensure there is ample time to roll out a new reporting infrastructure, test it well in advance of the compliance deadline, and identify and correct any data input or reporting problems.

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<sup>11</sup> Futures Reporting Rule at 19–20.

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If you have any questions regarding this memorandum, please contact one of the authors, any member of our CFTC team listed below, or the Willkie attorney with whom you regularly work.

Willkie has a dedicated team of attorneys with extensive knowledge and experience in all aspects of the Commodity Exchange Act and the CFTC regulatory regime. We would be pleased to assist on your matters.

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