

19 June, 2026

Submitted electronically via IOSCO consultation portal

International Organization of Securities Commissions
Commodity Derivatives Working Group
Oquendo 12
28006 Madrid, Spain

Re: Consultation Report: Good Practices concerning over-the-counter (OTC) Commodity Derivatives Markets (CR/01/26, March 2026)

Dear Sir/Madam:

MFA¹ appreciates the opportunity to comment on IOSCO’s Consultation Report on Good Practices concerning over-the-counter (OTC) Commodity Derivatives Markets (the “**Consultation**”).² MFA is the trade association representing the global alternative asset management industry, including hedge funds and other private funds that participate in commodity derivatives markets for risk management, relative-value, and liquidity-provision strategies. As IOSCO notes, market participants often hold positions across exchange-traded, over-the-counter (“**OTC**”), and physical markets, and opacity or fragmentation – particularly in OTC exposures – can complicate surveillance and disorderly market prevention.

MFA has long supported risk-sensitive, proportionate regulation of OTC derivatives markets that enhances transparency and market integrity without undermining liquidity, hedging efficiency, or cross-border market integration. MFA has long supported reforms that: (i) reduce systemic and counterparty risk through appropriate clearing; (ii) enhance transparency through effective reporting frameworks; and (iii) avoid duplicative, inconsistent, or impractical compliance obligations, especially for non-dealer market participants.

¹ Managed Funds Association (“**MFA**”), based in Washington, D.C., New York City, Brussels, and London, represents the global alternative asset management industry. MFA’s mission is to advance the ability of alternative asset managers to raise capital, invest it, and generate returns for their beneficiaries. MFA advocates on behalf of its membership and convenes stakeholders to address global regulatory, operational, and business issues. MFA has more than 180 fund manager members, including traditional hedge funds, private credit funds, and hybrid funds, that employ a diverse set of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors diversify their investments, manage risk, and generate attractive returns throughout the economic cycle.

² International Organization of Securities Commissions, Consultation Report: Good Practices concerning over-the-counter (OTC) Commodity Derivatives Markets, CR/01/26, (Mar. 2026), available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD815.pdf>

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Executive Summary

MFA is amenable to IOSCO’s goal of strengthening implementation of **Principle 12** (authority to obtain information) and **Principles 15–16** (intervention powers and disruption response), to the extent the requested information about the OTC positions is necessary with respect to related exchange-traded or OTC markets without imposing undue burdens on alternative asset managers and other institutional investors.

To maximize market integrity benefits while minimizing unintended consequences, IOSCO’s final good practices should:

- 1. Prioritize targeted scope** by focusing enhanced tools and reporting on critical contracts and sufficiently related OTC activity, rather than broad, undifferentiated reporting across markets.
- 2. Leverage venue proximity and expertise** by ensuring trading venues generally have the closest day-to-day visibility into volumes, patterns, and trends. Venues can therefore calibrate accountability and position management tools more effectively, with regulators retaining backstop authority for exigent circumstances.
- 3. Leverage existing reporting “pipelines”** and allocate reporting obligations to the most efficient reporters (typically dealers/central nodes) to avoid requiring every end user to build duplicative systems. This would be consistent with MFA’s long-standing position on trade reporting architecture.
- 4. Avoid proactive, trigger-based “push” reporting**, especially rules that require market participants to automatically send sensitive OTC/overseas exposure data whenever a threshold is breached. As MFA has previously expressed to the UK Financial Conduct Authority (“FCA”),³ such “push” requirements can impose significant operational burdens and cause firms to treat thresholds as hard limits, dampening liquidity. IOSCO should instead favor request-based “pull” mechanisms and the improved use of existing data pipelines.
- 5. Promote cross-border alignment and interoperability.** IOSCO should encourage common minimum data elements, consistent aggregation concepts, and practical cooperation arrangements to avoid fragmentation and duplicative builds. MFA has urged this alignment in cross-border derivatives contexts, including in the EU and UK frameworks.

³ See, e.g., MFA, Comment Letter to FCA Regarding Discussion Paper 24/2: Improving the UK transaction reporting regime (14 Feb. 2025) (available at <https://www.mfaalts.org/wp-content/uploads/2025/02/MiFID-Transaction-Reporting.pdf>) (arguing that mandatory, two-sided reporting by both alternative investment funds and dealer-counterparties is burdensome, redundant, and increases error risk).

6. **Adopt robust confidentiality, information security, data-use limitation, and segregation safeguards** where exchanges receive sensitive data, to address conflicts of interest and competition concerns.

* * * * *

MFA appreciates IOSCO’s effort to develop practical guidance that strengthens oversight of OTC commodity derivatives markets and supports orderly trading and market integrity. MFA encourages IOSCO to concentrate on good practices that are risk-sensitive, focused on critical/significant contracts, built on existing pipelines, and coordinated across borders, with strong safeguards around confidentiality and the use of sensitive data.

Respectfully submitted,

/s/ Jillien Flores

Jillien Flores
Chief Advocacy Officer
MFA

ANNEX

Question 1: Do you agree with the key aspects and scope of the proposed good practices outlined in this Consultation Report? Please share any specific comment on any of the proposed good practices.

MFA Response

MFA generally agrees with the key aspects and scope of the proposed good practices, including IOSCO's emphasis on (i) improving access to OTC position data to support surveillance and aggregation; (ii) clarifying how intervention powers apply where OTC activity may affect orderly trading; and (iii) promoting proportionate, risk-based approaches tailored to commodity market characteristics.

That said, MFA recommends that IOSCO emphasizes in the final report that the good practices are intended to support effective and proportionate implementation, not to create blanket expectations of routine, systematic OTC position reporting or other requested information to exchanges in all OTC derivative types for whatever reason deemed appropriate. One-off information requests or reporting requirements are exceedingly burdensome and from the perspective of the asset manager, typically duplicative of information that the manager's counterparty has already reported to a regulatory authority. IOSCO's own stakeholder engagement reflects broad concern that mandatory routine reporting to exchanges could be costly and duplicative given existing reporting regimes.

MFA recommends that any reforms should address any demonstrated systemic risk and further market integrity goals while avoiding unnecessary duplication and while recognizing the practical differences between dealers and non-dealer counterparties in terms of infrastructure and risk management roles.

Question 2: Are there any further key good practices that could be considered?

MFA Response

Yes. MFA recommends IOSCO include (or more explicitly elevate) the following additional good practices that will aid in increased data and efficiencies for regulatory authorities:

1. **Default to dealer/central-node reporting where possible.** While MFA supports regulatory authorities obtaining the information they require regarding OTC derivatives, MFA proposes that any IOSCO recommendation to regulatory authorities for information rely on the entities best positioned to report efficiently, typically dealers and other central nodes, rather than imposing parallel reporting obligations on end users. Dealers typically have the most robust reporting systems and are present in most OTC transactions, making them best suited for reporting

obligations. Any request for additional information regarding particular OTC transaction data should focus on the dealer counterparties as the most appropriately positioned to report data.⁴

2. **Mandate an explicit anti-duplication principle.** MFA supports a “report once, use multiple” reporting regime to avoid multiple parties reporting information on the same trade to multiple entities. IOSCO should recommend that securities and market regulatory authorities (“**Market Authorities**”) map any new data needs to existing pipelines and require incremental reporting only where there is a demonstrated gap, consistent with IOSCO’s own emphasis on proportionate approaches and stakeholder concerns about cumulative compliance burdens.⁵ MFA has consistently argued against reporting the same data to multiple regulators and, instead, suggest that regulators coordinate cross-border access to reported data where there is a legitimate, demonstrated need.⁶
3. **Calibrate public reporting guidance to align with liquidity and confidentiality requirements.** MFA supports appropriate transparency, but IOSCO should reinforce that publicly disseminated information must be calibrated to avoid revealing proprietary positions and to accommodate large trades and illiquid markets. In most cases, end-of-day public reporting is appropriate, subject to exceptions/delays where disclosure could expose positions or impair price discovery or trading activity.⁷
4. **Recommend stringent governance and safeguards when exchanges obtain sensitive data.** It is imperative that IOSCO adds a good practice concerning the need for exchanges and other trading facilities that receive sensitive OTC data to maintain clear information barriers, strict access controls, audit trails, and explicit limits on use of data solely for oversight functions, addressing conflicts of interest and competition concerns. IOSCO recognizes these concerns in the Consultation Report; we suggest they be given greater prominence given the highly proprietary nature of the reported data.⁸

⁴ See note 2, *supra* at 19-21.

⁵ *Id.* at 14–16, 26–27 (discussing differences between trade repository data and OTC information obtained by exchanges; need for reconciliation and aggregation across sources to monitor spillover risks).

⁶ See note 3, *supra*.

⁷ See note 2, *supra* at 21–22, 24–26 (identifying fragmentation, timeliness, and data-quality challenges and emphasizing improvement of usability and effectiveness of existing datasets).

⁸ See MFA Comment Letter on CFTC Proposed Rule, Position Limits for Derivatives (RIN 3038-AD99), at §§ I.A–I.B, I.D–I.G (May 15, 2020), available at https://www.mfaalts.org/wp-content/uploads/2020/05/MFA-and-AIMA-Position-Limits-Letter.final_.5.15.20.pdf.

Question 3: Under what conditions – such as relevant triggers, scope and frequency – should Market Authorities require OTC position data to be reported to them? What criteria should be used to determine the need for regular or ad-hoc reporting of OTC position data for effective monitoring and oversight of relevant exchange traded contracts?

MFA Response

MFA recommends that any reporting requirements be tailored to avoid obligations that are overly broad or require superfluous data. Market Authorities should require OTC position data to be reported only when (i) the OTC market is sufficiently connected to a relevant exchange-traded contract that OTC activity can reasonably be expected to affect price formation, settlement integrity, or market orderly functioning, and (ii) the information is necessary – on a risk-based basis – to prevent or respond to disorderly markets, corners/squeezes, or other manipulative or abusive outcomes. IOSCO’s framing correctly links the reporting question to the core supervisory functions embedded in Principles 12, 15, and 16 - *i.e.*, the ability to obtain information on routine and non-routine bases and to intervene where needed to maintain orderly markets.⁹

MFA supports OTC reporting by dealers that is “necessity-based” and contract-specific, anchored in objective market indicators rather than broad, open-ended data collection. In the U.S., position limits context, limits (and the information needed to administer them) are required to be data-driven, based on accurate deliverable supply, position levels above stated limits and other contract-specific facts, and calibrated so as not to unnecessarily impair liquidity and price discovery.¹⁰

Triggers. Market Authorities should require OTC position reporting when one or more “trigger” conditions indicates heightened risk to the related exchange-traded contract. The cleanest and most administrable trigger is proximity to, or breach of, an exchange accountability threshold or a binding position limit in a contract that is designated “critical” (or otherwise systemically important to the underlying commodity’s price formation).¹¹ This aligns with the position limits principle that the most acute risk of manipulation and settlement period stress is typically concentrated in the spot month / delivery window, and that heightened tools (including data requests) should be most intensive there rather than across the curve.¹²

Consistent with this approach, the most stringent tools should be applied to a narrow set of “critical” contracts and should avoid expanding burdens across non-critical instruments where the regulatory payoff is low

⁹ Consultation, *supra* note 2.

¹⁰ See *supra* note 8, §§ I.A–I.B, I.D–I.G

¹¹ See *id.*, §§ I.A, I.B.

¹² *Id.* §§ I.A, I.B (spot-month focus; deliverable supply; necessity-based calibration).

and liquidity costs are high.¹³ Additional triggers should be tied to observable market conditions – e.g., sharp and unexplained price dislocations, rapid deterioration in liquidity, unusual basis behavior between the exchange contract and related OTC instruments, or credible supervisory concerns about concentrated exposures (including through economically equivalent swaps) that could undermine orderly trading in the listed contract.¹⁴

Who reports? Allocate obligation to the most efficient reporter: the dealer or exchange. Where feasible, Market Authorities should obtain necessary OTC position information through existing trade repository data and regulatory reporting regimes; dealer-reported information (where dealers are present and have systems); and targeted requests to market participants when needed. Dealer reporting is generally more efficient than obligating end users to build comparable reporting systems and develop the administrative, operational, and technological capabilities to perform trade reporting when dealers are well-equipped to reporting trade data to regulators.

Scope (what must be reported). The scope of OTC position data should be limited to what is needed to understand risk in the relevant exchange-traded contract, not the market participant’s broader portfolio. MFA’s position-management advocacy recognizes that it can be appropriate for a venue or regulator to seek “additional color” about exposures and hedges when a participant is large – particularly to assess market impact and orderly exit plans – but the request should be targeted and tethered to the relevant contract set.¹⁵

Practically, the reportable set should include (i) economically equivalent OTC positions and other linked OTC instruments that replicate exposure to the listed contract (or can influence the listed settlement price), and (ii) any related positions necessary for the Market Authority to assess concentration under common ownership/control (beneficial owner aggregation), consistent with Principle 12.¹⁶ Critically, Market Authorities should avoid mandating reporting that effectively forces disclosure of unrelated positions or broad “portfolio transparency,” because that approach creates confidentiality and commercial-sensitivity problems while producing diminishing supervisory returns – especially in markets where Market Authorities already receive substantial information through existing regulatory channels and exchange surveillance.¹⁷

¹³ See MFA Comment Letter re FCA Consultation Paper 23/27 (Reforming The Commodity Derivatives Regulatory Framework), at 2–4 (Feb. 16, 2024), available at <https://www.mfaalts.org/wp-content/uploads/2024/02/MFA-Comment-Letter-UK-FCA-Derivatives-Regulatory-Framework-021624-FINAL-1.pdf>.

¹⁴ Consultation, *supra* note 2, at 18–21, 24–27 (risk-sensitive approach; market conditions and spillover risks).

¹⁵ See *supra* note 8, at 3–4 (targeted information requests; market impact/exit planning context).

¹⁶ See Consultation, *supra* note 2, at 5–6, 12 (Principle 12; aggregation under common ownership/control; related OTC positions).

¹⁷ MFA Comment Letter to the Fin. Stability Bd., MFA Comments on FSB Consultation – Leverage In Non-Bank Financial Intermediation, at 6–8, 17 (Feb. 27, 2025), available at <https://www.mfaalts.org/wp-content/uploads/2025/03/MFA-FSB-Comment-Letter-re-Leverage-Consultation-27Feb25-FINAL.pdf>.

Frequency and “regular” versus “ad-hoc” reporting. The default for any reporting should be ad-hoc/on-request reporting, with “regular” periodic reporting reserved for the narrower subset of products where the Market Authority can demonstrate (based on evidence) that routine OTC feeds are necessary to monitor a listed contract effectively. MFA’s UK position management comments illustrate why: a regime that requires firms to report OTC and other related positions proactively whenever an accountability level is exceeded can create a strong incentive for desks to treat accountability thresholds as de facto hard limits simply to avoid triggering reporting – an outcome that could dampen liquidity in the very contracts regulators consider “critical.”¹⁸

A workable model for this “on-request” approach already exists in the U.S. position limits ecosystem. In extending no-action relief under CFTC Regulation 150.4 (aggregation), the CFTC staff preserved the Commission’s surveillance ability while reducing unnecessary routine filings by allowing notices only upon request and requiring responses within a short, defined window, with the notice limited to the specific account/position of interest to the Commission or a DCM.¹⁹ That structure is directly transferable here: Market Authorities can maintain strong oversight by (i) setting clear, risk-based triggers for when they may demand targeted OTC position data, (ii) specifying a reasonable response deadline, and (iii) limiting the requested data to what is necessary to evaluate the potential impact on the relevant exchange-traded contract and the orderly functioning of that market.²⁰ “Regular” reporting should be the exception, not the rule -- used only where there is a demonstrated and persistent linkage between OTC activity and the listed market such that reliance on ad-hoc requests would leave a material, recurring visibility gap.²¹

Criteria for deciding whether “regular” OTC reporting is warranted. The most defensible criteria mirror the logic of position limits calibration: (1) materiality of OTC activity relative to the listed contract’s open interest, deliverable supply, and settlement mechanism; (2) concentration risk (e.g., a small number of actors holding large synthetic exposure through OTC instruments); (3) settlement susceptibility (e.g., physical delivery constraints or thin deliverable supply, making the listed market more vulnerable to squeezes); and (4) historical stress evidence, such as episodes where OTC opacity contributed to disorderly trading or impaired the Market Authority’s ability to act in time.²² Where these criteria are not met, Market Authorities should rely on existing tools: exchange

¹⁸ See *supra* note 13, at 4 (warning proactive reporting can chill liquidity by prompting treatment of accountability thresholds as hard limits).

¹⁹ See CFTC Div. of Mkt. Oversight, CFTC Letter No. 25-21, Extension of No-Action Positions with Respect to Certain Position Aggregation Requirements Under Comm’n Reg. 150.4, § II (July 18, 2025), available at <https://www.cftc.gov/csl/25-21/download>.

²⁰ Consultation, *supra* note 2, at 13–15, 20–21 (stakeholder preference for trigger-based/ad hoc requests; proportionality; concerns re costs and data use).

²¹ *Id.* at 26–27 (circumstances where routine OTC reporting may be necessary for certain markets and “critical or significant” contracts).

²² *Id.* at 24–27 (interdependence, OTC market size/liquidity, potential impact on orderly functioning, effectiveness of existing controls).

accountability regimes, targeted information requests during the spot month, and the use of linked-contract/economically-equivalent concepts to ensure that the authority can “see” synthetic exposure when it matters for market integrity.

Confidentiality, use limitations, and publication. Even where OTC position data is collected, Market Authorities should treat it as highly confidential supervisory information and use it primarily for market surveillance and intervention decision-making, not for broad public dissemination. Where any publication is deemed necessary, it should be aggregated and anonymized to avoid indirectly revealing trading strategies or counterparty relationships.²³ This confidentiality-first approach becomes even more important if IOSCO members expand OTC position reporting to cover beneficial ownership or cross-border positions, because the commercial sensitivity and data-security stakes rise materially as reporting becomes more granular and more widely shared among authorities.²⁴

Question 4: Do you have suggestions for Market Authorities’ improved use of existing data pipelines for purposes of ensuring market integrity?

MFA Response

Yes. IOSCO should encourage Market Authorities to:

- 1. Prioritize enhancement of existing pipelines over creation of new parallel reporting.** IOSCO’s stakeholder section reflects strong views that jurisdictions should improve current reporting systems and collaborate to access available information collectively rather than layering new requirements.²⁵
- 2. Use trade repository/clearing and exchange data in a complementary way.** IOSCO notes that regulators often have access to trade repository reporting but exchanges may not, and that OTC data obtained by exchanges may differ from repository datasets. IOSCO should encourage standardization and interoperability so Market Authorities can reconcile and aggregate these datasets effectively.²⁶

²³ *Id.* at 20–21 (confidentiality and competitive sensitivity concerns regarding OTC data; limits on use).

²⁴ *Id.* at 22–23, 31–32 (beneficial ownership/data-privacy barriers; need for stringent safeguards as data becomes more granular and cross-border).

²⁵ *Id.* at 19-21

²⁶ *Id.* at 14–16, 26–27 (discussing differences between trade repository data and OTC information obtained by exchanges; need for reconciliation and aggregation across sources to monitor spillover risks).

3. **Apply data quality controls and reconciliation.** IOSCO notes fragmentation and timeliness concerns; improving standardization and usability of existing datasets should be a priority.²⁷
4. **Maintain confidentiality protections and avoid revealing proprietary data.** MFA supports end-of-day public reporting with important exceptions or delays in reporting to avoid exposing individual positions or impairing trading, coupled with confidentiality protections – concepts relevant to how existing pipelines are used and disseminated.²⁸

Question 6: What types of information could help Market Authorities identify the beneficial owners of positions?

MFA Response

MFA agrees Market Authorities may need to identify beneficial owners where necessary to aggregate positions under common ownership/control and detect concentrations and disorderly trading risks, consistent with IOSCO Principle 12’s emphasis on identifying beneficial ownership to aggregate positions.

However, IOSCO should emphasize practical and legally workable approaches:

1. **Control/aggregation information as a baseline.** In many cases, aggregation under common control is the surveillance objective. This can often be supported by legal entity identifiers (“LEIs”) and control relationships rather than intrusive “look-through” to every underlying investor in pooled vehicles.²⁹
2. **Targeted beneficial ownership in defined circumstances.** IOSCO’s proposed good practices already limit deployment to necessary situations (critical/significant contracts; triggers; events). That limitation is important to reduce burdens and legal conflicts.³⁰
3. **Safeguards and limited use.** Where exchanges obtain beneficial ownership-level data, IOSCO’s good practice requiring stringent safeguards and prohibiting repurposing for commercial activities is essential.³¹

²⁷ *Id.* at 21–22, 24–26 (identifying fragmentation, timeliness, and data-quality challenges and emphasizing improvement of usability and effectiveness of existing datasets).

²⁸ See *supra* note 17, at 21–22, 24–26 (identifying fragmentation, timeliness, and data-quality challenges and emphasizing improvement of usability and effectiveness of existing datasets).

²⁹ See Legal Entity Identifier Regulatory Oversight Committee, The Global LEI System and Regulatory Uses of the LEI 5–8 (Nov. 5, 2015), available at https://www.leiroc.org/publications/gls/lou_20151105-1.pdf.

³⁰ See, e.g., note 8, *supra*; Legal Entity Identifier Regulatory Oversight Comm., Global LEI System—High Level Principles princs. 1–3, available at <https://www.leiroc.org/>.

³¹ IOSCO, Thematic Review on Technological Challenges to Effective Market Surveillance Issues and Regulatory Tools (Feb. 2025), ¶¶ 44–47, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD786.pdf> (“Market

Question 7: Do you foresee any challenges for Market Authorities in identifying, and obtaining data on, the underlying beneficial owners, and, if so, how could these be mitigated?

MFA Response

Yes. IOSCO correctly identifies several challenges, including data anonymity, cross-border legal constraints, and confidentiality obligations, and recognizes that anonymization and fragmentation of reporting can hinder aggregation across intermediaries and obscure concentration and systemic risk.³²

A. Key challenges

Cross-border privacy, secrecy, and contractual restrictions. IOSCO and other international bodies acknowledge that domestic data-protection laws, bank secrecy regimes, and contractual confidentiality obligations may legally restrict the disclosure or aggregation of client- or investor-level data. These impediments are particularly acute in cross-border derivatives and futures markets and cannot be resolved unilaterally through reporting mandates imposed on market participants.³³

Commercial sensitivity and competition concerns. Requiring commercial exchanges, trade repositories, or other market infrastructures to collect and store highly sensitive position- or client-level data is not without risk. Where such data can be accessed beyond prudential or surveillance functions, it raises concerns about misuse, data leakage, and competitive distortions – concerns also reflected in IOSCO and BIS principles on data governance for market infrastructures.³⁴

Operational burden and potential liquidity impacts. IOSCO and national regulators acknowledge industry concerns that expanded or duplicative reporting obligations can impose significant operational costs. This is particularly true where multiple regimes (e.g., position reporting, transaction reporting, and trade reporting) overlap. MFA cautions that poorly calibrated data requests may discourage participation, reduce market liquidity, and impair hedging activity without proportionate surveillance benefits.³⁵

Surveillance Review”); Bank for Int’l Settlements, Principles for Financial Market Infrastructures (2012) (princ. 13, available at <https://www.bis.org/cpmi/publ/d101a.pdf> (“**BIS Infrastructure Principles**”); MFA, Comment Letter to IOSCO on Market Surveillance (Feb. 2024), 5–7, <https://www.mfaalts.org/resources/comment-letters/> (“**MFA Market Surveillance Letter**”).

³² *Id.*, at ¶¶ 44–47; see also MFA Market Surveillance Letter, *supra* note 31, at 5–7.

³³ *Id.*, *supra* note 31, at ¶¶ 26–31.

³⁴ BIS Infrastructure Principles, *supra* note 31, princ. 13; Market Surveillance Review, *supra* note 31, at ¶ 45.

³⁵ See *supra* note 8, at 9–12.

B. Mitigations

Use a “legitimate impediment” framework with clear governance and consequences. IOSCO’s good practices contemplate circumstances in which beneficial ownership or underlying data cannot be provided due to legitimate legal or practical barriers. MFA supports pairing this framework with clear supervisory processes and proportionate consequences for unjustified nondisclosure, consistent with approaches discussed in IOSCO market surveillance guidance and ESMA reporting consultations.³⁶

Rely on regulator-to-regulator cross-border information sharing. Where legal constraints prevent direct disclosure by market participants, memoranda of understanding (“**MoUs**”), supervisory colleges, and regulator-to-regulator data sharing should be the preferred mechanism for obtaining necessary information. IOSCO and BIS guidance similarly encourages cross-border cooperation to avoid conflicting obligations and fragmented data collection.³⁷

Avoid unnecessary duplication and allocate reporting to the most efficient reporters. MFA stresses that data-collection regimes should leverage existing dealer-, clearing-, or intermediary-based reporting systems, rather than requiring end users or funds to build parallel infrastructures. Aligning reporting responsibilities with the parties best positioned to collect standardized data reduces cost, enhances data quality, and mitigates adverse market impacts.³⁸

Question 8: In what circumstances may it be necessary for regulators to intervene in OTC markets, and what potential impact, both positive and negative, might this cause?

MFA Response

MFA agrees that in extraordinary and collectively unforeseen circumstances regulatory authorities may determine they need to intervene in OTC markets where OTC activity threatens orderly trading or settlement in exchange-traded markets – particularly for critical or significant contracts – but *only* after the counterparties’ and others’ tools prove insufficient. IOSCO’s report emphasizes proactive and reactive intervention pathways and the importance of clear conditions/triggers.

Intervention should be used sparingly. Such extraordinary action may be appropriate proactively, where surveillance strongly indicates growing risks likely to threaten market integrity, or reactively, where existing tools

³⁶ Market Surveillance Review, *supra* note 31, at ¶¶ 28-30.

³⁷ IOSCO, Objectives and Principles of Securities Regulation (May 2013), princ. 13, available at <https://www.iosco.org/library/pubdocs/pdf/ioscopd561.pdf> (“**IOSCO Principles**”); BIS Infrastructure Principles, *supra* note 31, princ. 2.

³⁸ MFA, Comment Letter on Amendments to Form PF 15–18 (Oct. 11, 2022), available at <https://www.sec.gov/comments/s7-22-22/s72222-20145440-310665.pdf>.

(e.g., requests to reduce positions) fail, or during crises akin to the global financial crisis, where swift action is required to restore order.

These actions are not without impact. On the one hand, measured, appropriate, regulator intervention can result in improved market confidence; reduced risk of manipulation/disorderly trading; better ability to address hidden exposures. On the other, regulator intervention risks potential liquidity withdrawal if interventions are unpredictable or unwarranted; migration of activity to jurisdictions/venues with less intrusive regimes; and risks of market fragmentation if cross-border coordination is lacking.

MFA has long urged regulators to coordinate cross-border to avoid segmentation when imposing major OTC reforms, including clearing/transparency obligations. MFA supports IOSCO's recommendation that regulators should define (to the extent possible) conditions under which they may intervene, to reduce uncertainty and unintended consequences. However, MFA recommends that IOSCO provide clarity and guidance on the appropriateness of the intervention powers – this is not an area where a regulator “gold plating” its intervention authorities to one-up another regulatory authority is helpful to market participants or the broader markets.

Question 9: What kind of cross-border cooperation do you think is necessary or beneficial to coordinate data collection, both generally and of OTC positions of underlying beneficiary owners?

MFA Response

MFA strongly supports robust cross-border cooperation because commodity markets and market participants are global and because OTC exposures may be distributed across counterparties and jurisdictions. IOSCO recommends multilateral MoUs and enhanced open communication among regulators and exchanges, particularly in periods of stress.³⁹

MFA recommends IOSCO's final report emphasize:

1. **MoU-based information sharing and regulator-to-regulator requests** as the primary mechanism for cross-border data access;⁴⁰
2. **Harmonization of key concepts** (especially what constitutes “related” OTC contracts and economically comparable exposures), consistent with general efforts to address inconsistencies and stakeholder requests for harmonization;

³⁹ See IOSCO Principles, *supra* note 37, princ. 13; Market Surveillance Review, *supra* note 31, ¶¶ 10–15, 44–47.

⁴⁰ BIS Infrastructure Principles, *supra* note 31, princs. 2, 13.

3. **Avoidance of market segmentation** by coordinating major obligations across jurisdictions -- an issue MFA raised in the context of clearing and OTC reforms and urged regulators to coordinate to avoid segmentation based on jurisdiction.

Question 10: How do you contemplate that this consultation report may also be relevant to OTC execution venues, such as swap execution facilities, multilateral trading facilities and organised trading facilities?

MFA Response

MFA agrees the consultation is relevant to OTC execution venues because those venues may provide additional sources of trade and position information and may be part of the ecosystem through which OTC exposures build and spill over into exchange-traded markets. IOSCO itself notes that risks posed by OTC markets may affect other types of trading venues and that the report may be relevant to them.⁴¹

However, as discussed earlier in our responses, any final report from IOSCO should emphasize that:

- Reporting and information access expectations should remain risk-based and proportionate to product liquidity and market structure;
- Obligations should not inadvertently force bespoke OTC markets into ill-suited standardized execution models; and
- Data-sharing and governance safeguards should apply equally where commercial venues receive sensitive information.

⁴¹ See Consultation, *supra* note 2, ¶¶ 6–9, 32–38.