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October 14, 2024

Vanessa A. Countryman,
Secretary Securities and Exchange Commission
Washington, DC 20549-1090

Re: Proposed Rule: Financial Data Transparency Act Joint Data, Standards, File No. S7-2024-05 (August 2, 2024)

Dear Ms. Countryman,

I appreciate the opportunity to provide comments on the proposal¹ by nine federal Agencies to establish regulations implementing the provisions of the Financial Data Transparency Act of 2022 (the “FDTA”), particularly regarding the SEC’s consideration of the Financial Instrument Global Identifier (FIGI) as the standard for investment identifiers.

I am writing in my capacity as the CEO of Blue-Sky Nexus Inc, a fintech with the mission of reducing the cost and complexity of accessing financial and market data for individuals, fintechs, banks, brokers and asset management firms. I have over 30 years in the banking and brokerage industry.

I have been a longstanding critic of the CUSIP licensing regime, and a proponent of change as it relates to access to the CUSIP. I have garnered a substantial following on LinkedIn around this topic, with a recent post garnering close to 50,000 views, with over 400 likes². The CUSIP licensing regime has been a longstanding tax on innovation in our industry, and I welcome the proposed change to switch to the FIGI to address these fundamental and longstanding shortcomings.

¹ Financial Data Transparency Act Joint Data Standards, 89 Fed. Reg. 67,890 (proposed Aug. 22, 2024) (the “Proposed Rule”).

² https://www.linkedin.com/posts/tim-baker-fintech-venturing_figj-activity-7224881923028914176-xzU?utm_source=share&utm_medium=member_desktop

Furthermore, a class action lawsuit³ dated March 4, 2022 spearheaded by legitimate market participants accused the operators of the CUSIP (CUSIP Global Services), its controlling entities (Standard and Poors and Factset) and the custodian of the CUSIP standard – the American Bankers Association (ABA) – of anticompetitive practices under the Sherman Act. Pretrial hearings have already highlighted many issues in the way that these parties have conducted themselves. The Defendants exploited the status of the CUSIP identifiers as the standard identifying system for United States financial instruments by falsely claiming that the CUSIP identifiers were copyrighted. It is hoped that this case will lead to a material change in practices and the operation of the CUSIP, although settlement of this case may not occur until it goes to trial in late 2025.

What is clear is that there has been a systematic failure in the governance of the CUSIP, resulting in a licensing regime that has restricted access to this critical element of market structure.

The Importance of Identifiers in ensuring Market Efficiency

While the CUSIP's original role was to improve the fundamental mechanisms of the market (trading and settlement of securities), the advent of market data and analytics have been essential in ensuring that markets operate efficiently through the smooth passage of market data. As such, a fundamental need of market participants is the normalization and integration of this data through the application of ontologies and data standards – a key aspect of which are security tickers and identifiers. To fulfil this fundamental purpose the identifiers need to be widely available and adopted.

The Case for Change: FIGI vs. CUSIP

Many of the arguments against adopting FIGI seem to either stem from a deep misunderstanding of the situation or are driven by monetary conflicts of interest. These concerns must be viewed with caution, as they are often motivated by self-serving motives rather than a genuine interest in market efficiency or investor protection. Opponents frequently distort the conversation by presenting misleading information or exaggerating the downsides of adopting FIGI, while conveniently overlooking the systemic inefficiencies, fragmentation, and costs plaguing the current system.

³ <https://www.watertechnology.com/regulation/7936086/class-action-lawsuit-takes-aim-at-cusip-sp-factset-aba>

The proposed rules rightly emphasize the need for security identifiers to be open and non-proprietary, but this is just one of many considerations. To be effective, security identifiers must meet several key requirements:

- Be non-proprietary and available under an open license.
- Be widely adopted by all market participants.
- Include basic reference data (e.g., issue name, issuer name, date of issuance, maturity date, etc.).
- Be machine-readable and preferably accessible via the internet through a URI⁴.
- Be minted before the issuance of the security.
- Be comprehensive across all major asset classes.
- Be unique and permanent (unambiguous).

The CUSIP, established in 1968, the CUSIP fails short in many of these areas, though most materially in terms of open access and public licensing.

Meanwhile, FIGI, is technically superior, and its widespread adoption will rapidly accelerate in the event that this recommendation is adopted. Any concerns over the origins of FIGI and its close ties to Bloomberg have been exaggerated and addressed through the transfer of the standard to the independent Object Management Group (OMG)⁵, together with establishment of a fully open and free license.

Regardless, the time has come for change as the incumbent is a substandard solution, mired in controversy and materially flawed by a highly restrictive and commercially driven licensing regime – it is no longer fit for purpose.

Path Forward: Achieving an Orderly Migration

The CUSIP is deeply embedded in the infrastructure of financial systems, and transitioning to a new standard may have some complexity and associated costs – but these can be largely mitigated through a thoughtful transition process. Instead of a wholesale switch to FIGI, the focus should be on ensuring that the process of migrating from CUSIP is managed effectively.

⁴ https://en.wikipedia.org/wiki/Uniform_Resource_Identifier

⁵ <https://www.omg.org/figi/>

Key considerations include:

- An extended time frame for the implementation of FIGI. This should most likely allow both identifiers to coexist over this period, if not beyond. This transition period will also ensure that any coverage gaps are addressed proactively.
- Improved governance to prevent a repeat of the issues that plagued CUSIP. The SEC should undertake a leading role in the governance of US security identifiers – consistent with its remit to ensure a fair and orderly structure for the market. The American Bankers Association and its leadership have clearly failed in this regard.

FIGI offers a global standard that simplifies data mapping across asset classes and geographies. Its adoption would enhance market efficiency, transparency, and interoperability.

The SEC should consider carefully the motivation of opponents to this change, especially considering the highly lucrative business that has been built by the operators and sponsors of the CUSIP standard. As such comment letters submitted by these parties should be considered in this light.

Final Remarks

The current state of the US financial identifier regime adds unnecessary costs to the market while stifling innovation. We urge the SEC to carefully consider these factors and work toward a solution that promotes openness, accessibility, and fair governance.

Thank you for considering my comments on these important issues. I look forward to continuing collaboration with the SEC as these proposals evolve.

Sincerely,

A handwritten signature in black ink, appearing to read 'TBaker', with a stylized, cursive script.

Tim Baker, CFA
CEO, Blue-Sky Nexus Inc.