



October 21, 2024

Via Electronic Mail

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Re: Financial Data Transparency Act Joint Data Standards (File Number S7—2024—05)

The Bank Policy Institute¹ (“BPI”) | BITS, appreciates the opportunity to comment on the proposal² by nine Federal agencies³ (“Agencies”) to establish joint data standards for financial reporting in accordance with the Financial Data Transparency Act (“FDTA”). If instituted correctly, FDTA requirements will modernize outdated and inefficient data sharing mechanisms with a more standardized framework to help regulators better assess systemic risks.

BPI and its members have significant concerns with respect to the Agencies’ proposal to establish the Financial Instrument Global Identifier (“FIGI”) as the common financial instrument’s identifier. First, such a designation exceeds the underlying statutory authority of the FDTA. Second, selecting FIGI—while excluding more widely-adopted standards like the Committee on Uniform Security Identification Procedures (“CUSIP”) and the International Securities Identification Number (“ISIN”)—will introduce broad disruptions to global markets, disruptions that will in turn impact firms, businesses, investors and consumers.

I. The Proposed Rule Misinterprets the FDTA

Under the FDTA, the Agencies must establish data standards with “common identifiers for collections of information reported to covered agencies.”⁴ The statute furthermore specifies that these common identifiers “include a common non-proprietary legal entity identifier (“LEI”) that is available under an open license for all entities required to report to covered agencies.”⁵

In the Proposed Rule, the Agencies predicate their selection of FIGI on the basis that it “provides free and open access and coverage across all global asset classes, real-time availability, and flexibility for use in multiple functions.”⁶ That justification suggests the Agencies interpret the FDTA to mandate that *all* common identifiers be non-proprietary and available under an open license. This is an overbroad reading of the statute.

Had Congress intended that all common identifiers be nonproprietary and available under an open license, there would be no reason for the statute to include its explicit

¹ The Bank Policy Institute is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues. Business, Innovation, Technology and Security (“BITS”), BPI’s technology policy division, provides an executive-level forum to discuss and promote current and emerging technology, foster innovation, reduce fraud, and improve cybersecurity and risk management practices for the financial sector.

² Financial Data Transparency Act Joint Data Standards, 89 Fed. Reg. 67,890 (Aug. 22, 2024) (hereinafter the “Proposed Rule”).

³ The Agencies include: the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Consumer Financial Protection Bureau, the Federal Housing Finance Agency, the Commodity Futures Trading Commission (“CFTC”), the Securities and Exchange Commission (“SEC”), and the Department of the Treasury.

⁴ 12 U.S.C. § 5334(c)(1)(A).

⁵ *Id.*

⁶ Proposed Rule at 67,897.

qualification regarding LEIs.⁷ Nonetheless, because the statute does include this language, the non-proprietary and open license requirement is limited to LEIs alone. This interpretation is strengthened by the statute's later clarification that common identifiers "*to the extent practicable . . . be nonproprietary or made available under an open license.*"⁸ The Agencies' FIGI selection then, is inconsistent with the flexibility intended by the FDTA statutory text. BPI members feel implementing FIGI is not "practicable" or necessary given the existence of CUSIP and ISIN, which—as noted by the Agencies within the proposal—are "widely used" across the industry today.

Even assuming for a moment that the Agencies have correctly construed the FDTA to require that all common identifiers be non-proprietary and available under an open license, FIGI fails to fully satisfy that threshold. While a version of FIGI, OpenFIGI, is nonproprietary, it only provides users with access to limited data sets. Access to other important data underlying FIGIs—including the primary exchange where a security is traded, call features, and issuance volumes—require a paid subscription. Consequently, selecting FIGI as the sole identifier for financial instruments will embed one commercial provider at the center of financial reporting data and involve significant and unnecessary costs that fail to achieve the Agencies purported FDTA interpretation.

II. Cost Benefit Analysis and Review

As part of any consideration for moving to a common securities identifier, the Agencies should analyze whether the potential negative impacts of such a change outweigh the perceived benefits. Additionally, as the migration to a common identifier is not specifically required in the statute, beyond the LEI, the move to FIGI would be subject to the Administrative Procedure Act and therefore require a full assessment and cost/benefit analysis.

III. FIGI Conversion Presents Significant Technical and Operational Challenges and Introduces Risks Without Appreciable Benefit

CUSIP and ISIN are both long-standing and widely accepted standards used to identify most financial instruments. This also includes asset classes such as syndicated loans and digital assets that pass through due diligence processes. The wide adoption of these identifiers over multiple decades is at least partially due to their fungibility—meaning a financial instrument's identifier is the same on each exchange it is traded. FIGI, on the other hand, uses different identifiers for the same instrument depending on the trading venue. The fungible design of the CUSIP and ISIN identifiers have been integrated into trade processing, clearing and settlement systems, and asset servicing systems for decades improving trade and transaction processing, minimizing post trade processing errors and reconciliation, and improving operational efficiencies by providing established and highly integrated data clarity to market participants. Among other things, the lack of fungibility in FIGI would complicate post trade reconciliation,

⁷ 12 U.S.C. § 5334(c)(1)(A).

⁸ *Id.* at § 5334(c)(1)(B) (emphasis added).

heighten operational complexity, produce less transparent reporting, and complicate systemic risk assessments.

Introducing a new identifier, as proposed, will also require significant business, technology and operating resources, that combined, will be exceptionally costly and require significant subject matter expertise to implement successfully.

This change would likely also create several downstream impacts that require firms, third-parties, market utilities, processors, exchanges and service providers to conduct business reviews, potentially re-engineer technology, upgrade and test systems, and provide customer notification to ensure a successful transition. These system changes, which would be required across hundreds of individual systems, would include areas such as risk compliance, financial reporting systems, trust documents, operating agreements, physical certificates, etc. A short list of changes is noted below and include:

- **Post trade processing systems:** will need to be upgraded, with security files, books and records, regulatory reporting and customer facing reporting such as statements and tax filings will likely need change.
- **Custody and asset administration systems:** will need to be reconfigured to manage additional securities reference data, including for the processing of income payments and corporate action events.
- **Third-party processing platforms:** core providers, securities processors, trading reconciliation platforms, financial market infrastructure interfaces and market data systems will need to be updated and tested.

These efforts, as described at a high level above, will need to be completed across all global markets, introducing significant change, potential disruption to market operations and significant transactional risk. Currently, only a single country has accepted FIGI as a standard and it is unlikely that other national jurisdictions will widely adopt the FIGI standard in their regulatory reporting mandates, forcing firms to continuously translate and reconcile data in various operating markets.

As noted above, there are clear distinctions between the data fields offered by CUSIP and FIGI. The roughly 60 reference data fields available for each security through the CUSIP database far exceed those available through OpenFIGI. As a result, market participants would have to significantly alter not only how they report data, but also how they maintain it internally through their recordkeeping systems.

These challenges may be surmountable if there was a clear cost/benefit analysis and the Agencies articulated a compelling reason for why a FIGI conversion is necessary. The Proposed Rule, however, does no such thing. The existing CUSIP/ISIN model has been in broad use, extended geographically and incorporates nearly all asset classes. Beyond that FIGI can be used for a limited number of asset classes that do not normally have a global identifier, the Agencies' primary argument for FIGI is that "it is a global non-proprietary identifier available under an

open license.”⁹ That argument, as discussed in Section I, is questionable. The likely market disruption associated with a mandated FIGI conversion is not warranted and we urge the Agencies not to adopt a common securities identifier without the benefit of careful additional analysis of existing market practices and consultation with industry participants.

We are committed to working with the Agencies as they implement FDTA requirements and hope to facilitate an ongoing dialogue commensurate with the complexities detailed in the Proposed Rule. If you have any questions or would like to discuss these comments further, please contact Chris Feeney at Chris.Feeney@BPI.com or Patrick Warren at Patrick.Warren@BPI.com.

Sincerely,

/s/ Christopher F. Feeney
EVP & President of BITS
Bank Policy Institute

⁹ Proposed Rule at 67,897.