



## Via Electronic Mail

November 15, 2021

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Financial Industry Regulatory Authority  
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Submitted via email: [pubcom@finra.org](mailto:pubcom@finra.org)

**Re: Request for Comments on Policy Relating to the Assignment of OTC Symbols to Unlisted Equity Securities  
FINRA Regulatory Notice 21-32<sup>1</sup>**

Dear Ms. Mitchell:

Bloomberg L.P.<sup>2</sup> respectfully submits this letter in response to the above-referenced Regulatory Notice issued by the Financial Industry Regulatory Authority, Inc. (“FINRA”). Bloomberg thanks FINRA for considering changes to its current policy relating to the assignment of OTC symbols to unlisted OTC securities that do not have a valid CUSIP number.

### Overview

Bloomberg understands the challenge to FINRA and the industry at large in properly identifying financial instruments, and in particular the challenge regarding unlisted equity securities that do not have a CUSIP identifier. We agree with the principle that proper identification of financial instruments can lead to more efficient trade reporting, greater transparency in the market, and better data quality. As FINRA notes, firms are increasingly unable to acquire valid CUSIP identifiers for equity securities. To wit, FINRA accepted more trades without a valid CUSIP in the first three months of 2021 alone than the annual average over the prior four years – and the vast majority of these trades were reported without a CUSIP due to the firms’ inability to acquire

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<sup>1</sup> Policy Relating to the Assignment of OTC Symbols to Unlisted Equity Securities, FINRA Regulatory Notice 21-32 (Sept. 14, 2021), available at <https://www.finra.org/sites/default/files/2021-09/Regulatory-Notice-21-32.pdf>.

<sup>2</sup> Bloomberg – the global leader in business and financial data, news and insight increases access to market data by connecting market participants of all stripes to a dynamic network of information, people, and ideas. The company’s strength – quickly and accurately delivering data, news, and analytics through innovative technology – is at the core of the Bloomberg Terminal. The Terminal provides financial market information, data, news, and analytics to banks, broker-dealers, institutional investors, government bodies, and other business and financial professional worldwide.

one. Whether this increase is due to the relative increase in private offerings or the rise in prominence of digital asset securities, the market needs a more efficient and readily available identifier to bring about gains in efficiency, transparency, and quality.

FINRA currently will not issue an OTC symbol for any equity security that does not have a valid CUSIP number. Firms cannot report trades in these securities through the ORF and instead would need to report via Form T. FINRA notes that this trade reporting process can be cumbersome and time-consuming, and the resulting trade reports are not publicly disseminated or integrated into FINRA’s audit trail on an automated basis.

FINRA is considering changing this current policy to permit the assignment of an OTC symbol to OTC equity securities without a valid CUSIP in certain limited circumstances.

Under FINRA’s proposed new policy, a firm may be able to request an OTC symbol without first obtaining a valid CUSIP, on condition that a firm (1) demonstrate best efforts to obtain a CUSIP identifier, and (2) provide documentation sufficient to identify and categorize the security.

We would like to suggest a few modifications to FINRA’s proposed policy to provide a potential workaround to the CUSIP acquisition issue.

To the extent there are current gaps in coverage created by identification standards such as CUSIP, or to the extent firms are having difficulty obtaining a valid CUSIP, the use of other financial identifiers – including the Financial Instrument Global Identifier (“FIGI”) – should be considered. This would obviate the need for FINRA to maintain and distribute its own non-standard symbol for unlisted OTC securities. It would also enable firms to obtain a valid identifier in a timely fashion without demonstrating its best efforts to obtain a CUSIP first, or require FINRA to create new processes or validations for these equity OTC securities.

As a US National ANSI/X9 standard, FIGIs can provide an open data standard solution without material costs and licensing restrictions that FINRA has noted can act as barriers to CUSIP acquisition. We discuss the value and differentiation FIGI can provide to FINRA below.

### **What is FIGI?**

FIGI is a unique publicly-available identifier for financial instruments such as loans, stocks, options, futures, bonds, municipals, currencies, mortgage products, and other asset classes.<sup>3</sup> Since 2013, FIGI has been managed as an open data standard by the Object Management Group (“OMG”),<sup>4</sup> an independent technology industry standards consortium.<sup>5</sup> FIGI is provided free of charge for use by all market participants with no commercial terms or restrictions on usage.

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<sup>3</sup> <https://www.omg.org/figi/>

<sup>4</sup> Bloomberg L.P. is the Registration Agent for the OMG standard, under the auspices of OMG’s Financial Domain Task Force. There are currently two Certified Providers for the FIGI standard: Bloomberg and Kaiko.  
<https://www.omg.org/news/releases/pr2021/01-20-21.htm>

Like CUSIP, FIGI is an official US National Standard.<sup>6</sup> In September 2021, FIGI was accepted by the Accredited Standards Committee X9 Inc. (“X9”), a non-profit organization accredited by the American National Standards Institute (“ANSI”), and designated as ANSI X9.145-2021.<sup>7</sup>

## **Benefits of FIGI**

FIGI enables interoperability between other identification systems and does not force the use of a single identification system. Enabling interoperability between different identification systems lowers costs when interacting between legacy systems, which may depend upon a single identifier, and newer systems, which typically have a more modern architecture. Interoperability reduces complexity, dependencies, and the costs of interacting with inflexible legacy systems. This allows for better management of data, increases data quality, and facilitates the sharing of critical and universal information.

FIGI is provided under the MIT Open Source License, and this dedication is encoded within the standard’s language itself. The standard, as well as the FIGI and associated descriptive metadata as described in the standard, are provided as a public good without costs, restrictions on use or redistribution, or any other commercial requirements.

FIGI identifiers, once issued, do not change. This is unique among identifiers for financial instruments. Because FIGI identifiers do not change, it enables traceability over time, permanence for when instruments mature, and a consistent identifier through corporate action events and ticker changes. Moreover, FIGI includes the descriptive metadata that users need to understand the financial instrument.

This metadata approach aligns with modern data practices and allows for extensions to the descriptive dataset by third parties and users; where those extensions may provide value. Extensions to the descriptive metadata could be associated with other identifiers, like a ticker or FINRA symbol, or add additional descriptive information, such as an indication that the instrument is an OTC equity.

Utilizing FIGI would provide the coverage FINRA is seeking in identifying securities, especially where there are gaps in coverage by other identification standards, such as CUSIP or ISIN, without requiring FINRA to develop its own symbol assignment and distribution process for any newly created OTC Equity symbols. At a minimum, FINRA should consider amending the OTC Equity Symbol Request Form to allow market participants to include a FIGI or another appropriate open-standard identifier for the security when a CUSIP is not readily available.

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<sup>5</sup> We note that CUSIP is also a US National Standard of X9, designated as X9.6.

<sup>6</sup> X9 approved and published the X9.145 FIGI standard on September 15, 2021. *See* Press Announcement: “ASC X9 Publishes U.S. Standard for the Financial Instrument Global Identifier” (Sept. 15, 2021), *available at* <https://www.bloomberg.com/company/press/asc-x9-publishes-u-s-standard-for-the-financial-instrument-global-identifier/>.

## **Considerations**

The requirement to demonstrate best efforts to obtain a CUSIP identifier is unnecessary and unreasonable. According to the Regulatory Notice, this would require documented correspondence with an issuer in many cases. Not noted, however, is that in many cases, all parties involved in using the CUSIP number could be required to obtain a CUSIP license to use, database, and redistribute the CUSIP. This cost can be a significant barrier to smaller firms and remains a required cost for any firm required to satisfy FINRA reporting requirements.

We also note that an ISIN identifier will not be available if a CUSIP is not available, as CUSIP Global Services is the National Numbering Agency responsible for issuing ISINs on behalf of ANNA in the United States and 17 other countries, including Canada. The ISIN is based on the CUSIP. Therefore, if there is no CUSIP, there will not be an ISIN.

Second, as the Consultation notes, requests submitted via Form T, indicating a firm's inability to acquire a CUSIP identifier, continue to increase in volume. This has a direct influence on FINRA's processes, impacting automation, data quality, and transparency.

The Regulatory Notice also states that "CUSIP identifiers, which are unique to each offering and never reused". This is inaccurate as CUSIP numbers are reused, especially in high-volume, short-term instruments like Commercial Paper and Money Markets. Further, even with recent changes made to the CUSIP guidelines to no longer change CUSIPs when a simple name change occurs, CUSIP identifiers still change under most other types of corporate action conditions.

The Regulatory Notice acknowledges that there are financial instruments that do not have a CUSIP assigned. We also would note that there may be a delay in the assignment of CUSIPs in many circumstances; ranging in duration from hours to even weeks, in the case of syndicated deals. This means that trading occurs prior to a CUSIP existing, requiring firms to utilize internal identifiers that may not immediately be flagged for reporting properly.

In contrast FIGI can be, and is, assigned to a much wider array of financial instruments, and typically, earlier in the process than CUSIP. Partly, this relates to the process of how FIGI is assigned to financial instruments. Although some of this also relates to the fact that obtaining a CUSIP carries a cost, both to issuers requesting a CUSIP, as well as users. Issuers typically will not apply for a CUSIP until the very last moment, because if a deal is delayed or otherwise does not occur, there is no recouping of the cost for an errant CUSIP assignment.

### **FIGI as an alternative to CUSIP**

FINRA should consider expanding the use of FIGI, not just in relation to this Regulatory Notice or where there are coverage gaps in CUSIP availability, but also as an alternative, or complement, in all FINRA reporting. FIGI data is readily available and provided as open data, freely without licensing costs or restrictions.

In fact, FINRA already disseminates multiple identifiers, including a FIGI, to the market in

connection with the publication of TRACE data.<sup>8</sup> Since FINRA's ORF is a FIX-based standard and should be able to accommodate multiple identifiers<sup>9</sup>, FINRA may be able to accept different identifiers as inputs with minimal additional changes.

Below please find Bloomberg's responses to a number of FINRA's specific questions:

*In addition to those listed above, are there other types of OTC equity securities that may not have a CUSIP identifier to which FINRA should consider applying the proposed policy?*

OTC equity instruments, in general, do not have a CUSIP. Further, crypto assets, digital assets, and private shares do not, on the whole, receive CUSIPs. Depending on the sub-asset class, a fixed income instrument may not get a CUSIP assigned until after allocations have already been made, as in the case of municipal bonds. Although it depends on the issuing process, a FIGI is typically assigned before the underwriter requests a CUSIP.

*Do commenters believe that trades in OTC equity securities that do not have a valid CUSIP identifier should be publicly disseminated?*

- *If no, why not?*
- *If yes, does your answer apply to all OTC equity securities that do not have a CUSIP identifier or only certain types? Please be specific and explain the basis for your answer.*

We do not believe that an instrument having or not having a CUSIP is a direct parallel for what should be reported or not. As mentioned above, a CUSIP may not be requested for many reasons, typically related to licensing, costs, or related burden.

*Should OTC equity securities that do not have a valid CUSIP identifier be denoted with, e.g., an additional character appended to the OTC symbol, to enable market participants to readily identify and distinguish them from other securities? Would this help mitigate concerns about potential harm or confusion?*

As stated, we do not believe appending the OTC symbol with some additional character in this instance would be the most efficient way to identify the security. We believe that FINRA should permit market participants to identify the security using a FIGI.

The FIGI standard's methodology is based on descriptive metadata that can be accessed through use of the identifier, which itself does not carry any intelligence. The use of a metadata approach allows for expansion of descriptive fields, such as any tickers or other relevant information. The metadata for FIGI includes the security type and sub type. These aspects could directly speak to the instrument being an OTC equity, or a listed equity, as opposed to using a proxy (the existence of CUSIP or not) which may not always have perfect

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<sup>7</sup> FINRA Web API Specifications for the TRACE Treasury Securities File Downloads, V.3, p. 5, (June 13, 2017), available at: <https://www.finra.org/sites/default/files/trace-treasuries-web-api-specs.pdf>

<sup>8</sup> FINRA TRAQS OTC Reporting Facility User Guide (October 5, 2021, Version 2.1A) available at <https://www.finra.org/sites/default/files/2021-09/TRAQS-ORF-user-guide-v2.1.pdf>

correlation or relationship.

However, the existence of a CUSIP or lack thereof would not seem relevant, except if someone is using the lack of a CUSIP as a proxy for the instrument not being valid or not of comparable value with a similar instrument that happens to have a CUSIP. Conveying that these Equity OTC securities are in some way lesser simply due to the lack of CUSIP assignment is problematic.

*Are there any alternatives to the proposed policy that FINRA should consider?*

As outlined above, Bloomberg proposes the use of the FIGI as an alternative to, or alongside, CUSIP (when one exists) and other valid identifier standards.

*Why would an issuer not want to obtain a CUSIP identifier for its security?*

As noted above, there are many reasons, from friction or barriers in the process, to significant costs and licensing restrictions.

*As noted above, in connection with a request by the issuer or its duly authorized representative to process a corporate action, FINRA generally would expect the issuer to obtain a CUSIP identifier for its security. Do commenters agree with this position? Are corporate actions frequently effected for such securities?*

This would depend on the type of corporate action, and the nature of the issuer.

*Would the proposed policy relating to the assignment of OTC symbols to unlisted equity securities that do not have a valid CUSIP identifier have any unintended consequences or increased risks for issuers or investors?*

The concern would be with FINRA needing to maintain its own instrument reference data, and manage that data quality internally, as opposed to relying on subject matter experts in the marketplace and the existing identification infrastructure that firms are already utilizing.

### **Recent recommendations by the Asset Management Advisory Committee of the Securities and Exchange Commission (“SEC”) regarding identifiers**

Bloomberg notes that the SEC’s Asset Management Advisory Committee (“AMAC”) recently recommended that the SEC study whether to remove specific references to “CUSIP” relative to securities identifiers in its rules and regulations.<sup>10</sup> In issuing its recommendation, the AMAC noted that certain fees associated with licensing and use of CUSIP imposed an unreasonable burden on small advisors and funds and left these market participants with no reasonable

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<sup>9</sup> SEC Asset Management Advisory Committee, Report and Recommendations on the Regulatory Approach for Small Advisers and Funds (Nov. 1, 2021), available at <https://www.sec.gov/files/final-report-and-recommendations-small-advisers-and-small-funds-subcommittee-110121.pdf>.

alternatives but to pay the fees.<sup>11</sup> The AMAC further noted that these fees are pervasive throughout the financial system, even extending to purely internal and client facing purposes, such as recordkeeping, trade confirmation, and account statements.<sup>12</sup>

We believe that regulatory mandates to use a particular product raise costs and diminish innovation. Thus, competition among identifiers should be encouraged, and other existing identifiers should not be precluded by regulatory mandate. There are other identifiers, such as FIGI, that provide broader and more accurate coverage in many asset classes. The ability to choose the data identifier would be beneficial to the industry as a whole: boosting transparency, increasing data quality, removing unnecessary and burdensome costs, and enabling competition.

## **Conclusion**

For the reasons outlined above, we ask FINRA to consider encouraging the use of other existing financial identifiers for unlisted OTC securities instead of relying solely upon CUSIP numbers or using a non-standard symbol to unlisted OTC securities. We appreciate your willingness to consider comments on this issue and would be pleased to discuss any questions that you may have with respect to this letter. Thank you.

Sincerely,



Gregory Babyak  
Global Head of Regulatory Affairs, Bloomberg L.P.

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<sup>10</sup> *Id.* at pp. 9-10, 12.

<sup>11</sup> *Id.* at p. 12.