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Federal Agencies Begin to Implement the Financial Data Transparency Act: Covington

Off To A Slow Start, But Don't Take Your Eyes Off This Space

As directed by Congress in the Financial Data Transparency Act (FDTA or the Act), nine federal financial regulators[1] have proposed standards for making the data they collect “machine-readable,” that is, specially coded so a computer can process it without human intervention.[2] The agencies are further directed to “seek to promote inter-operability” of the data - that is, make it capable of being collated and analyzed across agencies. Once fully implemented, the data standards will affect publicly traded companies, regulated financial institutions and other entities that file reports with or otherwise submit information to the federal financial regulators and, in some cases, self-regulatory organizations. Depending on the standards ultimately chosen, the resulting reporting burden will increase, potentially substantially, for some entities. And, if the SEC’s machine-readable data project is any guide, there will likely be lingering data quality issues.

The Act specifies a timeline for a series of rulemakings over the next two and a half years; affected entities may want to start paying attention now.

The Financial Data Transparency Act

Congress passed the FDTA as part of a much larger defense funding bill in December 2022.[3] The FDTA amends the Financial Stability Act of 2010 (Title I of the Dodd-Frank Act) to improve data collection and use for the Financial Stability Oversight Council by requiring the agencies to jointly adopt data standards. It also amends the organic statutes of the respective agencies, directing them to implement the joint data standards for their own “collections of information.”

Although some agencies, like the SEC, have already begun to require some data they collect to be machine-readable, the Act directs the SEC to vastly expand the universe of such data, including information submitted to the Financial Industry Regulatory Authority and the Municipal Securities Rulemaking Board.

Finally, to the extent an agency has identified “open data assets” – data it collects and makes available to the public – the Act directs each agency to make that information freely downloadable, rendered in human-readable format, and accessible in a form that enables two or more software programs to use the data.

What's in the Current Joint Rulemaking?

The current rulemaking has two components. First, the agencies propose “common identifiers” for commonly used critical data – legal entities, financial instruments, dates, locations, and currency. These are the digital building blocks for identifying relationships in the financial regulatory ecosystem, and, hopefully, risks. Second, the agencies propose four principles to guide the adoption of any data standard. Those principles are:

- Data should be fully searchable and machine-readable;
- The standard should clearly define the data element and its relationship to other data elements;
- Data should be consistently identified in accordance with its regulatory requirement; and
- The data standard should be non-proprietary or available under an open license.

The joint rulemaking will not create any new reporting requirements. (Indeed, the Act specifies that it does not create any obligation to collect more information than was collected before the Act passed.) However, any entity subject to these requirements will want to pay attention to how the rulemaking develops, as new data standards will likely change how such entities collect and report data to their regulators.

Once the proposal is published in the Federal Register, a 60-day comment period will commence. Congress directed the agencies to complete this stage of the rulemaking by December 2024.

What Happens After This Rulemaking?

Once the nine agencies settle on joint data standards, each agency is directed to “incorporate, and ensure compatibility with (to the extent feasible)” the joint data standards for the information it collects under its regulatory regime. The Act gives agencies some flexibility to tailor their own rules to scale them for smaller entities and minimize disruptive changes.

These agency-specific rules must take effect within two years of the joint agency standards being finalized. This two-year period will require entities that submit information to financial regulators to monitor the rulemakings, participate as appropriate, and begin the process of evaluating and modifying their reporting systems as necessary.

If you have any questions concerning the material discussed in this client alert, please contact members of our Financial Services and Securities and Capital Markets Groups.

[1] The nine agencies are: Commodity Futures Trading Commission, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, Board of Governors of the Federal Reserve System, National Credit Union Administration, Securities and Exchange Commission, and Department of the Treasury.

[2] Financial Data Transparency Act Joint Data Standards, 89 Fed. Reg. 67890 (Aug. 22, 2024). 2024-18415.pdf (govinfo.gov)

[3] Pub. L. No. 117-263, 136 Stat. 3421 (2022).

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