



Via Electronic Submission

April 19, 2023

April Tabor
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Suite CC-5610 (Annex C)
Washington, DC 20580

RE: Notice of Proposed Rulemaking: Non-Compete Clause Rule (88 Fed. Reg. 3482 / RIN: 3084-AB74)

Dear Ms. Tabor:

The Futures Industry Association (“**FIA**”)¹ appreciates the opportunity to comment on the Federal Trade Commission’s (“**Commission**”) Non-Compete Clause Rule (the “**Proposed Rule**”).² The Proposed Rule would effect a near-categorical ban on the use of non-compete agreements by employers and employees across the US economy, including in financial services. FIA’s members, which broadly represent the futures and cleared derivatives industry, are concerned that the Proposed Rule will hurt competition, undermine business’s ability to safeguard critical intellectual property and proprietary information and reduce opportunities and benefits for current and prospective employees. For these reasons, FIA joined hundreds of other national, regional and local associations representing virtually every sector of the U.S. economy in a comment letter opposing the Proposed Rule.³

FIA also writes to voice our support for the detailed comments submitted by the Securities Industry and Financial Markets Association (“**SIFMA**”) in response to the Proposed Rule.⁴ FIA’s membership includes Futures Commission Merchants registered with the Commodity Futures Trading Commission. Many of these firms are also registered as broker-dealers with the Securities and Exchange Commission. FIA’s standalone and dually registered FCMs join SIFMA’s members in highlighting the detrimental effects of the Proposed Rule on U.S. financial services.

¹ FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA’s mission is to support open, transparent and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries, as well as technology vendors, lawyers, and other professionals serving the industry.

² Non-Compete Clause Rule, 88 Fed. Reg. 3482, 3535–35 (proposed Jan. 19, 2023) (to be codified at 16 C.F.R. pt. 910).

³ Letter from ACA International *et al.* to Federal Trade Commission (Apr. 17, 2023), *available at* <https://www.uschamber.com/finance/antitrust/coalition-comments-on-ftc-proposed-rule-to-ban-noncompetes>.

⁴ Letter from Kenneth E. Bentsen, Jr., President and CEO, SIFMA, to April Tabor, Secretary, Federal Trade Commission (Apr. 19, 2023).

Page 2
Ms. Tabor
Secretary
Federal Trade Commission

FIA appreciates the opportunity to submit this letter for the Commission's consideration. If there are any questions or if you need additional information, please contact Allison Lurton, FIA's General Counsel and Chief Legal Officer at (202)772-3057 or alurton@fia.org.

Respectfully submitted,

A handwritten signature in cursive script that reads "Walt L. Lukken".

Walt L. Lukken
President and Chief Executive Officer