FIA Law & Compliance Conference 2026

Doc Talk: Give-Up

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Since 1995, FIA's Law & Compliance Division ("L&C") has published an International Uniform Execution Services ("Give-up") Agreement (the "Agreement"), which has become the standard agreement by which futures industry participants document give-up transactions. Earlier this year, FIA announced that new versions of FIA's Standard Give-Up Agreement are forthcoming. The proposed changes to the Agreement were published on February 13, 2026 and remain open for public comment through April 30, 2026.

<u>Give-Ups: Structure and Regulatory Framework</u>

In a give-up arrangement, an executing broker executes an order on an exchange for a customer, which is then given up to a clearing broker in accordance with applicable exchange rules. The executing broker will execute the trade on order of the customer, then direct the trade to the account that the customer has established with its clearing broker.[1]

Brokers involved in give-up transactions must comply with certain Commodity Futures Trading Commission ("CFTC") Rules, as well as exchange rules, related to these transactions. For example, pursuant to CFTC Rule 1.73, futures commission merchants ("FCMs") that are a clearing member of a derivatives clearing organization are required to screen orders for compliance with risk-based limits.[2] In a give-up transaction, the clearing firm, which bears the financial risk of the trade, is required to set limits and communicate them to the executing firm.[3] Thus, under the Rule, when a firm executes an order on behalf of a customer but gives it up to another firm for clearing,

> (A) The clearing futures commission merchant shall establish risk-based limits for the customer, and enter into an agreement in advance with the executing firm that requires the executing firm to screen orders for compliance with those limits in accordance with paragraph (a)(2)(i) or (ii) as applicable; and
>
> (B) The clearing futures commission merchant shall establish and maintain systems of risk management controls reasonably designed to ensure compliance with the limits.[4]

Additionally, the executing broker must ensure that it has implemented controls to meet the screen requirements of CFTC Rules 1.73(a)(2)(i) and (ii) when imposing the risk limits agreed to with the clearing broker.[5]

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[1] Fin. Crimes Enf't Network & Commodity Futures Trading Comm'n, FIN-2007-G001, Application of the Customer Identification Program Rule to Futures Commission Merchants Operating as Executing and Clearing Brokers in Give-Up Arrangements (2007).

[2] 17 C.F.R. § 1.73(a)(2)(iv) (2025).

[3] *Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management*, Vol. 77 Fed. Reg. 21278 (Apr. 9, 2012).

[4] This portion of the Rule does not apply to bunched orders executed by an account manager on behalf of multiple customers. Such orders are subject to Rule 1.73(a)(2)(v). *See* 17 C.F.R. § 1.73(a)(2)(v) (2025).

[5] 17 C.F.R. § 1.73(a)(2)(i), (ii) (2025).

Many exchanges have similar risk management requirements that cover give-ups. For example, CME requires that, "[a]ll clearing members must have written risk management policies and procedures in place to ensure they are able to perform certain basic risk and operational functions at all times, including during Supplemental Trading Hours."[6] Clearing members must have procedures in place to demonstrate compliance with "[m]onitoring the credit risks of accepting trades, *including give-up trades*, of specific customers."[7]

When executing firm is a swap dealer ("SD") or major swap participant ("MSP"), and the clearing firm is an affiliated FCM, the firms must also comply with the conflict of interest rules for SD/MSPs and the conflict of interest rules for FCMs.[8]

Having a written give-up agreement in place can help firms comply with their regulatory obligations,[9] such as risk management obligations, by documenting limits or conditions on the positions the clearing firm will accept for the give-up for customer's account.

<u>History of FIA's Legal Agreements for Give-Up Transactions</u>

In 1995, L&C—in consultation with the Futures and Options Association, the Managed Futures Association, and representatives from several leading law firms, exchanges and FCMs—developed the International Uniform Execution Services ("Give-up") Agreement (the "Agreement").[10] The Agreement, which is entered into by the executing broker, the clearing broker, the trader, and the customer (if the trader is not authorized to sign on behalf of the customer), became the standard agreement by which futures industry participants documented give-up transactions.

Over the years, L&C has updated the Agreement in response to changes in the way futures contracts are traded. For example, in 2006, L&C revised the Agreement to include provisions that addressed order transmittal through electronic order routing systems, the recording of telephone conversations, and adding additional accounts to an existing agreement.[11] In 2008, the Agreement was updated to address developments such as establishment of the FIA Electronic Give-up System

[6] CME Rule 982, Risk Management. *See also* NYMEX Rule 982, Risk Management.

[7] *Id.* (emphasis added).

[8] 17 CFR § 23.605(d)(1)(iv) ("No swap dealer or major swap participant shall directly or indirectly interfere with or attempt to influence the decision of the clearing unit of any affiliated clearing member of a derivatives clearing organization to provide clearing services and activities to a particular customer, including but not limited to a decision relating to the following: . . . . Whether to set or adjust risk tolerance levels for a particular customer[.]").

[9] This paper provides a sample of the rules and regulations applicable to give-up transactions but is not intended to provide a comprehensive list of all applicable rules and regulations.

[10] Futures Indus. Ass'n Law & Compliance Div., *New and Revised International Uniform Brokerage Execution Services Give-Up Agreement Versions and Enhanced Give-Up Agreement Definitions* (2017).

[11] Futures Indus. Ass'n Law & Compliance Div., *Explanation of the 2006 and 2008 Revisions to the International Uniform Brokerage Execution Services ("Give-up") Agreement* (2008).

and new London Metal Exchange requirements.[12] As part of the 2008 updates, FIA created additional LME agreements that complied with the unique requirements for LME Category 4 members.[13]

The most recent changes to the Agreement were made in 2017, when L&C revised the Agreement to incorporate terms related to electronic billing, the Foreign Account Tax Compliance Act, pre-execution discussions, cross trades and client qualifications required to engage in certain types of transactions.[14] In 2017, L&C also created new "Customer Version with Order Passing Broker" and "Trader Version with Order Passing Broker" versions of the Agreement, which parties could use to govern trade flow with respect to orders that are transmitted first to a broker (the "Order Passing Broker") who subsequently transmits the order to an unaffiliated broker for execution and give-up to the clearing broker.[15] These new versions of the Agreement were intended to make it easier for all parties to resolve any out trades and other operational matters in situations where an Order Passing Broker handled a futures order, but was not necessarily in the operational flow at the exchange/clearinghouse level.[16]

During the 2017 updates, L&C also provided additional guidance regarding when it was appropriate to use an Order Passing Broker version of the Agreement, as well as guidance regarding how market participants should think about bilateral versus give-up transactions from a contractual and CFTC-regulatory perspective.[17]

<u>Proposed Changes to FIA's Template Give-Up Agreement</u>

In February 2026, L&C's Give-Up Subcommittee published for public comment proposed changes to the International Uniform Brokerage Execution Services Agreement.[18] The revisions to the Agreement are rate-amendment related and are intended to simply the rate amendment process.

The primary changes proposed in the revised Agreement include:[19]

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[12] *Id.*

[13] London Metals Exchange, Rules and Regulations 1.1, Definitions (Mar. 30, 2026).

[14] Futures Indus. Ass'n Law & Compliance Div., *New and Revised International Uniform Brokerage Execution Services Give-Up Agreement Versions and Enhanced Give-Up Agreement Definitions*, (2017).

[15] *Id.*

[16] *Id.*

[17] *Give-Up Agreement 2017 Enhanced Definitions,* Futures Indus. Ass'n Law & Compliance Div., (2017) https://www.fiadocumentation.org/fia/attachment_dw.action?attkey=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQJsWJiCH2WAVTMsHbzvCk5kPiV7f4S9oR&nav=FRbANEucS95NMLRN47z%2BeeOgEFCt8EGQ2r3qtn6CZtU%3D&attdocparam=pB7HEsg%2FZ312Bk8OIuOIH1c%2BY4beLEAevmYZyWo%2FP%2BI%3D&fromContentView=1 (comparing bi-lateral transaction submitted for clearing as set forth in CFTC Rule 1.73(a)(2)(iii) to give-up transaction discussed in CFTC Rule 1.73(a)(2)(iv)).

[18] *See Revised Give-Up Agreement for Review*, Futures Indus. Ass'n Law & Compliance Div. Give-Up Subcomm., (Feb. 13, 2026) https://www.fia.org/law-compliance/articles/revised-give-agreement-review.

[19] *Id.* The entirety of the proposed revisions to the Agreement can be found at https://www.fia.org/sites/default/files/2026-02/Compare%20-

- Supported Products: To address a concern that the mere presence of a rate for a specific product on a rate schedule may imply that the clearing broker will clear that product for customer/trader, the proposed revised Agreement adds Addendum B, Form of Supported Products and Rate Types Schedule. The Addendum, which is to be completed by clearing broker, lists the products that clearing broker will support.

- Supported Rate Types: The proposed revisions also permit the clearing broker to indicate on Addendum B the rate types they can support for billing purposes. Rate type refers to pricing referenced per megawatt hour, per barrel, per ounce, or other unit.

- Rate Schedule: The proposed revisions also aim to make rate amendments more efficient. Under the structure proposed by L&C, "all parties to the give-up agreement will agree, upfront, at the time the give-up agreement is formed, to the length of time after Addendum C is revised that it will become effective." That means that parties can agree to a set number of business days after which all rates will become effective, or the parties can opt to have the clearing broker designate an effective date for each amendment to Addendum C.

- Billing: The proposed revisions add language to Section 12 of the Agreement that is "intended to assist with aged brokerage in the industry."[20]

The L&C Give-Up Subcommittee is accepting public comments through April 30, 2026. After considering all timely submissions, the Give-Up Subcommittee will recommend revised language to the Law & Compliance Executive Committee for final approval.

%20Give%20Up%20Standard%20Agreement%20Trader%20Version%20%28For%20Public%20Comment%20Feb%202026%29.docx.

[20] This language was implemented into the EFRP/Block Agreements in 2021 and the Committee is now proposing to carry it over to the Give-Up Agreements. *Id.*