

Advisory No. 02-01
Division of Clearing and Intermediary Oversight
Commodity Futures Trading Commission

The Division of Clearing and Intermediary Oversight (DCIO) notes that Derivatives Clearing Organizations (DCOs), markets that clear through DCOs (Designated Contract Markets, Exempt Markets, and other trading facilities), and other persons have begun to publicize the benefits of clearing in general, and through specific DCOs in particular.

DCIO reminds all persons subject to the Commodity Exchange Act of their obligations under Commodity Futures Trading Commission (Commission) Regulation 39.7, which provides as follows:

It shall be unlawful for any person, directly or indirectly, in or in connection with the clearing of transactions by a derivatives clearing organization:

- (a) To cheat or defraud or attempt to cheat or defraud any person;
- (b) Willfully to make or cause to be made to any person any false report or statement or cause to be entered for any person any false record; or
- (c) Willfully to deceive or attempt to deceive any person by any means whatsoever.

Specifically, any marketing or similar statement that materially misrepresents the credit enhancement provided in connection with the clearing of a transaction, or by a DCO, including the nature of the clearing guarantee provided, or the financial resources supporting that guarantee, may raise issues under this regulation. Moreover, any such statement that asserts that any DCO or any clearing service provided by the DCO has been sponsored, endorsed, or otherwise recommended by the Commission may similarly raise issues under this regulation.

Questions regarding this Advisory may be directed to: Robert B. Wasserman, Associate Director (rwasserman@cftc.gov, 202-418-5092) or Tobey Kaczensky, Special Counsel (tkaczensky@cftc.gov, 202-418-5460).

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