



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Swap Dealer and
Intermediary Oversight

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CFTC Letter No. 12-69
No-Action
December 28, 2012
Division of Swap Dealer and Intermediary Oversight

Staff No-Action Relief: Extension of Temporary Registration Relief under CFTC Staff Letter No. 12-15 for Certain Associated Persons

By letter dated October 11, 2012 (“CFTC Staff Letter No. 12-15”), and as is set forth more fully therein, the Division of Swap Dealer and Intermediary Oversight (“Division”) of the Commodity Futures Trading Commission (“CFTC” or “Commission”) stated it would not recommend that the Commission commence an enforcement action against certain persons for failure to be registered under the Commodity Exchange Act (“CEA”)¹ by October 12, 2012 (“Temporary Registration Relief”).² Among the persons to whom the Division provided this relief are persons who come within the definition of the term “associated person” (“AP”) of a futures commission merchant (“FCM”), introducing broker (“IB”), commodity pool operator (“CPO”), or commodity trading advisor (“CTA”) and are required to register with the Commission as such solely by virtue of their involvement with (i) swaps or (ii) the transition of certain contracts (“ICE/NYMEX Contracts”) by the Intercontinental Exchange, Inc. and the New York Mercantile Exchange to clearing as commodity futures and options transactions (collectively, “The APs”). The relief applicable to The APs (“The AP Temporary Registration Relief”) was subject to compliance with certain conditions, including that on or before December 31, 2012, the employing FCM, IB, CPO or CTA file a Form 8-R and a fingerprint card for The AP.³

¹ The CEA and the regulations of the CFTC are accessible through the website of the Commission, www.cftc.gov

² CFTC Staff Letter No. 12-15 is available on the website of the Commission.

³ By CFTC Staff Letter No. 12-15, the Division also granted certain other “no-action” relief, concerning (i) the registration of persons who come within the IB, CPO, CTA, floor broker or floor trader definition solely because of their involvement with swaps, and (ii) the statutory disqualification prohibition applicable to swap dealers and major swap participants with respect to their APs. This letter does not apply to any of that other “no-action” relief.

The Division has received numerous requests to extend The AP Temporary Registration Relief. As the Division explained in CFTC Staff Letter No. 12-15, the purpose of The AP Temporary Registration Relief was to ensure that markets are not unduly disrupted during the transition to the new regulatory regime mandated by the Dodd-Frank Act, to provide those persons eligible for the relief with sufficient time for the completion of the registration process as applicable to them, and to relieve the pressure the Division anticipates will be placed on the National Futures Association (“NFA”) and the new registration system as a result of the sudden influx of the numerous applications of persons newly subject to registration with the Commission.⁴

While the Division believes that The AP Temporary Registration Relief substantially addressed those objectives, it has been informed that with respect to The APs, significant administrative burdens are continuing to affect the ability of some applicants for registration – who the Division understands may have hundreds of APs – to comply with the December 31, 2012 filing deadline for those APs. Therefore, the Division has determined to extend the Temporary Registration Relief insofar as it is applicable to The APs.

Accordingly, the Division will not recommend that the Commission commence an enforcement action against a person for failure to be registered as an AP of an FCM, IB, CPO, or CTA, where the requirement to be registered as such arises solely from the swaps activity of the person or from the person being involved with ICE/NYMEX Contracts, provided:

1. On or before March 31, 2013, the FCM, IB, CPO, or CTA completes and files with NFA a registration application for the person, including a Form 8-R and a fingerprint card, as applicable; and
2. Subject to the foregoing and the relief provided by this letter, on and after March 31, 2013, the person is subject to and makes a good faith effort to comply with the CEA and the Commission’s regulations applicable to its activities as an AP of an FCM, IB, CPO, or CTA as if the person was in fact registered in such capacity.

This registration no-action relief will terminate on the date on which NFA provides notice in accordance with CFTC Regulation 3.2(c) that the person is registered as an AP or five days after service by NFA of a notice on such person pursuant to NFA Registration Rule 504 that the person may be disqualified from registration under CEA Section 8a(2) or 8a(3).

Except as expressly stated above, the relief provided by this letter does not excuse any person from compliance with the CEA and the Commission’s regulations and is strictly limited to extending the date by which application for registration must be made regarding The APs. Moreover, the relief is subject to compliance with the conditions set forth above. The no-action relief provided in this letter represents the position of this Division only, and does not necessarily represent the position of the Commission or of any other office or division of the Commission.

⁴ As the Division noted in CFTC Staff Letter No. 12-15, the Commission has delegated to NFA the authority to perform the full range of registration functions with regard to applicants for and persons registered as an FCM, IB, CPO, or CTA.

If you have any questions, please contact Barbara S. Gold or Israel J. Goodman of my staff, at (202) 418-6700.

Very truly yours,

Gary Barnett
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