

Commodity Futures Archive - Selected materials, CFTC Interpretative Letter No. 75-10 (Registration of Trade Association as Commodity Trading Advisor), ¶20,097, Commodity Futures Trading Commission, (Sep. 17, 1975)

¶20,097. Commodity Futures Trading Commission, Office of the General Counsel, Trading and Markets. September 17, 1975. Correspondence in full text.

Commodity Trading Advisors: Definition: Trade Associations: Registration Not Required.— A trade association which regularly issues reports dealing primarily with supply and demand factors in the cash market of the raw material used in the manufacturing process by its members is not a "commodity trading advisor" required to register with the CFTC, because use of the published information in management decisions to trade on futures markets is incidental to the major purpose of the reports.

See ¶4375, "Definitions" division, and ¶7625, "Registration Division."

[CFTC Staff Reply]

Reference is made to your letter of July 28, 1975, and to the other correspondence, materials and information which you furnished to this Office, concerning [the Trade Association] ("Association") and the registration requirements of the Commodity Exchange Act, as amended ("Act") regarding commodity trading advisors.

From our review of your letter dated July 28, 1975, and the other correspondence, materials and information referred to above, we understand the facts to be as follows. The Association is a trade association and is a nonprofit corporation which was incorporated in [X] [on a certain date in] 1971. A member's dues paid to the Association are based on a scale which reflects the amount of silver used in such member's business. The Association does not hold itself out generally to the public as a commodity trading advisor and does not advise its members or others as to the advisability of trading in the commodity futures markets.

One of the major purposes of the Association is to keep its members and the public informed on pertinent developments about silver as a raw material, such as production, consumption, availability, uses, prices and legislation. The Association regularly issues reports concerning silver to its members, and, from time to time, distributes these reports to the public free of charge. The furnishing of these reports by the Association are not intended to encourage transactions for the purchase or sale of commodities for future delivery on contract markets. These reports, which the association considers background information, deal primarily with supply and demand factors in the cash market and are issued as a service to its members in their business of using the raw material in the manufacturing process. The extent to which information contained in the reports furnished by the Association is used in management decisions to trade in the futures markets is incidental to the major purpose of the reports described above.

Based upon the facts set forth above, this Office will not recommend any enforcement action to the Commission, based solely on the Association's failure to register with the Commission as a commodity trading advisor at this time. Because this position is based upon the facts and representation which you furnished to this Office, it should be noted that any different, omitted or changed facts or conditions might require a different conclusion.

[Letter of Inquiry]

Reference is made to your letter of July 9, 1975, and our conversation of July 24, 1975, concerning the CFTCA requirement for registering Commodity Trading Advisors.

We have reviewed the proposed rules for registering Commodity Trading Advisors and have adopted the position that as a trade association [the Trade Association] falls within the proposed exemption contained in the Federal Register Notice of July 3, 1975.

In our opinion there would be no substantial public interest served by the registration of the [Trade Association] or its Executive Vice President, since reports issued by [the Trade Association] are not considered the kind of services contemplated by the definitions of the CFTCA. Reports by the Association dealing with silver are in keeping with one of the [Association's] objectives which is to keep the members and the public informed on the facts about silver as a raw material. Such activities are not undertaken to encourage transactions for the purchase or sale of commodities for future delivery on contract markets.

Neither the Association nor Executive Vice President holds out to the public as a commodity trading advisor.

Reports on silver issued by the Association deal primarily with supply and demand factors in the cash market. This

material, considered as background information, is intended as a service to the membership in their normal business of using an important raw material in a form of manufacture. Information dealing with supply and demand factors is an element to be considered by management in price considerations; however, the extent to which such information is used in management decisions to enter futures markets would be incidental to the major purpose of the reports.

In view of the foregoing, the Association requests a “no-action” letter on the question of registration as a Commodity Trading Advisor.