From: Sally Miller <smiller@iib.org>
Sent: Monday, July 08, 2013 10:24 AM
To: Gensler, Gary
Cc: Ridley, Deborah; Miller, Ryne; Kim, Carlene; Josephson, Sarah E
Subject: Final Cross-border guidance and Cross-border phase-in exemptive order

Dear Chairman Gensler,

I understand that the CFTC intends to consider on Friday, July 12th, whether to adopt final cross-border guidance and a cross-border phase-in exemptive order. As you know, clarity on cross border issues and a reasonable transition period are absolutely critical for the foreign banking community.

In particular, if firms need to adapt to a new definition of U.S. person or different treatment for guaranteed affiliates and "conduits," they will need several months to obtain the requisite client representations and re-code their compliance systems. In addition, if different aggregation requirements or " counting" rules for de minimis exemption purposes could result in a need to register additional legal entities, each of those entities will need several months to prepare its registration application and establish necessary compliance infrastructure. To the extent the CFTC determines that a firm is not eligible for a substituted compliance determination, the phase-in exemptive order should provide sufficient time for the firm to come into compliance with what in some cases will be brand new requirements. Moreover, as a matter of fundamental fairness and good public policy, any changes from the final exemptive order, for example with respect to the definition of U.S. person, aggregation requirements or de minimis counting rules, should be applied solely on a prospective basis.

I would welcome the opportunity to meet with you and your staff to discuss these important timing issues.

Best regards,

Sally

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