

Extension of Time-Limited No-Action Relief with respect to Swaps Trading on Certain Multilateral Trading Facilities Overseen by Competent Authorities Designated by European Union Member States

On February 12, 2014, the Division of Market Oversight (“DMO”) of the Commodity Futures Trading Commission (“CFTC” or “Commission”) issued CFTC No-Action Letter No. 14-15 (“No-Action Letter 14-15”)¹ to allow additional time for multilateral trading facilities overseen by competent authorities designated by European Union Member States (“MTFs”) to comply with the conditions for obtaining the longer-term relief provided by CFTC No-Action Letter No. 14-16 (“No-Action Letter 14-16”),² and for DMO to consider relief requests made by MTFs pursuant to No-Action Letter 14-16. The short-term no-action relief provided by No-Action Letter 14-15 will expire for any particular MTF upon the earlier of: (1) DMO’s issuance of a letter acknowledging receipt of, and granting an MTF’s relief request pursuant to No-Action Letter 14-16, or (2) 11:59 pm on March 24, 2014.³

DMO and the Division of Swap Dealer and Intermediary Oversight of the CFTC (“DSIO”) intend to issue in the near future a no-action letter providing conditional, long-term relief for MTFs that, upon publication by the Commission, will supersede No-Action Letter 14-16 (“Replacement Long-Term No-Action Letter”). The conditional relief that will be provided in the Replacement Long-Term No-Action Letter will generally track the conditional relief provided in No-Action Letter 14-16 in both substance and process, but will contain several notable clarifications and amended conditions for qualifying for such conditional relief.

DMO is issuing this no-action letter to provide time-limited no-action relief for (1) MTFs⁴ from the swap execution facility (“SEF”) registration requirement set out in section 5h(a)(1) of the Commodity Exchange Act (“CEA” or “Act”)⁵ and Commission regulation 37.3(a)(1);⁶ and (2)

¹ CFTC No-Action Letter No. 14-15 (February 12, 2014), *available at* <http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/14-15.pdf>.

² CFTC No-Action Letter No. 14-16 (February 12, 2014), *available at* <http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/14-16.pdf>.

³ As of the date of publication of this letter, no MTF has submitted a formal relief request to DMO pursuant to No-Action Letter 14-16.

⁴ The relief provided by this letter is only available to MTFs overseen by competent authorities designated by European Union (“EU”) Member States, and to parties executing swap transactions on such facilities. The Markets in Financial Instruments Directive (“MiFID I Directive”) defines the term “Multilateral Trading Facility (MTF)” to mean a “multilateral system, operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract....” MiFID I Directive, Article 4(15).

⁵ 7 U.S.C. § 7b-3(a)(1).

⁶ 17 CFR 37.3(a)(1).

parties executing swap transactions on or pursuant to the rules of MTFs from the trade execution mandate set out in section 2(h)(8) of the Act.⁷ This no-action relief will expire for any particular MTF upon the earlier of: (1) DMO's issuance of a letter acknowledging receipt of, and granting an MTF's relief request pursuant to the Replacement Long-Term No-Action Letter or (2) 11:59 pm EDT on May 14, 2014.

DMO is providing this additional period of time to allow MTFs and parties executing swap transactions on or pursuant to the rules of MTFs to consider the clarifications and amended conditions that will be featured in the Replacement Long-Term No-Action Letter once it is published by the Commission. DMO notes that relief under this letter will extend no later than 11:59 pm EDT on May 14, 2014, even if an MTF has a relief request made pursuant to the Replacement Long-Term No-Action Letter pending before DMO at that time and has not yet received an acknowledgement letter from DMO. For those MTFs that will anticipate seeking relief under the Replacement Long-Term No-Action Letter, it is recommended that they submit relief requests in the form and manner described in the Replacement Long-Term No-Action Letter no later than May 1, 2014, in order to secure seamless relief from the SEF registration and trade execution requirements.

This letter, and the no-action position taken herein, reflects only the views of DMO, and not necessarily the position or views of the Commission or of any other division or office of the Commission's staff. The no-action position taken herein does not excuse affected persons from compliance with any other applicable requirements of the CEA or the regulations thereunder. As with all no-action letters, DMO retains the authority, in its discretion, to further condition, modify, suspend, terminate or otherwise restrict the terms of the no-action relief provided herein.⁸

If you have any questions concerning this correspondence, please contact David P. Van Wagner, Chief Counsel, Division of Market Oversight, at (202) 418-5481 or dvanwagner@cftc.gov, David Pepper, Attorney Advisor, Division of Market Oversight, at (202) 418-5565 or dpepper@cftc.gov, or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, at (202) 418-5494 or radriance@cftc.gov.

Sincerely,

Vincent McGonagle
Director, Division of Market Oversight

⁷ 7 U.S.C. § 2(h)(8). Please refer to the Replacement Long-Term No-Action Letter (upon its issuance) for the relevant discussion of: (1) the registration requirement in section 5h(a)(1) of the Act and Commission regulation 37.3(a)(1); (2) the trade execution mandate in section 2(h)(8) of the Act, and (3) the operation of section 2(i) of the Act. DMO notes that nothing in this letter provides any relief from compliance with any aspect of the Commission's clearing requirement in part 50 of the Commission's regulations and CEA section 2(h)(1).

⁸ Commission guidance or action taken during the pendency of this no-action relief, could supersede the relief granted herein.