U.S. COMMODITY FUTURES TRADING COMMISSION
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Division of Swap Dealer and Intermediary Oversight

Joshua B. Sterling
Director

Re: Extension of Time-Limited No-Action Position with Respect to Uncleared Swaps with the European Stability Mechanism

Ladies and Gentlemen:

On July 24, 2017, the Division of Swap Dealer and Intermediary Oversight ("**DSIO**") of the Commodity Futures Trading Commission ("**CFTC**" or "**Commission**") issued a staff no-action letter ("**Letter 17-34**").[1] Letter 17-34 provided that DSIO would not recommend that the Commission initiate an enforcement action against a registered swap dealer ("**SD**"), for which there is no Prudential Regulator ("**covered swap entity" or "CSE"**),[2] that did not exchange margin for uncleared swaps entered into with the European Stability Mechanism ("**ESM**"), as required by Commission regulations 23.150-161.[3]

On October 16, 2019, the Commission approved for publication in the Federal Register a proposed amendment to regulation 23.151 that would effectively exclude swaps between CSEs and the ESM from the Commission's uncleared swap margin requirement, rendering Letter 17-34 moot ("**Proposal**").[4] Upon Commission approval of the

[1] *See* CFTC No-Action Letter 17-34 (July 24, 2017), available on the Commission's website.

[2] The Commission's margin requirements for uncleared swaps apply only to SDs and major swap participants for which there is not a prudential regulator. *See* 7 U.S.C. 6s(e)(1)(B). SDs and major swap participants for which there is a prudential regulator must meet the margin requirements for uncleared swaps established by the applicable prudential regulator. 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term "Prudential Regulator" to include the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The Prudential Regulators published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015).

[3] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016); Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants — Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016). *See* 17 CFR 23.150-23.161. The Commission's regulations are found in Chapter 17 of the Code of Federal Regulations, 17 CFR 1 et. seq.

[4] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 56392 (Oct. 22, 2019).

publication of the Proposal, DSIO on October 16, 2019, issued staff no-action letter 19-22 ("**Letter 19-22**"), modifying the no-action relief under Letter 17-34 and providing that such relief would expire on the earlier of the effective date of final Commission action on the proposed amendment to regulation 23.151 or April 14, 2020.[5]

The Commission approved the amendment to regulation 23.151 as a final rule today, April 14, 2020 ("**Final Rule**"). Because the Final Rule will not be effective until 30 days after it is published in the Federal Register, DSIO is extending the no-action relief under Letter 19-22 to allow SDs to continue to exclude swaps entered into with the ESM from the uncleared margin rules until 30 days after such publication.

Questions concerning this letter may be directed to me at (202) 418-6056; Warren Gorlick, Associate Director, at (202) 418-5195; or Carmen Moncada-Terry, Special Counsel, at (202) 418-5795.

Very truly yours,

Joshua B. Sterling
Director
Division of Swap Dealer and Intermediary Oversight

Cc: Regina Thoele, Compliance
National Futures Association, Chicago

[5] *See* CFTC No-Action Letter 19-22 (Oct. 16, 2019), available on the Commission's website.