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To: OTCDefinitions <OTCDefinitions@CFTC.gov>
Subject: Conflicts between registration categories

Certain prospective definitions could overlap with activities already permissible under a valid registration or exemption, but with dramatically different regulatory burdens.

Note, for example, that the activities that may be engaged in by a registered or exempt floor trader - FT - (and, by reason of Reg. §3.4(a), a registered or exempt floor broker - FB -) now include swap transactions [CEAct §§1a(22) and 1a(23)] if they occur on a designated contract market. And yet, that same activity would satisfy the statutory definition of a "swap dealer" [CEAct §1a(49)]. The latter implicates capital requirements, operating conditions, compliance staff etc. that do not apply to the existing FTs and FBs.

Similarly, the activities that may be engaged in by a registered or exempt commodity pool operator - CPO - for its managed commodity pools now include swap transactions [CEAct §1a(11)]. If that activity becomes substantial, the CPO may also become a "major swap participant" depending on the final rules, implicating similar additional burdens and duties.

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