

makers, including enterprises and end consumers?

*Instructions for Commenters:* NTIA invites comment on the full range of issues that may be presented by this inquiry, including issues that are not specifically raised in the above questions. Commenters are encouraged to address any or all of the above questions. Comments that contain references to studies, research, and other empirical data that are not widely published should include copies of the referenced materials with the submitted comments.

Comments submitted by email should be machine-readable and should not be copy-protected. Comments submitted by mail may be in hard copy (paper) or electronic (on CD-ROM or disk). Responders should include the name of the person or organization filing the comment, as well as a page number on each page of their submissions. All comments received are a part of the public record and will generally be posted on the NTIA Web site, <https://www.ntia.doc.gov>, without change. All personal identifying information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NTIA will accept anonymous comments.

Dated: June 8, 2017.

**Leonard Bechtel,**

*Chief Financial Officer and Director of Administration, Performing the Non-Exclusive Duties of the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration.*

[FR Doc. 2017-12192 Filed 6-12-17; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### Commission Statement Concerning a Request for an Interpretation as to Whether a Particular Agreement Is a Swap, Security-Based Swap, or Mixed Swap

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Commission statement.

**SUMMARY:** The Commodity Futures Trading Commission (the “Commission”) is publishing this statement concerning a request for an interpretation as to whether a particular agreement is a swap, security-based swap, or mixed swap.

**FOR FURTHER INFORMATION CONTACT:**

Eileen T. Flaherty, Director, (202) 418-5326, [eflaherty@cftc.gov](mailto:eflaherty@cftc.gov); Frank Fisanich, Chief Counsel, (202) 418-5949, [ffisanich@cftc.gov](mailto:ffisanich@cftc.gov); or Jacob Chachkin, Special Counsel, (202) 418-5496, [jchachkin@cftc.gov](mailto:jchachkin@cftc.gov), Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**Statement**

On February 7, 2017, Commission staff received a letter from Breakaway Courier Corporation (“Breakaway”), through its counsel, requesting a joint interpretation from the Commission and the Securities and Exchange Commission (“SEC”, and, together with the Commission, the “Commissions”) pursuant to Commission regulation 1.8 as to whether a particular agreement is a swap, security-based swap, or mixed swap.<sup>1</sup> Breakaway’s request relates to a contract labeled as a Reinsurance Participation Agreement (“RPA”), which it has previously executed with Applied Underwriters Captive Risk Assurance Company, Inc. (“AUCRA”).<sup>2</sup> According to Breakaway’s submission, it entered into two RPAs with AUCRA, one of which has a stated effective date of July 1, 2009, and the other of July 1, 2012.

The Commission and the SEC jointly adopted Commission regulation 1.8 and Securities Exchange Act of 1934 (“Exchange Act”) <sup>3</sup> Rule 3a68-2 in 2012 <sup>4</sup> pursuant to Section 712(d)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).<sup>5</sup> The rules established a process for parties to request a joint interpretation as to whether a particular agreement, contract, or transaction (or class thereof) is a swap, security-based swap, or mixed swap. Among other things, the rules set forth the information required to be included in a request and a process for withdrawing a request. Commission regulation 1.8

<sup>1</sup> See 17 CFR 1.8.

<sup>2</sup> A copy of Breakaway’s submission may be found at: <http://www.cftc.gov/LawRegulation/DoddFrankAct/Dodd-FrankFinalRules/index.htm>.

<sup>3</sup> 15 U.S.C. 78 *et seq.*

<sup>4</sup> See Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48207 (Aug. 13, 2012) (“Product Definitions Adopting Release”).

<sup>5</sup> See Dodd-Frank Act, Public Law 111-203, 124 Stat. 1376 (2010). All references to “Title VII” in this statement shall refer to Title VII of the Dodd-Frank Act, which established a comprehensive new regulatory framework for swaps and security-based swaps.

also includes requirements governing the manner and timing by which the two agencies must act after the receipt of a complete submission under the rule, if they determine to issue such joint interpretation. In addition, paragraph (e)(5) of Commission regulation 1.8 provides that “[i]f the Commission and the [SEC] do not issue a joint interpretation within the time period described in paragraph (e)(1) or (e)(3) [of the rule], each of the Commission and the [SEC] shall publicly provide the reasons for not issuing such a joint interpretation within the applicable timeframes.”<sup>6</sup>

Pursuant to paragraph (e)(5) of Commission regulation 1.8, the Commission is declining to issue a joint interpretation with the SEC in connection with Breakaway’s request.<sup>7</sup> The Commission understands that the status of the RPAs is already subject to ongoing private litigation and that the petitioners’ request may bear directly on that litigation. We believe that the Commission regulation 1.8 process is not an appropriate vehicle for litigants such as Breakaway to obtain the views of the Commission in connection with issues in ongoing litigation, and we therefore decline Breakaway’s request that we state an interpretive position as to the proper characterization of the RPAs.<sup>8</sup>

Issued in Washington, DC, on June 7, 2017, by the Commission.

**Christopher J. Kirkpatrick,**

*Secretary of the Commission.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

<sup>6</sup> Paragraph (e)(5) of SEC Rule 3a68-2 contains identical language (other than reversing the references to the two commissions). See 17 CFR 240.3a68-2.

<sup>7</sup> Commission staff has consulted and coordinated with SEC staff and understands that the SEC will be issuing a separate statement on this matter.

<sup>8</sup> As we and the SEC explained when we jointly adopted Commission regulation 1.8 in 2012 (as well as the corresponding rule under the Exchange Act), the purpose of Commission regulation 1.8 is to “afford market participants with the opportunity to obtain greater certainty from the Commissions regarding the regulatory status of particular Title VII instruments under the Dodd-Frank Act. This provision should decrease the possibility that market participants inadvertently might fail to meet the regulatory requirements applicable to a particular Title VII instrument.” See Product Definitions Adopting Release, 77 FR at 48295. We and the SEC also noted our belief that “it is essential that the characterization of an instrument be established prior to any party engaging in the transactions so that the appropriate regulatory schemes apply.” See Product Definitions Adopting Release, 77 FR at 48297.

**Appendix to Commission Statement Concerning a Request Made Pursuant to Commission Regulation 1.8— Commission Voting Summary**

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–12141 Filed 6–12–17; 8:45 am]

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**CONSUMER PRODUCT SAFETY COMMISSION**

**Commission Agenda and Priorities; Notice of Hearing**

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Notice of public hearing.

**SUMMARY:** The U.S. Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about the Commission's agenda and priorities for fiscal year 2018, which begins on October 1, 2017, and for fiscal year 2019, which begins on October 1, 2018. We invite members of the public to participate. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal years 2018 and 2019 will become part of the public record.

**DATES:** The hearing will begin at 10 a.m. on July 26, 2017, and will conclude the same day. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Daylight Time (EDT) on July 12, 2017. The Commission will accept written comments as well. These also must be received by the Office of the Secretary not later than 5 p.m. EDT on July 12, 2017.

**ADDRESSES:** The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD 20814. Requests to make oral presentations, and texts of oral presentations and written comments should be captioned, "Agenda and Priorities FY 2018 and/or 2019," and sent by electronic mail (email) to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov), or mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814. Requests and written comments must be received no later than 5 p.m. EDT on July 12, 2017.

**FOR FURTHER INFORMATION CONTACT:** For information about the hearing, or to request an opportunity to make an oral

presentation, please send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov); telephone: (301) 504–7923; facsimile: (301) 504–0127. An electronic copy of the CPSC's budget request for fiscal year 2018 and the CPSC's 2016–2020 Strategic Plan can be found at: [www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget](http://www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws the Commission administers, and to the extent feasible, select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments.

**II. Oral Presentations and Submission of Written Comments**

The Commission is in the process of preparing the agency's fiscal year 2018 Operating Plan and fiscal year 2019 Congressional Budget Request. Fiscal year 2018 begins on October 1, 2017, and fiscal year 2019 begins on October 1, 2018. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request?
2. What activities should the Commission consider deemphasizing in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request?
3. What retrospective review of rules should the Commission consider in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request, consistent with the Plan for Retrospective Review of Existing Rules adopted by the Commission on April 1, 2016?
4. The CPSC's programs will align with the strategic goals outlined in the CPSC's 2016–2020 Strategic Plan. The CPSC's fiscal year 2018 Budget Request, submitted to Congress on May 23, 2017, is based on four agency priorities: (1) Focusing the agency's resources on the

highest-priority consumer product safety risks; (2) continuing to support import surveillance by incrementally developing the Risk Assessment Methodology (RAM) system to identify and stop noncompliant imported products from entering the U.S. marketplace; (3) emphasizing outreach and education by engaging all stakeholders through forums and workshops; and (4) expanding the sources and types of data analysis used to identify and assess product safety risks and inform compliance decisions. The Commission requests comments on the priorities as presented in the FY 2018 Budget Request. The CPSC's Budget Request for fiscal year 2018 can be found at: [www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget](http://www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget). The Commission also requests comments on whether the Commission should consider making any changes or adjustments to the agency's proposed or ongoing safety standards activities, regulation and enforcement efforts in fiscal years 2018 and 2019, keeping in mind the CPSC's existing policy on establishing priorities for Commission action (16 CFR 1009.8). Comments are welcome on whether particular action items should be higher priority than others, should not be included, or should be added to the fiscal year 2018 and/or fiscal year 2019 agendas.

Persons who desire to make oral presentations at the hearing on July 26, 2017 should send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov); telephone: (301) 504–7923; facsimile (301) 504–0127 not later than 5 p.m. EDT on July 12, 2017. Requests to make oral presentations and texts of the presentation must be received not later than 5 p.m. EDT on July 12, 2017. Presentations should be limited to approximately 10 minutes. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations.

If you do not want to make an oral presentation, but would like to provide written comments, you may do so. Please submit written comments in the manner described in the previous paragraph. Written comments must be received no later than 5 p.m. EDT on July 12, 2017.

Dated: June 7, 2017.

**Todd A. Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. 2017–12069 Filed 6–12–17; 8:45 am]

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