

CFTC Letter No. 14-15  
No-Action  
February 12, 2014  
Division of Market Oversight

**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**

The Division of Market Oversight (“DMO”) of the Commodity Futures Trading Commission (“CFTC” or “Commission”) is issuing this no-action letter to provide time-limited no-action relief for (1) multilateral trading facilities overseen by competent authorities designated by European Union Member States (“MTFs”)<sup>1</sup> from the swap execution facility (“SEF”) registration requirement set out in section 5h(a)(1) of the Commodity Exchange Act (“CEA” or “Act”)<sup>2</sup> and Commission regulation 37.3(a)(1);<sup>3</sup> and (2) parties executing swap transactions on MTFs from the trade execution mandate set out in section 2(h)(8) of the Act.<sup>4</sup> This no-action relief will commence upon issuance of this no-action letter, and 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 CFTC Letter No. 14-16, or (2) 11:59 pm on March 24, 2014.

This no-action letter is being issued simultaneously with CFTC Letter No. 14-16,<sup>5</sup> to allow additional time for MTFs to comply with the conditions for obtaining the longer-term relief

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<sup>1</sup> The relief provided by this letter is only available to MTFs overseen by competent authorities designated by European Union (“EU”) Member States. 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).

<sup>2</sup> 7 U.S.C. § 7b-3(a)(1).

<sup>3</sup> See 17 CFR 37.3(a)(1).

<sup>4</sup> 7 U.S.C. § 2(h)(8). Please refer to CFTC Letter No. 14-16, issued simultaneously with this no-action letter, 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. CFTC No-Action Letter No. 14-16 (February 12, 2014). 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).

<sup>5</sup> CFTC Letter No. 14-16 will provide longer-term, conditional no-action relief for (1) qualifying MTFs from the SEF registration requirement set out in section 5h(a)(1) of the CEA and Commission regulation 37.3(a)(1); and (2) parties executing swap transactions on qualifying MTFs from (i) the trade execution mandate set out in section 2(h)(8) of the Act; and (ii) their obligations to report such transactions in the methods and manners prescribed in applicable part 43 and 45 regulations. The longer-term no-action relief provided by CFTC Letter No. 14-16 would be conditioned on DMO’s issuance of a letter acknowledging receipt of an MTF’s relief request to DMO that includes, in the form and manner described in CFTC Letter No. 14-16, a certification by the MTF that the MTF (1) is subject to and compliant with regulatory requirements established by the appropriate governmental authorities in the home country of the facility that are in accordance the SEF regulatory requirements concerning trading methodology; (2) is subject to and compliant with regulatory requirements established by the appropriate

provided by CFTC Letter No. 14-16, and for DMO to consider relief requests made by MTFs pursuant to CFTC Letter No. 14-16. DMO notes that relief under this letter will extend no later than 11:59 pm on March 24, 2014, even if an MTF has a relief request made pursuant to CFTC Letter No. 14-16 pending before DMO at that time and has not yet received an acknowledgement letter from DMO. For those MTFs that anticipate seeking relief under CFTC Letter No. 14-16, it is recommended that they submit any relief requests under CFTC Letter No. 14-16 no later than March 10, 2014 in order to secure seamless relief from the SEF registration and the trade execution requirements.

This letter, and the no-action position taken herein, reflects the views of DMO only, 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.<sup>6</sup>

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](mailto:dvanwagner@cftc.gov), David Pepper, Attorney Advisor, Division of Market Oversight, at (202) 418-5565 or [dpepper@cftc.gov](mailto:dpepper@cftc.gov), or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, at (202) 418-5494 or [radriance@cftc.gov](mailto:radriance@cftc.gov).

Sincerely,

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Vincent McGonagle  
Director, Division of Market Oversight

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governmental authorities in the home country of the facility that are comparable to, and as comprehensive as, certain SEF regulatory requirements concerning non-discriminatory access by market participants and an appropriate level of oversight; (3) meets certain reporting and clearing-related requirements; and (4) does not allow trading by U.S. persons who are not eligible contract participants ("ECPs") on its platform.

<sup>6</sup> Commission guidance or action taken during the pendency of this no-action relief, could supersede the relief granted herein.