

MEMO# 30569

February 8, 2017

CFTC Staff Issues No-Action Relief for Aggregation Notice Filings for Position Limits

[30569] February 8, 2017 TO: ICI Members

Investment Company Directors

ICI Global Members

Derivatives Markets Advisory Committee

ICI Global Trading & Markets Committee SUBJECTS: Derivatives

Trading and Markets RE: CFTC Staff Issues No-Action Relief for Aggregation Notice Filings for Position Limits

On February 6, the staff of the Commodity Futures Trading Commission's (CFTC) Division of Market Oversight (DMO) issued a time-limited no-action letter stating that it will not recommend an enforcement action for failure to file a notice when relying on certain aggregation exemptions from federal position limit levels. The letter is summarized briefly below.[\[1\]](#)

Background

On December 16, 2016, the CFTC published the final rule on aggregation of positions (amending Commission Regulation 150.4) for purposes of the position limits regime.[\[2\]](#) The amendments, which will become effective on February 14, 2017, determine which accounts and positions a person must aggregate for the purpose of determining compliance with the applicable position limit pursuant to Commission Regulation 150.2. Under amended Regulation 150.4, market participants relying on certain exemptions from aggregation are required to file a notice with the Commission demonstrating compliance with the conditions for the claimed exemption.[\[3\]](#) Absent relief, market participants would have been required to file notices by February 14, 2017, to rely on certain aggregation exemptions under CFTC Regulation 150.4(c). Generally, the notice must be made before the exemption from the aggregation is needed; the filings are a pre-requisite for obtaining the exemption.

Relief Granted

In the letter, DMO issued a time-limited no action relief under which DMO will not recommend that the Commission commence an enforcement action against any person or entity that is eligible to rely on an exemption from aggregation under Commission Regulation 150.4(b) for failing to comply with the notice filing requirements of Commission Regulation 150.4(c) until August 14, 2017. Upon the expiration of this relief, each person or

entity that intends to rely on an exemption from aggregation under Regulation 150.4(b) must file a notice as required under Regulation 150.4(c).

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endnotes

[1] CFTC Letter No. 17-06 (Feb. 6, 2017) *available at* <http://www.cftc.gov/idc/groups/public/@lrllettergeneral/documents/letter/17-06.pdf>.

[2] Aggregation of Positions, 81 FR 91454 (December 16, 2016) (“Final Rule”). For the summary of the Final Rule, see ICI Memorandum No. 30478 (December 14, 2016), *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/memo30478>.

[3] The exemptions for which a notice filing is required include: (1) an exemption for ownership by a person who is a principal or affiliate of the operator of the pooled account; (2) exemption for certain ownership of greater than 10 percent in an owned entity; (3) exemption for accounts carried by an independent account controller; (4) exemption for information sharing restriction. See 81 FR 91491.

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