

MEMO# 30972

December 11, 2017

CFTC Exempts EU Trading Venues from Registration and European Commission Recognizes US Trading Venues for Trading of Derivatives

[30972]

December 11, 2017 TO: ICI Members

ICI Global Members SUBJECTS: Derivatives

International/Global

Trading and Markets RE: CFTC Exempts EU Trading Venues from Registration and European Commission Recognizes US Trading Venues for Trading of Derivatives

Last week, the Commodity Futures Trading Commission (CFTC) and the European Commission (EC) took action that would ensure that US and EU counterparties can continue to use both EU and US trading venues to comply with the trading obligations under the Commodity Exchange Act and the Markets in Financial Instruments Regulation (MiFIR) and the amended Markets in Financial Instruments Directive (MiFID II).[\[1\]](#) The CFTC Order and the EC Equivalence Decision are briefly described below.

CFTC Order

On December 8, the CFTC issued an order exempting certain multilateral trading facilities (MTFs) and organised trading facilities (OTFs) authorized within the European Union from the requirement to register with the CFTC as swap execution facilities (SEFs). When the order becomes effective (January 3, 2018), swap transactions that are subject to the CFTC's trade execution requirement will be able to be executed on MTFs and OTFs that are listed in Appendix A of the CFTC Order. US persons also will be permitted to execute swaps that are not subject to the CFTC's trade execution requirement on these exempt SEFs. The CFTC Order contemplates that the list exempting EU venues may be amended with additional MTFs and OTFs at the request of the EU authorities. In granting the relief, the CFTC notes that certain CEA requirements will continue to apply, including the reporting requirements to counterparties that are subject to those requirements.

The list of MTFs and OTFs that are subject to the CFTC Order is as follows:

- Bloomberg Multilateral Trading Facility Limited (MTF)
- BGC Brokers LP (OTF)

- Dowgate (MTF)
- EBS MTF (MTF)
- GFI Brokers Limited (OTF)
- ICAP Global Derivatives (MTF)
- ICAP Securities (OTF)
- ICAP WCLK (MTF)
- iSWAP (MTF)
- NEX SEF Limited (MTF)
- Sunrise Brokers LLP (OTF)
- Trad-X (MTF)
- Tradeweb Europe Limited (MTF)
- Tradition (OTF)
- Tullett Prebon Europe (OTF)
- Tullett Prebon Europe (MTF)

EC Equivalence Decision

On December 7, 2017, the EC Equivalence Decision entered into force (one day after publication in the EU Official Journal). The EC Equivalence Decision would allow EU market participants to satisfy the MiFIR/MiFID II derivatives trading obligation by trading through the CFTC-regulated designated contract markets (DCMs) and SEFs listed in the annex.

The list of DCMs and SEFs considered equivalent under the EC Equivalence Decision is as follows:

DCMs considered equivalent:

- Cantor Futures Exchange, L.P.
- CBOE Futures Exchange, LLC
- Chicago Board of Trade (Board of Trade of the City of Chicago, Inc.)
- Chicago Mercantile Exchange, Inc.
- Commodity Exchange, Inc.
- Eris Exchange, LLC
- ICE Futures U.S., Inc.
- Minneapolis Grain Exchange, Inc.
- NASDAQ Futures, Inc.
- New York Mercantile Exchange, Inc.
- Nodal Exchange, LLC
- North American Derivatives Exchange, Inc.
- OneChicago LLC
- trueEX LLC

SEFs considered equivalent:

- 360 Trading Networks, Inc.
- Bats Hotspot SEF, LLC
- BGC Derivatives Markets, L.P.
- Bloomberg SEF LLC
- Chicago Mercantile Exchange, Inc.
- Clear Markets North America, Inc.
- DW SEF LLC
- FTSEF LLC
- GFI Swaps Exchange LLC

- GTX SEF LLC
- ICAP SEF (US) LLC
- ICE Swap Trade LLC
- LatAm SEF, LLC
- LedgerX LLC
- MarketAxess SEF Corporation
- Seed SEF LLC
- SwapEx LLC
- TeraExchange, LLC
- Thomson Reuters (SEF) LLC
- tpSEF Inc.
- Tradition SEF, Inc.
- trueEX LLC
- TW SEF LLC

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endnotes

[1] In the Matter of the Exemption of Multilateral Trading Facilities and Organised Trading Facilities Authorized Within the European Union from the Requirement to Register with the Commodity Futures Trading Commission as Swap Execution Facilities (Dec. 8, 2017), *available at* http://www.cftc.gov/idc/groups/public/@requestsandactions/documents/ifdocs/mtf_otfordr12-08-17.pdf (CFTC Order). Commission Implementing Decision (EU) 2017/2238 of 5 December 2017 on the equivalence of the legal and supervisory framework applicable to designated contract markets and swap execution facilities in the United States of America in accordance with Regulation (EU) No 600/2014 of the European Parliament and of the Council, (6 Dec. 2017), *available at* <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D2238&from=EN> (EC Equivalence Decision).

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