

MEMO# 28396

September 23, 2014

CFTC Issues No-Action Relief for SEFs from Certain Block Trade Requirements

[28396]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 60-14 RE: CFTC ISSUES NO-ACTION RELIEF FOR SEFS FROM CERTAIN BLOCK TRADE REQUIREMENTS

On September 19, 2014, the Division of Market Oversight (“DMO”) of the Commodity Futures Trading Commission (“CFTC”) issued no-action relief from the requirement that a swap block trade must “occur away” from the trading system or platform of a registered swap execution facility (“SEF”) or designated contract market (“DCM”). [\[*\]](#) The relief will expire on December 15, 2015.

In the letter, DMO states that, because of the current state of technology, SEFs and futures commission merchants (“FCMs”) may face challenges in facilitating pre-execution credit checks of block trades in a manner that is compliant with the “occurs away” requirement.; DMO is granting time-limited no-action relief from the “occurs away” requirement to provide time for the SEFs to evaluate and address the technology and other pre-execution credit check issues. Under the no-action relief, a SEF that has rules and/or procedures that provide for the use of a SEF trading system or platform to facilitate the execution of block trades for swaps that are intended to be cleared need not comply with the “occurs away” requirement under the following conditions:

- The block trade is not executed on the SEF’s Order Book functionality, as defined in § 37.3(a)(3);
- The SEF adopts rules pertaining to cleared blocks that indicate that the SEF is relying on the relief provided in the no-action letter and requires each cleared block trade executed on a non-Order Book trading system or platform to comply with the other requirements set forth in the block trade definition in § 43.2;
- The FCM completes the pre-execution credit check pursuant to § 1.73 at the time the order for a block trade enters the SEF’s non-Order Book trading system or platform; and
- The block trade is subject to void ab initio requirements where the swap is rejected on the basis of credit.

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endnotes

[*] CFTC Letter No. 14-118 (Sept. 19, 2014) available at
<http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/14-118.pdf>.

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