

MEMO# 28309

August 13, 2014

Draft Amended Joint Trade Association Letter Requesting Relief from CFTC Staff to Net Uncleared Swaps - Member Comments Requested by August 22

[28309]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 51-14
REGISTERED FUND CPO ADVISORY COMMITTEE RE: DRAFT AMENDED JOINT TRADE ASSOCIATION LETTER REQUESTING RELIEF FROM CFTC STAFF TO NET UNCLEARED SWAPS - MEMBER COMMENTS REQUESTED BY AUGUST 22

You may recall that in January 2013, ICI, along with the Investment Adviser Association, the Managed Funds Association, and the Asset Management Group of the Securities Industry and Financial Markets Association, submitted a letter to the Division of Swap Dealer and Intermediary Oversight (“DSIO”) of the Commodity Futures Trading Commission (“CFTC”) requesting relief to permit sponsors of registered investment companies and privately offered funds (together, “funds”) to net certain uncleared swaps held by a fund when applying the net notional test in amended CFTC Regulation 4.5 or 4.13(a)(3), as applicable. [\[1\]](#) The 2013 Letter requested relief for a fund to net uncleared swaps for purposes of the net notional test in each of Regulations 4.5 and 4.13(a)(3), provided that: (1) the termination dates of the offsetting swaps are the same, and (2) the reference asset or rate for the offsetting swaps is the same. The 2013 Letter requested that such netting be permitted regardless of whether the counterparties to the offsetting swaps are identical as the purpose of the de minimis limitations is to limit commodity exposure.

In March, 2014, a representative of the Alternative Investment Management Association (“AIMA”) [\[2\]](#) and a representative of K&L Gates had a meeting with the DSIO staff, at which the staff indicated that it would be more likely to grant the request for relief if the uncleared swaps to be netted were either (1) with the same counterparty or (2) with different counterparties, but the offsetting swaps were both outstanding for only a short period of time.

The draft amended request letter responds to the staff’s comments by revising the January 2013 Letter to request that the DSIO grant relief that would permit a fund to net uncleared swaps for purposes of the net notional test provided that (1) the termination dates of the

offsetting swaps are the same, (2) the reference asset or rate for the offsetting swaps is the same and (3) the swaps to be netted are either (A) with the same counterparty or (B) with different counterparties, but the offsetting swaps are both outstanding only for seven days or fewer.

If you have comments on the draft amended request letter, which is attached below, please provide them in writing to Sarah Bessin at sarah.bessin@ici.org and Rachel Graham at rgraham@ici.org no later than Friday, August 22.

Sarah A. Bessin
Senior Counsel

Rachel H. Graham
Senior Associate Counsel

[Attachment](#)

endnotes

[1] Letter from Karrie McMillan, General Counsel, Investment Company Institute, et al., to Mr. Gary Barnett, Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, dated January 25, 2013.

[2] AIMA was not a signatory to the 2013 Letter, but will be a signatory to the amended request letter.