

**MEMO# 27173**

April 10, 2013

## **CFTC Staff Provides Time-Limited No-Action Relief from Certain Swap Data Reporting Requirements**

[27173]

April 10, 2013

TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 32-13  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 29-13  
INVESTMENT ADVISER MEMBERS No. 25-13  
SEC RULES MEMBERS No. 36-13  
SECURITIES OPERATIONS ADVISORY GROUP RE: CFTC STAFF PROVIDES TIME-LIMITED NO-ACTION RELIEF FROM CERTAIN SWAP DATA REPORTING REQUIREMENTS

On April 9, the Division of Market Oversight of the Commodity Futures Trading Commission (“CFTC”) issued time-limited no-action relief for swap counterparties that are not swap dealers or major swap participants (“non-SD/MSP counterparties”) from certain swap data reporting requirements. [\[1\]](#) The compliance date for reporting for non-SD/MSP counterparties was April 10.

In the no-action letter, the CFTC staff provided different relief for financial swap counterparties and for non-financial swap counterparties. [\[2\]](#) The new compliance dates for non-financial swap counterparties are generally longer than those provided to financial swap counterparties. For financial swap counterparties, the CFTC staff did not extend the April 10 compliance deadline for reporting interest rate swaps and credit swaps. For equity swaps, foreign exchange swaps and other commodity swaps, the CFTC staff has extended the compliance date to May 29. As a condition of relying on this no-action relief, however, a financial swap counterparty must by June 20, 2013 backload and report to a swap data repository all swap transaction data for the period from April 10 to May 29 that the financial swap counterparty would have been required to report absent the relief. For “historical swaps,” [\[3\]](#) non-SD/MSP counterparties have until September 30 to report the data for all swap asset classes.

The no-action positions of the CFTC staff do not affect the recordkeeping obligations of non-SD/MSP counterparties. In addition, to comply with the recordkeeping requirements, a non-SD/MSP counterparty must obtain a CFTC Interim Compliant Identifier by April 10.

**endnotes**

[1] Time-Limited No-Action Relief for Swap Counterparties that are not Swap Dealers or Major Swap Participants from Certain Swap Data Reporting Requirements of Parts 43, 45 and 46 of the Commission’s Regulations, CFTC Letter No. 13-10, available at <http://www.cftc.gov/ucm/groups/public/@llettergeneral/documents/letter/13-10.pdf>.

[2] Pursuant to Section 2(h)(7)(C)(i) of the Commodity Exchange Act, the term “financial entity” means: (I) a swap dealer; (II) a security-based swap dealer; (III) a major swap participant; (IV) a major security-based swap participant; (V) a commodity pool; (VI) a private fund as defined in Section 202(a) of the Investment Advisers Act of 1940; (VII) an employee benefit plan as defined in paragraphs (3) and (32) of Section 3 of the Employee Retirement Income Security Act of 1974; or (VIII) a person predominantly engaged in activities that are in the business of banking, or in activities that are financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956.

[3] Historical swaps include swaps entered into before the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) and swaps entered into on or after the date of enactment of the Dodd-Frank Act and prior to the compliance date in the CFTC’s final swap data reporting rules in new part 45.