

MEMO# 30583

February 14, 2017

CFTC Division Issues No-Action Letter Providing Relief from Complying with Variation Margin Requirements Until September 1, 2017

[30583] February 14, 2017 TO: ICI Members

Derivatives Markets Advisory Committee

ICI Global Trading & Markets Committee

Registered Fund CPO Advisory Committee

Securities Operations Advisory Committee SUBJECTS: Derivatives RE: CFTC Division Issues No-Action Letter Providing Relief from Complying with Variation Margin Requirements Until September 1, 2017

The Commodity Futures Trading Commission's Division of Swap Dealer and Intermediary Oversight ("DSIO") recently issued a time-limited no-action letter providing relief to CFTC-regulated swap dealers from complying with variation margin requirements for uncleared swaps until September 1, 2017.[\[1\]](#) The letter follows ICI's efforts and request seeking relief and is summarized briefly below.[\[2\]](#)

Background

The CFTC adopted final margin rules generally requiring swap dealers and certain other swap entities to post and collect initial and variation margin for uncleared swaps transactions.[\[3\]](#) As part of the rules, swap dealers must exchange variation margin with other entities, including financial end-users (e.g., regulated funds), beginning on March 1, 2017. Accordingly, swap dealers must execute new or amended credit support documentation with virtually all financial end-users that comply with the new variation margin requirements prior to the March 1 deadline. Funds in good faith had attempted to engage with swap dealers to execute the credit support documentation, however, the sheer volume of documents and various obstacles have hindered their ability to meet the March 1 deadline. Without relief, many funds faced the real prospect of having few dealer counterparties with which to execute transactions and could have lost their ability to trade swaps.

No-Action Relief

CFTC staff recognized the challenges that swap dealers and end-users faced in meeting the March 1 deadline and the potential disruption in the uncleared swap markets. Therefore, DSIO granted relief stating that it will not recommend enforcement against a swap dealer that does not comply with the March 1 variation margin requirements prior to September 1, 2017, subject to the following conditions:[\[4\]](#)

- The swap dealer does not comply with the March 1 variation margin requirements with respect to a particular counterparty solely because it has not, despite good faith efforts, completed necessary credit support documentation (including custodial segregation documentation, if any) with such counterparty or, acting in good faith, requires additional time to implement operational processes to settle variation margin in accordance with the requirements with such counterparty;
- The swap dealer uses its best efforts to continue to implement compliance with the March 1 variation margin requirements without delay with each counterparty following March 1, 2017;
- To the extent the swap dealer has existing variation margin arrangements with a counterparty, it must continue to post and collect variation margin with such counterparty in accordance with such arrangements until the swap dealer can comply with the March 1 variation margin requirements with respect to that counterparty; and
- No later than September 1, 2017, the swap dealer complies with the March 1 variation margin requirements with respect to all swaps to which the requirements are applicable entered on or after March 1, 2017.

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endnotes

[1] See CFTC Letter No. 17-11 (Feb. 13, 2017), available at <http://www.cftc.gov/idc/groups/public/@lrllettergeneral/documents/letter/17-11.pdf>. The relief applies only to swap dealers and major swap participants for which there is not a prudential regulator.

[2] See Letter from David W. Blass, General Counsel, Investment Company Institute to Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, et al., dated January 30, 2017; See also ICI Memorandum No. 30551 (Jan. 30, 2017), available at https://www.ici.org/my_ici/memorandum/memo30551.

[3] For a summary of the CFTC's uncleared margin rules, please see ICI Memorandum No. 29587 (Dec. 22, 2015), available at: https://www.ici.org/my_ici/memorandum/memo29587. See also Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 Fed. Reg. 636 (Jan. 6, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-01-06/pdf/2015-32320.pdf>.

[4] DSIO notes that, during the no-action period, it intends to monitor the progress of swap dealers relying on the letter and expects them to make continual, consistent, and quantifiable progress toward compliance with the March 1 variation margin requirements. As with all CFTC no-action letters, DSIO notes that it retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief.

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