

MEMO# 26076

April 23, 2012

ICI Draft Letter on CFTC Reproposal on Block Trades - Comments Requested by May 3

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 15-12
CLOSED-END INVESTMENT COMPANY COMMITTEE No. 14-12
SEC RULES COMMITTEE No. 28-12 RE: ICI DRAFT LETTER ON CFTC REPROPOSAL ON BLOCK TRADES - COMMENTS REQUESTED BY MAY 3

The Commodity Futures Trading Commission (“CFTC”) has recently re-proposed rules specifying the procedures for determining block trade sizes. [\[1\]](#) The Reproposal defines the criteria for determining swap categories and the methodologies for setting appropriate minimum block sizes for each swap category. The Reproposal also includes additional measures to prevent public disclosure of the identities, business transactions, and market positions of swap market participants.

Comments on the Reproposal are due to the Commission no later than May 14, 2012. The Institute has prepared a draft comment letter, which is attached and briefly summarized below. If you have comments on the draft letter, please provide them to Jennifer Choi at jennifer.choi@ici.org by Thursday, May 3.

The draft letter expresses concern that the proposed 67-percent notional amount calculation would result in too high a threshold for block trades, which could cause disruptions in the swap markets. To minimize the potential negative effects of imposing a threshold for minimum block trades that is too high, the letter recommends that the CFTC adopt the 50-percent notional amount calculation that was suggested by the Commission as an alternative approach. Although the 50-percent notional amount calculation may delay for some period of time greater transparency of all swap transactions, a 67-percent notional amount calculation raises the risk of damaging market liquidity severely. Given these trade-offs, the draft letter notes that it would be prudent to be more cautious rather than rushing to achieve benefits that may not materialize and could harm the swaps markets and market participants.

The draft letter also recommends some modifications to the frequency of the calculation as well as the data used in the calculation. First, the draft letter states that once-a-calendar

year calculation of block trade sizes would be too infrequent and that the thresholds must be calculated more regularly to reflect changes in the market. Trade volumes in the swaps market can fluctuate considerably within a short period of time and, therefore, more frequent calculation is necessary to track liquidity. The letter recommends a quarterly or (at a minimum) a semi-annual calculation of the thresholds to ensure that the minimum block sizes continue to be appropriate for each category within an asset class. Second, the letter expresses concern that using a three-year window of data may not provide an appropriate data set to calculate the minimum block threshold, given the fact that swaps are not traded with a high degree of frequency. The letter suggests that the Commission look additionally (or alternatively) at a one year set of data and one quarter set of data to determine whether the calculation would produce more accurate results.

Finally, the draft letter states that the 75-percent notional amount calculation would set the cap size (the maximum limit of the principal, notional amount of a swap that would be publicly disseminated) at too high of a level. Given the lack of depth and liquidity in the swaps market, requiring principal amounts that do not meet the Commission's proposed cap size to be publicly reported may reveal the identity, business transaction, and market positions of market participants engaging in large transactions.

Jennifer S. Choi
Senior Associate Counsel – Securities Regulation

[Attachment](#)

endnotes

[\[1\]](#)Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades, RIN 3038-AD08, available at <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister022312.pdf> (Feb. 23, 2012) (“Reproposal”). For a summary of the Reproposal, see ICI Memorandum No. 25940 (Feb. 28, 2012), available at http://www.ici.org/my_ici/memorandum/memo25940.