

**MEMO# 28358**

September 3, 2014

# **ICI and Other Trade Associations Submit Amended Letter to CFTC Staff Requesting Relief to Net Uncleared Swaps**

[28358]

September 3, 2014

TO: ACCOUNTING/TREASURERS COMMITTEE No. 22-14  
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 55-14  
REGISTERED FUND CPO ADVISORY COMMITTEE RE: ICI AND OTHER TRADE ASSOCIATIONS  
SUBMIT AMENDED LETTER TO CFTC STAFF REQUESTING RELIEF TO NET UNCLEARED SWAPS

On August 29, ICI, along with the Investment Adviser Association, the Managed Funds Association, the Asset Management Group of the Securities Industry and Financial Markets Association, and the Alternative Investment Management Association (“AIMA”) (together, “trade associations”), submitted an amended 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 Regulations 4.5 or 4.13(a)(3), as applicable. The letter is attached, and is summarized below.

## **Background**

In January 2013, the trade associations submitted a letter to DSIO requesting relief to permit fund sponsors to net certain uncleared swaps. [\[1\]](#) 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 interest exposure.

In March, 2014, a representative of AIMA 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.

## **Amended Request**

The amended request letter responds to the staff's comments by revising the 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 business days or fewer.

Sarah A. Bessin  
Senior 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 ("2013 Letter"). AIMA was not a signatory to the 2013 Letter.

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.