

MEMO# 29262

August 17, 2015

ICI Files Comment Letter with CFTC Regarding the Made Available to Trade Process

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 61-15 RE: ICI FILES COMMENT
LETTER WITH CFTC REGARDING THE MADE AVAILABLE TO TRADE PROCESS

The Investment Company Institute (“ICI”) submitted a comment letter to the Commodity Futures Trading Commission (“CFTC” or “Commission”) as a follow-up to the public roundtable hosted by the CFTC’s Division of Market Oversight on July 15, 2015 regarding the “made available to trade” (“MAT”) determination process. The MAT process refers to the CFTC rules pursuant to which a swap becomes subject to mandatory trading on a swap execution facility (“SEF”) or designated contract market (“DCM”). The comment letter, which is attached, commends the CFTC and its staff for initiating a dialogue on the MAT process. The letter is intended to supplement ICI’s 2012 comment letter regarding the MAT process and to elaborate on our recommendations to address the risks and problems inherent in the current process.

The comment letter asserts that the current MAT process turns over to SEFs and DCMs the authority to cause a swap to become subject to mandatory trading with only a limited CFTC role in the process, and no requirement for a SEF or DCM to demonstrate that there is sufficient liquidity of the swap to trade on the SEF or DCM, or sufficient operational readiness of market participants to support mandatory trading in the swap. This process is fundamentally flawed. The letter states our view that MAT determinations, which are binding on the entire market and can significantly limit market participants’ trading and risk management strategies, should be subject to a robust review process that includes objective, principle-based standards and requires affirmative and substantive approval by the Commission. The letter urges the CFTC to implement the following reforms of the MAT process:

- Provide the CFTC with a more significant role in the MAT approval process;
- Establish more quantitative and comprehensive standards for proposed MAT determinations, and the CFTC’s evaluation and approval of such determinations;
- Require a mandatory 60-day public comment period for all proposed MAT determinations;

- Require that package transactions be reviewed as an integrated unit for purposes of assessing applicability of the MAT criteria;
- Establish a compliance period of at least 90 days for implementing MAT determinations; and
- Establish a robust process and standards for determining that a swap is no longer available to trade that allows the CFTC to respond to changes in the market.

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[Attachment](#)

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