

MEMO# 27817

January 2, 2014

Draft ICI Comment Letter on CFTC's Aggregation Proposal; Member Comments Requested by Wednesday, January 8

[27817]

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TO: CLOSED-END INVESTMENT COMPANY COMMITTEE No. 1-14
DERIVATIVES MARKETS ADVISORY COMMITTEE No. 1-14
SEC RULES COMMITTEE No. 1-14 RE: DRAFT ICI COMMENT LETTER ON CFTC'S
AGGREGATION PROPOSAL; MEMBER COMMENTS REQUESTED BY WEDNESDAY, JANUARY 8

Recently, the Commodity Futures Trading Commission ("CFTC" or "Commission") proposed modifications to the aggregation provisions. [\[1\]](#) We have prepared a draft comment letter on the Aggregation Proposal, which is attached. If you have comments on the draft letter, please provide them to Jennifer Choi at jennifer.choi@ici.org by Wednesday, January 8.

In the draft letter, ICI generally supports the CFTC's proposal to adopt aggregation standards based on the existing aggregation framework but requests certain changes and clarifications to make the provisions more workable for market participants. The comments focus principally on the proposed Independent Account Controller ("IAC") exemption. The letter argues that the proposed exemption would not permit exempt commodity trading advisors ("CTAs"), registered commodity pool operators ("CPOs"), or excluded commodity pool operators to act as IACs because they are not included in the proposed definition of IAC. The draft letter requests that the definition be expanded because there is no policy reason for excluding these entities from the IAC definition.

In addition, the letter expresses concern that the aggregation requirement could be read to suggest that positions managed independently by an asset manager subsidiary as a fiduciary for its own clients, rather than the eligible entity's clients, could somehow be attributable to the parent entity. The letter argues that such aggregation is neither warranted as a policy matter nor required by the terms of the current or proposed rules. The letter requests that the CFTC confirm our understanding that these positions would not be aggregated for purposes of the position limits.

Jennifer S. Choi
Senior Associate Counsel Securities Regulation

[Attachment](#)

endnotes

[1] Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013), available at <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2013-27339a.pdf> (“Aggregation Proposal”). The CFTC in a separate release re-proposed speculative position limits for the 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-12-12/pdf/2013-27200.pdf> (“Position Limits Proposal”). Comments on the Position Limits Proposal are due by February 10, 2014. ICI’s Memorandum summarizing these proposals is available at http://www.ici.org/my_ici/memorandum/memo27707.

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