



**U.S. COMMODITY FUTURES TRADING COMMISSION**

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Division of Swap Dealer and  
Intermediary Oversight

Joshua B. Sterling  
Director

**Re: No-Action Positions for Certain Members of Designated Contract Markets and Swap Execution Facilities to Facilitate Physical Separation of Personnel in Response to the COVID-19 Pandemic**

Ladies and Gentlemen:

This letter is in response to a request received by the Division of Swap Dealer and Intermediary Oversight (“**DSIO**”) of the Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) from multiple market participants regarding regulatory obligations of persons that are members of designated contract markets (“**DCMs**”) or swap execution facilities (“**SEFs**”) that are not registered with the Commission in any capacity (each, a “**Member**”).

The World Health Organization declared the coronavirus disease 2019 (“**COVID-19**”) outbreak a global pandemic on March 11, 2020. DSIO understands from market participants and their representatives that the COVID-19 pandemic may present challenges in timely meeting certain of their obligations under the Commodity Exchange Act (“**CEA**”) and Commission regulations. These market participants may have significant operations in affected areas or areas that may become affected by the COVID-19 pandemic. Disruptions in transportation and limited access to facilities and support staff as a result of the COVID-19 pandemic could hamper efforts of market participants to meet their regulatory obligations. In light of these developments, DSIO is issuing this letter to assist affected market participants with satisfying their obligations under the CEA and Commission regulations.

In connection with an industry-wide response to the COVID-19 pandemic, no-action relief has been requested for failure to comply with certain Commission regulations where compliance is anticipated to be particularly challenging or impossible because of displacement of firm personnel from their normal business sites due to community non-pharmaceutical interventions such as social distancing and closures in response to the COVID-19 pandemic.

## **I. DSIO No-Action Position**

In order to support an orderly response to the COVID-19 pandemic, DSIO believes that the no-action position set forth below is warranted. DSIO expects that as COVID-19-related risks decrease, Members will return to compliance with all regulatory obligations from which relief has been provided.

Until June 30, 2020, DSIO will not recommend that the Commission take an enforcement action against any Member for the failure to comply with the following Commission regulation, subject to the applicable conditions stated below:

***Time-Stamps.*** Any requirement to record the date and time by time-stamp or other timing device pursuant to Commission regulation 1.35 if the personnel responsible for making such record are required to be absent from their normal business site, *provided* that a record of the date and time, to the nearest minute, is otherwise created and maintained in accordance with Commission regulation 1.35.

The relief provided for Members above is expressly conditioned on the Member's compliance with all applicable rules of any designated contract market and/or swap execution facility on which the Member has trading privileges.

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## **II. Conclusion**

DSIO recognizes that registrants and other affected market participants may require additional or different relief in their efforts to comply with the requirements of the CEA and Commission regulations. As a result, persons that require other relief are encouraged to contact DSIO staff. DSIO staff will address issues on a case-by-case basis in light of the requesting person's particular fact and circumstances.

This letter, and the positions taken herein, represent the views of DSIO only, and do not necessarily represent the position or view of the Commission or of any other office or division of the Commission. The relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements contained in the CEA or in Commission regulations. Further, this letter, and the positions taken herein, are based upon the facts and circumstances presented to DSIO. Any different, changed, or omitted material facts or circumstances may render the relief provided by this letter void.

Finally, as with all staff letters, DSIO retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of relief provided herein, in its discretion.

If you have any questions concerning this correspondence, please contact Frank Fisanich, Chief Counsel, DSIO, at (202) 418-5949 or [ffisanich@cftc.gov](mailto:ffisanich@cftc.gov).

Very truly yours,

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Joshua B. Sterling  
Director  
Division of Swap Dealer and Intermediary Oversight

cc: Regina Thoele, Compliance  
National Futures Association, Chicago