

October 13, 2017

CFTC Comparability Determination on EU Margin Requirements and a Common Approach on Trading Venues

Washington, DC — The U.S. Commodity Futures Trading Commission (CFTC) Chairman J. Christopher Giancarlo today announced determinations by the CFTC and the European Commission (EC) on comparability and equivalence of margin requirements for uncleared swaps, as well as a common approach regarding certain CFTC and European Union (EU) authorized derivatives trading venues. These announcements follow extensive cooperation between the staffs of the CFTC and the EC and reflect the CFTC's ongoing commitment to international collaboration and comity.

"Today marks a significant milestone in cross-border harmonization between the European Commission and the CFTC," said Giancarlo. "These cross-border measures will provide certainty to market participants and also ensure that our global markets are not stifled by fragmentation, inefficiencies, and higher costs. Indeed these measures are critical to maintaining the integrity of our swaps markets. I look forward to continuing to work with Vice President Dombrovskis and the European Commission staff in a cooperative manner to make further progress in harmonizing our regulatory frameworks."

"I commend the staffs of the CFTC and EC for their hard work and dedication," said CFTC Commissioner Brian Quintenz. "This is a significant accomplishment that will help prevent fragmentation of the global derivatives market, and it truly reflects the outcomes-based approach to comparability determinations which Chairman Giancarlo promised and which was sorely lacking during the prior administration. If the outcomes align with our own, comparability should be achieved."

"As important financial reforms are phased in across the globe, effective cross-border harmonization must be a top priority for all regulators," said CFTC Commissioner Rostin Behnam. "Today's substituted compliance determination is a step towards harmonization, and I look forward to working with Chairman Giancarlo, Commissioner Quintenz, and our international counterparts to ensure global markets are safe, transparent, and free of fragmentation."

Margin Comparability/Equivalence Determinations

CFTC Commissioners this week unanimously approved a comparability determination finding the margin requirements for uncleared swaps under the laws and regulations of the EU comparable in outcome to those under the Commodity Exchange Act (CEA) and CFTC regulations. This determination is effective immediately.

Pursuant to the CFTC's comparability determination, a swap dealer or major swap participant that is subject to the both the CFTC's and EU's margin rules with respect to an uncleared swap may rely on substituted compliance wherever available under the CFTC's margin rules. Any such swap dealer or major swap participant that complies with the EU's margin rules would be deemed to be in compliance with the CFTC's margin rules, but would remain subject to the CFTC's examination and enforcement authority.

The CFTC's comparability determination renders moot CFTC Staff Letter No. 17-22, in which the CFTC's Division of Swap Dealer and Intermediary Oversight provided time-limited no-action relief from compliance with certain provisions of the CFTC's margin rules for swap dealers that entered into swaps with counterparties that were subject to the EU's margin rules.

Today's announcement coincides with the EC's announcement of an equivalence decision which similarly finds that the CFTC's uncleared swap margin rules are

comparable in outcome to the EU's corresponding margin requirements for uncleared OTC derivatives.

The Common Approach on Certain Derivatives Trading Venues

Additionally, Chairman Giancarlo and EC Vice President for Financial Stability, Financial Services and Capital Markets Union, Valdis Dombrovskis, today announced a common approach regarding certain CFTC and EU authorized derivatives trading venues.

Under the common approach, the Vice President intends to propose that the EC adopts an equivalence decision covering the CFTC authorized SEFs and DCMs that are notified to it by the CFTC, provided the requirements of the Markets in Financial Instruments Regulation (MiFIR), the Markets in Financial Instruments Directive (MiFID II), and the Market Abuse Regulation (MAR) are met. CFTC staff intends to propose, and the Chairman will support, the CFTC's exemption from the SEF registration requirement, through a single exemption order, of the trading venues authorized in accordance with the MiFID II/MiFIR requirements that have been identified to the CFTC by the EC, provided that they satisfy the standard set forth in CEA Section 5h(g).

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