



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing
and Risk

CFTC Letter No. 13-21
Other Written Communication
May 31, 2013
Division of Clearing and Risk

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Extension for Compliance with Rule 1.73(a)(2)(v)(B) - Screening of Bunched Orders

Dear Mr. Lukken, Ms. McMillan, Mr. Kaswell, Mr. Cameron, and Mr. Nevins:

On April 9, 2012, the Commission published clearing member risk management rules.¹ The Rules are codified in Part 1 of the Commission's regulations and became effective on October 1, 2012. Rule 1.73 requires a clearing futures commission merchant ("FCM") of a registered derivatives clearing organization ("DCO") to establish risk-based limits and screen orders for compliance with those limits. Rule 1.73 applies to FCMs clearing those products for which the clearing organization is registered with the Commission as a DCO. Rule 1.73(a)(2)(v)(B) requires that a clearing FCM accepting bunched orders establish risk-based

¹ 77 FR 21278.

limits for each customer and enter into an agreement in advance with the account manager to enforce those limits.

In a July 2, 2012 letter, the Futures Industry Association (“FIA”) asked for an extension for six months beyond the October 1, 2012 effective date in order for market participants to achieve compliance. On September 26, 2012, the Division of Clearing and Risk (“DCR”) granted an extension for eight months, to June 1, 2013, for give-ups and bunched orders for futures contracts. However, in a letter dated May 21, 2013, FIA, the Investment Company Institute, the Managed Funds Association, and the Securities Industry and Financial Markets Association’s Asset Management Group (“Industry Associations”) requested an additional extension of three months to September 1, 2013.

In the May 21 letter, the Industry Associations informed DCR that they developed an action plan and industry standard agreement that will satisfy the rule requirements of Rule 1.73(a)(2)(v)(B). Nevertheless, the Industry Associations believe more time is required in order to disseminate the documents and promote industry-wide education regarding the rule requirements and the industry standard agreement. The Industry Associations requested that DCR defer the effective date again for a period of three more months.

In light of these circumstances, the Division herein conditionally grants the requested extension for futures with regard to the obligation of FCMs clearing allocated trades to establish risk-based limits for each customer and enter into an agreement with the account manager requiring the account manager to screen orders for compliance with those limits. However, this relief is only available if the FCM initially clearing the bunched order establishes risk-based limits for the bunched order and screens the order for compliance with the limit. Provided this condition is met, the Division hereby requires compliance with Rule 1.73(a)(2)(v)(B) (bunched orders) no later than September 1, 2013, unless the Industry Associations are notified otherwise.

This extension is granted by the Division in reliance on the representations contained in your request, and any different, changed, or omitted material facts or circumstances may require termination of the extension and immediate action by clearing member FCMs to facilitate compliance. The Division retains the authority to condition further, modify, suspend, or otherwise restrict the extension granted herein.

Notwithstanding the extension granted herein, the Division reminds clearing member FCMs that they remain responsible for the other risk management requirements of Rules 1.73(a)(1), (a)(2)(i)-(iii), (a)(3)-(a)(8), and 1.73(b), and clearing FCMs will be responsible for the risk management requirements of Rules 1.73(a)(2)(iv), (a)(2)(v)(A), and (a)(2)(v)(C) on June 1, 2013. This letter does not extend the relief previously granted in connection with give-ups on September 26, 2012. Nor, as stated above, does it extend the relief previously granted in connection with the screening by the FCM clearing the bunched orders. Additionally, reliance on other entities, including third-party vendors, does not excuse a failure to comply with such requirements.

This letter represents the position of the Division only and does not necessarily represent the views of the Commission or those of any other division or office of the Commission.

If you have any questions concerning this correspondence, please contact John C. Lawton, Deputy Director, at 202-418-5480, or jlawton@cftc.gov, or Christopher Hower, Attorney-Advisor, at 202-418-6703 or chower@cftc.gov.

Sincerely,

Ananda Radhakrishnan
Director