



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Market Oversight

CFTC Letter No. 13-46
No-Action
July 11, 2013
Division of Market Oversight

Re: Amendment to the Direct Access No-Action Letters Issued to Foreign Boards of Trade to Permit Swaps to be Listed for Trading by Direct Access

Under the terms of the existing direct access no-action relief letters issued by the Commission's Division of Market Oversight (Division), a foreign board of trade (FBOT) may permit identified members or other participants located in the United States to enter trades directly into the trade matching system of the FBOT only with respect to futures and option contracts. By comparison, an FBOT registered pursuant to Part 48 of the Commodity Futures Trading Commission's regulations can also list for trading by direct access, subject to certain conditions, swap contracts. In view of the time required to properly assess the numerous registration applications that have been filed and given the Commission's resource constraints and in view of the apparent interest on the part of certain FBOTs operating pursuant to the no-action relief in listing swaps for trading by members or participants located in the U.S., the Division has determined to amend the no-action letters to permit those FBOTs to list swap contracts for trading by direct access, subject to the following conditions:

1. The swaps must meet the requirements of regulation 48.7(c), including that they must be cleared by a clearing organization that meets the requirements of regulation 48.7(d).
2. The swaps must satisfy the conditions identified in regulation 48.8(a)(9) except that (a) if the FBOT reports all transaction data as soon as technologically practicable after execution of the swap transaction to a swap data repository (SDR) that is either registered with the Commission or has an information sharing arrangement with the Commission, the FBOT must either enter into an arrangement with the SDR pursuant to which the SDR agrees to publicly disseminate the transaction data as soon as technologically practicable or the FBOT must report the data to the public itself as soon as technologically practicable or (b) if no SDR that meets the requirements identified above is available, the FBOT must report the transaction data to the public itself as soon as technologically practicable and comply with the SDR reporting requirements of regulation 48.8(a)(9)(i) as soon as practicable following the licensing or registration of a SDR that meets applicable requirements.

3. Volume data for the swap must be included in the FBOT's quarterly volume report.
4. If the swap contract is a linked contract, as defined in regulation 48.2(d), the FBOT must comply with the conditions applicable to linked contracts as set forth specified in regulation 48.8(c).
5. Prior to listing a swap for trading by direct access, the FBOT must submit a written request pursuant to the procedures outlined in regulation 48.10.

This relief is subject to compliance with the above conditions and, to the extent they do not conflict, with the terms and conditions included in the FBOT's direct access no-action relief letter and any other amendment thereto. The Division's no-action position does not extend to any other provision of the Act, any other Commission regulations or orders, or to any registered futures association rules and does not excuse any FBOT permitting direct access pursuant to no-action relief, or its members or other participants, from compliance with any applicable requirements thereunder.¹

The no-action position taken herein is taken by the Division only and does not necessarily reflect the views of the Commission or any other unit or member of the Commission's staff. Finally, as with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief provided herein, in its discretion.

If you have any questions regarding this correspondence, please contact Duane C. Andresen, Associate Director, Division of Market Oversight, at (202) 418-5492.

Very truly yours,

Richard A. Shilts,
Director

¹ The relief granted by this no-action letter, permission to list swaps for trading by direct access, becomes unnecessary and expires upon the FBOT's registration under the Part 48 regulations. Upon an FBOT becoming so registered, it will be able to list swaps for trading by direct access pursuant to Part 48's requirements.