



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and Risk

Mr. Hongbo Wang
Deputy General Manager
Shanghai Clearing House
No. 2 East Beijing Road
Huangpu District
Shanghai, People's Republic of China

Re: Extension of No-Action Relief with Regard to Section 5b(a) of the Commodity Exchange Act and Commission Regulations Thereunder

Dear Mr. Wang:

By letter dated May 31, 2016 (CFTC Letter No. 16-56), the Division of Clearing and Risk ("Division") of the Commodity Futures Trading Commission ("Commission") first provided relief to Shanghai Clearing House ("SHCH"), stating that the Division would not recommend that the Commission take enforcement action against SHCH for failure to register as a derivatives clearing organization ("DCO") pursuant to the requirements of Section 5b(a) of the Commodity Exchange Act (the "CEA")¹ and Commission regulations thereunder, subject to certain conditions described in the letter.² The relief was set to expire on July 31, 2022. The Division is hereby extending the relief for up to one additional year, for the reasons discussed below.

Under the terms of the relief, SHCH is permitted to clear swaps³ for the proprietary accounts⁴ of SHCH clearing members that are U.S. persons or affiliates of U.S. persons. The

¹ 7 U.S.C. § 7a-1(a) (DCO registration requirement).

² [CFTC Letter No. 16-56](#) granted relief until May 31, 2017. The relief subsequently was extended until November 30, 2017, by [CFTC Letter No. 17-26](#) (May 16, 2017), until February 28, 2018, by [CFTC Letter No. 17-62](#) (November 20, 2017), until February 28, 2019, by [CFTC Letter No. 18-04](#) (February 22, 2018), until July 31, 2021, by [CFTC Letter No. 18-18](#) (July 31, 2018), and until July 31, 2022, by [CFTC Letter No. 20-46](#) (Dec. 17, 2020).

³ CFTC Letter No. 16-56 permitted SHCH to clear certain swaps subject to mandatory clearing in the People's Republic of China, subject to the restrictions included therein. CFTC Letter

relief was provided to SHCH while the Division reviewed SHCH's application⁵ to the Commission for an exemption from registration as a DCO pursuant to Section 5b(h) of the CEA⁶ and the Commission finalized a rulemaking regarding exemption from DCO registration.⁷

The Division believed that legitimate business interests were facilitated by permitting, on a temporary basis and subject to certain conditions, U.S. persons to clear swaps through SHCH. Because SHCH is the only clearinghouse that clears onshore Chinese renminbi-denominated interest rate swaps⁸ and because the People's Bank of China requires several such products to be cleared, those wishing to transact in such products must clear them through SHCH. SHCH has a U.S. clearing member that currently clears such products.

SHCH recently submitted to the Division a draft of an updated application for an exemption from registration as a DCO.⁹ To permit the Division to review the updated application and resolve any outstanding issues with SHCH, the Division is extending the relief initially provided in CFTC Letter No. 16-56 as provided below.

Time-Limited Extension of No-Action Relief

Based on the facts presented and the representations SHCH has made, the Division will not recommend that the Commission take enforcement action against SHCH for failure to register as a DCO pursuant to the requirements of Section 5b(a) of the CEA, subject to:

- (1) the conditions specified in CFTC Letter No. 20-46; and
- (2) continued compliance with the daily reporting condition specified in CFTC Letter No. 18-18.

No. 20-46 broadened the range of permissible products to "swaps accepted for clearing by SHCH."

⁴ 17 C.F.R. § 1.3 (definition of "proprietary account").

⁵ Received November 22, 2016. The Commission referred to an application for an exemption from registration as a DCO as a "petition" prior to the adoption of 17 C.F.R. § 39.6.

⁶ 7 U.S.C. § 7a-1(h) (exemption from DCO registration).

⁷ Exemption From Derivatives Clearing Organization Registration, 86 FR 949 (Jan. 7, 2021) (codified at 17 C.F.R. § 39.6).

⁸ Other clearinghouses clear certain products related to "offshore Chinese renminbi." Offshore Chinese renminbi, denoted by the currency code "CNH," refers to certain Chinese currency traded outside the People's Republic of China. Its value may differ from that of so-called "onshore Chinese renminbi," denoted by the currency code "CNY," which refers to Chinese currency traded within the People's Republic of China.

⁹ Received June 17, 2022.

The no-action relief shall expire at the earlier of: (i) July 31, 2023, or (ii) the date on which the Commission exempts SHCH from registration as a DCO under Section 5b(h) of the CEA.

The Division notes that the Commission will make the ultimate decision regarding whether to approve SHCH's application for an exemption from registration as a DCO, and on what timeframe. The Division anticipates that the Commission is likely to make its decision by July 31, 2023. However, even if the Commission has not made a decision by that date, the Division does not plan to extend this relief any further and therefore encourages any persons relying on the relief to unwind transactions as necessary.

The position taken herein concerns enforcement action only and does not represent a legal conclusion with respect to the applicability of any provision of the CEA or the Commission's regulations. In addition, the Division's position does not necessarily reflect the views of the Commission or any other division or office of the Commission. Because this position is based on the facts and representations contained in SHCH's original request letter, any different, changed, or omitted material facts or circumstances may require a different conclusion or render this letter void. 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.

Should you have questions regarding this matter, please contact Brian Baum, Special Counsel (bbaum@cftc.gov, 202-418-5654), or Eileen Donovan, Deputy Director (edonovan@cftc.gov, 202-418-5096).

Sincerely,

M. Clark Hutchison
Director