INVESTMENT COMPANY INSTITUTE

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August 23, 2012

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: *Cross-Border Application of Certain Swaps Provisions of the Commodity Exchange Act (RIN 3038-AD57)*

Dear Mr. Stawick:

The Investment Company Institute ("ICI")[1] and ICI Global[2] appreciate the opportunity to provide comments on the proposed interpretive guidance regarding the cross-border application of the swaps provisions of the Commodity Exchange Act ("CEA") that were enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[3] The Proposed Guidance recognizes that many swaps businesses are conducted across multiple jurisdictions and that guidance is necessary given the uncertainty regarding the application of Title VII of the Dodd-Frank Act to the cross-border activities of non-U.S. and U.S. market participants.[4]

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[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds ("ETFs"), and unit investment trusts ("UITs"). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $13.1 trillion and serve over 90 million shareholders.

[2] ICI Global is the global association of regulated funds publicly offered to investors in leading jurisdictions worldwide. ICIG seeks to advance the common interests and promote public understanding of global investment funds, their managers, and investors. Members of ICIG manage total assets in excess of US $1 trillion.

[3] *Cross-Border Application of Certain Swaps Provisions of the Commodity Exchange Act*, 77 FR 41214, *available at* http://www.gpo.gov/fdsys/pkg/FR-2012-07-12/pdf/2012-16496.pdf (July 12, 2012) ("Proposed Guidance").

[4] In a companion release, the CFTC proposed to provide temporary exemptive relief to allow non-U.S. swap dealers ("SDs") and non-U.S. major swap participants ("MSPs") to delay compliance with specific entity-level requirements subject to certain conditions and to allow non-U.S. SDs and non-U.S. MSPs to comply only with transactional-level requirements as may be required in the home jurisdiction for swaps with non-U.S. counterparties ("Proposed Exemptive Order"). The Proposed Exemptive Order also would permit U.S. SDs and U.S. MSPs to delay compliance with certain entity-level

ICI and ICI Global believe that the CFTC's proposed extraterritorial approach extends the swaps provisions of the CEA beyond what was intended under Title VII and could result in the imposition of the swaps provisions to entities that have only a nominal nexus to the United States. Importantly, we are concerned that the CFTC's approach could disadvantage U.S. registered investment companies ("U.S. registered funds") and certain non-U.S. investment companies ("non-U.S. funds") that engage in derivatives transactions around the world.

Specifically, the CFTC's proposed expansive definition of "U.S. person" could include non-U.S. funds without a significant connection to the United States and require them to comply with certain swaps provisions of the CEA. Moreover, the proposed definition could discourage non-U.S. counterparties from engaging in derivatives transactions with these non-U.S. funds to avoid being regulated as an SD or MSP or triggering significant compliance obligations under the Dodd-Frank Act. The burdensome process for permitting non-U.S. SDs and non-U.S. MSPs to comply with their own home regulations in lieu of the Title VII requirements under the Dodd-Frank Act also is likely to deter these entities from conducting transactions with U.S. registered funds and non-U.S. funds that are deemed U.S. persons. Finally, the CFTC's proposal to prohibit non-U.S. counterparties that are not SDs and MSPs from complying with their home country regulations in lieu of the CEA requirements may dissuade these non-U.S. counterparties from engaging in transactions with U.S. registered funds and non-U.S. funds that are deemed U.S. persons and result in overlapping and/or conflicting requirements by multiple regulators. We discuss each of these concerns in more detail below.

I. Definition of U.S. Person

For purposes of the Proposed Guidance, the CFTC proposes to interpret the term "U.S. person" by reference to the extent to which swap activities or transactions involving one or more such persons have an effect on U.S. commerce. The CFTC proposes to include within the term:

> (1) any natural person who is a resident of the United States;
> (2) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing, in each case, that either
>> (i) is organized or incorporated under the laws of the United States or having its principal place of business in the United States or
>> (ii) in which the direct or indirect owners are responsible for the liabilities of such entity and one or more of such owners is a U.S. person;
> (3) any individual account (discretionary or not) where the beneficial owner is a U.S. person;

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requirements until January 1, 2013. *Exemptive Order Regarding Compliance with Certain Swap Regulations*, 77 FR 41110, *available at* http://www.gpo.gov/fdsys/pkg/FR-2012-07-12/pdf/2012-16498.pdf (July 12, 2012).

> (4) any commodity pool, pooled account, or collective investment vehicle (regardless of where it is incorporated) of which a majority ownership is held by a U.S. person(s);
> (5) any commodity pool, pooled account, or collective investment vehicle the operator of which would be required to register as a commodity pool operator under the CEA;
> (6) a pension plan for the employees, officers, or principals of a legal entity with its principal place of business inside the United States; and
> (7) an estate or trust, the income of which is subject to United States income tax regardless of source.

Under the Proposed Guidance, a "U.S. person" generally would include a foreign branch or agency of a U.S. person, but a foreign affiliate or subsidiary of a U.S. person would not be considered a U.S. person.

A. Definition of U.S. Persons for Non-U.S. Funds

We have concerns with two of the definitions that address commodity pools, pooled accounts, and collective investment vehicles. The proposed definition of "U.S. person" would include any commodity pool, pooled account, or collective investment vehicle (regardless of where it is incorporated) of which a majority ownership is held by a U.S. person(s). We do not believe this definition is workable. First, many non-U.S. funds are publicly traded in the secondary market, and the manager/operator of the fund and the fund would not know the composition of the investor-base in the secondary market. Second, because of the distribution system for non-U.S. funds and the use of omnibus accounts, the fund manager/operator (and its administrator/recordkeeper) would not know the ultimate beneficial owners of the funds. Investors in non-U.S. funds typically purchase fund shares through intermediaries (not directly from the fund), and these shares are registered and held in nominee/street name accounts.[5] When shares are held through such accounts, the fund manager/operator (and its administrator/recordkeeper) do not have information regarding the underlying investors.[6] In fact, there may be multiple layers of omnibus intermediaries through which the ultimate investors may hold shares.[7] Moreover, certain jurisdictions may prohibit disclosure by intermediaries of beneficial owner information, such as personal addresses which may constitute "personal data," for example under EU data protection laws.

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[5] *See* OECD, *The Granting of Treaty Benefits with Respect to the Income of Collective Investment Vehicles* (April 2010)

[6] *Id.*

[7] An omnibus account is held in the name of an intermediary (*e.g.,* broker-dealer, investment adviser, financial institution, or insurance company) and represents the aggregate share balance of all the subaccounts of multiple investors in the fund that are customers of the intermediary. An intermediary's omnibus account with the fund may include other omnibus accounts for which the intermediary provides services and keeps records. The fund manager/operator (and its administrator/recordkeeper) would not have transparency or information about the beneficial investors that are customers of intermediaries held in omnibus accounts, unless the intermediaries were required by law or regulation to provide such information.

The other troubling definition in the Proposed Guidance would consider any commodity pool, pooled account, or collective investment vehicle the operator of which would be required to register as a commodity pool operator under the CEA to be a "U.S. person." As currently drafted, this prong of the "U.S. person" definition could include a non-U.S. fund that does not itself trigger its operator's registration as a commodity pool operator. If the CFTC takes this approach, these non-U.S. funds could be considered "U.S. persons" solely because they are operated by a registered CPO (which had to register as a CPO as a result of its commodity interest trading activities apart from the non-U.S. funds). We do not believe the CFTC intended such a broad and unnecessary extension of its jurisdiction. We, therefore, urge the CFTC to clarify that a U.S. person would not include a non-U.S. fund solely because it is operated by a registered CPO.

Section 722(d) of the Dodd-Frank Act specifies that Title VII will not apply to activities outside the United States unless those activities, in part, have a direct and significant connection with activities in, or effect on, commerce of the United States or when they contravene such rules as the CFTC may adopt to prevent evasion. We believe, however, that the broad definition of U.S. persons for commodity pools, pooled accounts, and collective investment vehicles inappropriately draws in entities to the U.S. regulatory regime that have only indirect and insignificant connections with activities in or effects on commerce of the United States, such as non-U.S. funds whose only connection to the United States may be that they are operated by a registered CPO. We believe this result would not be consistent with the "direct and significant" connection with the United States that is required under Dodd-Frank for the CFTC to apply the provisions of Title VII.[8]

B. Consequences of Defining Non-U.S. Funds with a Nominal Nexus to the United States as a "U.S. Person"

The definition of U.S. person would impose significant regulatory obligations on certain non-U.S. funds with only a tangential nexus to the United States. These non-U.S. funds would have to comply with certain swaps provisions of the CEA, which may duplicate or conflict with the regulations of their home country. For example, if an EU fund is classified as a "U.S. person" and thus subject to

[8] The CFTC's proposed U.S. person definition also includes any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing, in each case, that either (i) is organized or incorporated under the laws of the United States or having its principal place of business in the United States or (ii) in which the direct or indirect owners are responsible for the liabilities of such entity and one or more of such owners is a U.S. person. Although it is not clear what the CFTC means by owners who are "responsible for the liabilities" of such entities, we note that liabilities of investors in U.S. registered funds and non-U.S. funds are limited to their investment in the fund. We, therefore, do not believe non-U.S. funds would be captured by this definition. Moreover, an interpretation of the definition that would define a U.S. person as a non-U.S. fund with one U.S. person investor would make the first proposed definition regarding commodity pools, pooled accounts, and collective investment vehicles superfluous and would be an inappropriate extension of the CFTC's jurisdiction for the reasons discussed above.

the clearing requirement under Title VII of the Dodd-Frank Act in respect of a particular transaction, that EU fund may find that it nonetheless has to comply with the requirement under the European Market Infrastructure Regulation ("EMIR") to clear that same transaction. Among other things, there would be conflicting requirements in respect of collateral segregation, given that the U.S. legal segregation with operational commingling ("LSOC") model differs from the two models available under EMIR (*i.e.,* the omnibus client segregation model and the individual client segregation model).

The broad reach of these proposed definitions has implications not only for the non-U.S. funds that would be captured by them, but for the non-U.S. counterparties that may engage in derivatives transactions with them and become subject to Title VII of the Dodd-Frank Act and CFTC regulations as a result. Specifically, non-U.S. entities that engage in transactions with non-U.S. funds that are deemed U.S. persons may have to calculate whether they cross the threshold for being a "swap dealer" or a "major swap participant" and comply with the significant requirements applicable to such entities. At the very least, a non-U.S. entity engaging in derivatives transactions outside the United States with a non-U.S. fund that is deemed a U.S. person would be required to comply with certain requirements of the Dodd-Frank Act and CFTC regulations as discussed more fully in Section III.

C. Alternative Test for Non-U.S. Funds

In lieu of the two tests discussed above for determining whether a commodity pool, pooled account, or collective investment vehicle is a "U.S. person," we recommend that the Commission define a commodity pool, pooled account, or collective investment vehicle that is offered publicly, directly or indirectly, by the manager/sponsor to U.S. persons to be a U.S. person. Focusing on the "offer to U.S. persons" has two key advantages. First, if the "U.S. person" determination is made by how a commodity pool, pooled account, or collective investment vehicle conducts its offerings, the definition will be workable and systems are already in place to comply with the standard (as described in more detail below). This approach also would provide certainty to counterparties at the outset of a swap transaction regarding what laws would govern. Therefore, both counterparties would be able to plan for, and address, the consequences of the "U.S. person" determination for their swaps transactions. For example, under our recommended definition, a non-U.S. fund that fits within the definition of U.S. person and its counterparties would understand that any swaps transactions entered into would be subject to CEA requirements as required by the CFTC. If, however, the determination of a "U.S. person" could evolve over time because of changes in the investor base that were beyond the control of a fund or its manager/operator, the counterparties would have to tackle the difficult issues of how swaps that were entered into before those changes would now have to comply with CEA requirements.

Second, our proposed definition would look to whether the commodity pool, pooled account, or collective investment vehicle is attempting to target the U.S. market or U.S. investors and should appropriately be subject to U.S. laws. By focusing on the directed activities of the fund and its manager/operator and not activities that are beyond the control of the fund or its fund manager/

operator, we believe the CFTC could readily determine those funds that have a significant connection to the United States or to U.S. commerce.

With respect to defining a "U.S. person" as a commodity pool, pooled account, or collective investment vehicle that is offered publicly to U.S. persons, we believe Regulation S under the Securities Act of 1933 ("Securities Act") could be of assistance to the Commission. In the Proposed Guidance, the CFTC requested comment on whether it should interpret the term "U.S. person" in a similar manner as Regulation S "notwithstanding that Regulation S has a different focus." We believe Regulation S, which addresses when a securities "offering" that takes place outside of the United States would not have to comply with the registration requirements under the Securities Act, could provide helpful guidance in analyzing whether a commodity pool, pooled account, or collective investment vehicle makes a public "offer" to a "U.S. person."[9] Although Regulation S analyzes whether a "securities" transaction should be subject to the federal securities laws, in both the Regulation S context and in the Proposed Guidance, the SEC and the CFTC are attempting to analyze activities that would have sufficient connection to the United States to justify U.S. laws regulating such activities. This similar focus can provide appropriate assistance in determining the extraterritorial application of Title VII of the Dodd-Frank Act.

We believe that a non-U.S. fund that makes an offering offshore in compliance with Regulation S and does not target U.S. persons should not be deemed to be a U.S. person. Global fund managers have long structured their activities to reflect the requirements of Regulation S to remain offshore and have policies and procedures in place to avoid making offers to U.S. persons. Non-U.S. retail funds very commonly use the definition of "U.S. person" under Regulation S in their offering documents and procedures to prevent offers and sales to U.S. persons. Under these circumstances, these non-U.S. funds would not have sufficient connections to or effects on the United States to justify the application of requirements of Title VII of the Dodd-Frank Act. Focusing on the directed activities of non-U.S. funds in the United States would capture those non-U.S. funds that should be subject to the U.S. regulatory regime without overreaching to catch non-U.S. funds that are not targeting and do not intend to participate in the U.S. market.

We request that the Commission appreciate the value of the industry's understanding of, and experience with, Regulation S. Market participants around the world, including funds, have built their compliance systems and processes based on Regulation S, which has been in place for over 20 years. Consistency with the Regulation S approach would prevent disruptions, confusion, and additional costs. Although the SEC has not proposed its cross-border rules for security-based ("SB") swaps, the SEC may use Regulation S for those purposes. The CFTC has many times recognized and acknowledged the importance of coordination and harmonization among regulators to the extent

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[9] Goodwin Proctor & Hoar (pub. avail. Oct. 5, 1998) ("Regulation S clarifies the extraterritorial application of the registration provisions of the Securities Act"). *See Offshore Offers and Sales*, Release No. 33-6863 (Apr. 24, 1990).

possible in the regulation of derivatives. Using an existing regulatory framework, such as Regulation S, would further that goal. We urge the CFTC to use Regulation S as guidance for analyzing whether a fund is a "U.S. person" for all the reasons we have stated above.

II. Substituted Compliance

In the Proposed Guidance, the CFTC proposes to permit non-U.S. SDs and non-U.S. MSPs to comply with "substituted compliance" under certain circumstances. Substituted compliance means that a non-U.S. entity is permitted to conduct business by complying with its home regulations without additional requirements under the CEA if the CFTC finds that such requirements are comparable to requirements under the CEA and CFTC regulations. A non-U.S. person may request the CFTC's permission to comply with comparable requirements of its home jurisdiction or a group of non-U.S. persons from the same jurisdiction or a foreign regulator may submit an application for substituted compliance on behalf of non-U.S. persons subject to a foreign supervisory regime. The CFTC and the foreign regulator also have to enter into an information-sharing and enforcement arrangement.

The CFTC proposes not to determine that a foreign regulator's regime as a whole is comparable, but to review individual requirements in 14 regulatory areas for comparability that would serve as a basis for a substituted compliance determination with respect to a specific CFTC rule.[10] Therefore, although the regulatory regimes of various countries may incorporate the protections agreed to by the G20 countries,[11] if a country's law does not include a corresponding requirement for a particular CFTC rule, non-U.S. SDs and non-U.S. MSPs will have to comply with that CFTC rule. For example, as noted above, the EU under EMIR contemplates allowing for two models of segregation – omnibus and individual segregation. Omnibus segregation may not meet the LSOC standard under Title VII of the Dodd-Frank Act, and although individual segregation offers greater customer protection than LSOC, it is not the same standard.[12] The CFTC's approach to substituted compliance

[10] Substituted compliance determinations will be separately made concerning each of the following CFTC requirements: (1) capital requirements; (2) chief compliance officer; (3) clearing and swap processing; (4) daily trading records; (5) margin and segregation for uncleared swaps; (6) physical commodity swaps reporting; (7) portfolio reconciliation and compression; (8) real-time public reporting; (9) Swap Data Repository reporting; (10) swap data recordkeeping; (11) swap trading relationship documentation; (12) trade confirmation; and (13) trade execution.

[11] In 2009, the leaders of the Group of 20 agreed that: (1) OTC derivatives contracts should be reported to trade repositories; (2) all standardized OTC derivatives contracts should be cleared through central counterparties and traded on exchanges or electronic trading platforms, where appropriate; and (3) non-centrally cleared contracts should be subject to higher capital requirements.

[12] Specifically in respect of the EU, we request that the Commission consider the EU regulations as a whole rather than assess substituted compliance in relation to each individual EU Member State. As the CFTC is well aware, the EU is itself implementing the G-20 mandate in relation to OTC derivatives, principally through EMIR and the proposed Markets in Financial Instruments Regulation ("MiFIR"). Both EMIR and MiFIR are EU "regulations," and unlike EU "directives," which need to be implemented by each Member State into national law, EU regulations are directly applicable in each

for non-U.S. SDs and non-U.S. MSPs may result in non-U.S. entities having to comply with many of the CFTC's specific rules. Therefore, ICI and ICI Global believe this approach would deter these non-U.S. entities from becoming counterparties to U.S. persons, such as U.S. registered funds and certain non-U.S. funds, to avoid SD and MSP status.

Moreover, although the CFTC advised that it will use its experience under CFTC rule 30.10 in exempting foreign "futures commission merchants" from registration with the CFTC based on a comparability determination, it will still require non-U.S. SDs and non-U.S. MSPs to register and will only exempt them from compliance with specific regulations based on a substituted compliance determination. Finally, applications to the CFTC for substituted compliance will likely need to be prepared, if not submitted, prior to the CFTC's finalization of the framework for substituted compliance. The Proposed Guidance contemplates that an application for substituted compliance must be made as part of an SD's or MSP's application for registration (the deadline for which is October 12).

Given the difficulties discussed above, we are concerned that the process for "substituted compliance" would be too burdensome and discourage non-U.S. SDs or non-U.S. MSPs from engaging in transactions with U.S. person, such as U.S. registered funds and certain non-U.S. funds. Some of our members have already heard from their foreign counterparties that this may indeed be the result. U.S. entities could be at a competitive disadvantage if non-U.S. entities determine that the burden and costs for obtaining permission for substituted compliance or having to comply with CFTC rules for which there are no foreign counterpart requirements outweigh the benefits of engaging in transactions with U.S. registered funds or non-U.S. funds that are deemed U.S. persons.

III. Cross-Border Application of Swap Provisions to Transactions Involving Market Participants Other than SDs and MSPs

The CFTC proposes to require the Dodd-Frank Act requirements related to clearing, trade-execution, real-time reporting, physical commodity swaps reporting ("Large Trader Reporting"), swap data repository ("SDR") reporting, and recordkeeping to apply to swaps where one or both of the counterparties to the swap is a U.S. person. The CFTC proposes to apply clearing, trade execution, and real-time public reporting requirements (irrespective of the location of the transaction) without permitting substituted compliance with a foreign regulatory regime. With respect to transactions that are subject to SDR reporting and swap data recordkeeping requirements, the CFTC proposes to permit substituted compliance provided that the CFTC has direct access to the swap data for these transactions that is stored at the foreign trade repository. Moreover, the CFTC proposes to require non-U.S. clearing members with reportable positions to comply with the Large Trader Reporting

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Member State. For that reason, the CFTC's determination of substituted compliance should apply to the EU as a whole rather than on a Member State-by-Member State basis.

requirements and traders with reportable positions to comply with the recordkeeping requirements without permitting substituted compliance.

First, we question how non-U.S. counterparties could comply with certain of these requirements, such as clearing and trade execution. For example, if a particular swap were mandated for clearing by the CFTC but no central counterparty in the foreign jurisdiction cleared that instrument, how would the counterparties comply with the clearing requirements? At the same time, how would a swap be cleared in a situation where both the CFTC's as well as foreign regulator's rules require that the swap be cleared, in a situation where the U.S. central counterparty is not recognized by the foreign rules and/or the foreign central counterparty is not recognized by the CFTC? As a practical matter, we do not think it would be possible to clear a transaction twice or to clear separate legs of a swap.

Second, we seek clarification whether the requirement to comply with the enumerated rules would require counterparties to comply with other related rules. For example, to comply with the clearing requirement, would rules on customer collateral or margin for cleared swaps apply? In both of these situations, we are concerned how counterparties would comply with CFTC requirements and the requirements imposed by their home country, especially when transacting in the home country. There likely will be conflicting and duplicative requirements imposed on these counterparties. Finally, in respect of trade reporting, we note that, although EMIR has a mechanism for recognizing non-EU trade repositories, Title VII does not have such a mechanism (for recognizing non-U.S. swap data repositories). Accordingly, a cross-border swap involving non-U.S. counterparties may have to be reported to two different trade repositories.

In situations where counterparties are under the jurisdiction of multiple regulators, we recommend a different approach to the one set forth in the Proposed Guidance. We suggest that the CFTC permit counterparties to agree in advance to comply with the requirements of a particular country as long as the jurisdiction regulates derivatives consistent with the G20 agreement. There may be situations where foreign law may be more protective than the CFTC rules, such as in the case of customer collateral protection in the EU (which permits full segregation of customer collateral). We believe the counterparties should be permitted to agree to the laws of another jurisdiction. Without these accommodations, imposing CFTC requirements on these cross-border transactions will discourage non-U.S. counterparties from entering into transactions with any entity that may be deemed a U.S. person.

IV. Regulatory Coordination and Cooperation

We cannot overemphasize the importance of global coordination among regulators with respect to cross-border application of derivatives regulations to avoid imposing, at best, duplicative and, at worst, conflicting regulatory requirements on counterparties. The Commission well recognizes "the global nature of the swap market" and that "U.S. market participants regularly enter into swaps with

other market participants that are domiciled outside of the U.S. or incorporated in non-U.S. jurisdictions."[13] G-20 countries also have committed to adopting derivatives regulations in their jurisdiction, and the CFTC recognizes the importance of global coordination in this area.

We believe international comity and practical considerations dictate that there must be real and meaningful coordination among regulators on how these cross-border transactions should be appropriately regulated.[14] Although regulators around the world may be at different points of implementation of derivatives regulation,[15] the extraterritorial approach adopted by the CFTC must consider the fact that other jurisdictions have adopted, and in the future will adopt, regulations and any approach adopted must be workable within this global context.

Given the international nature of these transactions and efforts by regulators worldwide to regulate these activities, there may be reluctance to engage in cross-border derivatives transactions, unless the regulators coordinate the requirements that would apply to such activities, thereby impeding the ability of funds to hedge their exposures effectively and efficiently. Global firms also would not be able to implement a worldwide compliance system if conflicting requirements were imposed on counterparties.

Moreover, there could be negative economic and competitive effects on U.S. persons and the U.S. economy if non-U.S. persons chose not to engage in transactions with U.S persons to avoid triggering compliance with CFTC requirements in addition to their home country regulations. These non-U.S. persons could simply decide not to engage in any transactions with U.S. counterparties to the detriment of U.S. entities engaged in swap activities. We believe this result would be harmful to the U.S. financial markets, including U.S. funds and their investors.

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[13] *See supra* note 3 at 41216.

[14] *See e.g., Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants,* RIN 3038-AC97, 77 FR 41109 at 41110 (July 12, 2012), *available at* http://www.gpo.gov/fdsys/pkg/FR-2012-07-12/pdf/2012-16983.pdf (CFTC recently re-opened the comment period for its proposal on margin requirements for uncleared swaps because "[a]s part of the international effort to implement consistent global standards for margin requirements for non-centrally cleared derivatives, the CFTC . . . may adapt its final rules to conform with the final policy recommendations set forth by BCBS and IOSCO.").

[15] CFTC and SEC, *Joint Report on International Swap Regulation Required by Section 719(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act* (Jan. 31, 2012), *available at* http://www.sec.gov/news/studies/2012/sec-cftc-intlswapreg.pdf.

If you have any questions on our comment letter, please feel free to contact the undersigned or Giles Swan at 011-44-203-009-3103, Sarah Bessin at 202-326-5835 or Jennifer Choi at 202-326-5876.

Sincerely,

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