JOBS Act Rulemaking and Implementation:

MFA remains engaged to provide important industry viewpoints as U.S. regulators work to finalize rulemaking requirements to implement provisions included in the Jumpstart Our Business Startups (JOBS) Act. The JOBS Act eliminates the prohibition on general solicitation or advertising in connection with the non-public offering of securities. Once the SEC adopts and implements a final rule to carry out the mandate under the JOBS Act, it will have a tremendous impact on how hedge funds communicate with investors and the broader public. MFA believes eliminating the ban on general solicitation or advertising can help promote greater transparency and understanding surrounding the hedge fund industry's role in the financial services landscape.

In July, MFA sent a comment letter to the Commodity Futures Trading Commission (CFTC), urging it to harmonize its regulations with the JOBS Act. MFA submitted the letter under the CFTC's Regulation 4.5 Harmonization Proposal, requesting that the Commission under the Harmonization rulemaking harmonize Rules 4.7(b) and 4.13(a)(3) with the JOBS Act. In the alternative, MFA requested that the CFTC consider the letter as a petition for rulemaking and a request for interim, temporary no-action relief for a commodity pool operator of a privately offered pool from certain marketing restrictions.

Italy, Spain Reintroduce Short Selling Bans:

In July, regulators in Italy and Spain banned the short selling of certain securities, imposing bans similar to temporary actions taken last year. Here is a breakdown of the temporary bans implemented this year:

Italy

The Italian market regulator, CONSOB, has banned the short selling of 30 Italian financial securities from July 23 until September 14. Click here to read the CONSOB statement, which includes a list of the affected securities. (Italian only)

Spain

The Spanish market regulator, CNMV, has imposed a ban on short selling from July 23 until October 23. According to the CNMV, the measure:

"Bans any legal or natural person from entering into transactions which might constitute or increase a net short position on stocks admitted to trading in a Spanish regulated market for which the CNMV is the competent authority." Click here to read the complete statement from CNMV.

MFA is tracking these developments closely and has engaged directly with European regulators on prior bans. In our August 2011 communication to the European Securities and Markets Authority (ESMA), we outlined several concerns with temporary bans of this nature. Specifically, we urged them to consider the past experience when market authorities have implemented short sale restrictions and to refrain from or reconsider their decision to implement a short selling restriction, as evidence shows that such bans have proven to be more harmful than beneficial to markets. Specifically, past experience with short selling restrictions show that:

- Restrictions are counterproductive, further deteriorate investor confidence and increase volatility.
- Restrictions impair the ability of investors to manage risk, leading many to sell additional securities to balance their portfolios.

- Restrictions freeze the ability of financial institutions to raise capital through convertible bond and convertible preferred security issuances by preventing investors to purchase the convertible products and hedge the risk with offsetting short sales.
- The absence of a consultation period undermines investor confidence and creates market uncertainty with respect to interpretive guidance and compliance efforts.

MFA has developed a number of resources to help promote better understanding of the practice of short selling and respond to important developments when they happen.

Please click here to view the recently-posted presentation on short selling and also refer to the EU Short Selling Regulation page on the MFA website for future updates, press releases, and FAQs from the relevant regulators.

MFA Educational Series: New Presentation on Position Limits:

In early August, MFA released the latest in a series of educational presentations on the hedge fund industry – Position Limits: A Brief History and Discussion of Recent Regulatory Changes. The presentation provides an overview of this important issue, featuring:

- A brief history of position limits
- The regulatory framework for position limits
- How position limits work, and the various types of position limits
- Position limits and the Dodd-Frank Act
- Recent rulemaking regarding aggregation
- The role of hedge funds as a "buffer" against market volatility
- MFA's advocacy role surrounding this issue

Click here to view MFA's position limits presentation.

MFA and Other Trade Associations Submit Summary of LSOC Issues to CFTC Commissioners:

On August 7, MFA, jointly with SIFMA AMG ICI, and IAA, sent the Commissioners of the Commodity Futures Trading Commission (CFTC) a summary of our concerns with the customer protections provided by the CFTC's legally segregated operationally commingled (LSOC) segregation model for cleared swaps. The trade associations stressed that LSOC should protect all customer margin from fellow-customer risk and that futures commission merchants should be required to report to derivatives clearing organizations the identity, positions and margin of each of their customers. The trade associations made specific recommendations to the CFTC Commissioners about how the CFTC should utilize rule revisions, interpretative guidance and/or FAQs to address any ambiguities or inconsistencies.

Issue in focus: Derivatives regulation - Major Dutch Pensions Say New Derivatives Rules Will Raise Prices:

The Dutch pension industry has weighed in on new rules seeking to regulate the over-the-counter (OTC) derivatives industry in the EU. The OTC derivatives proposal was published in June under the European Market Infrastructure Regulation (EMIR). The Pension Federation, of which many major players in the Dutch pension industry are members, believes that the proposal will raise costs for pensions while failing to make the processes any safer. In an article published by *Investment & Pensions Europe*, the group is quoted, saying "The Pension Federation notes that the proposals are expected to lead to increasing costs for pension funds and their administrators. Moreover, it is doubtful whether the increase of a 'confidence level' automatically leads to more security."

Learn more about how hedge funds are regulated in the EU with our educational presentation EU Regulation 101: Guide to European Oversight of the Hedge Fund Industry.