MFA POLICY BRIEF

European Union Reaches Agreement on MiFID:

On January 14, negotiators from the European Parliament, European Commission, and Council of the European Union reached a tentative agreement on the Markets in Financial Instruments Directive (MiFID). The MiFID measure, which has been under consideration for nearly three years, covers a broad array of financial activities, including, but not limited to, measures that affect so-called high frequency and algorithmic trading, impose position limits, and require a number of market transparency/reporting obligations.

Read the European Commission's press release regarding the MiFID agreement.

Read a news article on the agreement from the *Financial Times*.

MFA Develops Hong Kong Client Electronic Trading Services Representation Template:

MFA developed a Hong Kong Client Electronic Trading Services Representation Template to assist members with streamlining representations to dealers with respect to electronic trading services.

On March 22, 2013, the Hong Kong Securities and Futures Commission (SFC) issued final electronic trading regulations, which went into effect January 1, 2014. Among other requirements, the SFC amended its Code of Conduct for Persons Licensed by or Registered with the SFC (Code of Conduct) to require an intermediary to perform some basic due diligence on the end user with respect to use of direct market access (DMA) services. MFA developed a Client Electronic Trading Services Representation Template based on Code of Conduct, Schedule 7, Section 2.2 regarding minimum client requirements for DMA services.

While the Code of Conduct places the obligation to monitor compliance with the SFC's electronic trading regulations on a licensed/registered intermediary, MFA believes the Client Electronic Trading Services Representation Template will be helpful to members that are asked to make electronic trading services representations by their intermediary.

View a copy of the HK SFC Consultation Conclusion on the Regulation of Electronic Trading online here.

MFA's Coalition Submits Follow-up Letter to SEC on CDS Portfolio Margin:

On December 27, MFA, the American Council of Life Insurers (ACLI), and the Alternative Investment Management Association (AIMA) (collectively, the "Associations")submitted a joint follow-up letter to SEC Chair Mary Jo White to request the SEC address buy-side concerns with the Staff's requirements for a customer margin regime for the cleared credit default swaps (CDS) portfolio margin program that the Associations believe will increase risk and impose undue costs on the buy-side. When the temporary customer initial margin regime expires on January 31, 2014, the Staff will require each clearing member of ICE Clear Credit to have its own individual customer margin methodology, with exposure calculated at a rate materially higher than that applied to dealers; rather than applying on a permanent basis the clearing agency margin plus any add-on by the registered broker-dealer/futures commission merchant to address individual counterparty credit risk. The Associations requested that the SEC facilitate voluntary clearing of single-name CDS by making permanent the initial margin regime currently in place.

Read the full MFA comment letter on CDS portfolio margining here.

MFA Commentary in Institutional Investor's Alpha Examines the JOBS Act and the Outlook for its Implementation in 2014:

Hedge funds continue to wait for harmonized rules from the Commodity Futures Trading Commission (CFTC) before jumping into the marketing arena in the wake of the final rules issued by the Securities and Exchange Commission (SEC) in the summer of 2013. MFA Executive Vice President and Managing Director D. Brooke Harlow authored a column for *Institutional Investor's Alpha* explaining that once the SEC and CFTC rules regarding general solicitation are harmonized more fund managers may begin to dip their toes in the marketing waters, but largely in a non-traditional way. With the CFTC rules not harmonized, "many managers (are) in a regulatory limbo – able to take advantage of the SEC's rule change but unwilling to endanger their CFTC exemption," wrote Harlow.

There are also current SEC proposed rules that may govern the new solicitation activities that will be allowed. New reports, disclosures, and penalties have been proposed but not finalized, and there is no indication when they will be. "In effect, managers have been given permission to drive on the highway for the first time, but with very limited information on the speed limit or rules of the road," Harlow wrote in her commentary.

With so much uncertainty surrounding the rules, fund managers have been involved in very little marketing activity.

"While more regulatory work is needed, the rules written in 2013 could help ensure that next year is one in which hedge funds are able to seize new opportunities to grow and educate the public – to the benefit of everyone involved," concluded Harlow.

Read the full commentary piece in *Institutional Investor's Alpha*.

MFA Launches Managed Futures Facts Webpage:

In December, MFA launched the Managed Futures Facts webpage. Building on the content in the Managed Futures Factsheet that was released late last year, the new webpage features MFA educational content detailing the managed futures industry, multimedia content, and related blog posts.

The global managed futures industry has about $337 billion in assets under management and many of

the industry's managers are longtime members of MFA.

View MFA's new Managed Futures Facts webpage here.

Read and download MFA's Managed Futures Factsheet.

Commonfund Releases Report Concluding Hedge Funds Are Still Good Diversifiers for Institutional Portfolios:

Commonfund released a white paper this month that found that hedge funds offer more diversification and better performance than mutual funds over time. The paper, authored by Verne O. Sedlacek, President and CEO of Commonfund, states that "the single largest area of growth over time has been in the group of managers with the lowest percentage of their returns explained by those of the broad equity market. For a thoughtful, strategic investor, this diversity provides the opportunity to attain portfolio diversification independent of market direction."

He continues, "Active management of long-only strategies will only bridge the gap faced by pensions, endowments and other institutions and that significant allocations to alternative strategies are necessary to preserve intergenerational equity and thus fulfill long-term missions and obligations of institutional investors."

The paper states that, "The long term, alpha based case for hedge funds remains strong, despite recent declines in alpha coinciding with unusually adverse market conditions for security selection generally. In addition to significant alpha, hedge funds also offer a diverse array of systematic or market exposures."

Read the full Commonfund report here.

MFA's 2013 Year in Review:

MFA invites you to read our 2013 Year in Review. Building on the success of 2012, last year was another notable year for MFA's members. With the continuing pace of global financial regulatory reform, MFA was actively engaged with regulators all over the world, serving as the global voice of the alternative investment industry.

In 2013, MFA continued to grow its membership, coordinate globally on the evolving financial regulatory landscape, represent the industry before the U.S. Congress and other global policy makers, expand its communications initiatives, and bring together industry luminaries through MFA events.

Read and download MFA's 2013 Year in Review online here.