



July 24, 2019

**Via Electronic Submission**

The Honorable Heath P. Tarbert  
Chairman  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re: Recommendations for CFTC Regulatory Agenda**

Dear Chairman Tarbert:

Managed Funds Association<sup>1</sup> (“MFA”) congratulates you on becoming the new Chairman of the Commodity Futures Trading Commission (the “CFTC” or “Commission”). MFA represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. Our members are registered as commodity pool operators (“CPOs”), commodity trading advisors (“CTAs”), and/or investment advisers with the Securities and Exchange Commission (“SEC”). We have had very constructive relationships with the leaders and staff of prior Commissions and look forward to continuing an equally constructive and cooperative relationship with the Commission under your leadership.

MFA and its members greatly value the role of the Commission to foster open, transparent, competitive, and financially sound markets. Our members, as investors and fiduciaries of their clients’ money, are active investors in the U.S. and international derivatives markets and value fair competition, access to liquid, efficient markets and well-calibrated regulation of these markets and of market participants. A decade after the global financial crisis, markets have evolved and firms have made significant investments to comply with new regulations and market changes. We encourage you to prioritize efforts to make regulation more efficient and effective and to invest in technology and people that can support the Commission to provide informed oversight of the nation’s vital derivatives markets and of registrants. To that end, we propose below some specific recommendations, which would have a meaningful, beneficial impact on the markets and constituents that you oversee. We also provide some thoughts on issues commonly discussed, such as position limits and marketplace risk controls. As you think about your priorities as Chairman, we respectfully urge you to consider our recommendations for CFTC regulatory rulemaking and initiatives.

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<sup>1</sup> Managed Funds Association (“MFA”) represents the global alternative investment industry and its investors by advocating for sound industry practices and public policies that foster efficient, transparent, and fair capital markets. MFA, based in Washington, DC, is an advocacy, education, and communications organization established to enable hedge fund and managed futures firms in the alternative investment industry to participate in public policy discourse, share best practices and learn from peers, and communicate the industry’s contributions to the global economy. MFA members help pension plans, university endowments, charitable organizations, qualified individuals and other institutional investors to diversify their investments, manage risk, and generate attractive returns over time. MFA has cultivated a global membership and actively engages with regulators and policymakers in Asia, Europe, North and South America, and many other regions where MFA members are market participants.

**A. Executive Summary**

MFA makes the following recommendations:

- **Adopt a harmonized approach to CFTC and SEC regulation of investment managers.** MFA recommends that the Commission prioritize adopting with the SEC a harmonized approach to regulation of CPOs or CTAs and investment advisers that would decrease duplicative regulation, allow for substituted compliance, joint or coordinated exams and the submission of a single systemic risk report to the CFTC, SEC and National Futures Association (“NFA”). Importantly, our proposal would not change the oversight of registrants’ market activities in either the derivatives or securities markets by either Commission.
- **Streamline systemic risk reporting.** With the benefit of seven years of experience with systemic risk filings, we urge the Commission to consider whether the forms can be simplified, harmonized with the SEC, and improved to enhance the usefulness of the information provided to regulators and to reduce the regulatory burden for filers. Streamlining the forms and eliminating duplicative submissions would provide clear and quantifiable benefits to the CFTC, NFA and SEC, registrants and the investing public, as well as conserve government resources.
- **Enhance data security and treatment of confidential information.** MFA believes that the high risk and threat of cyber-intrusions at regulatory agencies calls for a fundamental re-examination of the kinds of information collected by regulators and how it is handled, and the security of its systems. MFA commends the Commission for continuing to use the subpoena process for requesting confidential, commercially valuable intellectual property, and recommends that the Commission enhance its policies and procedures for protecting such information. MFA also commends Commissioner Stump’s data protection initiative and recommends that the Commission address subsequent findings.
- **Ensure that position limits do not hinder economic growth.** If the Commission intends to issue a new proposal, MFA believes that it needs to identify a clear standard of “excessive speculation” and incorporate that standard in its required necessity findings prior to adopting position limits. Additionally, MFA does not believe that position limits outside of the spot month are an effective measure to deter market manipulation, and that the exchanges are best positioned to manage limits.
- **Ensure sensible marketplace risk controls.** MFA believes the Commission has implemented a robust derivatives market regulatory framework that rigorously addresses risk controls and system safeguards for automated trading environments. To the extent the Commission believes that additional risk controls are necessary for today’s electronic markets, MFA believes the focus should remain on trading platforms’ and clearing members’ risk control mechanisms.
- **Preserve swaps trading framework with targeted improvements.** MFA recommends that the Commission codify the existing impartial access guidance and straight-through-processing standards with respect to swap execution facilities (“SEFs”) and prohibit the practice of post-trade name disclosure by SEFs. MFA also recommends prompt no-action relief to streamline the error correction process on “dealer-to-client” SEFs. More broadly, MFA respectfully urges the Commission to provide derivatives market participants with an opportunity to comment on

equivalence/comparability assessments with other jurisdictions' rule frameworks before the Commission finalizes them.

- **Promote risk-adjusted metrics to assess potential systemic risks from the use of leverage.** In light of the Commission's role in overseeing derivatives markets and as a member of the International Organization of Securities Commissions ("IOSCO") and the Financial Stability Oversight Council, MFA encourages the Commission to support risk-adjusted metrics to assess leverage from derivatives use and to establish guiding principles that do not conflate systemic risks and market or counterparty risks.

## **B. MFA Recommendations**

### **1. Adopt a Harmonized Approach to CFTC and SEC Regulation of Investment Managers**

MFA supports a harmonized approach to CFTC and SEC regulation of investment firms that are dual registrants. The harmonization effort that Commissioner Brian Quintenz and SEC Commissioner Hester Peirce have undertaken to identify steps the agencies can take to enhance regulatory efficiency and effectiveness is to be commended. This initiative is in furtherance of Administration policy to promote coordination, harmonization and efficiency across regulators.<sup>2</sup> We respectfully recommend that the Commission prioritize and continue this work.<sup>3</sup>

Dual registrants are subject to a wide range of related, but non-identical requirements from the CFTC, SEC and National Futures Association ("NFA"). These requirements include: recordkeeping, privacy policies, information security and cybersecurity, self-assessment, business continuity and disaster recovery planning, advertising, marketing, sales practice and promotional materials, ethics training, and registration forms. At the same time, the CFTC and SEC have different statutory missions, the faithful execution of which requires investment firms to register with both if engaged in commodity interest and securities trading. In order to prioritize scarce regulator resources and reduce the uneconomic effects of overlapping requirements, we propose that dual registrants be granted relief in the form of substituted compliance. Firms would continue to register with and be subject to oversight by both agencies, however, a dual registrant would determine, based upon the majority of products it traded, to which agency it would be responsible for compliance with one or more substantially similar rules. For example, if a majority of a registrant's exposure was from derivatives overseen by the CFTC, it would comply with the CFTC and

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<sup>2</sup> See, e.g., A Financial System That Creates Economic Opportunities – Asset Management and Insurance, Department of the Treasury, October 2017, available at: [https://www.treasury.gov/press-center/press-releases/Documents/AFinancial-System-That-Creates-Economic-Opportunities-Asset\\_Management-Insurance.pdf](https://www.treasury.gov/press-center/press-releases/Documents/AFinancial-System-That-Creates-Economic-Opportunities-Asset_Management-Insurance.pdf); Annual Report to Congress 2017, Office of Financial Research, available at: <https://www.financialresearch.gov/annualreports/files/office-of-financial-research-annual-report-2017.pdf>; and 2017 Annual Report, Financial Stability Oversight Council, December 14, 2017, available at: [https://www.treasury.gov/initiatives/fsoc/studiesreports/Documents/FSOC\\_2017\\_Annual\\_Report.pdf](https://www.treasury.gov/initiatives/fsoc/studiesreports/Documents/FSOC_2017_Annual_Report.pdf). The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**") also promotes coordination. See, e.g., Section 712, which requires the Commissions to consult and coordinate before rulemaking or issuing an order on swaps. 15 U.S.C. § 8302.

<sup>3</sup> See letter from the Honorable Richard H. Baker, President and CEO, MFA, and Jennifer W. Han, Associate General Counsel, MFA, to the Honorable Jay Clayton, Chairman, SEC, and the Honorable Christopher Giancarlo, Chairman, CFTC, dated November 15, 2018, on "A Proposal for a Harmonized Primary Regulator Approach to SEC and CFTC Regulation of Dual Registrants", available at: [https://www.managedfunds.org/wp-content/uploads/2018/11/MFA-Proposal-for-Dual-Registrants.final\\_.11.15.18.pdf](https://www.managedfunds.org/wp-content/uploads/2018/11/MFA-Proposal-for-Dual-Registrants.final_.11.15.18.pdf).

NFA's regulations and be granted substituted compliance by the SEC for compliance with similar SEC rules and policy/guidance.

Importantly, our proposal would not change the oversight of market activities by either Commission. Market rules developed by each agency are unique and focused on the specific nature of the derivatives and securities markets, respectively. We do not recommend any changes to that aspect of regulation or oversight and inspection, but rather are focused solely on the regulation of the advisor/pool operator business conduct where the Commissions' rules are quite similar, but dual registration requires duplicative internal recordkeeping and compliance effort and duplicative examination of these activities.

MFA further recommends a harmonized approach to systemic risk reporting (discussed in more detail in the section below) and the implementation of joint or coordinated exams of dual registrants. These aspects of dual registration create the greatest additional ongoing cost and burden. Coordination would provide clear and quantifiable benefits to the CFTC, NFA, and SEC, registrants and the investing public, as well as conserve government resources. We recognize that the development of a harmonized approach to regulation will require some effort to operationalize, but the cost efficiencies from the outcome will justify the upfront use of resources by the Commissions and the industry. We urge the Commission to prioritize the adoption with the SEC a harmonized approach to regulation of dual registrants that would reduce duplicative regulation, allow for substituted compliance, the submission of a single systemic risk report to the CFTC, SEC and NFA and joint or coordinated exams.

## 2. Streamline Systemic Risk Reporting

MFA recommends that the CFTC and SEC simplify systemic risk reporting by CPOs and investment advisers of privately offered investment funds, whether as part of the Commission's harmonization initiative discussed above or as a stand-alone measure. MFA supports the CFTC and SEC's role in overseeing systemic risk consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "**Dodd-Frank Act**") which requires the CFTC and the SEC, in consultation with the Financial Stability Oversight Council to work together in developing a systemic risk report for private funds.<sup>4</sup> Nevertheless, rather than the single form envisioned by Congress for both the CFTC and SEC, there are now three separate, similar, but not identical forms, in addition to the quarterly reports required by NFA (Forms PQR and PR): joint SEC-CFTC Form PF, CFTC Form CPO-PQR, and CFTC Form CTA-PR.

With the benefit of seven years of experience receiving systemic risk filings, we urge regulators to consider whether the forms can be simplified, harmonized and improved to enhance the usefulness of the information provided to regulators and reduce the regulatory burden for filers. We note that this request is consistent with all of the following: the Administration's 2017 Regulatory Plan to reduce regulatory burdens,<sup>5</sup> the Department of Treasury's recommendation that the CFTC, SEC, and self-regulatory organizations work together to simplify and harmonize asset management reporting regimes,<sup>6</sup> and the

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<sup>4</sup> See Section 404 of the Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 (2010), available at: <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

<sup>5</sup> See The Regulatory Plan – OIRA Introduction to the Fall 2017 Regulatory Plan, Office of Information and Regulatory Affairs, available at: <https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201710/VPStatement.pdf>.

<sup>6</sup> See A Financial System That Creates Economic Opportunities – Asset Management and Insurance, Department of the Treasury, October 2017, available at: [https://www.treasury.gov/press-center/press-releases/Documents/AFinancial-System-That-Creates-Economic-Opportunities-Asset\\_Management-Insurance.pdf](https://www.treasury.gov/press-center/press-releases/Documents/AFinancial-System-That-Creates-Economic-Opportunities-Asset_Management-Insurance.pdf).

Office of Financial Research's initial findings with respect to reducing regulatory reporting burdens for financial institutions, including CPOs and advisers of private funds.<sup>7</sup> In support of this effort, MFA has provided detailed comments and suggestions for revising the forms and had numerous meetings with staffs and Commissioners of both agencies.<sup>8</sup> This prior work positions this proposal for prompt action under your Chairmanship.

We believe the revisions we propose would improve the accuracy and relevancy of the information that regulators review about the industry and individual managers and funds/pools. In addition, reducing and streamlining the information in Form PF and the Commission's Form CPO-PQR would allow regulators to more effectively assess systemic risk across investment funds and commodity pools, and minimize the significant regulatory costs imposed on advisers and operators of private funds/pools. Accordingly, we recommend that the Commission and the SEC harmonize and simplify systemic risk reporting. Should the Commissions pursue the harmonized approach to regulation of dual registrants, as outlined above, the Commission and the SEC could also allow a registrant to file a single simplified systemic risk report with both regulators.

### **3. Enhance Data Security and Treatment of Confidential Information**

MFA believes that the high risk and threat of cyber-intrusions at regulatory agencies calls for a fundamental re-examination of the kinds of information collected by regulators and how it is handled, and the security of its systems. Information security vulnerabilities risk jeopardizing not only market participants and their investors, but the U.S. economy through the loss of domestic trade secrets and confidence in the integrity of the regulatory framework. Over the last several years, due to both statutory mandates and regulatory discretion, the Commission has expanded the scope and breadth of the types of information that it requests of registrants. However, it has generally continued to rely on a legacy framework for information collection and protection. MFA, therefore, strongly supports Commissioner Dawn Stump's data protection initiative to: ensure that the CFTC only collects data required for its regulatory responsibilities, remove duplicative reporting streams, explore alternative mechanisms for accessing sensitive information, enhance internal controls for handling data, examine response procedures to cyber incidents, and update data retention best practices.<sup>9</sup>

MFA is aware of statutory provisions designed to protect the confidential and proprietary information of registrants, but without robust, updated policies and procedures at the CFTC, we are concerned that the Commission will be unable to adequately protect such information.<sup>10</sup> The CFTC should adopt a general policy to refrain from requesting highly confidential and commercially valuable intellectual property from a registrant or market participant unless imperative; and when it asks for such information,

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<sup>7</sup> See Annual Report to Congress 2017, Office of Financial Research, available at: <https://www.financialresearch.gov/annual-reports/files/office-of-financial-research-annual-report-2017.pdf>.

<sup>8</sup> See letter from the Honorable Richard H. Baker, President and CEO, MFA, and Jennifer W. Han, Associate General Counsel, MFA, to the Honorable Christopher Giancarlo, Chairman, CFTC, dated October 9, 2019, on "A Streamlined Form PF: Reducing Regulatory Burdens", available at: <https://www.managedfunds.org/wp-content/uploads/2018/10/MFA.CFTC-Form-PF.final-w.-attachment.10.9.18-1.pdf>.

<sup>9</sup> Statement of CFTC Commissioner Dawn D. Stump on Data Protection Initiative, March 1, 2019, available at: <https://cftc.gov/PressRoom/SpeechesTestimony/stumpstatement030119>.

<sup>10</sup> See, e.g., Section 8 of the Commodity Exchange Act; and Federal Information Security Modernization Act of 2014, 44 U.S.C. § 3551 (2014). See also 18 U.S.C. § 654 (1996) (prohibiting an officer or employee of United States converting property of another); and 18 U.S.C. § 1905 (2008) (prohibiting public officers and employees of disclosure of confidential information generally).

it should be through a Commission issued subpoena. In addition, we urge the CFTC to implement an information security policy that provides greater protections in relation to sensitivity of the data collected. The Dodd-Frank Act imposed heightened confidentiality protections with respect to systemic risk information that the SEC collects from managers of private funds.<sup>11</sup> Similarly, we think the CFTC should impose heightened procedures and standards with respect to Forms CPO-PQR and CTA-PR and other highly sensitive and confidential information that it receives. We believe that the adoption of the foregoing internal controls and policy changes, taken with the heightened vigilance envisioned by Commissioner Stump's initiative will demonstrably improve data security at the CFTC.

#### **4. Ensure that Position Limits Do Not Hinder Economic Growth**

MFA does not believe that position limits outside of the spot month are an effective measure to deter market manipulation and has had significant concerns with the Commission's prior position limits rule proposals. If the Commission intends to issue a new proposal, MFA is of the strongly held view that it needs to identify a clear standard of "excessive speculation" and incorporate that standard in its required necessity findings prior to adopting position limits. The derivatives markets play a critical role in the nation's economy: to ensure the efficient price discovery function of the underlying markets and to provide fundamental risk transfer and risk management functions. These functions depend on the existence of liquid, fair and competitive markets to ensure sufficient market liquidity for *bona fide* hedgers. Regulatory policy, especially a policy as significant and with such a profound market impact as position limits, should be designed based on sound market and economic principles.

The CFTC has better regulatory and enforcement tools to oversee the derivatives markets than to use a blunt tool, such as position limits, which risks disrupting markets and impairing the ability of end-users to hedge commercial risk. Nevertheless, should the Commission find it necessary to adopt position limits regulation, in addition to making necessity findings, we believe the limits must be set in a way that is narrowly tailored to achieve a specific market outcome and designed to be minimally disruptive, practical, and easy to administer so that it doesn't impose unreasonable barriers to entry for market participants. We recommend that the Commission:

- Provide individual consideration to a contract's economic characteristics and the market dynamics of the underlying commodity to appropriately tailor position limit levels to the contract. This determination should balance the Commodity Exchange Act's ("CEA") goals of preventing excessive speculation, ensuring sufficient market liquidity for bona fide hedgers, and maintaining the price discovery function of the underlying market.

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<sup>11</sup> See section 404 of the Dodd-Frank Act.

- Make an independent finding that limits on other than spot month contracts are needed to prevent excessive speculation.
- Delegate to exchanges the responsibility and authority to administer position limits and/or position accountability levels (in the case of non-spot months), including setting levels, monitoring for compliance, and granting or rejecting requests for exemptive relief.
- Exclude economically equivalent contracts from position limits at this time to provide more time for the Commission to obtain and carefully analyze higher quality data regarding the trading, liquidity and other market characteristics of economically equivalent contracts.
- With respect to exchange-granted, non-enumerated *bona fide* hedging exemptions and the Commission's *de novo* review of such exemptions, provide a market participant with the opportunity to be heard by the Commission or its staff before the Commission takes action to modify or terminate the relevant exchange exemption applicable to such market participant, and provide for a more reasonable and less disruptive liquidation provision should the Commission take such action.
- Permit a risk management exemption involving swap exposure, including commodity index swaps.

#### **5. Ensure Sensible Marketplace Risk Controls**

MFA believes the Commission has implemented a robust derivatives market regulatory framework that rigorously addresses risk controls and system safeguards for automated trading environments. Such Commission regulations include rules that:

- Require futures commission merchants, swap dealers and major swap participants that are clearing members to establish risk-based limits based on position size, order size, margin requirements, or similar factors; and require such entities to use automated means to screen orders for compliance with the risk limits when such orders are subject to automated execution;<sup>12</sup>
- Require designated contract markets to establish and maintain risk control mechanisms to prevent and reduce the potential for price distortions and market disruptions;<sup>13</sup> and
- Require SEFs to establish and maintain risk control mechanisms to prevent and reduce the potential for market disruptions.<sup>14</sup>

These rules establish a positive framework for addressing risk controls and system safeguards, in a manner, pursuant to the CEA, which foster a system of effective self-regulation.<sup>15</sup> They also embody the CEA goals of deterring and preventing disruptions to market integrity; ensuring financial integrity of transactions and the avoidance of systemic risk; and promoting responsible innovation and fair competition.

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<sup>12</sup> 17 C.F.R. §§ 1.73, 23.609.

<sup>13</sup> 17 C.F.R. § 38.255.

<sup>14</sup> 17 C.F.R. § 38.607.

<sup>15</sup> See, e.g., Section 3(b) of the CEA.

To the extent the Commission believes that additional risk controls are necessary for today's electronic markets, MFA believes the focus should remain on ensuring that trading platforms and clearing members have appropriate risk control mechanisms. We believe that such a framework, which requires risk controls at both the trading platform and clearing member-levels, optimizes customer protection, market integrity and the promotion of responsible innovation and fair competition. We also believe, from a practical and regulatory standpoint, that such a framework would be both consistent with the Commission's prior rulemaking and more manageable to implement and enforce than other regulatory frameworks.

## 6. Preserve Swaps Trading Framework with Targeted Improvements

Based on six years of trading experience under the Commission's swaps trading regime, MFA believes that the U.S. swaps market works well and, in particular, that the rules governing trading of liquid swaps have produced real economic benefits for investors. While we have recommended targeted improvements to the Commission's regulatory framework to enhance these benefits,<sup>16</sup> we have significant concerns with the Commission's proposed rule on "Swap Execution Facilities and Trade Execution Requirement",<sup>17</sup> which the derivatives industry has overwhelmingly opposed. MFA would encourage the Commission to improve the current framework by simply codifying the existing impartial access guidance to SEFs and existing guidance and no-action relief setting forth the current straight-through-processing standards on SEFs. We also believe the Commission has ample authority and overwhelming industry support based on the public comment file to issue a formal rule proposal to prohibit the practice of post-trade name disclosure (or "name give-up") by SEFs for swaps that are executed anonymously and intended to be cleared in order to provide an open, competitive, and level playing field for all SEF market participants.<sup>18</sup> To streamline and provide needed flexibility in the error correction process on "dealer-to-client" SEFs, MFA plans to submit a formal no-action request for targeted revisions to certain conditions in existing staff no-action relief that continue to expose trading counterparties on such SEFs to unnecessary risks. More broadly, as the Commission increasingly focuses on evaluating the comparability of other jurisdictions' rule frameworks for substituted compliance purposes, derivatives market participants should

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<sup>16</sup> See MFA Petition for Rulemaking to Amend Certain CFTC Regulations in Parts 1 (General Regulations under the Commodity Exchange Act), 39 (Derivatives Clearing Organizations, Subpart B – Compliance with Core Principles) and 43 (Real-Time Public Reporting), submitted to Mr. Christopher Kirkpatrick, Secretary of the Commission, on October 22, 2015 ("MFA SEF Petition"), available at: <https://www.managedfunds.org/wp-content/uploads/2015/10/CFTC-Petition-for-SEF-Rules-Amendments-MFA-Final-Letter-with-Appendix-A-Oct-22-2015.pdf>. See also letter from Stuart J. Kaswell, Executive Vice President & Managing Director, General Counsel, MFA, to Christopher Kirkpatrick, Secretary of the Commission, CFTC, on September 29, 2017, regarding Project KISS recommendations, at pp. 14-21, available at: [https://www.managedfunds.org/wp-content/uploads/2017/09/MFA-Proj.KISS\\_final\\_appendix.9.29.17.pdf](https://www.managedfunds.org/wp-content/uploads/2017/09/MFA-Proj.KISS_final_appendix.9.29.17.pdf).

<sup>17</sup> See MFA letter in response to the CFTC's Proposed Rule, "Swap Execution Facilities and Trade Execution Requirement" (RIN 3038-AE25), submitted to Christopher Kirkpatrick, Secretary of the Commission, on March 15, 2019, available at: <https://www.managedfunds.org/wp-content/uploads/2019/03/MFA-Comment-Letter-on-CFTC-SEF-Proposed-Rule-Final.pdf>.

<sup>18</sup> See MFA letter in response to the CFTC's Request for Comment, "Post-Trade Name Give-Up on Swap Execution Facilities" (RIN 3038-AE79), submitted to Christopher Kirkpatrick, Secretary of the Commission, on March 15, 2019, available at: <https://www.managedfunds.org/wp-content/uploads/2019/03/MFA-Letter-on-CFTC-Comment-Request-on-Post-Trade-Name-Give-up-on-SEFs-Final.pdf>. See also Commission Comment File on Name Give-Up Comment Request, available at: [https://comments.cftc.gov/PublicComments/CommentList.aspx?id=2942&ctl00\\_ctl00\\_cphContentMain\\_MainContent\\_gvCommentListChangePage=3](https://comments.cftc.gov/PublicComments/CommentList.aspx?id=2942&ctl00_ctl00_cphContentMain_MainContent_gvCommentListChangePage=3)

have an opportunity to comment on such equivalence/comparability assessments before the Commission's finalizes them.

## 7. Promote Risk-Adjusted Metrics to Assess Potential Systemic Risks from the Use of Leverage

The Commission has a key role to play in international regulatory discussions, including through IOSCO. MFA recommends that the CFTC use its role to help shape IOSCO's work on measuring leverage in the asset management sector—particularly as it impacts the derivatives markets.<sup>19</sup> In particular, we encourage the Commission to support the IOSCO-proposed metrics that adjust for duration, credit, and netting, but to strongly oppose the IOSCO proposal to use “gross notional exposure” as a metric. Gross measures of exposure provide spurious results and would mislead regulators and supervisors about potential systemic risk. We agree with IOSCO that any leverage metrics for a fund should be assessed only on an asset class-by-asset class basis, rather than as a single aggregate number.<sup>20</sup>

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MFA appreciates your consideration of our recommendations and comments and looks forward to continuing to provide what we intend as useful and constructive comments on pending and future Commission rulemakings. We look forward to meeting you to discuss our comments. If you have any questions about these comments, or if we can provide further information, please do not hesitate to contact Jennifer Han, Associate General Counsel, or Laura Harper Powell, Associate General Counsel, at (202) 730-2600.

Respectfully Submitted,

/s/ Mark D. Epley  
Mark D. Epley  
Executive Vice President & Managing Director,  
General Counsel

/s/ Jennifer W. Han  
Jennifer W. Han  
Associate General Counsel

/s/ Laura Harper Powell  
Laura Harper Powell  
Associate General Counsel

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<sup>19</sup> See MFA joint comment letter with other trade associations for a complete response to IOSCO's November 2018 consultation report on leverage, available at: <https://www.managedfunds.org/wp-content/uploads/2019/02/MFA-AIMA-ACC-Comment-Letter-on-IOSCO-Leverage-Consultation-1.pdf>.

<sup>20</sup> See IOSCO's November 2018 consultation report on leverage, available at: <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD615.pdf>. The consultation report expressly acknowledges the benefits of measuring leverage by comparing asset class-by-asset class exposures to net asset value and recommends that regulators assess leverage metrics by asset class and not as an aggregated single number.

Chairman Tarbert  
July 24, 2019  
Page **10** of **10**

CC: The Honorable Brian D. Quintenz, Commissioner  
The Honorable Rostin Behnam, Commissioner  
The Honorable Dawn DeBerry Stump, Commissioner  
The Honorable Dan M. Berkovitz, Commissioner