



**U.S. COMMODITY FUTURES TRADING COMMISSION**

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Division of Clearing and Risk

Mr. Karl Chen  
Chief Financial Officer  
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. Chen:

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") and Commission regulations thereunder, subject to certain conditions described in the letter.<sup>1</sup> The relief was set to expire on July 31, 2021. The Division is hereby extending the relief for one additional year, and is expanding the scope of products covered by the relief, for the reasons discussed below.

Under the terms of the relief, SHCH is permitted to clear certain swaps subject to mandatory clearing in the People's Republic of China for the proprietary trades<sup>2</sup> of SHCH clearing members that are U.S. persons or affiliates of U.S. persons. The relief was provided to

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<sup>1</sup> 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), and until July 31, 2021, by CFTC Letter No. 18-18 (July 31, 2018).

<sup>2</sup> See 17 C.F.R. § 1.3 (definition of "proprietary account").

SHCH while the Division reviewed SHCH's petition<sup>3</sup> to the Commission for an exemption from registration as a DCO pursuant to Section 5b(h) of the CEA and the Commission finalized a rulemaking regarding exemption from DCO registration.<sup>4</sup>

The Division believes that legitimate business interests are 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 swaps<sup>5</sup> and because PBOC 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 has requested that the Division expand the scope of the relief to permit U.S. persons to clear additional products, including renminbi-denominated interest rate swaps not subject to mandatory clearing in the People's Republic of China. The Division believes that allowing U.S. persons to clear additional products through SHCH will allow them to diversify their product mix and risk exposure, thereby improving their ability to manage risk. Therefore, the Division agrees that removing the product restriction from the relief is appropriate.

To permit time for SHCH to update its application in accordance with the new regulations, and for the Commission to consider the application, while providing sufficient regulatory certainty to permit U.S. persons to diversify the products cleared through SHCH, the Division is extending the relief initially provided in CFTC Letter No. 16-56 to July 31, 2022.

#### 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. 16-56; *provided, however*, that condition (1), "Product Scope," is hereby amended to read, "The relief is limited to the clearing of swaps accepted for clearing by SHCH."; and

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<sup>3</sup> Petition received November 22, 2016. SHCH has advised that it will submit an updated application for exemption from DCO registration to reflect subsequent legal and regulatory developments and other relevant updates.

<sup>4</sup> On November 18, 2020, the Commission approved a final rule that codifies the policies and procedures it implemented in 2015 with respect to granting exemptions from DCO registration, including permitting exempt DCOs to clear proprietary swap positions of U.S. persons and futures commission merchants.

<sup>5</sup> 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.

(2) continued compliance with the daily reporting condition specified in CFTC Letter No. 18-18.

The no-action relief shall expire at the earlier of: (i) July 31, 2022, or (ii) the date on which the Commission exempts SHCH from registration as a DCO under Section 5b(h) of the CEA.

The relief granted herein supersedes that granted in CFTC Letter No. 18-18 (July 31, 2018).

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 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