AIMA's summary of comments on

exemptions from registration of CPOs and CTAs and related reporting requirements

The CFTC Release significantly increases the number of private fund advisers that would be required to register (and potentially report) as a CPO or CTA with the CFTC, primarily because of:

- Expansion of the definition of "commodity interests" (Section 721 of the Dodd-Frank Act) by including over-the-counter trades ('swaps'), which increases the number of private fund advisers and operators who will fall under the definitions of CPO and CTA in the CEA;

- Proposed elimination of exemptions in Rules 4.13(a)(3) and 4.13(a)(4) upon which thousands of US and non-US CPOs in respect of private funds and other commodity pools currently rely; and

Many US and non-US private fund managers had previously not needed to rely on any exemption because they traded solely over-the-counter. So for the first time many US and non-US private fund operators or advisers would be required to register as CPOs and/or CTAs and report the entirety of their global commodity pool operations to the CFTC **even if they are very small and their "swap" activities are only incidental, and/or if they operate or advise only a single non-US fund with a single US investor and enter into a single swap.**

This approach appears to be disproportionate and would result in an unduly burdensome regime for smaller and non-US private fund managers. Moreover, inconsistent with the stated objectives of the CFTC, such a registration (and reporting) regime would not be aligned with the approach or regime proposed by the SEC for private fund advisers.

Discussions with and data available from other national authorities, including the UK, Hong Kong, Australia and Singapore, indicate that **there are now more than 3,500 asset managers in those jurisdictions who may become subject to the proposed registration and reporting requirements**. If one takes into account asset managers active in other jurisdictions, that figure may be significantly higher. At some level of registration, the marginal benefit to improved regulation will be significantly reduced or even become negative, while the costs on the industry, registered advisers and investors are materially increased.

We suggest that at a minimum there should be exemptions provided that are equivalent to, or very closely aligned with, the registration exemptions under the Investment Advisers Act of 1940 (**i.e., exemptions from the registration for smaller US and non-US based private fund operators and advisers, parallel with the exemptions to be provided from SEC registration under the 1940 Act - the "private fund adviser exemption" and the "foreign private adviser exemption"**). This may be achieved by providing exemptions similar to those proposed by the SEC, or by modifying/amending CFTC Regulation 4.13 to maintain exemptions for private funds registered under the 1940 Act, which condition or requirement for exemption is already reflected in parts of CFTC Regulation 4.13.

AIMA believes that this approach is fully in line with the clear intention of Congress in the Dodd-Frank Act to exempt certain smaller private fund advisers, advisers with limited amounts of assets under management in the US, and non-US advisers with limited assets under management from a limited number of US clients.

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Reporting Requirements

Thresholds for reporting

We believe the proposed thresholds for requiring CPOs and CTAs to report to the CFTC on Forms CPO-PQR and CTA-PR are too low.

- The threshold for reporting on both forms under Schedule A should be for private fund advisers with at least an aggregate $150m AUM or investor capital (NAV), and could easily be increased.

- Schedule B in CPO-PQR should be removed, with its relevant information included in either Schedule A or C, as appropriate (see below under 'Format').

- The threshold for reporting under Schedule C in CPO-PQR and Schedule B in CTA-PR should be $1bn AUM (NAV) as proposed by you and the SEC, but we believe this threshold also may be increased over time and with experience with the proposed reporting regime.

Format of reporting on CPO-PQR

We suggest that the Commission simplify the proposed Form CPO-PQR significantly by removing Schedule B. Some of the information asked for in Schedule B can be moved to Schedule A and some can be moved to Schedule C, while some items can be removed altogether. For example:

- Position level data is unnecessary in schedule A, as this applies to smaller managers and seems in general to correctly focus on basic information for tracking or classifying advisers and market participants.

- Question 1 of Schedule B regarding "description of strategy" could be moved to Schedule A to give the CFTC a general view of the pools and a means of classifying advisers.

- Only Schedule C should focus on counterparty and related risk data, and other information (currently included in Schedule B) regarding borrowings.

- Investor composition in Schedule C should be reported only on an aggregated and category basis (e.g., 'High net worth individuals'; 'institutional investors – pension funds', 'institutional investors – insurance companies', etc.).

Frequency and timing of reporting

We propose that reporting should be conducted annually for Schedule A and semi-annually for Schedule C, due to the volume of data and reporting required, related costs, the material burden and potential inability of the CFTC staff to analyse and use reports of greater frequency, and because the monitoring of potential systemic risks or material changes in the markets should not require greater frequency of reporting.

The full reconciliation of a commodity pool's financial information usually takes up to 15 days. This can be even longer for illiquid portfolios that require third party valuations. The proposed deadline for reporting is much too short, and should be extended to 45 days. This is also consistent with the FSA's reporting regime.

AIMA members have advised us that the proposed reporting regimes in the US (CFTC and SEC), the UK, the EU, IOSCO and potentially elsewhere will require the hiring of one or two more full time legal and compliance professionals. This increased cost is material. For the largest managers such costs are more easily absorbed than for mid-sized or smaller managers.

Consistency with other reporting regimes

Compliance costs increase significantly when reporting formats deviate from other reporting standards, whether on a national or an international level. It is also important that US regulators of private fund advisers apply the same or substantially similar metrics as other national authorities to determine registrants and for the gathering of relevant information under reporting requirements such as adviser AUM/NAV thresholds, as well as key financial metrics and counterparty data for comparability of reported information.

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