

**Summary Statement of the
U.S. CHAMBER OF COMMERCE**

**before the
CFTC Roundtable on Proposed Amendment to Rule 4.5
Wednesday, July 6, 2011**

The CFTC has recently proposed amendments to Rule 4.5¹ that, if adopted, would substantially affect the use of derivatives by registered investment companies. The Chamber has significant concerns with the administrative process related to these proposed amendments. In particular, we believe that:

- 1) The scope of the CFTC's rule proposal is too broad. According to the February 11th rule proposal, the CFTC proposed amendments to Rule 4.5 in order "[t]o stop the practice of registered investment companies offering futures-only investment products without [CFTC] oversight".² However, the CFTC has not limited the effect of its proposal to this very small sub-universe of registered investment companies - rather, the CFTC has proposed a rule that will affect the entire mutual fund industry;
- 2) The mutual fund industry can not assess the costs, burdens and impact of the proposed amendments to Rule 4.5, since a proper understanding of the effect of the amendments is predicated upon the final adoption of rules by the CFTC, the SEC and the Federal banking regulators under Title VII of the Dodd-Frank Act ("Title VII"). It is a gross understatement to say that Title VII represents a major change to the regulation of the U.S. derivatives markets that, in turn, necessitates a complete overhaul of the administrative rules that apply to those markets. Until the new derivatives rules are finalized – which is likely to occur no earlier than the end of this year and quite possibly well into next year – the mutual fund industry can not possibly begin to assess the effect of the proposed amendments to Rule 4.5. Significantly, we note the amendments to Rule 4.5 were *not* mandated by Title VII or any other aspect of the Congressional mandates reflected by the Dodd-Frank Act; and
- 3) The CFTC's proposal does not give adequate consideration to the adverse effects on the mutual fund industry or the financial markets more generally that could result if the legitimate use of futures contracts by the entire mutual fund industry is restricted in the manner proposed.

Accordingly, it is the Chamber's position that the proposed amendments be withdrawn. At a minimum, any consideration of those amendments should be postponed until the broader derivatives market regulatory reforms contemplated by Title VII of the Dodd-Frank Act have been completed in their entirety. At that time – and only at that time – will it be appropriate to continue the discussion started at today's Roundtable.

¹ *Commodity Pool Operators and Commodity Trading Advisors; Exemption From Requirement to Register for CPOs of Certain Pools and CTAs Advising Such Pools*, 67 FR 68785, 68786 (Nov. 13, 2002).

² 75 FR at 7984.