PRIVATE EQUITY GROWTH CAPITAL COUNCIL

SUBMITTED ELECTRONICALLY

February 10, 2014

Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W. Washington, D.C. 20581

Re: CFTC, Notice of Proposed Rulemaking on Aggregation, Aggregation of Positions (RIN 3038–AD82)

Dear Ms. Jurgens,

This letter is submitted by the Private Equity Growth Capital Council ("***PEGCC***", "***we***" or "***us***", as applicable) in response to the above-referenced Notice of Proposed Rulemaking on Aggregation of Positions (the "***Proposing Release***")[1] issued by the Commodity Futures Trading Commission ("***CFTC***" or "***Commission***"). This letter follows our prior comment letters on this topic, dated as of June 29, 2012 and August 20, 2012, respectively (the "***Prior Letters***"),[2] both originally submitted in response to the Commission's May 30, 2012 proposal regarding the aggregation of positions (the "***2012 Aggregation Proposal***"),[3] and which we fully incorporate as part of this submission to include in the comment file of the Proposing Release. The PEGCC is an advocacy, communications and research organization established to develop, analyze and distribute information about the private equity and growth capital investment industry and its contributions to the national and global economy.[4]

As described in greater detail in our July 29, 2012 Prior Letter, in order to generate returns for their investors, private equity firms make equity investments through

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1 Aggregation of Positions, 78 Fed. Reg. 68945 (Nov. 15, 2013).

2 The Prior Letters may be accessed on the CFTC's online comment database at: http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=58295 (July 29, 2012 submission), and http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=58418 (Aug. 20, 2012 submission).

3 Aggregation, Position Limits for Futures and Swaps, 77 Fed. Reg. 31767 (May 30, 2012).

4 Established in 2007, and formerly known as the Private Equity Council, the PEGCC is based in Washington, D.C. The PEGCC's members are the world's leading private equity and growth capital firms united by their commitment to growing and strengthening the businesses in which they invest.

multiple fund vehicles ("***PE funds***") in a variety of unrelated commercial enterprises ("***portfolio companies***"). Portfolio companies may utilize proceeds from these investments for, among other things, operating capital and infrastructure development. PE funds thereby function as a conduit between, on the one hand, long-term investors such as public and private pension funds and endowments and, on the other hand, portfolio companies, providing an important alternative source of capital to the economy and an alternative asset class for long-term investment. Our members own interests in thousands of portfolio companies in diverse businesses across multiple time zones.

As also previously detailed in our Prior Letters, PE funds, generally, do not become involved in the day-to-day management of their portfolio companies, and in particular, generally do not control day-to-day trading activities of their portfolio companies. From this background, we have consistently commented that the CFTC's aggregation rules and policies should include an exemption to permit, in appropriate circumstances, disaggregation notwithstanding an investment by an owner entity ("***owner entity***") that exceeds 50 percent, and up to and including 100 percent, of the ownership interest in an owned entity ("***owned entity***"). Therefore, the PEGCC is appreciative of and supports the CFTC's decision to provide for and include such an exemption (the "***Greater-than-Fifty Exemption***") in the Proposing Release.[5]

As we will discuss in detail below, however, certain aspects of the proposed Greater-than-Fifty Exemption will, if adopted without revision, unnecessarily limit or prevent the usability of the exemption by many PE funds and other owner entities. This letter will specifically address issues in connection with the proposed application process, the required board member certification, the three-month penalty period, and the scope of owned entity permitted activity.[6]

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[5] Proposed rule 150.4(b)(3); *see* Proposing Release at 68959 – 68961 (preamble discussion), and 68976 – 68977 (proposed rule text). In this letter, we have generally focused our comments on the Greater-than-Fifty Exemption in the Proposing Release. However, we also want the Commission to ensure that related rules or actions will not otherwise undermine the ability of a market participant to rely on the exemption. For example, in the example bona fide hedge scenarios described in the CFTC's recent position limits proposal, the CFTC noted that two entities could be viewed as "acting together pursuant to an agreement," and thus treated as a single person for purposes of position limits, based on a single guarantee or credit support arrangement. *See* example 7 in proposed Appendix C to part 150—Examples of Bona Fide Hedging Positions for Physical Commodities, Position Limits for Derivatives, 78 Fed. Reg. 75679, at 75837 (Dec. 12, 2013). The Commission should clarify that "acting together pursuant to an agreement" does not mean routine commercial arrangements between two entities such as guarantees or credit supports.

[6] In addition to the issues covered in this letter, we also note that the proposed Greater-than-Fifty Exemption requires an owner entity to certify to the Commission that the owned entity is not required under U.S. generally accepted accounting principles to be, and is not, consolidated on the financial statement of such person. While the PEGCC's

I. Overview

As indicated above, the PEGCC supports the proposal to permit, in appropriate circumstances, disaggregation notwithstanding an investment by an owner entity that exceeds 50 percent of the ownership interest in an owned entity, up to and including 100 percent. With respect to the proposed conditions of the Greater-than-Fifty Exemption, we suggest the following clarifications and revisions:

- *Application process*—Under the proposal, an owner entity would first be required to submit an application to the CFTC and wait for the Commission's approval prior to the effectiveness of the Greater-than-Fifty Exemption. The PEGCC believes strongly that the Commission should instead permit an owner entity to claim the Greater-than-Fifty Exemption via a filing to the Commission that is effective upon submission. Absent this change, the exemption will prove unworkable in practice – the PEGCC's members would have to prophylactically file applications for thousands of portfolio companies if the CFTC does not permit a notice filing that is effective upon submission.

- *Board member certification*—The proposed Greater-than-Fifty Exemption would require certifications to the CFTC from each representative (if any) of the owner entity on the owned entity's board of directors (or equivalent governance body) certifying that he or she does not control the trading decisions of the owned entity. The Commission should instead permit the owner entity to make this certification directly to the Commission, on its own behalf and on behalf of its representative(s) on the owned entity's board of directors.

- *Three-month penalty period*—In the event the circumstances permitting reliance on the Greater-than-Fifty Exemption cease to be met, the Proposing Release would disallow any reliance on the exemption by the owner entity for an arbitrary penalty period of three-months. After the three-month penalty period, the owner entity could re-certify its eligibility for the exemption, provided that the owned entity has only engaged in bona fide hedging derivatives activity during the three-months; *i.e.*, the ability of the owned

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members generally do not file consolidated financial statements with their owned entities, we do not believe that including this condition in the final rule is necessary in light of the other conditions and certifications that must be met or provided in order for an owner entity to rely on the exemption. That is, the prohibition on having consolidated financial statements does not contribute to the Commission's key purpose of assuring that disaggregation is only available in the event that an "[owner entity] and the owned entity have procedures in place that are reasonably effective to prevent coordinated trading[, and] [t]he [owner entity can] demonstrate that it does not control the owned entity's trading even though the [owner entity] is the majority owner of the owned entity." 78 Fed. Reg. at 68959. Whether or not an owner entity and an owned entity consolidate their financial statements to comply with various accounting rules, the relevant conditions that support claiming an exemption from aggregation are whether the required separations of trading control are in place.

entity to enter into speculative positions up to 20 percent of any position limit currently in effect (as proposed for entities eligible for the Greater-than-Fifty Exemption) would be lost during the three months. The CFTC should instead require that the conditions of the exemption must be met at all times, and that if such conditions are not met, the exemption would cease to be available until such time as the owner entity re-certified that it meets the conditions of the exemption.

- *Owned-entity permitted activity*—The proposed Greater-than-Fifty Exemption would require the owner entity to certify that either (i) all of the owned entity's positions qualify as bona fide hedging transactions or (ii) the owned entity's positions that do not so qualify do not exceed 20 percent of any position limit currently in effect. We support this condition, and we believe it is important that the condition does not restrict an owned entity from engaging in activity in derivatives not subject to position limits (*e.g.*, foreign exchange and interest rate trades).

II. Application Process

The PEGCC strongly urges the Commission to revise the proposed Greater-than-Fifty Exemption to provide that the exemption is effective upon the submission of a notice filing to the CFTC, along with the required certifications. The application and approval process will demand significant CFTC staff resources without providing any apparent regulatory benefits. Moreover, the CFTC has not demonstrated or identified any risk of abuse of the proposed exemption on a going forward basis. In the Proposing Release, the Commission states that it "continues to believe that relief from the aggregation requirement should not be available merely upon a notice filing by a person who has a greater than 50 percent ownership or equity interest in the owned entity."[7] But the Commission does not explain why, in the event that an owner entity meets each of the requirements and conditions of the proposed Greater-than-Fifty Exemption, it would still need to review and approve an application. As noted above, the PEGCC's members would have to prophylactically file applications for thousands of portfolio companies if the CFTC does not permit a notice filing that is effective upon submission. Moreover, the Commission has not identified how it will be able to prioritize and respond to such applications in the context of the CFTC's limited internal resources. To the extent the CFTC accepts applications but is unable to process such applications in a timely manner, the delay could result in compounded (and avoidable) procedural inefficiencies in the form of unnecessary requests for no-action relief as market participants await approval of their applications. In addition, if the Commission requires an owner entity to develop interim compliance programs while awaiting the "approval" of an application, the owner entity would be forced to institute and exercise levels of control (*i.e.*, a view into trading positions and activity), the absence of which justifies the original claim of the exemption. If the purpose of the exemption is to recognize instances where an owner entity does not coordinate with or otherwise involve itself in the trading activities of an owned entity, a stalled (and unnecessary) application process will not only risk undermining the purpose of the exemption, but will also impose unnecessary financial costs and legal uncertainty on both owner and owned entities.

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[7] Proposing Release at 68959.

With respect to the purpose of the application process, the Commission seems to suggest that the application is not an evaluation tool, but a wild-card whereby the Commission could refuse disaggregation even if the proposed conditions are met. "The Commission reiterates that . . . ***even if the owned entity is not consolidated and other requirements for relief are satisfied***, the Commission could nevertheless, in its discretion, determine that relief is not appropriate."[8] "The Commission wishes to clarify that this relief would not be automatic, but rather would be available only if the Commission finds, in its discretion, that the [proposed conditions] are met. Thus, persons applying for this relief should not assume that relief would be granted. ***The proposed rule would not impose any time limits on the Commission's process for making the determination*** of whether relief is appropriately granted, and relief would be available only if and when the Commission acts on a particular request for relief."[9] The proposed exemption fails to provide market participants any level of certainty for the purpose of anticipating and determining whether they will be able to rely on the Greater-than-Fifty Exemption, notwithstanding efforts made to confirm and demonstrate that the substantive requirements and conditions of the exemption are met.

Moreover, because the Proposal does not indicate or impose any specific timing obligation with respect to the CFTC, in connection with responding to and approving such applications, an owner entity could be exposed to aggregating the accounts of a qualifying owned entity during the CFTC's review period. As noted above, the Proposing Release does not clarify how an owner entity should conduct itself between the time in which it files an application for exemption and the time at which the CFTC grants such application. It would not be a reasonable use of resources to develop and implement an aggregation compliance program while at the same time awaiting the Commission's approval of disaggregation relief. Further, many PE funds establish their ownership interest in and relationship with portfolio companies subject to certain covenants of separateness. To compel the sharing of information required to aggregate positions at the PE Fund level for the interim period during which the CFTC is reviewing an application would cause the PE Fund to violate the very covenants and separation practices that support claiming the exemption.

The PEGCC notes that the Commission, in recognizing and responding to the comments received on the 2012 Aggregation Proposal,[10] concluded in the Proposing Release that "disaggregation relief may be appropriate even for majority owners if the owned entity is not required to be, and is not, consolidated on the financial statement of the person, if the person can demonstrate that the person does not control the trading of the owned entity, based on the criteria in proposed rule 150.4(b)(2)(i),[[11]] and if both the person and the owned entity have procedures

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8 Proposing Release at 68960 (emphasis added).

9 Proposing Release at 68960 (emphasis added).

10 The Proposing Release cites the Prior Letters 18 times.

11 These criteria would require that such person, including any entity that such person must aggregate, and the owned entity:

(A) Do not have knowledge of the trading decisions of the other;

in place that are reasonably effective to prevent coordinated trading."[12] Having reached the policy conclusion to permit the exemption, subject to the requirements and conditions outlined in the Proposing Release, the Commission should not compel a re-assessment of this policy conclusion by requiring a case-by-case review of each owner entity seeking to claim the exemption.

Submitting a notice filing to the Commission that is effective upon submission for the Greater-than-Fifty Exemption is the same manner in which the Commission has proposed to permit market participants to claim and rely upon exemptions from aggregation in several other instances.[13] The notice filing would permit the Commission to identify those owner entities relying on the relief and, in the event of an actual concern of abuse or misapplication, provide the Commission with the appropriate points of contact for further inquiry.

Therefore, we respectfully request that the Commission revise the proposed Greater-than-Fifty Exemption to remove the application and approval process and to provide that the exemption is effective upon the submission of a notice filing and the required certifications to the CFTC.

III. Other Clarifications and Revisions

As noted above, the PEGCC has consistently advocated for a CFTC rule that will permit, in appropriate circumstances, disaggregation notwithstanding an investment by an owner entity that exceeds 50 percent, up to and including 100 percent, of the ownership interest in an owned entity. With respect to the following proposed conditions of the CFTC's proposed

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(B) Trade pursuant to separately developed and independent trading systems;

(C) Have and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities;

(D) Do not share employees that control the trading decisions of either; and

(E) Do not have risk management systems that permit the sharing of trades or trading strategy.

12 Proposing Release at 68959.

13 *E.g.*, the principal or affiliate of a commodity pool operator in connection with an interest in a commodity pool (proposed rule 150.4(b)(1)(ii)); an owner entity in respect of an ownership interest of ten to fifty percent in an owned entity (proposed rule 150.4(b)(2)); certain positions of a futures commission merchant ("FCM") where the FCM does not control the trading of such account (proposed rule 150.4(b)(5)); and an eligible entity's client positions or accounts carried by an authorized independent account controller (proposed rule 150.4(b)(5)).

Greater-than-Fifty Exemption, we suggest that the Commission provide slight revisions or clarifications to maximize the utility and functionality of this exemption for market participants.

Board member certification—The proposed Greater-than-Fifty Exemption would require certifications to the CFTC from each representative (if any) of the owner entity on the owned entity's board of directors (or equivalent governance body) certifying that he or she does not control the trading decisions of the owned entity. The Commission should instead permit the owner entity to make this certification directly to the Commission, on its own behalf and on behalf of each of its representatives on an owned entity's board of directors. The Commission's primary goal with this condition seems to be that the owner entity must recognize and acknowledge that it cannot and does not control the owned entity's trading decisions. While the board representative(s) of the owner entity may have a partial view as to whether or not appropriate separations of control are being observed, it is ultimately more effective for the owner entity to certify, on behalf of all of its operations, that it does not, either directly or through any authority delegated to one or more board representative, control the trading decisions of any owned entity. That is, the owner entity is in the best position to fully understand and certify as to the nature of the responsibilities it has given to its representative(s) on a specific board. Moreover, the owner entity is likely to have more than one owned entity for which it is seeking to claim the Greater-than-Fifty Exemption, and so the owner entity will also be able to have a more complete view and understanding of the controls it institutes, at the institutional level of the owner entity, to prevent any involvement with the trading activity of its various owned entities. The owner entity board representative(s) at the owned entity may not have detailed or specific knowledge of all of the undertakings implemented at the owner entity level to ensure that separations are maintained. In addition, because the certification is ultimately made with respect to the operations of the owner entity, it is inappropriate to place the liabilities associated with making such a certification on the board representative. This is beyond the scope of responsibilities that such a board representative typically assumes – particularly when there is no reason the owner entity cannot make the representation on its own behalf.

Three-month penalty period—In the event the circumstances permitting reliance on the Greater-than-Fifty Exemption cease to be met, the Proposing Release would disallow any reliance on the exemption by the owner entity for an arbitrary penalty period of three-months. After the three-month penalty period, the owner entity could re-certify its eligibility for the exemption, provided that the owned entity has only engaged in bona fide hedging derivatives activity during the three-months; i.e., the ability of the owned entity to enter into speculative positions up to 20 percent of any position limit currently in effect (as proposed for entities eligible for the Greater-than-Fifty Exemption) would be lost during the three months. The CFTC should instead require that the conditions of the exemption must be met at all times, and that if such conditions are not met, the exemption would cease to be available until such time as the owner entity re-certified that it meets the conditions of the exemption. There is no identified purpose for the three-month penalty period and no identified purpose for prohibiting the owned entity from engaging in permitted speculative activity (up to 20 percent of any position limit currently in effect) during such penalty period. The Commission does not impose, and would not impose via the Proposing Release, punitive "time-out" periods in the context of other

aggregation exemptions. And the Commission has not articulated why a different approach is needed or justified in the context of the Greater-than-Fifty Exemption.

Owned-entity permitted activity—The proposed Greater-than-Fifty Exemption would require the owner entity to certify that either (i) all of the owned entity's positions qualify as bona fide hedging transactions or (ii) the owned entity's positions that do not so qualify do not exceed 20 percent of any position limit currently in effect. As noted above, we support the permitted scope of the owned entity's derivatives activity. This condition, importantly, does not restrict an owned entity from engaging in activity in derivatives not subject to position limits (*e.g.*, foreign exchange and interest rate trades).

To further illustrate our comments, we have attached, as an appendix, draft rule text incorporating the requests presented above. The rule text in the appendix includes redline showing the changes as against the Greater-than-Fifty Exemption rule text set forth in the CFTC's Proposing Release.

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The PEGCC thanks the CFTC for proposing the Greater-than-Fifty Exemption. The PEGCC requests that the few modifications identified in this letter be included in any final rule in order to make the exemption practical and effective for market participants. We are available to discuss any questions that the CFTC may have.

Respectfully submitted,

Steve Judge
President and CEO
Private Equity Growth Capital Council

cc: Honorable Mark P. Wetjen, Acting Chairman
Honorable Bart Chilton, Commissioner
Honorable Scott D. O'Malia, Commissioner
Mark Fajfar, Assistant General Counsel
Stephen Sherrod, Senior Economist
Riva Spear Adriance, Senior Special Counsel

APPENDIX –
RULE TEXT INCORPORATING THE COMMENTS OF THE PEGCC

RIN 3038–AD82
CFTC proposed rule § 150.4(b)(3)
Greater-than-Fifty Exemption
The PEGCC's requested revisions marked.

150.4

[. . .]

(b)

[. . .]

(3) *Exemption for certain ownership of greater than 50 percent in an owned entity*. Any person with a greater than 50 percent ownership or equity interest in an owned entity (other than an interest in a pooled account subject to paragraph (b)(1) of this section), need not aggregate the accounts or positions of the owned entity with any other accounts or positions such person is required to aggregate, provided that:

(i) Such person certifies to the Commission that the owned entity is not required under U.S. generally accepted accounting principles to be, and is not, consolidated on the financial statement of such person;

(ii) Such person, including any entity that such person must aggregate, and the owned entity meet the requirements of paragraphs (b)(2)(i)(A) through (E) of this section[1] and such

[1] For reference, these provisions require that: "Such person, including any entity that such person must aggregate, and the owned entity:

(A) Do not have knowledge of the trading decisions of the other;

(B) Trade pursuant to separately developed and independent trading systems;

(C) Have and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities;

(D) Do not share employees that control the trading decisions of either; and

person demonstrates to the Commission that procedures are in place that are reasonably effective to prevent coordinated trading decisions by such person, any entity that such person must aggregate, and the owned entity;

(iii) Such person, on behalf of itself and ~~E~~each representative (if any) of the person on the owned entity's board of directors (or equivalent governance body), certifies that such person and each such representative ~~he or she~~ does not control the trading decisions of the owned entity;

(iv) Such person certifies to the Commission that either all of the owned entity's positions qualify as bona fide hedging transactions or the owned entity's positions that do not so qualify do not exceed 20 percent of any position limit currently in effect, and agrees with the Commission that:

(A) If such certification becomes untrue for any owned entity of the person, such person will aggregate the accounts or positions of the owned entity with any other accounts or positions such person is required to aggregate; however, ~~after a period of three complete calendar months in which such person aggregates such accounts or positions and all of the owned entity's positions qualify as bona fide hedging transactions,~~ such person may make such certification again and be permitted to cease such aggregation;

(B) Any owned entity of the person shall, upon call by the Commission at any time, make a filing responsive to the call, reflecting only such owned entity's positions and transactions, and not reflecting the inventory of the person or any other accounts or positions such person is required to aggregate (this requirement shall apply regardless of whether the owned entity or the person is subject to § 18.05 of this chapter); and

(C) Such person shall inform the Commission, and provide to the Commission any information that the Commission may request, if any owned entity engages in coordinated activity regarding the trading of such owned entity, such person, or any other accounts or positions such person is required to aggregate, even if such coordinated activity does not conflict with any of the requirements of paragraphs (b)(2)(i)(A) ~~to (b)(2)(i)~~through (E) of this section[2];

~~(v) The Commission finds, in its discretion, that such person has satisfied the conditions of this paragraph (b)(3);~~

(v~~i~~) Such person, when first ~~requesting~~ claiming disaggregation relief under this paragraph, complies with the requirements of paragraph (c)(1~~2~~) of this section; and

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(E) Do not have risk management systems that permit the sharing of trades or trading strategy[.]"

2 For the list of these requirements, see footnote 1, above.

(vi~~i~~) Such person complies with the requirements of paragraph (c)(3~~1~~) of this section if, subsequent to claiming the exemption~~a Commission finding that the person has satisfied the conditions of this paragraph (b)(3)~~, there is a material change to the information provided to the Commission in the person's original filing under paragraph (c)(1~~2~~) of this section.

[. . .]

(c) Notice filing for exemption.

(1) All ~~P~~persons seeking an aggregation exemption under paragraph (b)(1)(ii), (b)(2), (b)(3)~~(vii)~~, (b)(4), (b)(5), or (b)(8) of this section shall file a notice with the Commission, which shall be effective upon submission of the notice, and shall include:

(i) A description of the relevant circumstances that warrant disaggregation; ~~and~~

(ii) A statement of a senior officer of the entity certifying that the conditions set forth in the applicable aggregation exemption provision have been met; and~~.~~

(iii) For persons with a greater than 50 percent ownership or equity interest in an owned entity ~~seeking~~ claiming an aggregation exemption under paragraph (b)(3) of this section:

(A) A demonstration that procedures are in place that are reasonably effective to prevent coordinated trading decisions by such person, any entity that such person must aggregate, and the owned entity; and

(B) All certifications required under paragraph (b)(3) of this section.

~~(2) Persons with a greater than 50 percent ownership or equity interest in an owned entity seeking an aggregation exemption under paragraph (b)(3)(vi) of this section shall file a request with the Commission, which shall not become effective unless and until the Commission finds, in its discretion, that such person has satisfied the conditions of paragraph (b)(3) of this section, and shall include:~~

~~(i) A description of the relevant circumstances that warrant disaggregation;~~

~~(ii) A statement of a senior officer of the entity certifying that the conditions set forth in paragraph (b)(3) of this section have been met;~~

~~(iii) A demonstration that procedures are in place that are reasonably effective to prevent coordinated trading decisions by such person, any entity that such person must aggregate, and the owned entity; and~~

~~(iv) All certifications required under paragraph (b)(3) of this section.~~

(2~~3~~) Upon call by the Commission, any person claiming an aggregation exemption under this section shall provide such information demonstrating that the person meets the requirements of the exemption, as is requested by the Commission. Upon notice and opportunity for the affected person to respond, the Commission may amend, suspend, terminate, or otherwise modify a person's aggregation exemption for failure to comply with the provisions of this section.

(3~~4~~) In the event of a material change to the information provided in any notice filed under this paragraph (c), an updated or amended notice shall promptly be filed detailing the material change.

(4~~5~~) Any notice filed under this paragraph (c) shall be submitted in the form and manner provided for in paragraph (d) of this section.

[. . .]

(e) Delegation of authority to the Director of the Division of Market Oversight.

(1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority:

(i) In paragraph (b)(3) of this section ~~:~~

~~(A) To determine, after consultation with the General Counsel or such other employee or employees as the General Counsel may designate from time to time, if a person has satisfied the conditions of paragraph (b)(3) of this section; and~~

~~(B) T~~to call for additional information from an owned entity for which a person is claiming the exemption in paragraph (b)(3) of this section, reflecting such owned entity's positions and transactions (regardless of whether the owned entity or the person is subject to § 18.05 of this chapter).

(ii) In paragraph (b)(9)(iii) of this section to call for additional information from a person claiming the exemption in paragraph (b)(9)(i) of this section.

(iii) In paragraph (d) of this section for providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

[. . .]