COMMITTEE ON CAPITAL MARKETS REGULATION

CCMR URGES CFTC TO EXTEND TEMPORARY EXEMPTION

CAMBRIDGE, June 27, 2013—The Committee on Capital Markets Regulation urges the Commodity Futures Trading Commission (CFTC) to extend the term of its temporary exemption from the cross-border application of several important derivatives rules. The exemption is due to expire on July 12, 2013.

The CFTC adopted the exemption because the agency had not yet finalized cross-border "rules of the road" when Dodd-Frank derivatives requirements took effect in December 2012 and because corresponding European rules were not yet final. The exemption was intended to provide time for the CFTC to finalize a framework for firms to comply on a "substituted" basis with comparable non-U.S. rule regimes as well as to reflect on the appropriate scope and coverage of the guidance.

Extending the temporary exemption for a few more months poses little risk, given that most of the covered banks are already subject to comprehensive supervision as to capital and risk. Under the exemption, U.S. clearing, public transparency, and sales practice rules still apply to all transactions with U.S. persons. Foreign banks covered by the exemption remain subject to home country capital and internal conduct rules with similar coverage to U.S. rules. While the exemption permits foreign branches and subsidiaries of U.S. banks to trade with foreign customers without applying U.S. clearing and public transparency rules, those branches and subsidiaries still must report those trades to U.S. regulators.

The E.U. recently pushed back its own regulatory deadline from June 15 to September 1—the Committee on Capital Markets Regulation encourages the CFTC to reciprocate by extending its own July 12 deadline. Extending the temporary exemption will also allow CFTC regulators the opportunity to coordinate with the Securities and Exchange Commission, whose own cross-border rulemaking process is currently pending. Waiting a bit longer is a small price to pay for building a consistent international regime that will govern these important markets for decades to come.

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Founded in 2006, the Committee on Capital Markets Regulation is dedicated to enhancing the competitiveness of U.S. capital markets and ensuring the stability of the U.S. financial system. Our membership includes thirty-two leaders drawn from the finance, investment, business, law, accounting, and academic communities. The Committee is chaired jointly by R. Glenn Hubbard (Dean, Columbia Business School) and John L. Thornton (Chairman, The Brookings Institution) and directed by Hal S. Scott (Nomura Professor and Director of the Program on International Financial Systems, Harvard Law School). The Committee is an independent and nonpartisan 501(c)(3) research organization, financed by contributions from individuals, foundations, and corporations.

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