FOR FURTHER INFORMATION CONTACT:
Eileen T. Flaherty, Director, [202] 418–5326, eflaherty@cftc.gov; Frank Fisanich, Chief Counsel, [202] 418–5949, ffisanic@cftc.gov; or Jacob Chachkin, Special Counsel, [202] 418–5496, jchachkin@cftc.gov. Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

COMMODITY FUTURES TRADING COMMISSION

Commission Statement Concerning a Request for an Interpretation as to Whether a Particular Agreement Is a Swap, Security-Based Swap, or Mixed Swap

AGENCY: Commodity Futures Trading Commission.

ACTION: Commission statement.

SUMMARY: The Commodity Futures Trading Commission (the “Commission”) is publishing this statement concerning a request for an interpretation as to whether a particular agreement is a swap, security-based swap, or mixed swap.

also includes requirements governing the manner and timing by which the two agencies must act after the receipt of a complete submission under the rule, if they determine to issue such joint interpretation. In addition, paragraph (e)(5) of Commission regulation 1.8 provides that “[i]f the Commission and the [SEC] do not issue a joint interpretation within the time period described in paragraph (e)(1) or (e)(3) [of the rule], each of the Commission and the [SEC] shall publicly provide the reasons for not issuing such a joint interpretation within the applicable timeframes.”

Pursuant to paragraph (e)(5) of Commission regulation 1.8, the Commission is declining to issue a joint interpretation with the SEC in connection with Breakaway’s request.

The Commission understands that the status of the RPAs is already subject to ongoing private litigation and that the petitioners’ request may bear directly on that litigation. We believe that the Commission regulation 1.8 process is not an appropriate vehicle for litigants such as Breakaway to obtain the views of the Commission in connection with issues in ongoing litigation, and we therefore decline Breakaway’s request that we state an interpretive position as to the proper characterization of the RPAs.

Issued in Washington, DC, on June 7, 2017, by the Commission.

Christopher J. Kirkpatrick, Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

4 Paragraph (e)(5) of SEC Rule 3a68–2 contains identical language (other than reversing the references to the two commissions). See 17 CFR 240.3a68–2.

7 Commission staff has consulted and coordinated with SEC staff and understands that the SEC will be issuing a separate statement on this matter.

8 As we and the SEC explained when we jointly adopted Commission regulation 1.8 in 2012 (as well as the corresponding rule under the Exchange Act), the purpose of Commission regulation 1.8 is to “afford market participants with the opportunity to obtain greater certainty from the Commissions regarding the regulatory status of particular Title VII instruments under the Dodd-Frank Act. This provision should decrease the possibility that market participants inadvertently might fail to meet the regulatory requirements applicable to a particular Title VII instrument.” See Product Definitions Adopting Release, 77 FR at 48295. We and the SEC also noted our belief that “it is essential that the characterization of an instrument be established prior to any party engaging in the transactions so that the appropriate regulatory schemes apply.” See Product Definitions Adopting Release, 77 FR at 48297.
CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities; Notice of Hearing


ACTION: Notice of public hearing.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about the Commission’s agenda and priorities for fiscal year 2018, which begins on October 1, 2017, and for fiscal year 2019, which begins on October 1, 2018. We invite members of the public to participate. Written comments and oral presentations concerning the Commission’s agenda and priorities for fiscal years 2018 and 2019 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on July 26, 2017, and will conclude the same day. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Daylight Time (EDT) on July 12, 2017. The Commission will accept written comments as well. These also must be received by the Office of the Secretary not later than 5 p.m. EDT on July 12, 2017.

ADDRESSES: The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD 20814. Requests to make oral presentations, and texts of oral presentations and written comments should be captioned, “Agenda and Priorities FY 2018 and/or 2019,” and sent by electronic mail (email) to: cpsc-os@cpsc.gov, or mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814. Requests and written comments must be received no later than 5 p.m. EDT on July 12, 2017.

FOR FURTHER INFORMATION CONTACT: For information about the hearing, or to request an opportunity to make an oral presentation, please send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: cpsc-os@cpsc.gov; telephone: (301) 504–7923; facsimile: (301) 504–0127. An electronic copy of the CPSC’s budget request for fiscal year 2018 and the CPSC’s 2016–2020 Strategic Plan can be found at: www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws the Commission administers, and to the extent feasible, select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments.

II. Oral Presentations and Submission of Written Comments

The Commission is in the process of preparing the agency’s fiscal year 2018 Operating Plan and fiscal year 2019 Congressional Budget Request. Fiscal year 2018 begins on October 1, 2017, and fiscal year 2019 begins on October 1, 2018. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request?

2. What activities should the Commission consider deemphasizing in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request?

3. What retrospective review of rules should the Commission consider in the fiscal year 2018 Operating Plan and/or the fiscal year 2019 Congressional Budget Request, consistent with the Plan for Retrospective Review of Existing Rules adopted by the Commission on April 1, 2016?

4. The CPSC’s programs will align with the strategic goals outlined in the CPSC’s 2016–2020 Strategic Plan. The CPSC’s fiscal year 2018 Budget Request, submitted to Congress on May 23, 2017, is based on four agency priorities: (1) Focusing the agency’s resources on the highest-priority consumer product safety risks; (2) continuing to support import surveillance by incrementally developing the Risk Assessment Methodology (RAM) system to identify and stop noncompliant imported products from entering the U.S. marketplace; (3) emphasizing outreach and education by engaging all stakeholders through forums and workshops; and (4) expanding the sources and types of data analysis used to identify and assess product safety risks and inform compliance decisions. The Commission requests comments on the priorities as presented in the FY 2018 Budget Request. The CPSC’s Budget Request for fiscal year 2018 can be found at: www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget. The Commission also requests comments on whether the Commission should consider making any changes or adjustments to the agency’s proposed or ongoing safety standards activities, regulation and enforcement efforts in fiscal years 2018 and 2019, keeping in mind the CPSC’s existing policy on establishing priorities for Commission action (16 CFR 1009.8). Comments are welcome on whether particular action items should be higher priority than others, should not be included, or should be added to the fiscal year 2018 and/or fiscal year 2019 agendas.

Persons who desire to make oral presentations at the hearing on July 26, 2017 should send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: cpsc-os@cpsc.gov; telephone: (301) 504–7923; facsimile: (301) 504–0127 not later than 5 p.m. EDT on July 12, 2017. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations. If you do not want to make an oral presentation, but would like to provide written comments, you may do so. Please submit written comments in the manner described in the previous paragraph. Written comments must be received no later than 5 p.m. EDT on July 12, 2017.

Dated: June 7, 2017.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety Commission.