

COMMITTEE ON CAPITAL MARKETS REGULATION

June 24, 2011

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street NW
Washington, DC 20581

Re: Implementation of Title VII of the Dodd-Frank Act

Dear Mr. Stawick:

The Committee on Capital Markets Regulation (Committee) has developed a timeline to help guide the implementation of certain provisions of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).¹

Since 2005, the Committee has been dedicated to improving the regulation of U.S. capital markets. Our research has provided an independent and empirical foundation for public policy. In May 2009, the Committee released a comprehensive report entitled *The Global Financial Crisis: A Plan for Regulatory Reform* (May 2009 Report), which contains fifty-seven recommendations for making the U.S. financial regulatory structure more integrated, more effective, and more protective of investors in the wake of the financial crisis of 2008.² Since then, the Committee has continued to make recommendations for regulatory reform of major areas of the U.S. financial system.

The first order of business under Title VII is, of course, defining key terms such as “swap,” “swap dealer,” and “major swap participant” (MSP) and establishing data standards, including universal product identifiers and legal entity identifiers. These concepts lay the foundation for Title VII. After that, in our view, the implementation of Title VII should follow three core principles:

- (1) the main priority should be to reduce systemic risk;
- (2) the rules should be phased in, in order to (a) avoid disrupting the markets and (b) allow ample time for operational changes; and
- (3) implement rules in parallel, so that implementing one area does not unnecessarily delay another.

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (hereinafter Dodd-Frank Act).

² COMM. ON CAPITAL MKTS. REG., *THE GLOBAL FINANCIAL CRISIS: A PLAN FOR REGULATORY REFORM* (May 2009), <http://www.capmksreg.org/research.html> (hereinafter CCMR May 2009 Report).

With these goals in mind, we think the first objective should be to establish central clearing for the most liquid, standardized products, which are already being cleared to some extent and for which necessary data and operational systems are already available. Doing so would significantly reduce systemic risk, satisfying the first objective. Swaps for which operational changes are necessary or which are not widely cleared should be mandated later, both to allow time to build clearing and to give the CFTC the opportunity to evaluate whether these swaps meet the mandatory clearing criteria. In order to begin mandatory central clearing, the CFTC first needs to finalize the rules for clearinghouses, including margin, governance, financial resources, and conflicts of interest. This will enable clearinghouses to be in compliance before mandatory clearing begins. Next, the CFTC should publish the initial product set for mandatory clearing, which should include the most standardized and liquid products, *e.g.*, interest rate swaps that are currently widely cleared. The end-user exemption should also be finalized at this time so companies know in advance who will be subject to the mandatory clearing requirement. After these rules are in place, there should be a brief period of voluntary clearing of the initial product set, followed by mandatory clearing.

The next priority should be implementing the first steps of regulatory and public data reporting. This will contribute to satisfying one of the Dodd-Frank Act's stated goals of increasing transparency, and also give regulators the information necessary to determine how far to expand mandatory clearing and implement other provisions of Title VII. These first steps should include reporting to swap data repositories (SDRs) and regulators, as well as public end-of-day price reporting, but not yet the real-time public reporting framework, which would be new and require significant operational changes. Consistent with our third principle, the Commission should start to implement data reporting in parallel with central clearing, particularly since there are currently operational data repositories for some swaps. In addition, the Commission should use the data it collects to continue the process of expanding the scope of products that must be centrally cleared. The data reporting process should begin with establishing SDRs by asset class, and then begin reporting swap transactions to SDRs and to regulators. That should be phased in by asset classes, frequency of reporting (beginning with daily), and also by the items required to be reported (starting with trades, then scaling to all information including lifecycle events).

Next, we think the Commission should implement the rules concerning swap dealers and MSPs, including registration, capital and margin requirements for uncleared swaps, and business conduct standards. These rules will reduce risk but we think they are secondary to beginning the process of central clearing.

The next phase should focus on trading, which includes establishing and requiring the use of Swap Execution Facilities (SEFs) and determining the block trading thresholds, which should be set low at first in order to avoid disruption. These processes will also help facilitate real-time reporting. The Commission can also finalize the segregation requirements for uncleared swaps, further reducing risk.

At this point, once the foundation has been laid, the Commission should fulfill the full transparency mandate by beginning real-time public reporting. It should then implement the other elements of Title VII, including rules on topics such as position limits, portfolio compression, and the swap push-out.

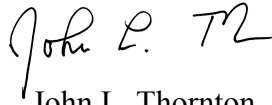
The Appendix on the following page adds detail to this framework.

Thank you for considering our comments. Please do not hesitate to contact us at (617) 384-5364 if we can be of any further assistance.

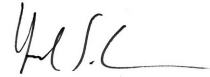
Respectfully submitted,



R. Glenn Hubbard
Co-CHAIR



John L. Thornton
Co-CHAIR



Hal S. Scott
DIRECTOR

APPENDIX

Prelude	
Product definitions (swap)	Foundational
Participant definitions (dealer, MSP)	Foundational
Data standards (Legal Entity Identifier, Unique Product Identifier and Unique Swap Identifier)	Foundational
Central clearing	
Clearinghouse rules	Clearinghouses need to be in compliance before clearing starts, including rules concerning margin, financial resources, governance, and conflicts of interest
Publish list of product set for initial phase of mandatory clearing	Most standard and liquid products (e.g., interest rate swaps)
End-user exception	
Voluntary period for clearing	Participants may use clearinghouses for the published product set but are not required to do so
Mandatory clearing of initial phase of products	
Data reporting	
Establish SDRs	Phase these in by asset class
Begin reporting to SDRs and regulators	Phase these in by: <ul style="list-style-type: none"> • Asset class • Frequency (may start with daily) • Reported items (trades only at first, then scale to all information including lifecycle events)
Swap dealer and MSP rules	
Registration	
Capital and margin requirements	
Business conduct standards	
Execution	
Establish SEFs	
Determine block thresholds	Phase block thresholds in, starting low in order to avoid disrupting the market
Segregation	
Implement segregation requirements	
Real-time reporting	
Implement real-time public reporting	
Other rules	
Position limits	
Portfolio compression	
Swap push-out	
Etc.	