



U.S. COMMODITY FUTURES TRADING COMMISSION

ENSURING THE INTEGRITY OF THE FUTURES & OPTIONS MARKETS

SPEECHES & TESTIMONY

Remarks of Chairman Gary Gensler at Swap Execution Facility Conference: Bringing Transparency and Access to Markets

November 18, 2013

Thank you, Shawn, for that kind introduction. I'm pleased to be back for my third Swap Execution Facility (SEF) Conference. I'm particularly pleased to be here now that SEFs are up and running.

For the first time, all swaps market participants have access to compete. For the first time, all – and that means dealers and non-dealers alike – benefit from transparency.

Since the time of Adam Smith and *The Wealth of Nations*, economists have consistently written that transparency and open access to markets benefits the broad public and the overall economy.

When markets are open and transparent, markets are more efficient, competitive, and liquid, and costs are lowered for companies and their customers.

President Roosevelt understood this when he asked Congress during the Great Depression to bring transparency, access and competition to the commodities and securities markets.

The reforms of the 1930s transformed markets. They helped establish the foundation for the U.S. economic growth engine for decades.

The swaps market emerged nearly 50 years later, but remained dark and closed until just last year. Lacking transparency and common-sense rules of the road, the swaps market contributed to the 2008 crisis.

Thus, just as President Roosevelt did in the 1930s, President Obama and Congress passed comprehensive financial reform. They brought the \$400 trillion swaps market out of the shadows and opened access to all participants.

With the completion of nearly all of the agency's rulemaking and the initial major compliance dates behind us, the marketplace has been transformed.

Bright lights now are shining on the swaps market. Transparency is shining both prior to and after a trade.

Real-time clearing also is now a reality with 99 percent of swaps clearing within 10 seconds and 93 percent actually doing so within three seconds. Approximately 70 percent of newly entered interest rate swaps and over 60 percent of credit index swaps are being cleared.

The playing field has been leveled through transparency, impartial access, central clearing and straight-through processing. Asset managers, pension funds, insurance companies, community banks and all market participants are gaining benefits that until recently only swap dealers had.

It's been a remarkable journey these past five years – and all of you have been part of this. Your hundreds of comments, meetings and questions have been critical to CFTC's efforts. You worked hard – with real costs and against deadlines – to implement these reforms to bring us to a new marketplace.

Open Access

With 18 temporarily registered SEFs, we now have more than a quarter-of-a-trillion dollars in swaps trading occurring on average per day. That is a big number by any measure.

Congress said that SEFs are to provide market participants with impartial access to the market.

Consistent with Congress' direction, the Commission's final SEF rules, completed six months ago, are clear. Impartial access is about allowing market participants to "compete on a level playing field."

Last week, CFTC staff issued guidance reminding SEFs of this core responsibility: the Commission's regulations require SEFs to provide all its market participants – dealers and non-dealers alike – with the ability to fully interact on order books or request-for-quote (RFQ) systems.

SEFs are required to provide dealers and non-dealers alike the ability to view, place or respond to all indicative or firm bids and offers, as well as to place, receive, and respond to RFQs.

All market participants should feel confident that their bids or offers are being communicated to the rest of the market.

Further, SEFs must provide to all eligible contract participants (ECPs) market services, including quote screens and similar pricing data displays.

Last week's guidance, spoke directly to some questions that market participants had brought to our attention as contrary to impartial access.

First, any discriminatory treatment for swaps intended to be cleared, such as "enablement mechanisms," that prevents market participants from viewing bids or offers on a SEF is inconsistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) and the Commission's regulations.

Second, requiring swaps traded on a SEF that are intended to be cleared to have pre-execution agreements, such as breakage agreements, is inconsistent with the Dodd-Frank Act and the Commission's regulations.

Third, requiring a market participant to be a swap dealer or a clearing member to respond to an RFQ is inconsistent with the Dodd-Frank Act and the Commission's regulations.

Dodd-Frank reforms truly are about bringing greater access to these markets. Reforms really are about allowing multiple market participants to meet and transact with multiple market participants.

This does mean a paradigm shift from the business models of the past.

Thus, SEF registration was not meant to be just business as usual.

Bringing access to the entire marketplace means platforms will no longer be just dealer to dealer or dealer to customer.

Through reform, all market participants who meet the standard of an ECP must be given impartial access.

Transparency

Congress was also clear that transparency must shine on the swaps market both before and after a trade.

When light shines on a market, the economy and public benefit.

Post-Trade Transparency

With reform, post-trade transparency has become a reality in the swaps market.

The price and volume of each swap transaction can be seen as it occurs. This post-trade transparency spans the entire market, regardless of product, counterparty, or whether it's a standardized or customized transaction.

This information is available, free of charge, to everyone in the public. The data is listed in real time – like a modern-day tickertape – on the websites of each of the three swap data repositories.

Regulators also gained transparency into the details on each of the 1.8 million transactions and positions now in data repositories. The data repositories, swap dealers and SEFs, though, need to do more to ensure that the data flowing into the data repositories is

accurate; consistent; and able to be readily sorted, filtered, and aggregated.

Pre-Trade Transparency

Reform also is about shining light before a trade happens.

Such pre-trade transparency gives anyone looking to compete in the swaps market the ability to see prices of available bids and offers prior to making a decision on a transaction.

This lowers costs for investors, businesses and consumers, as it shifts information from dealers to the broader public.

Our final rules provided significant flexibility in achieving this pre-trade transparency.

All SEFs are required to provide for an order book to all its market participants. In addition, SEFs have the flexibility to offer trading through RFQs.

Further, as long as certain minimum functionality is met, SEFs can conduct business through any means of interstate commerce, such as the Internet, telephone, and the mail – or, if one chooses, carrier pigeons.

The final rules were technology neutral.

Trade Execution Requirement

To benefit the public, broaden competition, and promote transparency, Congress required that certain standardized swaps must be executed on a SEF or designated contract market (DCM). The trade execution requirement covers all swaps that are subject to mandatory clearing and made available to trade.

Four SEFs already have made filings for a wide range of interest rate and credit index swaps to be determined made available for trading.

With 90 registered swap dealers, including the world's largest financial institutions, I believe sufficient liquidity exists across the entire interest rate swap curve to support SEFs making these swaps available for trading.

The major dealers already quote markets across the entire curves, including for so-called benchmarks as well as non-benchmarks.

I anticipate that by next February there will be a trade execution requirement for a significant portion of the interest rate and credit index swap markets. The significant flexibility built into SEFs' minimum trading protocols – including order books, RFQs and crossing rules – will enable the markets to adjust to this new mandatory trading environment.

Futures Block Rule

Earlier this year, the Commission finalized a block rule for swaps. To preserve the pre-trade transparency that has been a longstanding hallmark of the futures market, I believe that it is critical to do so for futures as well.

This is important so that we do not allow for arbitrage between the swaps market that now has a block rule and the futures market that does not have a formal block rule. Thus, it is my hope that the CFTC staff's recommendation to publish a futures block rule for public comment be on the agenda for our next open Commission meeting in December.

SEF Registration

Requiring trading platforms to be registered and overseen by regulators was central to the swaps market reform President Obama and Congress included in the Dodd-Frank Act. They expressly repealed exemptions, such as the so-called "Enron Loophole," for unregistered, multilateral swap trading platforms.

They did so based on a long public debate.

In fact, then-Senator Obama in June 2008 called for fully closing the "Enron Loophole."

Last week, CFTC staff issued guidance with regard to SEF registration. If a multilateral trading platform is a U.S. person, or it is located or operating in the U.S., it should register.

Consistent with the cross-border provisions of Dodd-Frank, a multilateral swaps trading

platform located outside the United States that provides U.S. persons or persons located in the U.S. (including personnel and agents of non-U.S. persons located in the United States) with the ability to trade or execute swaps on or pursuant to the rules of the platform, either directly or indirectly through an intermediary, will register as a SEF or DCM.

This will trigger some SEF registrations for foreign-based platforms that are already registered with their home country. For instance, one Australian platform is going to register with the CFTC, and we're working with the Australian home country regulators. We're prepared to figure out where we might defer to those home country regulators.

In addition, we have been asked by a number of swap dealers and SEFs about how our rules apply to foreign swap dealers operating in the United States.

Last week, CFTC staff issued an advisory addressing this question.

If a foreign-based swap dealer has personnel in New York and they regularly arrange, negotiate, or execute swaps in the United States, then the transactions come under Dodd-Frank requirements. As the advisory stated, these activities are "core, front-office activities" of a swap dealer's dealing business.

In other words, a U.S. swap dealer on the 32nd floor of a New York building and a foreign-based swap dealer on the 31st floor of the same building, have to follow the same rules when arranging, negotiating or executing a swap.

One elevator bank ... one set of rules.

Moving Forward

The CFTC now largely has moved beyond rulewriting and initial compliance dates.

We have now moved on to reviewing registered entities and registrants to ensure they fully come into compliance.

As we have done for many years, we are doing this through examinations, surveillance, enforcement and issuing guidance and advisories. To smooth implementation, we will continue to work with market participants as needed.

We know the markets are undertaking a significant effort to ensure a smooth transition, including steps to incorporate guidance and advisories. We will continue working with market participants, but when there is a question, the best thing to do is to come into compliance with all of the CFTC's rules and guidance.

CFTC Resources

To ensure for a well-functioning futures and swaps market, the public needs a well-funded CFTC.

To ensure that transparency and access are a reality and not something just in the rulebooks, the public needs a well-funded CFTC.

To ensure that the markets are free of fraud, manipulation and other abuses, the public needs a well-funded CFTC.

Though this small and effective agency was able to complete 67 rulemakings, orders and guidances to transform a marketplace, this should not be confused with the agency having sufficient people and technology to oversee the markets.

With 670 people, we are only 36 people more than 20 years ago, and we've got a whole lot more to do. We have a vast \$400 trillion swaps market to oversee, in addition to the \$30 trillion futures market that we historically have overseen.

The overall branding of these markets is dependent on investors and customers having confidence in using them.

It's also critical that we have the resources for the timely reviews of applications, registrations, petitions and answers to market participants' questions.

The President has asked for \$315 million for the CFTC. This year we've been operating with only \$195 million.

Worse yet, as a result of continued funding challenges, sequestration, and a required minimum level Congress set for the CFTC's outside technology spending, the CFTC already has shrunk 6 percent, and was forced to notify employees of an administrative furlough for up to 14 days this fiscal year.

I believe that the CFTC is a good investment for the American public. It's a good investment for transparent, well-functioning markets.

Conclusion

Let me close by thanking all of you. These last five years have been a remarkable journey, and the result is a transformed marketplace.

I want to thank you for all that we've achieved together.

I look forward to answering your questions.

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