



U.S. COMMODITY FUTURES TRADING COMMISSION

ENSURING THE INTEGRITY OF THE FUTURES & OPTIONS MARKETS

SPEECHES & TESTIMONY

Remarks Before ISDA Regional Conference

Chairman Gary Gensler

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Good morning. I thank the International Swaps and Derivatives Association for inviting me to speak today. I also thank Connie Voldstad for that kind introduction.

Today I will update you on the Commodity Futures Trading Commission's efforts to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act with regard to regulation of the swaps marketplace. Though I know you have occasionally had CFTC chairmen speak before you, this is the first time that one has been invited to discuss regulation of the swaps markets. Though we have regulated derivatives since the 1920s, our jurisdiction was limited to futures.

Now, the CFTC, along with the Securities and Exchange Commission (SEC), is tasked with bringing its regulatory expertise to the swaps marketplace. There are three critical reforms of the derivatives markets included in the Dodd-Frank Act. First, the bill requires swap dealers to come under comprehensive regulation. Second, the bill moves the bulk of the swaps marketplace onto transparent trading facilities – either exchanges or swap execution facilities. Third, the bill requires clearing of standardized swaps by regulated clearinghouses to lower risk in the marketplace.

Implementing the Dodd-Frank Act

The Dodd-Frank Act is very detailed, addressing all of the key policy issues regarding regulation of the swaps marketplace. To implement these regulations, it requires the CFTC and SEC to write rules generally within 360 days. For those of you keeping track, we have 303 days left. We have organized our effort around 30 teams who have been actively at work. We had our first meeting with the 30 team leads the day before the President signed the law.

Two principles are guiding us throughout the rule-writing process. First is the statute itself. We intend to comply fully with the statute's provisions and Congressional intent to lower risk and bring transparency to these markets.

Second, we are consulting heavily with both other regulators and the broader public. We are working very closely with the SEC, the Federal Reserve and other prudential regulators. Within 24 hours of the President signing the Dodd-Frank Act, more than 20 of our rule-writing team leads were meeting at the SEC with their counterparts. Our staff was having similar meetings the following week with staff from the Federal Reserve.

In addition to working with our American counterparts, we have reached out to and are actively consulting with international regulators to harmonize our approach to swaps oversight. In particular, these early discussions have focused on clearing requirements, clearinghouses more generally and data repositories. Just yesterday, the European Commission released their detailed proposal to bring regulation to the swaps marketplace. Based upon their release and the Dodd-Frank Act, I am confident that we will bring strong and consistent regulation to the two largest swaps markets. Each of our rule-writing teams will be referring to these new proposals as we seek consistency in our regulatory approaches.

We also are soliciting broad public input into the rules. This began the day the President signed the Dodd-Frank Act when we listed the 30 rule-writing teams and set up mailboxes for the public to comment directly. We want to engage the public as broadly as possible even before publishing proposed rules.

In some circumstances, we are organizing roundtables with the SEC to hear specifically on particular subjects. We have had three days of meetings to date, which have been very beneficial. So far we have heard from investors, market participants, end-users, academics, exchanges and clearinghouses on key topics including governance and conflicts of interest, real time reporting, swap data recordkeeping, and swap execution facilities. Based on how helpful these have been, we intend to have additional roundtables in the next month or two.

Additionally, many individuals have asked for meetings with either our staff or me to discuss swaps regulation. In the last 57 days, we have had at least 85 such meetings – that's more than two per

business day. And things are picking up. Including today, I will have had 10 meetings this week alone.

Just as we believe in bringing transparency to the swaps markets, we also have added additional transparency to our rule-writing efforts. We are now posting on our website a list of all of our meetings, as well as the participants, issues discussed and all materials given to us. I encourage people to go to our website to see all of the issues being discussed. I am hopeful that this will encourage additional comments to the CFTC – whether you agree or disagree with what has already been submitted.

We plan to actively publish proposed rules in the fall, using weekly public Commission meetings for this purpose. Public meetings will allow us to propose rules in the open. With each proposed rulemaking, we will solicit public comments for a period not less than 30 days. Due to the tight statutory deadlines to complete the rules, it is not likely that we will extend public comment periods.

We already have published one final rulemaking regarding retail foreign exchange transactions. Further, with the SEC, we have published an advanced notice of proposed rulemaking seeking comments on the definitions of key terms in the Dodd-Frank Act.

Regulating the Dealers

Now I will address four broad areas as we bring regulation to the swaps marketplace. The first is regulating the dealers. Six of our rule teams are focused specifically on this area. One team is working on defining key terms, such as “swap dealer” and “major swap participant.” Another team is working on registration requirements for dealers. We also have teams working on business conduct standards, capital and margin requirements and rules for segregating customer funds.

One question people have raised is: who is going to be a swap dealer? The statute is pretty specific. A dealer is any entity that meets one of the four standards in the statute. Initial estimates are that there could be in excess of 200 entities that will seek to register as swap dealers. This includes:

- Global and regional banks currently known to offer swaps in the U.S. Of ISDA’s 830 members, 209 are “Primary Members.” Under ISDA’s bylaws, a firm is only eligible for primary member status if it deals in derivatives for purposes other than “risk hedging or asset or liability management.” Though many of the dealers in emerging markets may not seek to register in the U.S., it is likely that most, if not all, of your global and international members would;
- Many affiliates of these global banks that will be set up to comply with the Dodd-Frank Act’s Section 716 provision requiring banks to push out their commodities, equities and much of their credit default swap business;
- Numerous nonbank swap dealers currently offering commodity and other swaps; and
- Potential new market makers that wish to become swap dealers.

In addition to regulating dealers, we also are tasked with regulating major swap participants. The statute on this issue is clear as well. The major swap participant category is comprised of entities that are not swap dealers but whose participation in the swaps market is substantial enough to be relevant to the economy or the financial system as a whole.

Transparent Trading Requirement

In addition to regulating swap dealers, the Dodd-Frank Act brings transparency to the swaps marketplace by requiring standardized swaps to trade on exchanges or swap execution facilities. We have five teams focused on writing rules related to trading.

As a result of the Dodd-Frank Act, we estimate that approximately 20-30 new entities will register as swap execution facilities or designated contract markets. That is in addition to the 16 futures exchanges that we already regulate.

Some people have asked: what is a swap execution facility? Once again, I think the statute is very clear. It’s “a trading system or platform in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by multiple participants.”

This is a real change in this marketplace. Congress mandated that if a swap both is clearable and it is “made available for trading” on a SEF or an exchange, then there is a mandate that it be traded on such a facility. Congress also has been very specific that market participants and end-users will benefit from real time reporting and that such post-trade transparency must be achieved “as soon as technologically practicable” after a swap is executed. Further, the statute says that one of the goals of swap execution facilities is “to promote pre-trade transparency in the swaps market,” though it appropriately authorizes the CFTC to write rules to facilitate block trades.

Centralized Clearing

To further lower risk in the system, the Dodd-Frank Act requires that standardized derivatives be cleared through central clearinghouses. At the CFTC, we have six teams focused on rules related to

clearing, including determining which contracts will be subject to the mandatory clearing requirement. As a result of the Dodd-Frank Act, it is anticipated that the number of registered derivatives clearing organizations will increase from 14 to around 20.

The Dodd-Frank Act updated clearinghouse core principles, adding additional principles and making them more detailed. Therefore, we anticipate proposing a series of new rules to ensure that all clearinghouses comply with these core principles.

Furthermore, for the first time, some derivatives clearinghouses may be designated systemically important by the Financial Security Oversight Council. For those clearinghouses, there will be enhanced rules for financial resources, risk management and other prudential standards. In this regard, we are consulting very closely with the Federal Reserve and international regulators. We recognize the need for very robust risk management standards, particularly as more swaps are moved into central clearinghouses.

Data

Moreover, the Dodd-Frank Act for the first time sets up a new registration category called swap data repositories. The bill requires registrants – including swap dealers, major swap participants, swap execution facilities and designated contract markets – to have robust recordkeeping and reporting, including an audit trail, for swaps.

This week we had a very helpful roundtable on these subjects. We anticipate rules in this area to require swap data repositories to perform their core function of collecting and maintaining swaps data and making it directly and electronically available to regulators. We also anticipate rules governing how data must be maintained by registrants and sent to the data repositories. These rules would likely identify a minimum number of data fields that must be sent to a swap data repository, as well as any data included in a trade confirmation. It will be important that swaps data be collected not only when the transaction occurs, but also for each lifecycle event and valuation over its duration.

The CFTC faces challenges in the months ahead, but we are prepared and geared up to meet those challenges. I look forward to continued dialogue with the public and market participants such as ISDA as we work to implement the Dodd-Frank Act. Scott Schneider is here to take down each of your names so that we can publish today's meeting to the website. Just kidding on the names, but the meeting will be on the website.

Thank you, and I'd be happy to take questions.

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