

September 5, 2012

Ms. Elizabeth M. Murphy
Secretary to the Commission
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Statement of General Policy on the Sequencing of the Compliance Dates for Final Rules Applicable to Security-Based Swaps Adopted Pursuant to the Securities Exchange Act of 1934 and the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Policy Statement") – 77 Fed. Reg. 35625 (June 14, 2012)

Dear Ms. Murphy:

Tradeweb Markets LLC ("**Tradeweb**") welcomes the opportunity to comment on the Policy Statement proposed by the Securities and Exchange Commission ("**Commission**" or "**SEC**"). As the Commission is aware, the Commodity Futures Trading Commission ("**CFTC**") also proposed policies regarding phasing-in/sequencing the implementation of its final rules that will be adopted pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**"), and in response to those proposals, Tradeweb submitted the attached comment letters. In the Policy Statement, the Commission has requested comments with respect to security-based swap execution facilities ("**SB SEFs**") that are similar to those sought by the CFTC with respect to swap execution facilities ("**SEFs**") and, as such, we respectfully incorporate the attached letters as part of our comments to the SEC's proposal.¹ Further, we wish to supplement our comments set forth in the attached letter by providing the Commission with some additional comments which are principally directed at certain aspects of the Policy Statement that may be distinct from the CFTC proposal.

Since 1998, Tradeweb has offered a regulated electronic trading system for over-the-counter ("**OTC**") fixed income investors and has played an important role in providing greater transparency in and improving the efficiency of the trading of fixed income securities and derivatives.² Indeed, Tradeweb has been at the forefront of creating electronic trading solutions

¹ We intend references contained in the attached letter to SEFs to apply equally to SB SEFs.

² Tradeweb operates three separate electronic trading platforms: (i) a global electronic multi-dealer to institutional customer platform through which institutional investors access market information, request bids and offers from, and effect transactions with, regulated dealers that are active market makers in fixed income securities and derivatives, (ii) an inter-dealer platform, called Dealerweb, for U.S. Government bonds and mortgage securities, and (iii) a platform for retail-sized, odd lot fixed income securities. Tradeweb operates the dealer-to-customer and odd-lot platforms through its registered broker-dealer, Tradeweb LLC, which is also registered as an alternative trading system ("**ATS**") under Regulation ATS promulgated by the SEC under the Securities Exchange Act of 1934, and operates its inter-dealer platform through its subsidiary, Dealerweb Inc., also a registered broker-dealer

which support price transparency and reduce systemic risk, the hallmarks of Title VII of the Dodd-Frank Act, and, accordingly, Tradeweb is supportive of the Dodd-Frank Act and its stated policy objectives relating to Title VII. Tradeweb intends to register as soon as possible as both a SB SEF pursuant to Section 3D of the Securities Exchange Act of 1934 (the “*Exchange Act*”) and as a SEF pursuant to Section 5h(a) of the Commodity Exchange Act. For these reasons and the reasons set forth more completely in previous comment letters to the Commission and the CFTC, Tradeweb has a significant interest in the proposed rules which would govern the operations and activities of SB SEFs – including the implementation and sequencing of rules that affect SB SEFs – and it has been an active participant in the ongoing debate around SEFs and SB SEFs, how best to bring greater transparency and accountability to the over-the-counter (“*OTC*”) derivatives market, and the implementation of Title VII of the Dodd-Frank Act.

Implementation

As we have noted, we are supportive of the Dodd-Frank Act’s goal of enhancing transparency and liquidity and reducing risk in the OTC derivatives markets. Specifically, as set out more fully in our letters to the CFTC, we are supportive of a “class of market participant and asset class” approach to phasing in the broad and complex clearing, trade execution and reporting mandates. We believe this approach (which has been adopted by the CFTC) properly contemplates leveraging the existing infrastructure and technology available to market participants and appropriately grouping market participants into different categories so that each category of market participant can comply with the mandates of Title VII within suitable time frames.³

In response to the Commission’s request for comment regarding sequencing the clearing and trading mandates for security based swaps (“*SB swaps*”), we believe that clearing and trade execution rules should be implemented in parallel, rather than on a sequential basis. This approach would allow SB SEFs to offer a SB swap for trading to market participants on a phased-in basis – as the clearing mandate with respect to that SB swap is implemented for each category of market participant – rather than require SB SEFs to wait to offer that SB swap until the clearing requirement has been implemented for all market participants. As a practical matter, this approach should allow all market participants to use the existing market infrastructure and make meaningful progress toward full, rather than partial, compliance with the clearing and trade execution requirements.

SB SEF Registration

Similarly, and in response to the Commission’s requests for comment, Tradeweb supports the Commission’s proposal to allow temporary registration by SB SEF applicants prior

operating Dealerweb as an ATS. In Europe, Tradeweb offers its institutional dealer-to-customer platform through Tradeweb Europe Limited, which is authorized and regulated by the UK Financial Services Authority as an investment firm with permission to operate as a Multilateral Trading Facility. In addition, Tradeweb Europe Limited has registered branch offices in Hong Kong, Singapore and Japan and holds an exemption from registration in Australia.

³ See “Swap Transaction Compliance and Implementation Schedule: Clearing Requirement Under Section 2(h) of the CEA,” 77 Fed. Reg. 44441 (July 30, 2012).

to the mandatory execution date. This will permit a parallel implementation of the clearing and trading requirements, and will further provide market participants with a smoother transition into full compliance.

As set out more fully in our letters to the CFTC, we believe that allowing the SB SEF registration process to begin prior to and separate from the effective dates of the mandatory execution requirements (and certain SB SEF operational requirements) would allow market participants to identify which entities intend to operate as SB SEFs and prepare to connect to those that best suit their commercial needs. In essence, we propose an earlier effective date for the SB SEF registration and related rules and, given the interdependencies of market participants and market infrastructures, a separate, later effective date for full operational compliance by SB SEFs.

Given that SB SEFs are a new type of regulated entity, we support the approach that, upon the filing of a materially complete SB SEF application in good faith, the applicant would be a “provisional” SB SEF, subject to Commission review and final approval of the applicant as a SB SEF.⁴ In this regard, we believe that the Commission should give due consideration to which operational requirements should be required upon filing an application and becoming a provisional SB SEF (e.g., demonstration of minimum trading functionality – which we would note would not need to be “live” until the effective date of the mandatory trade execution requirement) and which are more appropriately required only for the final approval of the applicant as a SB SEF (e.g., any dependencies on third-parties (NFA or FINRA surveillance for SB swaps) or other market participants). Following initial approval of the application by the Commission, the applicant would be a registered SB SEF, subject only to demonstration of full compliance with all applicable SB SEF operational requirements by such subsequent effective date (which we would propose would be in the Commission’s discretion based on the status of implementation of other final rules and readiness of other market participants or infrastructures).

This approach would enable the Commission, the SB SEF and market participants to evaluate and address any issues arising from trading SB swaps on SB SEFs *before* execution on such SB SEFs becomes mandatory, and, together with voluntary trade execution and clearing prior to full implementation of those rules, would encourage early transition to SB SEF trading by market participants in an orderly fashion and would assist “provisional” SB SEFs in working with the Commission and its staff to ensure full compliance with all final rules.

Regulation MC

The Commission has also requested comment with respect the implementation of its proposed Regulation MC in respect of SB SEFs.⁵ At the outset, we would like to reiterate our concerns about the Commission’s proposal to mandate that SB SEF boards be comprised of at least 51% public directors. We believe that a 51% composition requirement is overly

⁴ We encourage the Commission to allow SB SEFs to preview their applications with the Commission following the publication of the final rules, as feedback from the Commission and its staff will be critical given that SB SEFs are a new type of regulated entity

⁵ Tradeweb’s comment letter on the Commission’s proposal Regulation MC was submitted on November 23, 2010.

prescriptive and, among other things, would inappropriately and disproportionately divest SB SEF equity holders of their rights to participate in the decision-making process. In addition, we strongly encourage the Commission and CFTC to harmonize their rules on mitigation of conflicts of interest (and for the reasons noted above, as between the two proposals, we believe the CFTC's proposal for 35% public directors more reasonably addresses any potential conflicts of interest); having to comply with different standards mandated by the Commission and the CFTC will lead to unnecessary additional costs and operational differences – including potentially multiple boards – for SEFs subject to the jurisdiction of both agencies.

With respect to implementation, we strongly encourage the Commission to permit SB SEFs to phase-in implementation of its Regulation MC rules over two years or two regularly-scheduled Board of Directors elections. Given that SB SEFs (as well as other regulated entities) will be seeking public directors to serve on their boards and subcommittees all at the same time and given the qualification standards for such public directors, there will be intense competition to find qualified candidates. SB SEFs will need time to, among other things, (i) find the appropriate public directors; (ii) obtain the appropriate insurance coverage for these public directors; and (iii) modify their existing governance structures to meet the requirements of Regulation MC.

We further urge the Commission to clarify the scope of, and any requirements during, this phase-in period. For example, because SB SEFs are a new type of regulated entity, few will have established subcommittees (such as regulatory oversight committees (“*ROCs*”)) that meet the standards proposed by the Commission prior to registration as a SB SEF. Would an “existing” SB SEF be required to create a ROC prior to applying for registration as a SB SEF or simply at some point during this two-year phase-in period? If a SB SEF establishes a ROC prior to the end of the phase-in period, would the public director requirement apply immediately upon establishment of a ROC or could a SB SEF establish a ROC initially composed entirely of non-public directors during the phase-in period? Rather than prescribing a specific timetable for complying with these governance requirements before or during the two-year phase-in period, Tradeweb believes that the Commission should require each grandfathered SB SEF to make reasonable progress towards full compliance over the course of those two years, subject to exercise of the Commission's exemptive authority in appropriate circumstances.

Conclusion

Tradeweb believes that the Commission has been thoughtful in its rule proposals and we encourage the Commission to propose an implementation schedule which reduces the risk of market disruption or unintended consequences for market participants when mandatory clearing and trading rules take effect. To that end, we encourage the Commission to work closely with the CFTC on implementation, and we respectfully offer to provide any additional information and assistance to the Commission to clarify and refine the implementation schedule to reduce such risks further without compromising the public policy objectives of Title VII of the Dodd-Frank Act.

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Ms. Elizabeth Murphy

September 5, 2012

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If you have any questions concerning our comments, please feel free to contact us. We welcome the opportunity to discuss these issues further with the Commission and its staff.

Sincerely,



Douglas L. Friedman
General Counsel

cc: Honorable Mary L. Schapiro, Chairman
Honorable Elisse B. Walter, Commissioner
Honorable Daniel M. Gallagher, Commissioner
Honorable Luis A. Aguilar, Commissioner
Honorable Troy A. Paredes, Commissioner

November 4, 2011

Mr. David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

***Re: Proposed Swap Transaction Compliance and Implementation Schedule:
Clearing and Trade Execution Requirements under Section 2(h) of the
CEA – 76 Fed. Reg. 58186 (September 20, 2011)***

Dear Mr. Stawick:

Tradeweb Markets LLC (“*Tradeweb*”) welcomes the opportunity to comment on the compliance and implementation schedule proposed by the Commodity Futures Trading Commission (“*Commission*” or “*CFTC*”) to phase in compliance with certain new statutory provisions enacted under Title VII of The Dodd-Frank Wall Street Reform and Consumer Protection Act (the “*Dodd-Frank Act*”)¹ in order to facilitate the transition to the new regulatory regime established by the Dodd-Frank Act. Tradeweb participated in the joint public roundtable held by the Commission and the Securities and Exchange Commission (“*SEC*”) on May 2 and 3, 2011 on implementation of final rules for swaps and security-based swaps under the Dodd-Frank Act, and following that, on June 3, 2011, Tradeweb submitted its initial comment letter on implementation. We appreciate the opportunity to comment further on the Commission’s rulemaking proposals concerning implementation of the Title VII rules.

Since 1998, Tradeweb has offered a regulated electronic trading system for over-the-counter (“*OTC*”) fixed income investors and has played an important role in providing greater transparency in and improving the efficiency of the trading of fixed income securities and derivatives. Indeed, Tradeweb has been at the forefront of creating electronic trading solutions which support price transparency and reduce systemic risk, the hallmarks of Title VII of the Dodd-Frank Act, and, accordingly, Tradeweb is supportive of the Dodd-Frank Act and its stated policy objectives relating to Title VII. Tradeweb has been an active participant in the ongoing public debate around Title VII of the Dodd-Frank Act, particularly with respect to swap execution facilities (“*SEFs*”). With our background and experience in providing regulated electronic markets to OTC market professionals, Tradeweb believes that it can provide the Commission with a unique and valuable perspective on the proposed rules and the implementation thereof. For these reasons and the reasons set forth more completely in previous

¹ Pub. L. 111-203, 124 Stat. 1376 (2010).

comment letters to the Commission, Tradeweb has a significant interest in the proposed rules relating to the governance, operations and activities of SEFs and the implementation thereof.

Implementation

As we have noted, we are supportive of the Dodd-Frank Act's goal of enhancing transparency and liquidity and reducing risk in the OTC derivatives markets. Specifically, as set out more fully in our June 3, 2011 letter to the Commission, we commend the Commission for taking a "class of market participant and asset class" approach to phasing in the broad and complex clearing, trade execution and reporting mandates. Indeed, we believe that the Commission's proposed rules on implementation properly contemplate leveraging the existing infrastructure and technology available to market participants and appropriately group market participants into different categories so that each category of market participant can comply with the mandates of Title VII within suitable time frames. We urge the Commission to maximize the existing market infrastructure for swaps as it phases in its rules.

Further to this point, we commend the Commission for proposing to implement clearing and trade execution rules in parallel, rather than on a sequential basis. This approach would allow SEFs to offer a swap for trading to market participants on a phased-in basis -- as the clearing mandate with respect to that swap is implemented for each category of market participant -- rather than require SEFs to wait to offer that swap until the clearing requirement has been implemented for all market participants. As a practical matter, this approach should allow all market participants to use the existing market infrastructure and make meaningful progress toward full, rather than partial, compliance with the clearing and trade execution requirements. In that regard, we further believe that any efforts by SEFs, derivatives clearing organizations ("*DCOs*"), and market participants to comply voluntarily with the Commission's rules in advance of the effective date for mandatory compliance will contribute to a smoother transition for the swaps market.

SEF Registration

Tradeweb does, however, encourage the Commission to provide more clarity on implementation of the SEF registration requirements and their interaction with the clearing and execution requirements. We reiterate our support for bifurcation of the SEF registration requirements from other operational requirements proposed by the Commission for DCOs, swap data repositories and existing trading platforms (including SEFs), which would allow existing trading platforms such as Tradeweb to begin the registration process as a SEF prior to implementation of the trade execution requirements.

As set out more fully in our March 8, 2011 and June 3, 2011 letters to the Commission, we believe that separating the SEF registration process in advance of the effective date of the mandatory execution requirements and certain operational requirements of the core principles for SEFs would allow market participants to identify which entities intend to operate as SEFs and prepare to connect to those that best suit their commercial needs. In essence, we propose an earlier effective date for the SEF registration and related rules and, given the interdependencies of market participants and market infrastructures, a separate, later effective date for full

operational compliance by SEFs. Specifically, we encourage the Commission to clarify the process for registration of SEFs to allow an existing trading platform to file an application with the Commission and certify material compliance with the applicable SEF regulations at any point following publication of the final SEF registration and related rules (provided, of course, that SEFs can preview their applications with the Commission following the publication of the final rules, as feedback from the Commission and its staff will be critical given that SEFs are a new type of regulated entity).

As we understand it, upon the filing of a materially complete SEF application in good faith, an existing regulated trading platform currently operating as a SEF (i.e., currently offering the trading of swaps) would be a "provisional" SEF under the Commission's proposed "grandfathering" rules, subject to Commission review and approval of the applicant as a SEF. In this regard, we believe that the Commission should give due consideration to which operational requirements should be required upon filing (e.g., demonstration of minimum trading functionality) and which are more appropriate for the latter phase (e.g., position limits or reporting), and exempt the requirements as appropriate. Following approval of the application by the Commission, the applicant would be a registered SEF, subject only to demonstration of full compliance with all applicable SEF operational requirements by such subsequent effective date.

This approach would enable the Commission, the SEC and market participants to evaluate and address any issues arising from trading swaps on SEFs *before* execution on such SEFs becomes mandatory, and, combined with voluntary trade execution and clearing rules prior to full implementation of those rules, would encourage early transition to SEF trading by market participants in an orderly fashion and would assist "provisional" SEFs in working with the Commission and its staff to ensure full compliance with all final rules. Such a process would also mitigate concerns about, among other things, certain aspects of the "SRO-like" responsibilities with which all SEFs must comply, and the scope of which may not be appropriate for certain trading models.

Relatedly, we request the Commission to clarify the operation of its proposed phase-in of SEF governance requirements. In its proposed rules regarding mitigation of conflicts of interest of DCOs, designated contract markets ("*DCMs*") and SEFs, the Commission has proposed to permit each "existing DCO, DCM, and SEF to phase-in implementation of the final rules over two (2) years or two regularly-scheduled Board of Directors elections."² First, it is our understanding that by an "existing SEF" (as it is used in this instance and in other proposed rules), the Commission means an existing OTC trading platform (such as Tradeweb) that currently offers the electronic trading of swaps. We encourage the Commission to clarify that such a trading platform would be eligible to file an application to register as a SEF and would be eligible for the two-year phase-in of SEF governance requirements. We further urge the Commission to clarify the scope of, and any requirements during, this phase-in period. For example, given the proposed governance requirements for a SEF's committees, like the regulatory oversight committee ("*ROC*"), would an "existing" SEF be required to create a ROC prior to applying for registration as a SEF or simply at some point during this two-year phase-in

² See 75 Fed. Reg. 63732 at 63745 (October 18, 2010).

period? If a SEF establishes a ROC prior to the end of the phase-in period, would the public director requirement apply immediately upon establishment of the ROC or could a SEF establish a ROC initially composed entirely of non-public directors during the phase-in period? We would suggest that if a ROC is required at the time of applying for registration (or by the time the trading mandate is imposed), that a SEF still be permitted to phase-in the public director composition of the ROC (or such other committees) within the two-year phase-in period. Otherwise, it would have the effect of undermining the rationale for the two-year phase-in period for public directors to sit on the SEF board.

Requested Comments

The Commission has also requested comment as to whether, when a swap is made available to trade after implementation of the clearing requirement with respect to that swap, thirty days is enough time for DCMs, SEFs and market participants to comply with the trade execution requirement, especially with respect to completing technological linkages. We believe that with respect to individual swaps, thirty days would be sufficient for SEFs and market participants (subject to the phased-in implementation of trade execution requirements by category of market participant). On the other hand, if the class of swap is being made available for trading for the first time, thirty days may not be sufficient, so the Commission should reserve the authority to determine the appropriate implementation period for any new class of swaps on a case-by-case basis, after soliciting input from SEFs, DCMs and market participants of all categories. In addition, as we have previously noted, as the Commission considers issues around timing for implementation, the more guidance the Commission can provide, the easier it will be for market participants and market infrastructures (like SEFs) to prioritize investment and resources allocated to implementation and thereby reduce unnecessary costs associated with implementation.

Conclusion

Tradeweb believes that the Commission's proposed implementation schedule is a constructive step toward reducing the risk of market disruptions or unintended consequences for market participants when mandatory clearing and trading rules take effect. We respectfully submit that any additional information and clarity on process and timing the Commission can offer on the topics discussed herein will allow for a smoother implementation of Title VII of the Dodd-Frank Act, without compromising its public policy objectives.

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Mr. David A. Stawick

November 4, 2011

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If you have any questions concerning our comments, please feel free to contact us. We welcome the opportunity to discuss these issues further with the Commission and its staff.

Sincerely,



Lee H. Olesky
Chief Executive Officer



Douglas L. Friedman
General Counsel

cc: Honorable Gary Gensler, Chairman
Honorable Mark Wetjen, Commissioner
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott O'Malia, Commissioner



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June 3, 2011

Mr. David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Re: Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act – 76 Fed. Reg. 25274 (May 4, 2011); Core Principles and Other Requirements for Swap Execution Facilities – 76 Fed. Reg. 1214 (January 7, 2011); and Proposed Requirements for Derivatives Clearing Organizations, Designated Contract Markets and Swap Execution Facilities Regarding Mitigation of Conflicts of Interest – 75 Fed. Reg. 63732 (October 18, 2010).

Dear Mr. Stawick:

Tradeweb Markets LLC ("**Tradeweb**") welcomes the decision by the Commodity Futures Trading Commission ("**Commission**" or "**CFTC**") to reopen the comment period for its proposed rules governing oversight and regulation of swap execution facilities ("**SEFs**") in connection with reopening the comment periods for various rulemakings implementing Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "**Dodd-Frank Act**").¹ We appreciate the opportunity to comment on the Commission's SEF rulemaking proposals holistically and to provide the Commission with our perspective on implementation of the Title VII rules and the key areas affecting SEFs and the over-the-counter ("**OTC**") derivatives market. We would also like to take this opportunity to commend and thank the Commission and its staff for their hard work and willingness to meet with interested members of the public throughout the rulemaking process.

Since 1998, Tradeweb has offered a regulated electronic trading system for OTC fixed income investors and has played an important role in providing greater transparency in and improving the efficiency of the trading of fixed income securities and derivatives. Indeed, Tradeweb has been at the forefront of creating electronic trading solutions which support price transparency and reduce systemic risk, the hallmarks of Title VII of the Dodd-Frank Act, and, accordingly, Tradeweb is supportive of the Dodd-Frank Act and its stated policy objectives relating to Title VII. Indeed, Tradeweb has been an active participant in the ongoing public debate around SEFs, how best to bring greater transparency and accountability to the over-the-counter derivatives market, and the implementation of Title VII of the Dodd-Frank Act. With our background and experience in providing regulated electronic markets to OTC market

¹ Pub. L. 111-203, 124 Stat. 1376 (2010).

professionals, Tradeweb believes that it can provide the Commission with a unique and valuable perspective on the proposed rules and the implementation thereof. For these reasons and the reasons set forth more completely in previous comment letters to the Commission, Tradeweb has a significant interest in the proposed rules which would govern the governance, operations and activities of SEFs and the implementation of such rules.

As we have noted, we are entirely supportive of the Dodd-Frank Act's goal of enhancing transparency and liquidity and reducing risk in the OTC derivatives markets. To further this end, we believe that the Commission should build upon the foundation for transparency, liquidity and risk reduction that has been established by existing OTC derivatives trading platforms and, in so doing, take care to avoid disrupting unnecessarily the substantial benefits that these platforms currently offer participants in the OTC derivatives market.

Implementation

The smooth implementation of Title VII of the Dodd-Frank Act will require cooperation between regulators (both domestically and abroad) in their rulemaking and implementation plan, as well as the cooperation and commitment of market participants. It is critical therefore that in the first instance, the rulemaking is flexible but clear, and that each facet of implementation is thought through, because a lack of confidence in implementation will result in a lack of confidence in the marketplace, the result of which would be a marketplace which would not best serve the interests of the end user. We believe the marketplace needs certainty in terms of how and when these regulations will be implemented, and we applaud the Commission's endeavor to seek public comment on the subject.

At the outset, we encourage the Commission to implement the regulatory requirements over time rather than all at once because a "big bang" approach to implementation would be too disruptive to the marketplace – particularly given the breadth and complexity of new rules to be implemented and the varying states of readiness of market participants. We also support the concepts set out in the April 29, 2011 paper "CFTC Staff Concepts and Questions Regarding Phased Implementation of Effective Dates for Final Dodd-Frank Rules," and specifically its suggestion of bifurcating the registration components from the operational components for market infrastructures such as clearing entities, trading platforms and data repositories.²

As we set forth more fully in our March 8, 2011 letter to the Commission, in respect of SEFs for example, the registration process should commence in advance of the implementation of the mandatory trading requirement. Permitting registration of SEFs, including implementation of their policies, procedures, and rulebooks, in advance of the trading mandate will provide predictability to market participants regarding which entities expect to operate as SEFs, enable market participants to make any required technological and operational changes to support mandatory trading, and provide the Commission and the Securities and Exchange Commission ("*SEC*") with the information and time needed to address issues that may be specific to certain classes of market participants or OTC derivatives. The same "open for business" approach can be applied to clearing entities and data repositories, as well as swap dealers and major swap participants.

² See CFTC Press Release 6030-11 (April 29, 2011).

In addition, grandfathering relief should permit currently existing OTC derivatives trading platforms to continue operating and introducing new products in the ordinary course of their business as they work to achieve full compliance with the new requirements. In many cases, trading platform operators may not be able to comply with the proposed terms of such relief due to their dependence on third parties for achieving compliance. Therefore, rather than representing that they are in full compliance with the core principles, applicants for relief should be permitted to certify that, to the best of their knowledge and belief, they have implemented adequate procedures that are designed to ensure material compliance with the core principles.

We also encourage the Commission to leverage the infrastructure that already exists for the trading and clearing of OTC derivatives. In so doing, the Commission will not need to wait for one aspect of the rules (e.g., clearing) to be fully implemented for all market participants before another aspect of the rules (e.g., trading or reporting) can begin to be implemented. For example, delaying the implementation of the trade execution mandate until the clearing mandate is fully achieved – in effect, deferring implementation of the trade execution requirement until all operational and technological issues associated with the mandatory clearing requirement are resolved for all asset classes and categories of market participants – would needlessly deprive many of the most systemically important market participants of the readily achievable benefits associated with trading OTC derivatives through existing trading platforms, which would run counter to the objectives of the Dodd-Frank Act. Furthermore, the data created by reporting of transactions effected on SEFs that occur prior to full implementation of the trade execution mandate could inform the Commission’s rulemaking in certain areas, such as block trade sizes.

In light of the foregoing, we believe it is most practical to take a “class of market participant and asset class” approach to phasing in the clearing, trade execution and reporting mandates. For example, given that many interest rate and credit derivatives dealer-to-dealer trades are already cleared, the Commission could commence implementing the clearing and shortly thereafter, trading requirements for interest rate swaps and credit default swaps that are cleared today between dealers. After the dealer-to-dealer phase, the Commission could then look to phase in dealer-to-customer clearing and trading for customers that do not have any (or have few) subaccounts, and thereafter, those with many subaccounts (e.g., asset managers).

Harmonization

As we have stated previously, in addition to taking a flexible principles-based approach to the rulemaking (and implementation), it is critically important for the Commission and the SEC to harmonize their rules as much as possible. Because of the overlapping nature of the proposed Commission and SEC rules, we believe it is imperative that the agencies cooperate in developing final rules to avoid unnecessary cost and duplication for market participants. Bifurcated rulemaking with respect to the swaps market will result in confusion and lack of confidence in the marketplace, and significant increase in cost for market participants, all of which could potentially drive participants away from the market altogether. For example, in respect of SEFs:

- SEFs should not have to file separate SEF applications for each mode of execution to be offered, and where a SEF is offering both swaps and security-based swaps the SEF should only be required to file one uniform application with both agencies.

- Many SEFs will be simultaneously registering as SEFs and security-based SEFs, so it is imperative that the Commission and the SEC promulgate consistent and harmonized conflicts of interest rules. If they do not, the competing rules will cause SEFs to have multiple and/or unworkable governance mandates, potentially necessitating the establishment of multiple boards of directors.

It is also critically important that there is a consistent approach between regulators globally as overly rigid regulation in one jurisdiction will materially impact how other regulators promulgate rules in an effort to maintain a harmonized approach to overseeing the derivatives markets. The swaps market is a global market and if the rules in the U.S. are too prescriptive, the potential result could lead to a migration of the market outside the U.S. – which would be an unfortunate unintended consequence.

Trade Execution and Core Principles

As we have noted many times, Tradeweb is supportive of the Commission's goals of promoting increased price transparency and regulatory oversight in the swaps market, and we appreciate the Commission's efforts to provide SEFs with flexibility in determining the manner in which its participants will trade swaps. Indeed, we applaud the Commission's recognition that market participants may want and SEFs may offer order book and/or Request-For-Quote ("*RFQ*") functionality.³ This was an important first step in providing market participants the flexibility they need to transact effectively in derivatives. However, we believe that the aim must be to achieve the goals of the Dodd-Frank Act without materially disrupting the market and the liquidity it provides to end users who use derivatives to manage their varying risk profiles. Market participants need confidence to participate in these markets and if the rules are too prescriptive in terms of how market participants must interact with each other, we are concerned that this confidence could be materially shaken.

To that end, as we have stated previously, we believe the Commission's rules should be principles-based, and the SEFs (and other market participants and infrastructures) should have broad, but reasonable discretion in their provision of services so that they can meet the evolving and varying needs of their participants. Such discretion will foster greater transparency and liquidity in the swap market by promoting competition among SEFs, providing market participants with alternative methods of trade execution to accommodate their varying business needs and thereby encouraging the trading of swaps on SEFs, a core objective of the Dodd-Frank Act.

Flexibility is especially important in implementing the SEF core principles of the Dodd-Frank Act because the Commission has been charged with applying principles that are derived from principles currently applicable to the trading of derivatives on designated contract markets ("*DCMs*") to the related, but nonetheless quite different, context of OTC derivatives trading on SEFs. In broad form, the Core Principles are good guiding principles for the operation of trading venues and maintaining market integrity. However, it is important for the Commission to recognize the distinctions between DCMs and SEFs, and to apply the principles with flexibility given the fledgling market structure in which swaps are traded. While many of the SEF Core Principles are broad, principles-based concepts – which make sense given the potential for

³ See 76 Fed. Reg. 1214 (January 7, 2011).

different types of SEFs and trading models – some of the Core Principles are potentially problematic for SEFs that do not operate a central limit order book. Additionally, unduly prescriptive rules could impose an unreasonable burden and substantial costs on existing swaps-trading platforms prior to registering as SEFs and could discourage new entrants into the swaps market.

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As we explained in our March 8, 2011 comment letter to the Commission and in subsequent public testimony, among the many considerations for their SEF rulemaking, the Commission should give consideration to the following areas:

1. **Trade Execution**⁴

- SEFs should be able to operate a disclosed (or if they choose, an anonymous or partially anonymous) RFQ system and a separate and distinct anonymous order book – each with different participation standards and rules of engagement and each utilizing different technology. A SEF that chooses to operate both an RFQ and order book system may not want to (and should not be required to) have its order book system interoperable with an RFQ system. For example, if two separate SEFs operated by separate and independent legal entities were to operate an RFQ system and an order book, respectively, their technologies and orders would not be required to interact with each other. We see no reason why a single SEF operating separate and distinct markets on entirely separate technologies (that may not be able to interoperate) should have a different set of obligations and requirements than separate SEFs.
- The proposed requirement that there be a minimum of five (5) recipients of an RFQ does not provide market participants with enough flexibility and could ultimately lead to less pre-trade liquidity and transparency in some swap markets. We believe that market participants should have the ability to decide, on a case-by-case basis, how many liquidity providers receive their RFQs.
- The Commission should not require SEFs to display RFQs to participants not participating in the RFQ. Requiring such disclosure might force the liquidity provider to widen its bid/offer spread so as to price in the risk associated with the information on that trade being disseminated to the entire market. We believe that sufficient transparency would exist with a centralized screen of bids and offers for each instrument on the system and that imposing a requirement for an entirely “transparent RFQ” or any similar requirement would harm market participants more than it would help.

2. **Core Principles**

- We agree with the Commission that “impartial access” to a SEF’s markets and market services (including indicative order screens) should not require a SEF to

⁴ See generally *id.* at 1220-21.

grant access to anyone who requests it, as guaranteed universal access could greatly harm market efficiency and integrity.⁵ To that end, the SEF should have discretion to establish differing sets of objective, pre-determined criteria appropriate for participating in different types of marketplaces (e.g., RFQ market v. an order book market), participation within a market (e.g., liquidity providers and liquidity takers) – so long as the SEF applies the applicable criteria in a fair and impartial manner.

- SEFs should not be responsible for monitoring compliance across markets. We believe that it is appropriate for each SEF to bear some responsibility for monitoring trading in its own market, but it would be highly problematic to require, as certain of the proposed rules apparently would, a SEF to monitor the trading of swaps on other SEFs or elsewhere in the market (e.g., for purposes of position limits).⁶
- The proposed requirement that each SEF conduct an annual audit of member and market participant compliance with audit trail requirements is unreasonably burdensome, especially since no such requirement is applicable to DCMs.⁷ SEFs should have the same discretion that DCMs have to implement policies and procedures that are reasonably designed to ensure compliance with audit trail requirements.⁸
- Although we support the creation of a dedicated chief compliance officer (“CCO”) to oversee the SEF’s compliance matters, we believe that SEFs should be permitted to determine the qualifications, duties and conditions for supervision and removal of their CCOs.⁹ We also believe that it is unreasonable to require a CCO to ensure compliance with the Dodd-Frank Act and Commission regulations because the CCO, by the nature of his duties, would not have control over the

⁵ See id. at 1223.

⁶ See id at 1227-28.

⁷ See id at 1225.

⁸ In a similar vein, proposed Rule 39.13(g)(2) sets forth requirements regarding DCO margin methodology. The proposed rule requires, *inter alia*, that DCOs establish initial margin requirements commensurate with the risks associated with each product and portfolio cleared by such DCO. In addition, a DCO is required to use models that generate initial margin requirements sufficient to cover the DCO’s potential exposure to clearing members based on the time, estimated by the DCO, that it would take to liquidate a defaulting clearing member’s positions (the “*Liquidation Time*”). The proposed rule provides that the Liquidation Time will be a minimum of five business days for cleared swaps that are not executed on a DCM and one business day for all other products cleared by the DCO. 76 Fed. Reg. 3698 at 3704 (January 20, 2011). As written, the disparity between Liquidation Times would potentially mean that higher margin requirements would apply to swaps that are executed on SEFs than to swaps that are executed on DCMs. It is not clear what the rationale is for requiring significantly different Liquidation Times for swaps traded on SEFs and DCMs, and, as other commenters have noted, no such guidance has been provided by the Commission in this regard. We believe the DCO should be able to make its own determination of the appropriate Liquidation Time for such swaps, subject to a harmonized one business day minimum standard. This approach would afford a DCO discretion to set prudent margin requirements without discriminating against participants executing swap transactions on a SEF. Indeed, in the absence of such revision, market participants would be penalized for effecting swap transactions on a SEF, which would effectively undermine the goals for SEFs as stated in the Dodd-Frank Act – *i.e.*, to promote trading of swaps on SEFs.

⁹ See 76 Fed. Reg. 1214 at 1231-35.

operations and activities of the SEF; imposing such duty is inconsistent with a CCO's authority and role as adviser to the SEF, and SEFs will likely find it difficult to hire CCOs who are willing to undertake a duty to ensure such compliance. Instead, we urge the Commission to specify that the duty of the CCO is to adopt procedures and safeguards reasonably designed to ensure compliance with the Commodity Exchange Act ("*CEA*") and Commission regulations.

Mitigating Conflicts of Interest

Tradeweb supports the Commission's objectives in proposing rules implementing the Dodd-Frank Act's mandate to adopt rules mitigating conflicts of interest.¹⁰ We appreciate that the Commission has attempted to provide SEFs with some degree of flexibility in mitigating conflicts of interest and has not proposed rigid percentage limitations on the ownership of SEFs. As set forth more completely in our November 17, 2010 letter, we nonetheless believe that the Commission could accomplish its goal of mitigating conflicts of interest in a manner that is somewhat less burdensome, but equally effective.

For example, the Commission's goal of requiring independence in the governance of SEFs could be achieved without imposing the proposed rule's requirement that public directors account for 35% of a SEF's board of directors.¹¹ We suggest that the Commission should instead mandate that each SEF's board of directors include a minimum of two (2) public directors and that the public directors on a SEF's board account for a minimum of 20% of the board's voting power, irrespective of the actual number or percentage of public directors serving as board members. We believe that imposing these requirements would accomplish the Commission's goal of ensuring independence of governance without the undue burdens and significant costs associated with maintaining a board of directors of a specified size and composition.

Real-Time Reporting

As the Commission has recognized, SEFs will play a key role in creating the transparent derivatives markets envisioned by the Congress. In addition to trading capabilities, SEFs will offer fully automated, straight-through reporting systems, capable of reporting large amounts of data accurately and virtually instantaneously. To that end, they will use sophisticated protocols for reporting information real-time to clearinghouses and counterparties, capable of meeting the most stringent real-time reporting requirements. Accordingly, we applaud the Commission for recognizing that parties to a swap transaction can discharge their reporting obligations through a swap market and would encourage the Commission to go farther in respect of this rulemaking to take full advantage of the capabilities of SEFs and other swap markets. By doing so, the Commission will better serve the goals of the Dodd-Frank Act, and will allow for earlier implementation and adoption of these reporting rules.

¹⁰ See 75 Fed. Reg. 63732 (October 18, 2010).

¹¹ Tradeweb certainly does not support having a requirement that the SEF board be composed of a majority of public directors as proposed by the SEC under Regulation MC (see 75 Fed. Reg. 65882 at 65908 (October 26, 2010)), and we encourage the Commission not to adopt such a standard in connection with the harmonization of its rules with the SEC's proposed rules.

The Commission has recognized a number of potential conflicts of interest relating to the use of swap data received by swap data repositories (each, an “*SDR*”). In light of the unique position of SDRs in the reporting scheme, we believe that the Commission should consider imposing additional requirements and safeguards, including that SDRs (i) make available any data they collect and may properly use for commercial purposes (*i.e.*, the real time reporting information) to all market participants, including SEFs and DCOs, on reasonable terms and pricing and on a non-discriminatory basis, and (ii) share, on commercially reasonable terms, revenue they generate from redistributing such data with parties providing the data to the SDRs (*e.g.*, SEFs). Without such requirements, the Commission is effectively taking away from market participants, including SEFs and DCOs, a potentially significant and valuable component of their market data services. In that regard, although we do not believe there is any legal uncertainty as to the issue, we recommend that the Commission make clear in the final rules or in its commentary to the final rules that nothing in the rules is intended to impose or to imply any limit on the ability of market participants, including transaction parties, SEFs, and DCOs, to use and/or commercialize data they create or receive in connection with the execution or reporting of swap data, consistent with their important confidentiality obligations under the CEA and the Commission’s rules. These provisions will help to ensure a robust and competitive market among market participants, as envisioned by Congress, and would help to limit the possibility of overreaching by SDRs due to their unique position in the data-reporting regime.

Conclusion

Tradeweb believes that flexibility in all aspects of the Commission’s rules is imperative to promoting the development of swaps trading on SEFs in a manner that can quickly accommodate the varying needs of various participants, provide the most competitive execution of trades and encourage the greatest degree of liquidity. Flexibility will have the added benefit of permitting SEFs and market participants to implement the Commission’s final rules more quickly and efficiently and thereby hasten the migration of swaps trading to centralized and transparent markets, a core objective of Title VII of the Dodd-Frank Act.

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Mr. David A. Stawick

June 3, 2011

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If you have any questions concerning our comments, please feel free to contact us. We welcome the opportunity to discuss these issues further with the Commission and its staff.

Sincerely,



Lee H. Olesky
Chief Executive Officer



Douglas L. Friedman
General Counsel

cc: Honorable Gary Gensler, Chairman
Honorable Michael Dunn, Commissioner
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott O'Malia, Commissioner
Dan Berkovitz, General Counsel, Office of the General Counsel
Richard Shilts, Acting Director, Division of Market Oversight
Ananda Radhakrishnan, Director, Division of Clearing and Intermediary Oversight