

**From:** [REDACTED] **On Behalf Of** Raymond May  
**Sent:** Sunday, September 12, 2010 5:05 PM  
**To:** Radhakrishnan, Ananda  
**Subject:** Re: ROUNDTABLE ON GOVERNANCE AND CONFLICTS OF INTEREST IN THE CLEARING AND LISTING OF SWAPS

Ananda Radhakrishnan

Director,

Division of Clearing and Intermediary Oversight (DCIO)

CFTC

[REDACTED]

(Not for the public record)

Dear Mr Radhakrishnan,

Re: ROUNDTABLE ON GOVERNANCE AND CONFLICTS OF INTEREST IN THE CLEARING AND LISTING OF SWAPS

I read the transcript of the roundtable meeting and would like to take this opportunity to comment on some specific issues. I should start by congratulating you on what seems to have been both an informative and well managed meeting, and to say that I was particularly impressed with Ms. Slavkin's comments throughout the meeting and with Mr. Greenberger's very insightful observations on the second panel.

Let me first introduce myself and declare my own interest. I began my career in 1986 at JP Morgan London where I was initially responsible for leading the technology development for what was to become the OTC derivatives business. My team developed the back office and accounting systems incorporating the first mark to market models, comprehensive credit models, and risk management systems including the development of the concept of value @ risk. In 1992 I transferred to New York where I became head of US interest rate swap trading. In 1997, prompted by seeing the success of EBS in the spot FX market, I left JPM to found Blackbird which was to be a MEF (multi-lateral execution facility) for the OTC derivative market. After initially gaining the support of the big dealers to sponsor legal certainty of swaps in the 2000 Act, dealers subsequently created their own consortium "Swapswire", and refused to use our platform. In 2009 I launched a private Delaware C corporation named ODEX to develop a SEF. Our software is mostly complete and is now in the process of linking to IDCG and CME.

Concerning the roundtable, it is important to recognize in the ownership discussions that the FCMs and major swap dealers are one and the same. To achieve the Frank-Dobbs Act objective of fair and open access I believe it is essential that there is proper separation between control of the CCPs, SEFs and FCMs. As I shall highlight below, history suggests that this is an essential ingredient of fair and open markets.

It is interesting to ask why this logical move to CCPs has not occurred before. I believe the answer is that dealers did not want it. They did it for themselves when they set up the LCH, but this was never going to be offered to end users or small dealers. Only as a result of the threat of regulation has the LCH begun recently to open its membership in a hope of turning away the threat of the Lynch amendment. An example of dealer control over a market is perhaps the failure of the CME swaps contract launched in the mid 90's; it was not in the financial interests of the dealer community for that contract to succeed and sure enough it failed through lack of liquidity. Hence the dealer community itself has tended to control innovation; since Bloomberg built their system in the late 1980's, no other non-consortium innovation that had big potential has been successful in the financial space. This is not because dealers do things better, but because without dealer buy-in nothing can be successful.

How does this translate to ownership? If a single big bank wants to add OTC swaps to their in-house system (example DB's Autobahn), cleared or not cleared, to connect and trade with their own clients where they are the only market maker, then they should be free to do so and this should not be considered a CCP or a SEF (to be clear, this is not the same as the example of Goldman launching its own CCP). At the other extreme, ISDA has a group called the G14, which are essentially the major market makers. If the G14 plan to club together and create a CCP or SEF, then this should not be allowed. In between, I believe the original Lynch amendment of Major Swap Dealers being limited in combination to 20% ownership in a CCP had it right. Further, I believe that this should logically also apply to SEFs. The ICE Trust and LCH examples clearly suggest that no dealer consortium should be allowed to control access to a market or market structure if the Frank-Dodd's objectives of fair and open access are to be achieved.

Tradeweb is a very interesting example of ownership-- Tradeweb is, in effect, an SEF in the US Government and Mortgage securities markets. When Tradeweb was re-acquired by a group of dealers recently, liquidity began to dry up on other open systems; another example of dealer ownership and its effects on open and fair competition. In addition Tradeweb has a dealer pay model where the end user doesn't pay a transaction fee; dealers pay to be able to earn their bid offer whereas in a truly fair and open market an SEF ensures all end users have equal access. When Microsoft gave away internet explorer for free, Netscape was dead in a day! Therefore, if a vertical integration model exists where a CCP or FCM can package clearing with free trading, then the SEF market does not need to exist and in the long term the end user will lose out.

A related fear is that dealers who are FCMs could control access to SEFs and CCPs. End user clients must be given free access to SEFs and CCPs; when an end user deals through an FCM that client must be able to stipulate which SEF and which CCP they wish to use.

I believe we have developed ODEX as a SEF in the spirit of the Frank-Dobb's Act. ODEX software is designed to work in many forms: from single dealer, back loading voice trades, to open exchange. ODEX plans to be CCP agnostic. ODEX has approached the five major swap CCPs. One is working with us openly (IDCG) and sharing all their APIs with us. Another has told us they will work with us once they have everything worked out with their top

10 FCMs (guess who they are), another said they would work us, but not yet (delaying – leader in CDS), another told us they wanted to be vertical, so not interested in other SEFs, the fifth has not returned our calls (London based).

In conclusion it seems to me that to achieve the objectives of fair and open market access it is essential that ownership and control issues are clarified and documented at this stage in the process. I would be very happy to discuss any of these issues further if I can be of assistance.

Yours sincerely,

Raymond May



***R Raymond May***

CEO

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