MEMORANDUM

TO: File

FROM: Sandra Cheung

RE: Meeting with representatives of Barclays

DATE: July 3, 2012

On June 13, 2012, representatives from the Division of Trading and Markets (John Ramsey, Tom McGowan, Brian Bussey, Heather Seidel, Matthew Daigler, Wenchi Hu, Richard Gabbert, Amar Kuchinad, Yvonne Fraticelli, David Michehl, Michael Gaw and Sandra Cheung) met with representatives from Barclays (Keith Bailey, Jeff Samuel, Marcelo Riffaud, Alan Kaplan, Allison Parent, Chris Allen and Alexandra Guest).

At the meeting, the Barclays representatives provided their views and observations on the application of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act to Barclays' global security-based swaps business, as well as issues related to the registration and regulation of foreign security-based swap dealers.

[No agenda available for this meeting.]

Dodd Frank Act, Cross Border Analysis of Title VII

Briefing Summary

BARCLAYS

June 2012

Table of Contents

Introduction to Barclays

Barclays' US presence led by the New York Branch, Barclays Capital Inc., and Barclays Bank Delaware

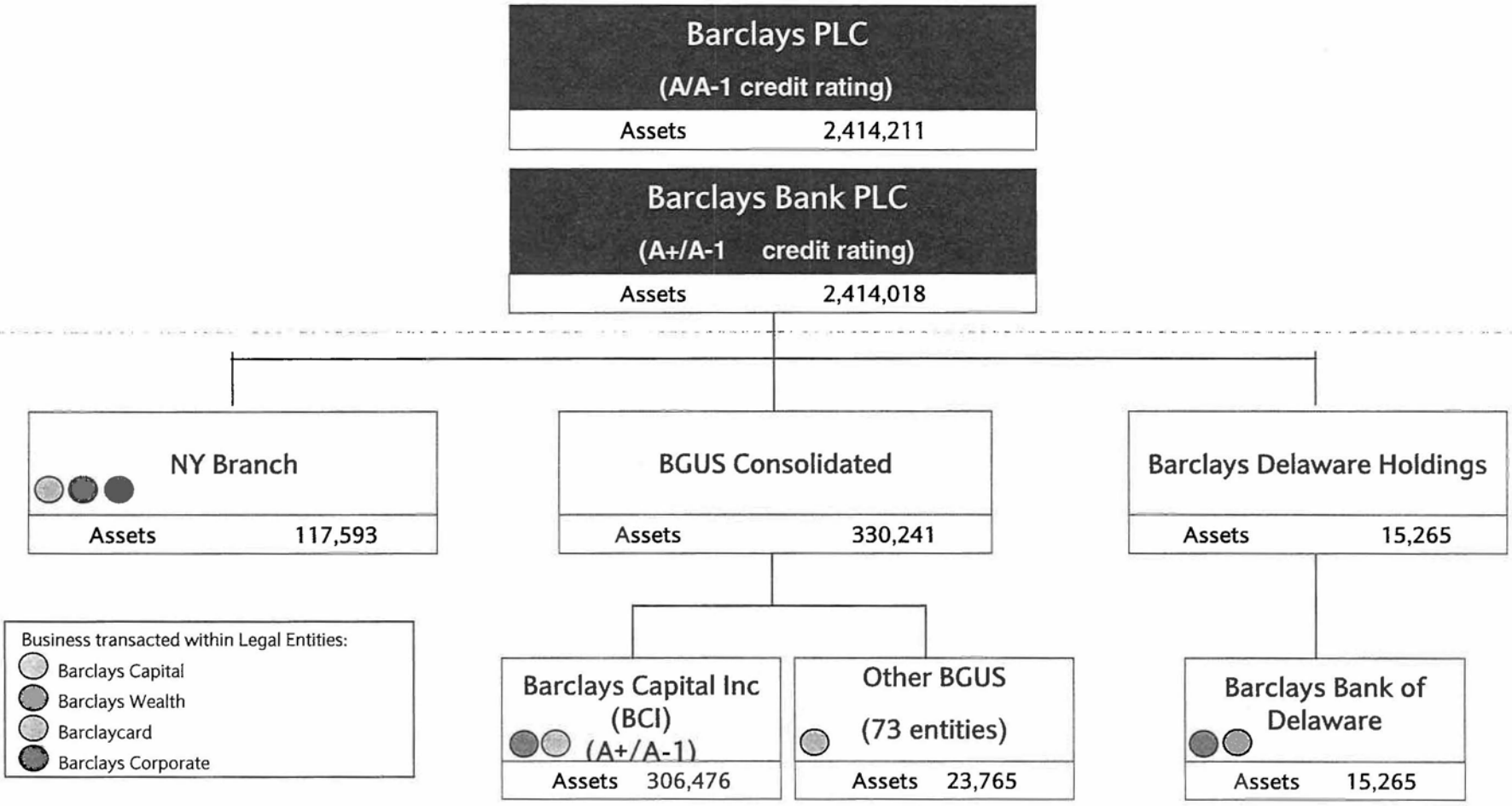


Chart above reflects principal US entities only, under US GAAP (unaudited), with the exception of Barclays Bank PLC and Barclays PLC, which are presented under IFRS (in USD millions at December 31, 2011)

BARCLAYS

Scope of U.S. Regulation of US-Registered Swap Dealer and Security Based Swap Dealer

Key Considerations

- General Framework for a US-registered Swap Dealer/Security Based Swap Dealer (SD/SBSD), Entity-level rules by definition attach to most activities, and Transaction-level rules should attach only to transactions with US persons.
- Substituted Compliance. We support an approach that compliance with applicable Entity-level rules can be met by complying with home country regulations. Of course, US regulators will need to become comfortable that such home country regulations are reasonably designed to address risks similar to the risks addressed by US rules.
- Scope: Dodd Frank Act did not intend to apply Transaction-level rules to offshore activities of non-US SD/SBSDs.
- Definition of US person requires a consistent approach. The CFTC and the SEC should align their US person definitions.
  - Trading desks are generally organized by reference to the products that they trade, which aligns well with customer demands and also ensures effective risk management. Thus, a desk engaged in CDS trading will trade not just single name CDS (i.e., SEC-regulated) but also index CDS (i.e., CFTC-regulated); similarly an equity swap desk will trade swaps on single name equities (i.e., SEC-regulated) as well as swaps on equity indices (CFTC-regulated). It therefore makes sense that both regulators adopt the same definition for US person to avoid unnecessary complexity in compliance.
- Clear approach that is not so complex or convoluted that buy-side counterparties will not feel comfortable making representations as to their status.
- Definition of US person encapsulates Title VII's systemic risk concerns and customer protection concerns.

Territorial Approach to defining US Person

The Reg S definition of "US Person"

- Benefits
  - Well understood in the market place.
  - Can be consistently applied by both SEC and CFTC.
  - Provides clarity for arrangements involving asset managers and other agents, where the agent and the principal may be in different jurisdictions.
- Shortcomings
  - Was adopted in connection with capital formation activities and, thus, largely advances customer protection policies and policies favoring disclosure in the market, but does not address systemic risk issues.

Proposed "US person" definition

- Similar to Reg S, proposed definition also favors a territorial approach. US person status should be based on CP's jurisdiction of organization, and ***not*** on Parent's jurisdiction or on the existence of a guarantee. Additionally, non-US branches of US entities would not be US persons. Thus, non-US branches and non-US affiliates of US or non-US persons would not be US persons.
  - Consistent with Reg S in the case of an account or fund advised by a manager outside the US, the counterparty should not be US person
- Whether a person is a "US person" for purposes of a non-US SD/SBSD needing to comply with Transaction-level rules is a different question than whether such person has its own obligations under US rules.

Application of US Person, as defined

Non-US Branch of a US bank

A non-US branch of a US bank should not be viewed as a US person such that BBplc London branch would not need to comply with Transaction-level rules in its dealings with such non-US branch. Please note, though, that this is a different question than whether and what rules should attach to the non-US branch's activities outside the US.

Non-US subsidiary of US bank (whether or not guaranteed by a US entity)

Absent (a) evasive intent, and (b) the introduction of systemic risk to the US, a non-US subsidiary of a US bank should not be treated as a US person. US consolidation rules applicable can address systemic risk issues. US banks may choose to engage in business from without the US for various reasons (including local regulatory requirements, access to resources, taxation, market presence, etc.) and do not expect that US rules will apply to that activity.

Non-US subsidiary of a US end-user (whether or not guaranteed by a US entity).

Absent (a) evasive intent and (b) the introduction of systemic risk to the US, a non-US subsidiary of a US end-user should not be treated as a US person. End-users may choose to engage in business from without the US for various reasons (including local access to resources, taxation, market presence, etc.) and do not expect that US rules will apply to that activity.

If a US-based guarantee exists, the Regulatory Reporting Rules should attach (but not RT Public Reporting), regardless of whether the counterparty is a US person. The policy concerns relating to systemic risk that such guarantees may present are addressed by a combination of the Entity-level rules, which attach by virtue of the non-US SD/SBSD being registered in the US, and the application of Regulatory Reporting Rules.

Model for Extraterritorial Oversight

This proposed definition is simpler than Reg S, looking only to the jurisdiction of the counterparty, and not to the jurisdiction of the parent or advisor, to determine whether an entity is a US person.

However, through the selective application of certain rules as necessary, policy goals are achieved.

- Example: In a trade with a non-US person, if a US-based guarantee is provided, then the Regulatory Reporting Rules (not RT Public Reporting) would attach. Coupled with the application of the Entity-level rules, these address the risk issues that might be presented by a US guarantee.
- Example: In a trade by a non-US SD/SBSD that is agented by US-based employees of an affiliated BD/FCM of the non-US SD/SBSD acting on behalf of the SD/SBSD, then existing BD/FCM rules addressing business conduct attach.

Title VII Breakdown of Entity & Transaction Level Oversight

Entity Level*

Capital – D-F 731 (CEA 4s(e)(2)) and D-F 764(a) (SEA 15F(e)(1))

Internal Business Conduct Rules

Risk Management Procedures -- D-F 731 (CEA 4s(j)(2)) and D-F 764(a) (SEA 15F(j)(2))

Chief Compliance Officer -- D-F 731 (CEA 4s(k)) and D-F 764(a) (SEA 15F(k))

Recordkeeping -- D-F 731 (CEA 4s(f)) and D-F 764(a) (SEA 15F(f))

Conflicts of Interest -- D-F 731 (CEA 4s(j)(5)) and D-F 764(a) (SEA 15F(j)(5))

**Defer to home country regulator (subject to U.S. regulatory determination of comparable standards)*

Transaction Level

Clearing -- D-F 723(a) (CEA 2(h)(1)) and D-F 763(a) (SEA 3C(a))

Exchange trading -- D-F 723(a) (CEA 2(h)(8)) and D-F 763(a) (SEA 3C(h))

End of day reporting -- D-F 729 (CEA 4r(a)(1)) and D-F 766(a) (SEA 13A(a)(1))

Real Time reporting -- D-F 727 (CEA 2(a)(13) and D-F 763(i) (SEA 13(m))

Business conduct rules (external) -- D-F 731 (CEA 4s(h)) and D-F 764(a) (SEA 15F(h))

Documentation standards -- D-F 731 (CEA 4s(i)) and D-F 764(a) (SEA 15F(i))

Daily trading records -- D-F 731 (CEA 4s(g)) and D-F 764(a) (SEA 15F(g))

Uncleared margin segregation/amount -- D-F 731 (CEA 4s(e)(2)) and D-F 764(a) (SEA 15F(e)(1)) [Margin requirement] D-F 724(c)(l)) (CEA) and D-F 763(d) (SEA 3E(f)) [Uncleared margin segregation]

Position limits -- D-F 737 (CEA 4a(a)) and D-F 763(a) (SEA 10B(a))

** Transaction-Level requirements should not apply to inter-affiliate transactions.

Enhanced Prudential Standards: Source of Strength

Barclays continues to improve its overall capital position and has decreased its leverage and strengthened its funding

- FSA and Federal Reserve oversight, combined with Barclays' own risk governance, collectively reflect a sound liquidity and capital risk framework that serves to support Barclays and its US subsidiaries

Capital and Leverage

- Barclays manages its balance sheet leverage to an internal target of 20 times Tier 1 capital, analogous to the US Tier 1 leverage ratio
- As illustrated in figure 2, Barclays' Basel 2.5-based Core Tier 1 ratio is 11%, which exceeds ratios reported by universal banking peers; the ratio is expected to remain strong under Basel 3, through a combination of tight capital management and retained earnings
- Large exposure limits and the Solus capital regime add two further pillars to FSA regulatory capital oversight of UK banks, ensuring a strong parent

Liquidity

- Barclays has one of the largest and highest-quality liquidity pools, with two-thirds in central bank deposits and the remainder invested predominantly in government bonds
- We expect to be able to meet Basel 3 requirements with no incremental term funding beyond current issuance plans

Stress Testing

- Barclays maintains rigorous risk oversight, capital adequacy assessment, economic capital, and stress testing programs/framework
- Capital stress tests drive the amount of capital required under Pillar 2 (a formal FSA capital add-on to Pillar 1 minima) and liquidity stress scenarios are used to assess the appropriate level for the Group's liquidity pool

Figure 1. **Leverage**

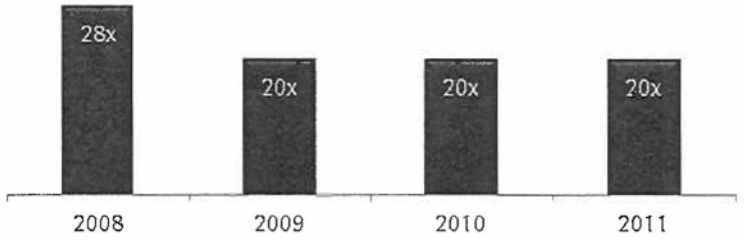


Figure 2. Core Tier 1 ratios*

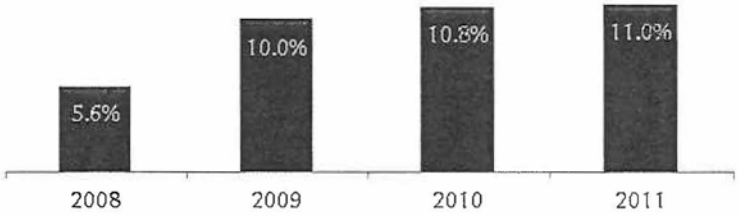
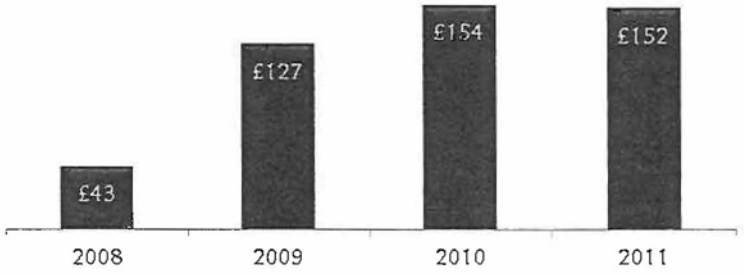


Figure 3. Liquidity Pool



* Year-end 2011 ratios calculated under Basel 2.5 standards

BARCLAYS

US Subsidiarization of Swaps Activities

Fragmentation of swaps activities into jurisdiction-specific pools is likely to result in increased costs and less liquidity market-wide, and potentially result in increased systemic risk

- Under the central booking model, the largest, most creditworthy, and most heavily-regulated entity faces global swaps counterparties, which offers the bank and clients capital and liquidity efficiencies; minimizes operational and counterparty risks; and centralizes regulatory oversight
- Should US agencies apply Dodd Frank's swap dealer requirements to non-US aspects of a global institution's business and without adequate consideration of the home country regulatory and supervisory/capital framework under which such institution already operates, then such institution may not be willing to subject its global swap activities to US swap regulation

Issue	Result
Systemic risk	•Central management of risk offers the bank, its regulators, and clients the best ability to oversee and manage risks associated with swaps activities •Fragmentation would increase complexity for banks and thus operational risks, as back-to-back transactions among affiliates are done to obtain necessary hedges, and for clients, which must face multiple counterparties instead of one •Fragmentation may require customers face less creditworthy affiliates within the group rather than the largest, most comprehensively regulated entity, increasing counterparty risks
Capital and liquidity	▪Fragmentation and the resulting loss of risk management and capital efficiencies would increase costs for banks, which would either cease to offer certain products, or pass on costs to customers, both of which result in lesser market liquidity and increased costs for customers ▪Increased capital costs for banks, covered in the following slides, would draw capital away from more productive uses ▪Fragmentation would also result in a loss of netting efficiencies for banks and for clients, which, as above, increases costs to both banks and clients, but also, given an inability to net margin across swaps, draws liquidity from the system

US Subsidiarization of Swaps Activities

Migration of swaps activities to a US subsidiary would require support for the migrated risk implying material capital costs at the subsidiary, solus and consolidated levels

Headline considerations

- Where trading books are fragmented into operationally-inefficient subsets, there is a relative decrease in the ability to manage well-balanced, substantially delta-neutral books, which not only draws capital away from more productive uses (e.g. credit extension), but does so at a cost of increasing systemic risk

Capital considerations

- While capital charges at the local, solus, and consolidated levels could be expected to materially increase, the ability to generate a robust capital cost estimate is impeded by a current lack of guidance on several key inputs, including the lack of current guidance on capital treatment for swaps activities in a US swaps-dealing subsidiary
- Exposures to the subsidiary may also increase large exposure usage (e.g. where intercompany swaps are established to manage risk or funding relationships exist) although this may be mitigated to some extent by collateralization
- The table below details key RWA drivers

Entity	RWA driver	RWA
Solus	▪Capital injection from Barclays Bank PLC to US subsidiary to support migrated swaps	↑*
	▪Lower solus RWA for migrated swaps, mitigating a portion of the cost of the capital injection	↓
	▪Split hedges (where offsetting hedge is migrated from BBPLC) unless intercompany TRS established to manage market risk	↑ or ↔
US subsidiary	▪No current guidance on capital treatment for migrated swaps activities in a US swaps-dealing subsidiary	Unknown
	▪Inability to generate model-based capital charges	↑
	▪100% capital charge historically taken on uncollateralized net positive MTM for intercompany trades	↑ or ↔
	▪Inability to shift market risk back to BBPLC to avoid split hedges	↑
Consolidated	▪Inconsistent capital treatment (e.g. more punitive US capital regime; inability to use similar models across entities)	Unknown
	▪Operational risks driven by increased intercompany transactions and fragmentation	↑
	▪Netting and other inefficiencies due to fragmentation (operational, tax, etc)	↑

** Capital injections from BBPLC to US subsidiary would be a dollar-for-dollar deduction from BBPLC capital (currently 50:50 between Tier 1 and Tier 2 capital), which may be translated as 1,250% RWA for total capital*

BARCLAYS

Security Based Swap Dealer and Swap Dealer Registration

- Assume BBPLC (as our customer facing Swap Counterparty) will have to register due to its "installed base" (i.e. 20,000+ ISDA master agreements many of which are with US Customers)
  - Transferring agreements with US Clients to any other entity would be impractical, not possible to achieve in required time frame, and would cause significant client disruption
- Our current focus has been on CFTC SD registration (final rules) that may require the legal entity to register as opposed to just a branch or other internal division.
- Principals of the SD will need to register individually
  - As per CFTC/NFA guidance we expect that Principals include ALL Board members, the CEO, COO, CFO and CCO and Business Heads
  - Current understanding is this would include the Board of BBPLC – i.e. Barclays Board.
  - It has been suggested that the registered Principals should be the Executive Committee of the Investment Bank who more directly supervise the swap business

Security Based Swap Dealer Registration

We are very supportive of the SEC proposals to:

- Minimize registration burdens by leveraging and streamlining SBSD registration for entities already registered as a swap dealer with the NFA/CFTC
- Utilize the existing broker-dealer registration process and application forms (which is in line with the CFTC using the existing NFA programme).

We would also be supportive if the SEC registration process is managed by FINRA

- For the CFTC proposal we are already engaged with the NFA and are involved in meetings to establish how the registration process will work at a practical level. This engagement will continue post registration and should be beneficial to both parties in ensuring the process moves smoothly and the required information is clearly provided in a timely manner

Consistent with the SIFMA comment letter filed December 2011 on the proposed rule, specific concerns include:

- A common concern with both SEC and CFTC on the required scope of the background checks that are required for all associated persons that effect or are involved in effecting, or who will effect or be involved in effecting SBSDs. A wide interpretation of this could bring into scope our foreign entities and affiliates where prudential standards may differ.
  - ➢ Narrowing the scope of the requirement or else allowing substituted compliance for associated persons in different regimes is proposed.

- The requirement for a Senior Officer to certify that after due inquiry they reasonably determined that the registrant has operational, financial and compliance capabilities to act as a SBSD appears to be unnecessary (in addition to the on-going CCO requirements) and is not consistent with the current broker dealer regime nor the CFTCs SD registration regime.

Registration Open Issues

Timing of the rules

- Appropriate phasing in of registration will be achievable post internal assessment of final cross border requirements for foreign registrants. Challenges for timely phasing in could be further complicated and require more time if the SEC cross border rules are inconsistent with the CFTC guidance.
- Similar to the market regulator rules for cross border application of Title VII, compliance with the business conduct requirements should be similarly phased to allow time for market participants to assess consistency/gaps with the final CFTC requirements. Question remains on what is required at the point of registration.

Demonstrating Compliance

- Substituted Compliance: defer to our equivalent prudential (FSA) standards for capital and risk management. This should not require a line by line rule comparison but co-operation between the regulators.
- SEC approved delegation to FINRA to enable the industry to work together with FINRA to create a consistent approach for compliance. FINRA also has the advantage of processing the current broker dealer registration regime.
- Pre-approved cure period for gaps indentified consistent with the CFTC/NFA approach.

Post Registration

- Ownership of the review and exam process with FINRA with whom market participants would have necessary understanding and relationship to carry out the reviews by building the dedicated expertise within FINRA.