



SWAPS & DERIVATIVES MARKET ASSOCIATION

October 19, 2011

Elizabeth Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: RIN 3235-AK80 & AK93 for Proposed Rules 17 CFR Parts 240, 242, and 249 Registration and Regulation of Security-Based Swap Execution Facilities and Parts 240 and 242 Regulation SBSR – Reporting and Dissemination of Security-Based Swap Information

Dear Ms. Murphy,

The Swaps & Derivatives Market Association (“SDMA”) appreciates the opportunity to provide comment to the Securities and Exchange Commission (“SEC”) Notice of Proposed Rulemaking regarding Parts 240, 242 and 249 of Title 17 of the Code of Federal Regulation entitled “Registration and Regulation of Security-Based Swap Execution Facilities” and Parts 240 and 242 “Regulation SBSR – Reporting and Dissemination of Security-Based Swap Information”.

The SDMA is a non-profit financial trade group formed in 2010 to support the goals of the Dodd Frank Act. It believes that systematic risk of OTC derivatives can be mitigated through their regulation, the creation of central clearing, and by ensuring open and transparent access to ensure greater competition, lower transaction costs and greater liquidity. The SDMA is comprised of many US and internationally based broker-dealers, investment banks, futures commission merchants and asset managers participating in all segments of the exchange-traded and over-the-counter derivatives and securities markets. The SDMA supports the goals of the Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd Frank Act”), and the amendments to the Securities Exchange Act which creates a comprehensive regulatory framework for the trading of security-based swaps.

I. Introduction

We strongly disagree with the Commission's proposed framework for price dissemination and the Commission's proposal regarding the minimum number of liquidity providers that should be included in a request for quote ("RFQ") on a security-based swap execution facility ("SB SEF"). As discussed below, the SDMA believes the price dissemination process set out in proposed rules 242.817 "Timely Publication of Trading Information" ("Rule 817") and 242.902 "Public Dissemination of Transaction Reports" ("Rule 902") is unworkable and undermines the Dodd Frank Act's goal of providing price transparency. For the goals of the Dodd Frank Act to be achieved, SB SEFs must have the unrestricted ability to disseminate transaction prices to its users and the public.

In addition, the SDMA believes that proposed rules for trading security-based swaps ("SBS") on a SB SEF should require that the minimum number of liquidity providers included in a request for quote ("RFQ") must be at least three, with the option not to respond if the liquidity provider does not have a view. Requiring a minimum of three price quotes will be beneficial to the SBS market because it will: (a) provide price transparency, (b) promote trading on SB SEFs; and (c) enhance market integrity.

II. Public Dissemination of SB SEF's Transaction Information

Proposed Rule 817(c) prohibits a SB SEF from publically disseminating "any information regarding a security-based swap transaction" before such information is disclosed by a security-based swap data repository ("SB SDR"). Subsection (d) of proposed Rule 902 provides that only a SB SDR "...shall make available to one or more persons (other than a counterparty) transaction information relating to a security-based swap before the earlier of 15 minutes after the time of execution of the security-based swap; or the time that a registered security-based swap data repository publically disseminates a report of that security-based swap." As a result, the SB SDR has an exclusive right to publically disseminate swap transaction data for up to 15 minutes after execution of the transaction. This framework is unworkable and turns the Dodd Frank Act, CFTC, and SEC's ("Commissions") goal of increased price transparency on its head.

Rule 817's prohibition against a SB SEF's public dissemination of "any information regarding a security-based swap transaction" is nonsensical as it undermines one of the key goals of the

Dodd Frank Act -- to increase price transparency through the timely publication of trade information. In its broadest interpretation this language could prohibit a SB SEF from disseminating price information to its users. To prevent SB SEF users from receiving the transaction information for up to 15 minutes will obstruct price transparency, disrupt markets and impede liquidity.

Rule 817 would prevent liquidity generated by "trade work ups". Trade work ups are a common practice in which the broker looks for additional trading interest at the same time a trade is occurring – or "flashing" on the screen – in the same security at the same price. The ability to view the price of a trade as it is occurring is critical to broker's ability to locate additional trading interest. The immediate flash to the marketplace increases the probability that additional buyers and sellers, of smaller or larger size, will trade the same security at the same time and price. If the SB SEF is prohibited from "flashing" the price of a trade as it occurs and brokers must wait until after the SB SDR has disclosed the price, the broker's window of opportunity to locate additional trading interest will close. As a result, the broker's ability to generate liquidity will be impeded.

There is no precedent in other markets that prohibits traders on a trading floor or an electronic platform from instantaneously seeing the current bid and ask and last transaction price. In fact, traders on a trading floor and users of electronic trading platforms typically see the most current bid, ask and last transaction price within seconds of the entry of an order or execution of a trade.

The SDMA urges the Commission to amend the language of Proposed Rule 817(c) to prove that a SB SEF's immediate dissemination of information to its users is not prohibited. SEFs will be required to provide open access, so there is no discrimination among market participants to obtain real time price information. SEFs that offer real time market data would in effect be forced to observe a reporting delay on all trades which would negatively impact the integrity of the cleared markets. Establishing and knowing the clearing level for risk allows for a continuous and fluid market to exist. By forcing a reporting delay, trades may get done in order to remove information from the market (if there was a tightly priced bid-ask) rather than to promote market transparency.

One of the stated goals of the Dodd Frank Act is to transform the current unregulated and opaque swaps market into a regulated market with price transparency. The purpose of price

transparency is to provide a level playing field for all market participants. Immediate public dissemination of transaction data is the foundation of price transparency. There is no precedent in other markets that prohibits a trading venue from immediately reporting price information to the public. It should be noted that the CFTC is not imposing a similar restriction on the dissemination of price information by swap execution facilities it regulates. In markets that trade securities, futures and options, price information is typically disseminated within seconds of trade execution to multiple market data vendors. As a result, market participants and members of the public have a choice of competing market data vendors from which to obtain price information.

The SDMA urges the Commission to amend the proposed rules 817 and 902 to provide that in addition to furnishing price information to its users, the SB SEF also has the right to disseminate price information to the public. This can be accomplished by a SB SEF simultaneously disseminating price information to the public (via market data vendors) and SB SDRs. This in the best interests of the public and market participants because it will prevent delay in the broadcasting of important market information, promote competition and make the distribution of market data more efficient. If the SB SDR has an exclusive right to disseminate SB swap market data, it has no incentive to disseminate that data quickly. Delay in the public distribution of price information disrupts markets, impedes liquidity and undermines the goals of the Dodd Frank Act and the Commissions to create price transparency.

III. The Minimum Number of Liquidity Providers Included in a RFQ Must Be Three (3)

We strongly believe that proposed rules for trading security-based swaps on a SB SEF should require that the minimum number of liquidity providers included in a RFQ must be at least three, with the option not to respond if a liquidity provider does not have a price. Requiring a minimum of three price requests will be beneficial to the security-based swaps market because it will: (a) provide price transparency, (b) promote trading on SB SEFs; and (c) enhance market integrity.

The SDMA believes that requesting at least three liquidity providers to respond to a RFQ will provide greater price transparency. Only one price quote provides buyers and sellers with limited information about the current market price and is not reliable. One price between two counterparties does not represent the market place. To be a “real” market a price must be “tested” by another party offering their price to the open market. By making the response by

liquidity providers optional it will meet the requirement to obtain greater price transparency, but will not hold up the trade if only one liquidity provider responds.

The SDMA also believes that requiring a minimum of three price quotes will encourage trading on SB SEFs, because buyers and sellers will obtain better execution prices. Requiring three price quotes will create competition among dealers, and narrow the bid / ask spread. As a result, buyers and sellers will obtain better execution prices and save costs. Cost savings is a powerful incentive for more buyers and sellers to trade on SB SEFs, which will increase liquidity and further stimulate trading on SB SEFs.

Only showing one price in the market destroys market integrity, because it can lead to trading abuses. A RFQ system that permits request for quotes from only one market participant would facilitate abusive trading practices such as prearranged trading and “painting the screen”. Prearranged trading occurs when a broker executes a trade in a risk free manner by improperly agreeing with their counterparty on the price of the trade instead of exposing the order to the market. As a result, customers typically receive a worse fill than if the order was exposed to the market. Another trading abuse that could be prevented is one in which a trader puts up quotes, or “paints the screen”, with prices that inaccurately reflect the current market prices. There is a far greater chance for this to happen in a trading environment where the current snap shot of the market price is based upon a quote from only one liquidity provider. Requiring at least three price quotes from liquidity providers would prevent trading abuses.

In defining a SEF, the rules were specific in pointing out that single dealer platforms do not meet the definition of a SB SEF. (See Commodity Exchange Act section 3(a)(77)). By allowing RFQ to go to just one dealer any SEF could be turned in to a single dealer platform either knowingly or unknowingly.

IV. Conclusion

In conclusion, the SDMA believes that a SB SEFs must have the unrestricted ability to disseminate transaction prices to its users and the public. This is necessary to prevent market disruption, improve liquidity and achieve the Dodd Frank Act’s goal of creating price transparency. In addition, requiring a minimum of three price quotes will be beneficial to the

security-based swaps market because it will: (a) provide price transparency; (b) promote trading on SB SEFs; and (c) enhance market integrity.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael Hisler". The signature is fluid and cursive, with a large initial "M" and "H".

Michael Hisler
Co-Founder
Swaps & Derivatives Market Association
(646) 588-2011

cc: Sarah Albertson, Special Counsel
Susie Cho, Special Counsel
Natasha Cowen, Special Counsel
Tom Eady, Senior Policy Advisor
Yvonne Fraticelli, Special Counsel
Michael Gaw, Assistant Director
Kathleen Gray, Attorney
Constance Kiggins, Special Counsel
Molly Kim, Special Counsel
David Liu, Senior Special Counsel
Iliana Lundblad, Attorney
Leah Mesfin, Special Counsel
David Michehl, Senior Special Counsel
Michou Nguyen, Special Counsel
Geoffrey Pemble, Special Counsel
Heidi Pilpel, Special Counsel
Nancy Burke-Sanow, Assistant Director
Sarah Schandler, Special Counsel
Heather Seidel, Associate Director
Brian Trackman, Special Counsel
Steven Varholik, Special Counsel
Haimera Workie, Deputy Associate Director
Mia Zur, Special Counsel