CITADEL

July 19, 2013

Via Electronic Submission: http://www.sec.gov/rules/proposed.shtml

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

Re: Reopening of Comment Periods for Certain Proposed Rulemaking Releases and Policy Statements Applicable to Security-Based Swaps (Release No. 34-69491)

Dear Ms. Murphy:

Citadel LLC[1] ("Citadel") appreciates this opportunity to provide further comments to the Securities and Exchange Commission (the "Commission") in response to the *Reopening of Comment Periods for Certain Proposed Rulemaking Releases and Policy Statements Applicable to Security-Based Swaps*.[2]

Citadel has been consistent in urging the Commission and other regulators to prioritize the implementation of central clearing.[3] We remain deeply concerned, however, that five years after the financial crisis and three years following the enactment of the Dodd-Frank Act:

- The Commission has not yet implemented mandatory central clearing for relevant security-based swaps ("SB swaps"); and
- The Commission has not yet proposed rules requiring straight-through-processing for cleared SB swap transactions – rules which:
  - Are critical to the establishment of a sound and efficient clearing infrastructure that supports the development of open, transparent and competitive markets for SB swaps; and
  - Have been implemented successfully by the CFTC *as well as* endorsed internationally by the European Commission and other foreign legislative and regulatory bodies.

[1] Established in 1990, Citadel is a leading global financial institution that provides asset management and capital markets services. With over 1,100 employees globally, Citadel serves a diversified client base through its offices in the world's major financial centers including Chicago, New York, London, Hong Kong, San Francisco and Boston.

[2] 78 Fed. Reg. 30800 (May 23, 2013).

[3] Letter to Chairman Gensler and Chairman Schapiro, dated June 3, 2011, available at http://www.sec.gov/comments/df-title-vii/swap/swap-70.pdf and Letter to the Commodity Futures Trading Commission (the "CFTC"), dated September 30, 2011, available at http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=49944.

We thus write to provide recommendations that we believe are consistent with the goals of the Dodd-Frank Act and will advance the transition of the SB swaps market to central clearing in a timely and efficient manner. In addition, we would also like to take this opportunity to reiterate and update certain views expressed in our comment letter[4] in response to the *Statement of General Policy on the Sequencing of the Compliance Dates for Final Rules Applicable to Security-Based Swaps.*[5]

The Commission should prioritize the implementation of mandatory central clearing for relevant SB swaps

The failure to implement mandatory central clearing in the SB swaps marketplace perpetuates vulnerabilities in the American financial system and economy. In our August 2012 Letter, we noted that significant industry preparations for swaps clearing had been made, that a firm final clearing implementation plan from the Commission was critical to realizing the full benefits of central clearing, and that further implementation delays would jeopardize these benefits and risk the evolution of a bifurcated market for swaps and SB swaps.

Since that time, we have witnessed the successful implementation of mandatory clearing for wide swaths of the interest rate swap ("IRS") and credit default swap ("CDS") index markets:

- The buy-side has now cleared $45.5 trillion notional in IRS at LCH, where buy-side open interest now stands at $7.9 trillion and nearly 2,000 buy-side trades are cleared per day.[6]
- At CME, over $5 trillion notional has been cleared, with open interest standing at over $3 trillion and over 850 trades being cleared per day.[7] We understand that most of this volume is driven by the buy-side.
- In the CDS index market, at ICE Clear Credit, the buy-side has cleared $1.7 trillion notional.[8]

Meanwhile, in the SB swaps market, we are aware of only two buy-side cleared single-name CDS trades to date, and the total volume of buy-side clearing in single-name CDS at ICE Clear Credit is $50 million.[9] While the inception of buy-side clearing of single-name CDS was, in our own words, a "watershed moment",[10] the overall disparity between the progress in implementing mandatory central clearing in the swaps vs. SB swaps markets is stark.

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[4] Letter to the Commission dated August 13, 2012, available at http://www.sec.gov/comments/s7-05-12/s70512-14.pdf and attached as Appendix A hereto (referred to hereafter as the "August 2012 Letter").

[5] 77 Fed. Reg. 35625 (June 14, 2012).

[6] See http://www.swapclear.com/what/clearing-volumes.html.

[7] See http://www.cmegroup.com/tools-information/communications/mktg/otc/otc-weekly/130710-otc-weekly-update.html.

[8] See https://www.theice.com/clear_credit.jhtml.

[9] *Id.*

[10] See Barclays press release of June 10, 2013 at http://www.newsroom.barclays.com/Press-releases/Barclays-clears-first-ever-client-single-name-credit-default-swap-transactions-a44.aspx.

We therefore urge the Commission to advance mandatory central clearing of SB swaps. Ensuring that a substantial portion of the SB swaps market transitions to central clearing over a reasonable period of time will allow the market to begin to realize the full benefits of central clearing, including reduction of counterparty and systemic risk, increased liquidity, competition among clearing members, and the bid-offer spread compression that comes with competitive execution. We believe that anything less further inhibits transparency and competition in the SB swaps markets and will leave US financial markets vulnerable, damage American competitiveness, and weaken our long-term prospects for sound economic growth.

The Commission should adopt a rule requiring the straight-through-processing of cleared SB swaps

Straight-through-processing ("STP") of cleared SB swap transactions is critical to the establishment of a sound and efficient clearing infrastructure that supports the development of open, transparent and competitive markets for SB swaps. In our August 2012 Letter, we detailed the compelling policy rationale and substantial industry support for STP, as well as the adverse consequences of ignoring the need for STP.[11] Nearly a year later, the case for STP is even stronger.

The CFTC rules[12] requiring STP for cleared swaps went into effect on October 1, 2012 and have been successfully implemented at each of CME, ICE and LCH, as well as by each of the clearing members of these clearinghouses.

In Citadel's own experience, and based on our knowledge of broader market trends, over 99% of cleared swap transactions are now being accepted or rejected for clearing within 60 seconds. The scalability and technological feasibility of STP is now beyond doubt. This experience highlights a profound advancement in clearing infrastructure that not only reduces interconnectedness and mitigates systemic risk, but also paves the way, and provides the essential foundation, for fairer and more competitive modes of execution on open trading venues. It is incumbent upon the Commission to ensure that the SB swaps market evolves along an equally beneficial path.

The importance of STP was further highlighted in the "Common Path Forward" announced recently by the European Commission ("EC") and the CFTC. In the agreement, the EC, the European Securities and Markets Authority ("ESMA"), and the CFTC committed to "continue to work together on similar approaches to straight-through-processing."[13] This is consistent with the growing global recognition of the importance of STP:

[11] For ease of reference, these can be found on pages 7-10 of Appendix A.

[12] CFTC Final Rule on Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management, 77 Fed. Reg. 21278 (April 9, 2012), available at http://www.cftc.gov/LawRegulation/DoddFrankAct/Dodd-FrankFinalRules/ssLINK/2012-7477a.

[13] Available at http://europa.eu/rapid/press-release_MEMO-13-682_en.htm and http://cftc.gov/PressRoom/PressReleases/pr6640-13.

- STP is on track to become part of the final Markets in Financial Instruments Regulation ("MiFIR") legislation in the European Union.[14]

- The Financial Stability Board has recognized the importance of STP, stating: *"arrangements that provide sufficient certainty that trades that are executed on a platform will also be accepted for clearing (i.e., 'straight through processing') may be important from both a regulatory and market participant perspective."*[15]

- ESMA endorsed STP when it published its final report on the technical standards under EMIR, stating: *"[t]his STP process would reduce the counterparty risk for the period between the moment when the OTC derivative contract is entered into and the moment when it is accepted, or rejected for clearing by the CCP. ESMA agrees with the need to advance in this direction and welcomes techniques that reduce counterparty risk and considers that this approach should be seriously explored."*[16]

Given the international consensus on the merits of STP, absent Commission action, the US SB swaps market risks becoming an outlier that does not benefit from the protections and efficiencies that STP delivers. Commission rulemaking is thus needed to prevent inefficient paradigms that create barriers to access from becoming entrenched in the markets for cleared OTC equity swaps, single-name CDS and other SB swaps.

While we are aware that the Commission opted not to require STP when it published its final rule on Clearing Agency Standards,[17] we were nonetheless heartened that the Commission stated that it "*continues to consider the appropriateness of proposing more specific rules that would require transactions to be immediately confirmed and accepted for clearing upon execution*."[18] Based on the developments summarized above, we believe the time for the Commission to propose such rules is now.

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We appreciate the opportunity to provide further comments on the Commission's proposed rules and policy statements. Please feel free to call the undersigned at (312) 395-3100 with any questions regarding these comments.

Respectfully,

/s/ Adam C. Cooper

Senior Managing Director and Chief Legal Officer

[14] Article 25(2) of the Council text of MiFIR contains STP language that broadly parallels the CFTC's rules.

[15] FSB, OTC Derivatives Market Reforms – Fourth Progress Report on Implementation, October 31, 2012, at page 38 (http://www.financialstabilityboard.org/publications/r_121031a.pdf).

[16] ESMA, Final Report on Draft Technical Standards under EMIR, September 27, 2012, at pages 21-22 (http://www.esma.europa.eu/system/files/2012-600_0.pdf).

[17] 77 Fed. Reg. 66220 (November 2, 2012). We note that the Commission did, in Rule 17Ad-22(d)(12), provide that a registered clearing agency may "require that intraday or real-time finality be provided where necessary to reduce risks."

[18] *Id.* at 66256.

Appendix A

Letter from Citadel LLC to the Securities and Exchange Commission

August 13, 2012

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 (File No. S7-05-12)

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August 13, 2012

Via Electronic Submission: http://www.sec.gov/rules/policy.shtml

Elizabeth M. Murphy
Secretary
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100 F Street NE
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 (File No. S7-05-12)

Dear Ms. Murphy:

Citadel LLC[1] ("Citadel") appreciates this opportunity to comment on the Securities and Exchange Commission's (the "Commission") *Statement of General Policy on the Sequencing of the Compliance Dates for Final Rules Applicable to Security-Based Swaps*[2] (the "Policy Statement").

Citadel has long urged the Commission and other regulators to prioritize the implementation of central clearing.[3] We therefore welcome the Commission's recent adoption of final rules on both entity and product definitions, as well as on the process for review of swaps for mandatory clearing, and believe they represent significant milestones towards implementing central clearing. We also welcome the publication of the Policy Statement, as we believe such further definition of the Commission's intended implementation schedule provides needed certainty to market participants and infrastructure providers as they allocate resources and make final investments in advance of the clearing mandate.

We are gravely concerned, however, that the Policy Statement can be read to suggest that the SEC's implementation of mandatory central clearing for relevant security-based swaps ("SB

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[2] 77 Fed. Reg. 35625 (June 14, 2012).

[3] Letter to Chairman Gensler and Chairman Schapiro, dated June 3, 2011, available at http://www.sec.gov/comments/df-title-vii/swap/swap-70.pdf (the "Citadel June Letter") and Letter to the Commodity Futures Trade Commission (the "CFTC"), dated September 30, 2011, available at http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=49944

swaps") may not become a reality for over two more years. This failure to address interconnectedness in the SB swaps marketplace and to mitigate systemic risk would needlessly perpetuate vulnerabilities in the American financial system and economy. By contrast, the industry is prepared for the launch of mandatory central clearing in 4Q2012,[4] and we therefore urge the Commission to advance central clearing on a similar timeline. We believe that anything less needlessly inhibits transparency and competition in the SB swaps markets and will leave US financial markets vulnerable, damage American competitiveness, and weaken our long-term prospects for sound economic growth.

At the same time, we welcome the Commission's commitment in the Policy Statement to addressing portfolio margining between swap and SB swaps, as well as the acknowledgement that a mandatory clearing requirement logically precedes a mandatory trading requirement. In order to ensure an optimal market structure develops for both clearing and trading, however, we urge the Commission to adopt an additional rulemaking requiring the straight-through-processing of SB swap transactions prior to requiring compliance with the clearing or trading mandates.

We thus write to provide recommendations that we believe are consistent with the goals of the Dodd-Frank Act and will advance the transition of the SB swaps market to central clearing in a timely and efficient manner. Specifically, we believe that:

I. The Commission should prioritize the finalization and implementation of clearing-related rules;

II. The implementation of central clearing is not dependent on the cross-border rules or the reporting rules, as suggested by the Commission in the Policy Statement;

III. The Commission should advance the timeline for making mandatory clearing determinations and initially consider all SB swaps that are currently eligible for clearing, rather than pre-enactment SB swaps alone;

IV. The transition to central clearing should proceed prior to the implementation of the trading requirement;

V. The Commission should allow portfolio margining between swaps and SB swaps; and

VI. The Commission should adopt a rule requiring the straight-through-processing of cleared SB swaps.

[4] The CFTC has begun its initial review of swaps for mandatory clearing, and based on the 90 day review period, could make its first mandatory clearing determination for certain CDS indexes and IRS in October 2012.

I. The Commission should prioritize the finalization and implementation of clearing-related rules

The Commission should finalize and implement the clearing-related rules identified in Section II.C of the Policy Statement (specifically, the Clearing Procedures, the Clearing Agency Standards, and the End-User Exception) at the earliest possible opportunity. In order to do so, we believe the Commission should elevate the priority of the clearing-related rules within its proposed sequencing framework.

In the Citadel June Letter, we emphasized that central clearing is the appropriate first step in the sequence of OTC derivatives reforms, and that the successful implementation of central clearing is a critical prerequisite to the success of further measures, including execution on swap execution facilities ("SEFs") and pre- and post-trade transparency. [5] In order to ensure that the implementation of central clearing is achieved in a consistent, efficient and successful manner, the Commission needs to accelerate the finalization and implementation of the rules related to clearing. We note that the initial clearing mandate for certain swaps under the CFTC's jurisdiction is expected in early 2013 and that the European Securities and Markets Authority ("ESMA") is on track to finalize the technical standards need to advance the implementation of EMIR in Europe this Fall.

Prioritizing the completion of the clearing-related rules will ensure that clearing agencies and their members, as well as swap dealers and their customers, have the regulatory certainty needed to finalize their compliance preparation and related infrastructure investments, which are already well underway. Greater market confidence that central clearing will become a reality has already led to an increased focus on implementation, more competition among clearing service providers, and a ramp up in voluntary clearing, as forward looking market participants are keen to start clearing.[6]

Given the significant industry preparations for clearing to date, we believe that the "appropriate amount of time" needed to "analyze and understand the final rules" and "develop and test new systems required" should be a few months, not longer.[7] Not only have the

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[5] In the Citadel June Letter, we wrote "Central clearing is also the appropriate first step in the sequence of comprehensive reforms of the OTC derivatives markets required under Title VII of Dodd-Frank. Both the clearing process and the standardization that it entails are prerequisites to electronic trading and pre- and post-trade transparency regimes. Central clearing will also facilitate data collection and reporting efforts, providing the Commissions and other regulators with the information they need on market liquidity and pricing to effectively finalize further rules, as well as to conduct market supervision and monitoring."

[6] See press releases indicating record clearing volumes from:

- CME: http://cmegroup.mediaroom.com/index.php?s=43&item=3256&pagetemplate=article
- ICE: http://ir.theice.com/common/download/download.cfm?CompanyID=ICE&FileID=564760&FileKey=61d55be5-ec19-4b8c-90ba-5a29a08cb805&FileName=ICE_News_2012_5_1_CDS.pdf
- LCH: http://www.lchclearnet.com/Images/2012-06-01%20Over%20$1%20trillion%20notional%20of%20buy-side%20interest%20rate%20swaps%20cleared%20on%20SwapClear_tcm6-61496.pdf

[7] Policy Statement at 35630, among others.

clearinghouse facilities for CDS and IRS already supported extensive dealer-to-dealer clearing, but the buy-side has also undertaken significant preparations. Buy-side clearing of CDS and IRS commenced in 2009 and 2010 respectively and has ramped up considerably over the past year, widely attributable to the buy-side's desire to mitigate counterparty credit risk. In addition, live buy-side IRS trades were executed and cleared with straight-through-processing in under 2 seconds each in December 2010. Clearing members have been working for several years now on structuring offerings to clients, including smaller clients with limited operational capacity themselves, to support widespread clearing. In addition, in each of the last three years, swap dealers, large clearing members, and buy-side firms have jointly made commitments to global regulators to advance their preparedness for clearing for all market participants. We are confident that the industry could fulfill a more aggressive implementation schedule than contemplated by the Commission.

Ensuring that a substantial portion of the SB swaps market transitions to central clearing over a reasonable period of time will allow the market to begin to realize the full benefits of central clearing, including reduction of counterparty and systemic risk, increased liquidity, competition among clearing members, and the competitive bid-offer spread compression that comes with competitive execution. A protracted implementation timeline, by contrast, would jeopardize these key benefits and risk the evolution of bifurcated markets for swaps and SB swaps – outcomes inimical to the Dodd-Frank Act's objectives.

A firm final clearing implementation plan from the Commission would lower costs for the industry since it would (i) provide certainty to all market participants as to where and when to allocate resources and make investments, (ii) reduce costs for less active or smaller market participants since more active or large market participants will transition first and iron out any final issues in implementing central clearing, and (iii) promote competition among, and avoid undermining the return on investment of, forward looking clearing infrastructure and service providers.

II. The implementation of central clearing is not dependent on the cross-border rules or the reporting rules, as suggested by the Commission in the Policy Statement

Achieving the transparency objectives of the Dodd-Frank Act through a robust reporting regime and providing certainty to entities located outside the United States as to their compliance obligations under the Commission's final rules are both important, but neither are a predicate to the launch of mandatory central clearing of SB swaps.

Cross-Border Rules

The Commission states that it will wait to finalize the majority of its rules until is receives and considers public comments on its yet-to-be released cross-border rules, which based on recent testimony are themselves still months away from being proposed. Given a 60 day public comment period and the subsequent time needed for staff to review comments, it is difficult to envisage, based on the Policy Statement, how the Commission could finalize any remaining rules in 2012.

For the reasons cited in Section I, we believe it is imperative that Commission advance the implementation of central clearing in 2012, and do not believe the finalization or implementation of the clearing-related rules is dependent upon the proposal of, or the receipt of comments on, the cross-border rules. The compliance obligations for non-US persons that arise out of the clearing-related rules, to the extent not self evident, could be addressed through interpretative guidance at a later date.

Reporting Rules

The Commission further suggests that SDR registration, reporting to SDRs, and public reporting all must be in effect prior to the launch of mandatory central clearing.[8] Given the time it will take to adopt these final rules, and the extended internal compliance timelines proposed in these rules (e.g. 6 months for reporting to SDRs and a further 3 month for public reporting), this suggested dependency would cumulatively further delay the launch of central clearing by over 1 year alone.

Such a delay is unwarranted, given (a) the importance of advancing the transition to central clearing as illustrated above, (b) the ability to advance the implementation of both the reporting regime and clearing regimes simultaneously, and (c) the existence of adequate data at present on SB swaps, especially given years of dealer-to-dealer clearing, to make mandatory clearing determinations and other clearing-related decisions.

III. The Commission should advance the timeline for making mandatory clearing determinations and initially consider all SB swaps that are currently eligible for clearing, rather than pre-enactment SB swaps alone

The Commission correctly notes that "the early designation of the SB swaps that will be required to be cleared would facilitate the voluntary clearing of such products prior to the compliance date of the clearing requirement."[9] We fully agree, and believe that since the Commission recently finalized its rule on the process for review of SB swaps for mandatory clearing, that it should now proceed and request submissions from relevant clearing agencies.

The Policy Statement suggests that the Commission's initial review of mandatory clearing submissions would review pre-enactment swaps only. Given the amount of time that has elapsed since the enactment of Dodd-Frank, it would be more sensible to engage in a full review of SB swaps that clearing agencies presently accept for clearing (or are accepting for clearing at such future date as the review begins) rather than reviewing only pre-enactment SB

[8] Policy Statement at 35636: "Given this, the compliance with final rules resulting from the Regulation SBSR Proposing Release likely would be required before SB swaps are required to be cleared…"

[9] Policy Statement at 35636.

swaps first.[10] Notwithstanding the fact that pre-enactment SB swaps are deemed submitted under the Dodd-Frank Act, the Commission has the authority to broaden its initial review.

IV. The transition to central clearing should proceed prior to the implementation of the trading requirement

We agree with the Commission's proposed sequencing of the mandatory clearing and mandatory trading requirements, and believe that the Commission should allow for the transition to central clearing to be completed prior to introducing the mandatory trading requirement. The successful migration of the SB swaps market to trading on SEFs depends on a proven and successful clearing infrastructure (including straight-through-processing as further explained in Section VI).

Implementing the clearing requirement and the trading requirement at the same time would likely impede the implementation process, and delay the phase-in of the clearing requirement, since preparations for central clearing are much more advanced than for trading on SEFs. In addition, once a meaningful volume of SB swaps is being cleared by different types of market participants, certain SEFs are likely to attract trading volume and liquidity even absent the effectiveness of the trading requirement. This will smooth the eventual implementation of the trading requirement.

Promoting the transition of the SB swaps market to central clearing first, and to trading on SEFs second, parallels the transition of other asset classes from bilateral trading and settlement to central clearing to electronic execution. This sequence will allow more prudent business decisions to be made, will encourage fairer and more robust competition among execution venues, and prevent market participants from having to commit to SEFs without an adequate voluntary period to test them.

V. The Commission should allow portfolio margining between swaps and SB swaps

We welcome the Commission's statement that it "intends to determine whether … margin for SB swaps that are required to be cleared can be calculated on a portfolio margining basis with swaps."[11] We encourage the Commission to allow portfolio margining between swaps and SB swaps, and at the earliest possible opportunity to approve pending petitions related to the portfolio margining of single-name CDS and CDS indexes. This approval would reduce systemic risk, facilitate the transition to central clearing, remove core barriers to buy-side access to clearing, ensure consistent treatment in the event of an FCM/BD insolvency, and combat competitive inequality in the swaps market.[12]

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[10] We note that when the CFTC requested swap submissions from DCOs in February 2012, it requested that all swaps currently eligible for clearing be included, not just pre-enactment swaps

[11] Policy Statement at 35630

[12] See Citadel's comment letter in support of ICE's portfolio margining petition at http://www.cftc.gov/stellent/groups/public/@rulesandproducts/documents/ifdocs/citadelltr122211.pdf

We note that the Commission's determination is important for *voluntary* clearing, not just *mandatory* clearing, and this a core reason why the Commission should approve the pending petitions now, as market participants will be keen to begin clearing single-name CDS on a *voluntary* basis given the impending application of the CFTC's *mandatory* clearing regime to CDS indexes.

Finally, portfolio margining is particularly critical to the economics of clearing for buy-side market participants. Dealers and clearing members typically benefit from portfolio margining in their house accounts absent any specific action from the Commission, while clients remain disadvantaged economically pending approval of clearinghouse petitions for portfolio margining.

VI. The Commission should adopt a rule requiring the straight-through-processing of cleared SB swaps[13]

Citadel believes firmly that in order to realize the Dodd-Frank objectives of reducing systemic risk, improving transparency, and supporting competition in the SB swaps markets, it is critical that the Commission adopt a requirement for straight-through-processing ("STP") that mandates that transactions in cleared SB swaps are accepted or rejected for clearing immediately following execution. The alternative – allowing hours or days to elapse between the time that a trade is executed, submitted, and then accepted or rejected for clearing – undermines Dodd-Frank and harms buy-side market participants.

Compelling Rationale for STP

We believe the benefits of requiring STP – mitigating systemic risk, improving transparency, and promoting competition – are substantial, while the consequences of ignoring STP and allowing an inefficient clearing regime for SB swaps to emerge are stark. An STP rule will also eliminate barriers to buy-side access to clearing. Detailed support for these positions can be found in prior industry comment letters on this subject.[14]

To summarize, STP will (i) ensure that the optimal market structure evolves, (ii) improve the depth and liquidity of the SB swaps market, (iii) lead to efficient markets, and (iv) promote SEFs. An STP requirement is particularly important to buy-side participants because it ensures clients have the freedom to transact with the counterparty of their own choosing, safeguarding access to best execution. The benefits of STP are significant, as STP:

- Reduces systemic risk and interconnectedness by eliminating any window of counterparty credit risk between execution and clearing. Any time period between the point of execution and the point of clearing acceptance creates bilateral counterparty

[13] The Commission has specifically asked "Are there other rules or set of rules with which compliance should be required before SB swaps are required to be cleared? If so, which ones, and why?", Policy Statement at 35637

[14] See footnotes 16 and 17 below, as well as the letter from Adam C. Cooper of Citadel to the CFTC, dated September 30, 2011, available at http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=48454

exposure, uncertainty, and competitive distortions.

- Provides immediate certainty to counterparties that they will face the clearing agency, thus eliminating risk of bilateral counterparty credit risk exposure and the need to individually negotiate bilateral credit arrangements or execution agreements with each counterparty.[15]

- Encourages the development of SEFs and eliminates critical operational and legal barriers to the evolution of central limit order book trading.

- Promotes competition in the provision of clearing services by decoupling execution and clearing and ensuring that clearing members compete on a standalone basis based on the robustness, quality, and pricing of their clearing services.

- Increases market depth and liquidity by removing barriers to entry for alternative liquidity providers and enabling smaller swap dealers to compete on more equal terms with the current limited universe of large swap dealers.

- Facilitates new entrants to the market on the buy-side as well as the sell-side.

- Allows the emergence of an all-to-all-market.

- Narrows bid-ask spreads through increased competition, the entry of alternative liquidity providers, the development of an all-to-all market, and the emergence of electronic and/or anonymous execution.

- Improves access to best execution by ensuring the ability of clients to transact freely with any execution counterparty in the market coupled with narrower bid-ask spreads.

Substantial Industry Support for STP

The vast majority of the comments received by the CFTC in response to its proposed rules on STP endorsed the requirement, with support from a wide cross-section of the industry, including asset managers, market makers, trading platforms, clearing organizations, clearing members, and banks / dealers.[16] A host of buy-side market participants also recently strongly urged ESMA to include a requirement for STP in its regulatory technical standards implementing EMIR.[17]

[15] We see the lack of a need for such documentation as one of the most significant systemic benefits of clearing, as it allows participants to transact with any competitive, eligible counterparty without the need for extensive execution documentation or credit or guarantee arrangements, thus eliminating barriers to entry for new eligible participants in the market.

[16] See CFTC comment file at http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1075

[17] See, among others, the responses from Citadel LLC, The D. E. Shaw Group, Brevan Howard Investment Products Limited, the Managed Funds Association, and the Alternative Investment Management Association at

Timing & Sequencing for Implementing STP

We believe that the Commission should propose and adopt a final rule requiring STP as soon as possible, and include it among the clearing-related rules identified in Section II.C of the Policy Statement, such that compliance with the STP requirement precedes the application of any SB swaps clearing mandate.

We do not believe that this would extend or delay the Commission's implementation plan, since (a) on the rulemaking front, precedent rulemaking language exists from the CFTC and has been vetted by the industry and (b) on the industry preparedness front, significant preparations have been made in anticipation of swaps clearing that can easily translate to support SB swaps clearing. Further, major clearing agencies and clearing members already have systems in place in other cleared derivatives market, including the futures, listed equity options, and energy swaps market, that provide and support STP, which can similarly be adapted.

Proposed Language & Precedent for STP

The CFTC's final rules on *Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management* will require STP for cleared swaps by October 1, 2012, and will bar arrangements, like trilateral execution agreements, that would interpose credit intermediation underneath clearing.[18] This STP requirement applies to all cleared swaps, whether executed on or away from a SEF, and regardless of whether the swap is subject to the clearing mandate or cleared voluntarily. In addition, the STP requirement requires that clearing agencies, their clearing members, and swap dealers all have systems in place to support and provide STP, since each have a role in ensuring that transactions are accepted for clearing in real-time. We urge the Commission to adopt a parallel rulemaking tailored to the SB swaps market.

Adverse Consequences of Ignoring the Need for STP

If, however, the Commission does not now, at this foundational stage, require STP, buy-side participants will be forced to enter into arrangements, such as trilateral execution agreements or other credit intermediation structures underneath clearing, that not only represent a waste of resource and effort, but will become difficult to remove. These structures would represent a significant barrier to buy-side access to clearing, fragment buy-side liquidity, and force buy-side participants to trade with only the largest incumbent swap dealers. This would inhibit competition and block access to competitive pricing.

Such arrangements, which mirror today's bilateral ISDA agreements, would fundamentally undermine the natural evolution of anonymous limit order book trading, or any

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http://www.esma.europa.eu/consultation/Consultation-Draft-Technical-Standards-Regulation-OTC-Derivatives-CCPs-and-Trade-Repo-0#responses

[18] CFTC Final Rule: 77 Fed. Reg. 21278 (Apr. 9, 2012) available at http://www.cftc.gov/LawRegulation/DoddFrankAct/Dodd-FrankFinalRules/ssLINK/2012-7477a

form of trading that provides competitive pre-execution transparency, as they lock in the requirement that the buy-side trade only on a non-anonymous, disclosed basis with the largest swaps dealers. For these reasons, STP will not be able to evolve absent an explicit requirement from the Commission.

Further, the Commission should ensure that a consistent regime and market infrastructure develop for swaps and SB swaps. Otherwise, the markets could become bifurcated, inhibiting their essential risk management function.

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We appreciate the opportunity to provide comments on the Proposed Rules. Please feel free to call the undersigned at (312) 395-3100 with any questions regarding these comments.

Respectfully,

/s/ Adam C. Cooper
Senior Managing Director and Chief Legal Officer