

Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090
United States

Chris Barnard

05 December 2010

**-File No. S7-16-10
-Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act**

Dear Sir,

Thank you for giving us the opportunity to comment on your Advance Joint Notice of Proposed Rulemaking “Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act”.

I wish to comment on the definition of “mixed swaps”, which are products that include both swap and security-based swap characteristic components. An example of a mixed swap would be a total return swap on an individual security that also incorporates a foreign exchange hedge. Such mixed swaps will be subject to regulations jointly prescribed by the Securities and Exchange Commission and the Commodity Futures Trading Commission¹ (the Commissions).

I would strongly recommend that the Commissions take a pragmatic stance and favour substance over form here. The goal should be that products with the mixed form of swap and security-based swap should be captured under the jointly prescribed regulations regarding mixed swaps. To this end I would recommend that the Commissions should prescribe that mixed swaps include only swaps that provide for any purchase, sale, payment or delivery whose payout function or payment function is a function of the total, absolute or relative performance of underlyings that include both of:

- individual securities or a narrow-based security index
- non-securities

¹ See also Proposed Rule 75 FR 51429, CFTC, 2010.

Please note that the comments expressed herein are solely my personal views

I would further recommend, in the interests of regulatory simplicity, efficiency and clarity that the Commissions should agree to regulate mixed swaps via a single regulator under a jointly prescribed set of rules.

Yours faithfully

Chris Barnard