

October 4, 2011

**By Electronic Delivery**

Phyllis Cela  
Commodity Futures Trading Commission  
Three Lafayette Centre 1155 21<sup>st</sup> Street NW  
Washington, DC 20851

Joanne Rutkowski  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

**Re: SEC-CFTC and Pension Fund Meeting on Business Conduct Standards**

Dear Phyllis and Joanne:

Thank you for meeting with us on September 19, 2011. We are encouraged that you recognize that requiring our swap dealer counterparties to evaluate our independent advisors would provide unfair leverage to the swap dealers, creating significant harm to pension funds and their beneficiaries. While we applaud your goal of creating a uniform, substantive requirement to “raise the bar” on the level of expertise and accountability for Special Entities and their advisors across the board, we continue to be very concerned that the final rule will have unintended negative consequences for Special Entities if it does not provide clearly defined objective criteria by which a Special Entity can demonstrate to dealers its capacity to participate in the OTC swaps market. The rule must specify evidence on which dealers can rely without exercising their subjective judgment.

***Statutory Requirement:*** Dodd-Frank requires that a dealer have a reasonable basis to believe that a pension fund has an independent representative that has sufficient knowledge to evaluate the transaction and risks. As we discussed, the proposed rule gives dealers unfair leverage over our choice of advisor and exposes dealers to unknowable liability costs that they will pass on to us. In the worst case, it may shut Special Entities out of the OTC swaps market. To solve this problem, the final rule must specify clearly defined objective criteria on which dealers can rely to meet this statutory requirement.

***Representation Solution:*** The concept of allowing dealers to rely on a Special Entity’s and/or its advisor’s representations to satisfy the requirements of the statute seems like a good solution, but it is only viable if the representations required are unambiguous and clearly ascertainable. In addition, to avoid the problem of unfair leverage, the determination of the representations’ accuracy must be within the judgment of the Special Entity, not the dealer counterparty.

***SRO Certification Solution:*** As we wrote in our comment letter, we believe that another option that is more consistent with your current regulation is SRO certification for Special Entity independent advisors, similar to the CFTC’s and SEC’s Series 7 and Series 3 exams. SROs have told us that a successful SRO certification regime could be developed to meet your stated goals and Dodd-Frank’s substantive requirements. Although this solution would take some time to implement, the representation solution,

modified as we requested, could be used in the interim if the Commission determines that delaying implementation of the rule is inappropriate.

We look forward to working together to develop a workable, across the board solution for Special Entities to alleviate the issues raised by the proposed rule.

Sincerely,



Joseph Dear  
Chief Investment Officer  
California Public Employees'  
Retirement System



Jennifer Paquette  
Chief Investment Officer  
Colorado PERA



Keith Bozarth  
Executive Director  
State of Wisconsin Investment Board



Brian Guthrie  
Executive Director  
Teacher Retirement System  
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Rick Dahl  
Chief Investment Officer  
Missouri State Employees'  
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