November 1, 2011

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

File No. S7-33-11: Use of Derivatives by Investment Companies under the Investment Company Act of 1940

Ladies and Gentlemen:

We are submitting comments regarding the concept release on the use of derivatives by investment companies.

As background, Capital Market Risk Advisors (CMRA) is a pre-eminent risk advisory, risk governance, expert witness, and litigation support boutique. Founded in 1991, we offer clients a unique perspective based on years of hands-on experience in the evolution of derivatives, risk management, hedge funds, risk governance, structured securities and other complex financial instruments and capital markets issues. Our advisory services include working with investment companies to assess risk exposures and advising on risk management and strategy, the valuation of complex or illiquid instruments, benchmarking risk management and risk governance practices against best practice, developing risk appetite statements, advising on risk reporting and communication, and reviewing and drafting risk management and policies and procedures. In addition, our senior people all have significant experience managing portfolios with derivatives for large financial institutions.

Robust risk management is essential for not only derivatives, but for all more complex and less liquid instruments. We believe, however, that the distinctions between which transactions require a higher level of scrutiny than others should be based on complexity, not whether they are labeled “derivatives”.

Less liquid, less transparent, harder to value instruments are riskier than instruments with the same level of VaR that are liquid, transparent, and easy to value. Instruments with the same

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VaR that are more sensitive to a range of stress tests are riskier than those that are not as sensitive. It is these risk attributes that should define what positions and strategies need more robust risk oversight, not whether the positions are “on-balance sheet” or “off-balance sheet” or whether they are labeled “derivatives” or not.

Entering into a plain vanilla five year interest rate swap with a AA bank is not riskier than buying a 5 year bond of the same bank just because it is labeled a derivative. The interest rate swap has less credit risk because collateral is posted for market value changes, has better liquidity (sometimes significantly better liquidity), but more operational risk because of the collateral requirements, but fundamentally the two exposures are similar.

Complex, bespoke, structured derivatives on the other hand are riskier than plain vanilla, liquid, transparent derivatives, but so are complex, structured non-derivatives such as collateralized bond obligations or non-agency mortgage backed securities.

While we totally agree that more robust risk management is required for more complex or less liquid instruments, we recommend that your framework be enhanced to differentiate between instruments based on complexity and risk, not on whether they are labeled derivatives or not. We believe that these distinctions are more appropriate than the derivatives vs. non-derivatives distinction proposed in the concept release.

Thank you for considering these comments. If you have any questions, Please do not hesitate to contact us.

Respectfully submitted,

Leslie Rahl Peter Niculescu

Transmitted via Email