

June 28, 2013

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 2058

The Honorable Mary Jo White
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Dear Chairman Gensler and Chairman White:

RE: Information Barriers in the Developing Market Infrastructure

Financial market structure has entered a phase of significant change, with new type of entities emerging as important market participants and service providers. ISDA believes it is vital that all institutions, including these new market entrants, have proper safeguards and barriers in place in order to ensure the security of data, prevent cyber-crime and safeguard against inappropriate access to and usage of proprietary, non-public customer information between the different components of their business activities.

Banks and other financial institutions have for many years faced and addressed such issues. For example, information about client-related merger and acquisition activity, or public company research, needs to be kept confidential from trading desks. A failure to do so would create unfair advantages in the marketplace, violate client confidentiality and erode confidence in the integrity of our markets.

Over many years, information barriers within financial institutions have evolved to a very advanced state. So too have procedures and policies governing the privacy of data. Within financial institutions today, there are: clearly defined and strictly enforced rules; well-documented policies and procedures; significant technology infrastructure systems for monitoring and permissioning; ongoing compliance scrutiny; regulatory inspections; and intensive ongoing education. While such measures are not perfect, they are continually reviewed and improved, and they serve to protect markets and market participants from inappropriate information transfer and unauthorized public disclosure. Regulatory enforcement mechanisms and potential civil and criminal penalties are available to deal with any breaches.

ISDA

Today, new, non-bank entities are emerging as important elements of the OTC derivatives market infrastructure. These include, for example, Swap Execution Facilities (SEF) and Swap Data Repositories (SDR). SEFs, and the many other forms of electronic execution venues that already exist, are often run by entities that themselves conduct other business activities, such as the provision of data services, brokerage activities, investment advice, news services and connectivity services.

Because of the breadth of these different activities, ISDA believes that it is vital that these and all entities make the appropriate level of investment to design, implement and continually review their information barriers and data privacy policies and procedures in order to protect markets and market participants. It is equally important that regulators ensure that the viability and rigor of these information barriers and privacy policies are reviewed and audited as they are at all other market participants. Breaches of information boundaries and privacy policies at new types of institutions will be as harmful as they would be at banks. Recent events make clear that there is a real need for such entities to have robust policies, procedures and systems in place to address the information barrier and privacy issue.

Thank you for your consideration of this issue.

Sincerely,



Stephen P. O'Connor
Chairman



Robert G. Pickel
Chief Executive Office