

From: Chuck Whitman <Chuck.Whitman@InfiniumCM.com>
Sent: Monday, September 20, 2010 10:54 PM
To: dfdefinitions <dfdefinitions@CFTC.gov>
Subject: Re: Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act,
Attach: Comment letter ICM 9-20.docx

September 20, 2010

Mr. David A. Stawick
Secretary
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

**Re: Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act,
Federal Register Release 75 FR 51429**

Dear Mr. Stawick:

Infinium Capital Management, LLC (“ICM” or “Infinium”) appreciates the opportunity to comment during the process of rulemaking by the CFTC and SEC in response to the Dodd-Frank Wall Street Reform and Consumer Protection Act. Infinium supports the important work done by the Commission in regulating U.S. exchanges during an unprecedented period of growth. The Commission has ensured the continued existence of orderly and transparent markets with proven risk controls. We agree with the principal intent of the Dodd-Frank bill to curb unknown and unforeseen risk; and we welcome the opportunities which will be presented to us by the movement of unregulated, over-the-counter markets to regulated exchanges. All market participants will benefit greatly by this historic action. However, we have great concern that the implementation of the rules attendant to the contemplated categories of Swaps Dealer and Major Swaps Participant, as defined in the proposal, may lead to major disruption in these markets and displacement of capital and liquidity to their great detriment unless great care is taken in this implementation.

Infinium is a Principal Trading Firm with offices in Chicago, New York and London. We hold memberships on 26 exchanges worldwide and are active participants in several others. We contribute substantial liquidity to these exchanges by making markets in exchange-cleared products (including exchange-cleared swaps futures) and other products which may be identified as swaps under the contemplated definition.

We believe that a distinction must be made between swaps traded on regulated exchanges and the swaps dealers who deal exclusively on these exchanges versus those who deal in off-exchange bilateral swaps. We urge the Commission to clarify, through the rule-making process, that the definition of “swap dealer” shall not include companies whose primary business is that of a market maker in exchange-cleared products, whether they are referred to as swaps or by any other name. The current capital and compliance requirements administered the regulated exchanges have been proven time and again to provide adequate protection to market participants.

It is of paramount importance that smoothly functioning, open, competitive, regulated markets do

hampered by additional burdensome regulation and capital requirements. The Commission, in crafting its regulations, must take into consideration the fact that capital is, in effect, the raw natural resource on which trading entities such as Infinium rely. Great care must be taken to not create further obstacles to the flow of capital in the current world capital crisis. If the new rules require greater amounts of capital to be employed in each product, this will lead to fewer markets being made and lower liquidity over all. Additional compliance and audit requirements will also impact capital at the bottom line. Finally, these changes might force business model changes, pushing trading away from transparent regulated exchanges to opaque markets or less regulated overseas markets.

Infinium respectfully requests that the Commission consider several adjustments to the current rule-making process. First, like the SEC, the CFTC should request additional time from Congress to address the entire rule-making process. We are sure that it was never Congress's intent to have the implementation of new rules disrupt and dislocate legitimate, smoothly functioning global markets and their related economies. Second, the Commission, rather than having a brief pre rule comment period, with affected parties having to comment not knowing the coming rules, should take the time required to study the current business models of all the types of market participants so that it will craft rules that do not have the deleterious effects mentioned above. Finally, the Commission should rely as much as possible (as it has done for years to great success) on the expertise in risk management, capital requirements, and compliance audits which the exchanges have exhibited. Firms which trade in exchange cleared contracts should not be subject to additional capital and compliance requirements more appropriately applied to dealers in direct bilateral swaps. Traders in exchange cleared contracts should continue to operate as they have successfully under CFTC-overseen exchange regulation.

Infinium greatly appreciates the opportunity to submit its views on these important issues before the CFTC. Do not hesitate to contact us at 312-601-7800 if you have any questions regarding the comments in this letter.

Sincerely,

Charles F. Whitman
Chief Executive Officer
Infinium Capital Management, LLC
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Chicago IL 60654

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It is of paramount importance that smoothly functioning, open, competitive, regulated markets do not become unduly hampered by additional burdensome regulation and capital requirements. The Commission, in crafting its regulations, must take into consideration the fact that capital is, in effect, the raw natural resource on which trading entities such as Infinium rely. Great care must be taken to not create further obstacles to the flow of capital in the current world capital crisis. If the new rules require greater amounts of capital to be employed in each product, this will lead to fewer markets being made and lower liquidity over all. Additional compliance and audit requirements will also impact capital at the bottom line. Finally, these changes might force business model changes, pushing trading away from transparent regulated exchanges to opaque markets or less regulated overseas markets.

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