The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
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Committees:
Environment, Natural Resources & Agriculture
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November 16, 2010

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

Re: RIN 3038-AD01

Dear Secretary Stawick:

For the Dodd-Frank Wall Street Reform and Consumer Protection Act to be effective in creating more transparency, competition, and stability in the derivatives market, special attention needs to be paid to the rules governing derivatives clearinghouses, exchanges, and swap facilities. Currently, one of the rules proposed by the commission to govern derivative clearinghouses contains a flaw that would allow for dealer banks to attain controlling ownership of a clearing facility. This stands in direct conflict with the intent of the Dodd-Frank reform.

One of the proposed rules, the 5 percent rule would allow a group of banks to attain voting majority ownership of a facility. As we know, concentrated ownership of clearing facilities can lead to less transparency and competition.

The more effective rule is a limitation of 20 percent of voting interest by any single institution and 40 percent of voting interest owned collectively by all institutions. This would be effective in preventing improper and concentrated ownership interests in clearinghouses. Under this rule dealer banks control over the market will be limited and more derivative transactions will be cleared.

These same ownership concerns apply to derivative exchange and swap facilities. Concentrated ownership of these facilities will cause the same problems as in clearinghouses, fewer transactions being cleared, less transparency, and less competition. To prevent these problems, the commission should consider extending the 20/40 rule so it applies to ownership of derivative exchange and swap facilities. This is keeping with the intent of the Dodd-Frank reform and will result in a more stable derivatives market.

I ask you to please consider eliminating the 5 percent rule. The 20/40 rule will be much more effective in preventing concentrated ownership of clearing facilities in the derivatives market, especially if the rule is extended to exchange and swap facilities in addition to clearinghouses. These two steps will result in increased transparency, stability, and competition in the derivatives market.

Sincerely,

Carolyn C. Dykema
State Representative
8th Middlesex District