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The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1054

VINCENT A. PEDONE
STATE REPRESENTATIVE
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BILLS IN THIRD READING
STATE HOUSE, ROOM 20

COMMENT

November 9, 2010

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

Dear Chairman Gensler:

For the Dodd-Frank Wall Street Reform and Consumer Protection Act to be effective, special attention needs to be given to the rules governing derivatives clearinghouses, exchanges, and swap facilities. Currently, the commission that governs derivatives clearinghouses has proposed a rule, RIN 3038-AD01, which 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, which is intended to create more transparency, competition, and stability in the derivatives market.

This proposed rule would allow a clearinghouse to limit the ownership voting interest of any participant to no more than 5 percent of the total, but it would not place any limit on aggregate ownership by banks. This would allow a group of banks to attain voting majority ownership of a facility, which, as we know, would be problematic because concentrated ownership of clearing facilities lessens transparency and competition.

To alleviate this problem, I encourage you to consider 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 more effective than the 5 percent rule in preventing improper and concentrated ownership interests in clearinghouses. Under the 20/40 rule, dealer banks control over the market would be limited and more derivative transactions will be cleared.

These same ownership concerns apply to derivative exchange and swap facilities, which will have similar problems if the 5 percent rule is applied. Those facilities will see fewer transactions cleared, less transparency, and even weaker 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 it 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,

Vincent Pedone
State Representative
15th Worcester District