



COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS SENATE

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SENATOR JENNIFER L. FLANAGAN  
WORCESTER & MIDDLESEX DISTRICT

STATE HOUSE, ROOM 520  
BOSTON, MA 02133  
TEL. (617) 722-1230  
FAX (617) 722-1130

Jennifer.Flanagan@state.ma.us

CHAIR: Joint Committee on Mental Health & Substance Abuse

VICE CHAIR: Joint Committee on Transportation

COMMITTEES: Joint Committee on Children, Families and  
Persons with Disabilities

Joint Committee on Public Health

Joint Committee on Elder Affairs

Joint Committee on Environment, Natural Resources and  
Agriculture

November 8, 2010

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

CONFIDENTIAL

RE: RIN 3038-AD01

Dear Chairman Gensler,

I am writing to express my concerns about the proposed rules to govern derivatives clearinghouses, exchanges, and swaps under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Dodd-Frank aimed to increase transparency and competition in the market by moving derivatives transactions toward exchange trading, in particular increasing the number of transactions in clearinghouses. However, while the rules that govern these facilities are meant to address conflicts of interest in clearinghouse ownership, instead they leave open a loophole that would allow banks to continue their dominance of the derivatives market.

One proposed rule would allow a clearinghouse to choose to limit the ownership voting interest of any participant to no more than 5 percent of the total, with no limitation on aggregate ownership by banks. This would not be effective in preventing concentrated ownership of clearinghouses, and would allow banks to continue to pose obstacles to increased clearing of derivatives transactions.

The better and more effective alternative 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 prevent dealer banks from gaining control of clearinghouses and will ensure the transparency and competition desired by the Dodd-Frank reform.

Of equal concern are the rules governing exchange and swap facilities. Currently, the proposed ownership restrictions are even weaker for these facilities. If not changed, a group of dealer banks will be able to attain ownership of these facilities. I encourage you to extend the

20/40 rule so that it applies to these facilities as well as clearinghouses to ensure banks cannot continue their dominance of this market.

I urge the commission to seriously consider both eliminating the 5 percent alternative and extending the 20/40 alternative to cover exchange and swap facilities. This will close the loophole and make sure that banks cannot continue their dominance of clearinghouses. .

Sincerely,

Jennifer L. Flanagan  
State Senator  
Worcester & Middlesex District