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GENERAL LAND OFFICE

JERRY PATTERSON, COMMISSIONER

February 22, 2011

David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

COMMENT

Re: Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties (RIN 3038-AD25) (the "Proposed Rules")

Dear Mr. Stawick:

A key element addressed by the Commodity Futures Trading Commission's ("CFTC") Proposed Rule regarding "Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties" (RIN 3038-AD25) (the "Proposed Rule") is the relationship between swap dealers ("SD") and major swap participants and their "Special Entity" counterparties. Special Entities include, among others, "a State, State agency, city, county, municipality, or other political subdivision of a State." The Veterans' Land Board of the State of Texas (the "VLB") is a State agency that often uses over-the-counter ("OTC") derivatives to manage the interest rate risk associated with the bonds that it issues; therefore, we are very interested in the Proposed Rule. We are concerned that the Proposed Rule, as currently drafted, could discourage SDs from executing OTC derivatives transactions with Special Entity counterparties. If so, this could eliminate or severely limit the VLB's access to the risk management tools that it has used successfully for over fifteen years that have resulted in substantially below-market interest costs on its bonds.

There are several provisions of the Proposed Rule that appear problematic. These include:

Swap dealers as advisors to Special Entities — The Proposed Rule provides that, "a swap dealer that makes a recommendation to a Special Entity falls within the definition" of a SD that "acts as an advisor to a Special Entity." Under the Proposed Rule, "[a] recommendation would include any communication by which a swap dealer...provides information to a counterparty about a particular swap or trading strategy that is tailored to the needs or characteristics of the counterparty, but would not include information that is general transaction, financial, or market information, [or] swap terms in response to a competitive bid request from the counterparty."

During the normal course of business, SDs, bankers and/or other employees of financial institutions in the municipal finance market often present the VLB with swap-related ideas for consideration. Such ideas are generally presented informally as part of ongoing banking relationships. The VLB has its own swap advisor that assists it in evaluating swap proposals from SDs. The VLB does not consider SDs that present swap ideas to be advisors, nor does it expect a fiduciary responsibility on the part of the SD to the VLB. In fact, when the VLB executes swap transactions, it and the related SD counterparty both acknowledge that the SD has not acted as an advisor to the VLB.

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The VLB values the information and perspective it receives from its SD counterparties. Without the perspectives and ideas that are often offered by SDs, the potential for the VLB to miss often-fleeting market opportunities is compounded. We are concerned that the imposition of advisor liability on a SD that is proposing ideas to the VLB could have a detrimental impact on the willingness of SDs to develop proposals for the VLB to consider.

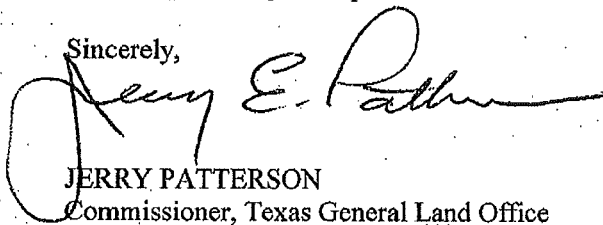
Most of the swaps executed by the VLB have been executed on a negotiated basis, since the ideas presented by SDs are generally refined and developed in conjunction with the SD and our swap advisor before devising a final structure. As a safe haven, the Proposed Rule would enable SDs to avoid the heightened standards applicable to advisors by limiting their activities to competitively bid transactions. However, this alternative would often be an impractical and less-beneficial alternative to negotiated swap transactions.

Independent representatives — Under the Proposed Rule, a SD acting as a counterparty to a Special Entity would be permitted to satisfy its obligation to “have a reasonable basis to believe that a Special Entity has a representative that satisfies [the Proposed Rule’s criteria],” by relying on “reasonable, detailed representations of the Special Entity concerning the qualifications of the independent representative.” Frankly, we do not need or want our swap counterparties to evaluate and approve our choices of independent advisors or representatives. We believe that we are better qualified to make those determinations ourselves. In light of the extensive disclosure and surveillance contemplated by the registration and regulation of municipal advisors, SDs should be able to rely on the certifications and representations by the VLB that its swap advisor is registered with the SEC as a municipal advisor.

Summary

As an entity that has used swaps for over fifteen years to hedge and manage various financial risks, we see the value in continued access to these important risk management tools. However, we are concerned that the Proposed Rule would detrimentally alter the relationship between the VLB and SDs. In particular, the Proposed Rule would strongly discourage the kind of idea-sharing that is common between the VLB and SDs. We believe that VLB constituents often benefit greatly from these interactions. Therefore, we strongly urge the CFTC to amend the rule according to the specific points we have raised in this letter.

Sincerely,



JERRY PATTERSON
Commissioner, Texas General Land Office