



Via Agency Web Site

February 24, 2011

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

Re: *RIN 3038-AD01—Governance Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities; Additional Requirements Regarding the Mitigation of Conflicts of Interest*¹

Dear Mr. Stawick:

I am writing on behalf of the Council of Institutional Investors (Council), a nonprofit association of public, union and corporate employee pension funds, foundations and endowments, with combined assets that exceed \$3 trillion dollars.² Member funds are major shareowners with a duty to protect the retirement savings of millions of American workers. As a leading voice for long-term investors responsible for the retirement savings of millions of American workers and retirees, the Council welcomes the opportunity to share its support for certain provisions of the above referenced proposed rule.

Transparency Requirements

We are pleased to find that the Commodity Futures Trading Commission's (CFTC) proposed rule sets forth a number of minimum disclosure requirements for derivatives clearing organizations (DCO), designated contract markets (DCM) and swap execution facilities (SEF). As stated in our Feb. 17, 2011 comment letter on the transparency of governance arrangements of swap data repositories, robust disclosure is an essential element of good corporate governance.³

¹ Governance Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities; Additional Requirements Regarding the Mitigation of Conflicts of Interest, 76 Fed. Reg. 722 (Jan. 6, 2011), available at <http://edocket.access.gpo.gov/2011/pdf/2010-31898.pdf>.

² For more information about the Council of Institutional Investors (Council) and its members, please visit the Council's website at <http://www.cii.org>.

³ Letter from Laurel Leitner, Senior Analyst, Council to David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission 1 (Feb. 17, 2011), [http://www.cii.org/UserFiles/file/resource%20center/correspondence/2011/\(02-17-11\)%20Letter%20to%20the%20CFTC%20on%20Swap%20Data%20Repositories2.pdf](http://www.cii.org/UserFiles/file/resource%20center/correspondence/2011/(02-17-11)%20Letter%20to%20the%20CFTC%20on%20Swap%20Data%20Repositories2.pdf).

We note that the following disclosure requirements contained in the proposed rule are generally consistent with the best practices outlined in our governance policies for corporate boards:

- Mission statement and/or charter of the board and certain committees⁴
- Board nomination process⁵
- Board committee assignment process⁶

Council policies urge boards to disclose additional information not included in the proposed rule that may also be relevant to DCOs, DCMs and SEFs. We, therefore, respectfully request that you carefully consider whether greater transparency in the following areas should also be required in the final rule:

- Director independence⁷
- Board's role in risk oversight⁸
- Director compensation⁹

Diversity of DCM Boards

We are also pleased to find the proposed rule includes a provision to require each publicly traded DCM to evaluate the breadth and cultural diversity of its board, and we would support extending the requirement to all entities covered in the proposing release. Recent studies indicate that a diverse board can positively affect corporate financial performance and can be a source of competitive advantage. As stated in our corporate governance policies, the Council membership strongly supports board diversity and encourages boards to consider background, experience, age, race, gender, ethnicity and culture with respect to director nominees.¹⁰

In conclusion, the Council generally supports the governance transparency requirements and board diversity standards as outlined in the proposing release. We appreciate the opportunity to share our views with you. Please feel free to contact me at (202) 261-7086 or laurel@cii.org, or General Counsel Jeff Mahoney at (202) 261-7081 or jeff@cii.org, if you should have any additional questions or comments.

Sincerely,



Laurel Leitner
Senior Analyst

⁴ Council, Corporate Governance Policies, §1.3 Disclosed Governance Policies and Ethics Code (last updated Sep. 29, 2010), <http://www.cii.org/UserFiles/file/CII%20Corp%20Gov%20Policies%20Full%20and%20Current%2009-29-10%20FINAL.pdf>.

⁵ *Id.* §2.8a Board Succession Planning.

⁶ *Id.* §2.5 All-independent Board Committees.

⁷ *Id.* §2.3 Independent Board.

⁸ *Id.* §2.7 Board's Role in Risk Oversight.

⁹ *Id.* §6 Director Compensation.

¹⁰ *Id.* §2.8b Board Diversity.