

David A. Stawick, Secretary  
Commodity Futures Trading Commission  
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- **17 CFR Parts 1, 37, 38, 39 and 40**
- **RIN Number 3038-AD01**
- **Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest**

Dear Mr. Stawick.

Thank you for giving us the opportunity to comment on your notice of proposed rulemaking: Requirements for Derivatives Clearing Organisations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest.

You are proposing rules to implement new statutory provisions enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Specifically, the proposed rules impose new requirements on derivatives clearing organisations (DCOs), designated contract markets (DCMs), and swap execution facilities (SEFs) with respect to mitigation of conflicts of interest.

§ 726(a) of Dodd-Frank authorises you to promulgate rules imposing numerical limits on control or voting rights that enumerated entities may hold with respect to DCOs, DCMs and SEFs. I agree with this and it is appropriate in order to mitigate existing or potential conflicts of interest. You refer in the commentary to the European Commission Proposal, quoting Section 4.3.4 stating that structural governance requirements “are considered more effective in addressing any potential conflicts of interest that may limit the capacity of CCPs to clear, than any other form of regulation which may have undesirable consequence on market structures (e.g. limitation of ownership, which would need to extend also to so-called vertical structures in which exchanges own a CCP)”. Please bear in mind that this has more to do with the vertical structures alluded to, rather than any intrinsic merit or argument. However, I do agree that a mixture of governance requirements and control, ownership and voting limits would optimally address conflicts of interest issues in this arena.

Please note that the comments expressed herein are solely my personal views

I agree with the proposed limits on voting equity ownership and the exercise of voting power under § 37.19(d)(2), § 38.851(d)(2) and § 39.25(b)(2). In order to complement and reinforce this I would strongly recommend an overriding rule that the boards of directors consist of a majority of public directors. Additionally nominating committees should consist solely of public directors.

I do not believe that requiring public directors will promote independence over expertise. In my experience public directors defer to the various expertises on the board in different cases. It is also important that boards are seen to be acting independently.

Yours sincerely

Chris Barnard