

June 3, 2011

VIA ELECTRONIC MAIL

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

Re: Reopening and Extension of Comment Periods, Federal Register Release: 76 FR 25274¹

Dear Mr. Stawick:

Eris Exchange, LLC (“Eris Exchange” or the “Exchange”) appreciates the opportunity to submit its comments to the U.S. Commodity Futures Trading Commission (the “Commission” or “CFTC”) on the Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).

Eris Exchange commends the Commission on the unprecedented amount of work that has been completed since the Dodd-Frank Act was signed into law. Eris Exchange supports the overall goals of the Dodd-Frank Act of reducing systemic risk and bringing greater transparency to the over-the-counter markets.²

As set forth below, Eris Exchange’s comments focus on the “mosaic” of rules proposed by the Commission. Specifically, Eris Exchange: (i) observes that the Commission’s proposed rules will lead to a more efficient swaps market for end user clients; (ii) urges the Commission to take a “principles based” approach to the implementation of some of the key areas for final rulemaking; and (iii) urges the Commission to publish, as soon as possible, a clear implementation timeline for mandatory clearing and trade execution. These “hard dates” for

¹ Eris Exchange’s comments relate to the following proposed rules: RIN 3038–AD01: Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest, 75 FR 63732; RIN 3038–AD00: Process for Review of Swaps for Mandatory Clearing, 75 FR 67277; RIN 3038–AD08: Real-Time Public Reporting of Swap Transaction Data, 75 FR 76140; RIN 3038–AD19: Swap Data Recordkeeping and Reporting Requirements, 75 FR 76574; RIN 3038–AC98: General Regulations and Derivatives Clearing Organizations, 75 FR 77576; RIN 3038–AD09: Core Principles and Other Requirements for Designated Contract Markets, 75 FR 80572; 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, 76 FR 722; RIN Number 3038–AD18: Core Principles and Other Requirements for Swap Execution Facilities, 76 FR 1214; RIN 3038–AC98: Risk Management Requirements for Derivatives Clearing Organizations, 76 FR 3698; and, RIN 3038–AC96, Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants, 75 FR 81519.

² Eris Exchange has previously filed the following comment letters, which are incorporated herein by reference: Letter from Eris Exchange dated September 29, 2010 (“Comments on Governance”); Comment Letter from Eris Exchange, LLC dated January 28, 2011 (Eris Exchange Governance Comment Letter”); Comment Letter from Eris Exchange, LLC dated February 22, 2011 (“Eris Exchange DCM Comment Letter”); Comment Letter from Eris Exchange, LLC dated March 8, 2011 (“Eris Exchange SEF Comment Letter”).

implementation will allow the industry to adequately plan for and make the strategic decisions and resource allocations needed to prepare for the post Dodd-Frank marketplace.

The Dodd-Frank Act and the Commission's Final Rules Will Lead to a More Efficient Swaps Market

Standardization and Compression

The Exchange commends the Commission for addressing end user clients' clear demand for greater standardization and compression in the trading of interest rate swaps.³ Through this proposal, the Commission has acknowledged the industry's input and has demonstrated it understands that one of the keys to reducing systemic risk in the swaps market is the reduction of the vast number of individual line item swaps. In order to reduce the number of line items, compression can be used to either "tear up" aged trades or compress trades, post-execution, into instruments with standardized coupons and tenors.

Fewer line items on balance sheets will significantly reduce the capital required to be held in margin against the vast number of positions and will greatly reduce the operational complexity of managing these positions. Compression will ultimately lower systemic risk. In meetings with end user clients, Eris Exchange has clearly heard that the swaps trading community welcomes the Commission's proposed rulemakings in this area. In the Exchange's opinion, the swaps end user community is optimistic that financial reform will lead to greater position netting and the ability to more freely unwind aged swap trades without having to go through a cumbersome novation process involving substantial operational burden and negotiated up-front payments.

Price Transparency

Eris Exchange appreciates the Commission's efforts to promote price transparency through its rulemakings allowing for Designated Contract Market ("DCM") traded swaps contracts to potentially receive 1-Day Value-at-Risk ("VaR") treatment. As the Commission has signaled through this proposed rule, DCMs are held to a higher standard of price transparency, and therefore should be allowed to receive margining treatment more akin to standardized futures markets than to OTC swaps markets with bespoke product structures and more opaque execution methods.

The Exchange believes that the transparency of a CLOB-driven DCM swaps market is a very valuable addition to the post Dodd-Frank marketplace and a clear example of some of the benefits that will be delivered to end user clients as a result of the impending financial reform. The Exchange believes that a central goal of the Dodd-Frank Act was to reduce systemic risk by diversifying the counterparties involved in the swaps market and to

³ See RIN 3038-AC96, Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants, 75 FR 81519.

provide greater price transparency. A robust DCM-based CLOB market is central to delivering on that goal of the legislation and the Exchange applauds the Commission for recognizing the unique aspects of the DCM framework and market model.

Dodd-Frank's Goals Are Achievable in a Principles-Based Regulatory Environment

The Commodity Futures Modernization Act ("CFMA") recognized a need for the development of innovative markets for certain products and participants without a heavily prescriptive regulatory regime. The overall goal of Dodd-Frank Act - the reduction of systemic risk and the promotion of transparency - can be achieved through principles-based regulation. At the onset, it should be noted that "principles-based" does not mean "not regulated." Principles-based means the Commission provides concepts for compliance with the Act, while permitting the regulated entities the flexibility to comply.

Principles-based regulation "works" as demonstrated by the fact that the futures industry performed flawlessly during the financial crisis. The futures markets were able to respond to the risks being posed by the financial crisis in terms of offering market participants the ability to manage risk, the stability of clearing a transaction immediately upon execution on a regulated exchange, and the ability to quickly liquidate positions.

In order to preserve the principles-based environment, Eris Exchange respectfully suggests that the Commission review its proposed rules and determine where prescriptive rules are absolutely necessary to address systemic risk. In short, the more prescriptive the rules, the more likely the effectiveness of the Dodd-Frank Act will be limited through unintended consequences, calls for delay, and ultimately litigation over the rules.

The "Minimum Centralized Market Trading Percentage Requirement" (the "85% Centralized Market Requirement") provides an example of the shortcomings of a prescriptive rule that will disrupt the DCM principles-based framework that has worked well in the past. See 75 FR 80572, 80588. The 85% Centralized Market Requirement will deter new product and market innovation, disrupt well-functioning markets, and limit the ability of opaque markets to evolve to transparent trading venues. Specifically, the 85% Centralized Market Requirement will harm a well-functioning market structure by limiting the ability of market participants to engage in block trades and exchange of futures for related positions that serve legitimate commercial needs. In short, the principles-based approach should be implemented by the Commission in order to provide the market with the flexibility needed to transition to a new regulatory environment.

The Market is in a "State of Readiness" for Dodd-Frank Implementation: Clearing, Trading, Reporting

While Eris Exchange understands that the mandates of the Dodd-Frank Act cannot be implemented overnight, the Exchange believes that market participants, clearing houses, execution entities and data repositories are ready for implementation, particularly in highly liquid and standardized swaps. This state of readiness is due to the broad principles that have been laid down in the time leading up to and upon the enactment of the Dodd-Frank Act. The Commission should not deviate from these principles and impose hard and fast, prescriptive rules that will only result in affected entities going back to the drawing board in order to comply and then advocating for additional delay.

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Given that Dodd Frank's principles have been widely understood for some time now, Eris Exchange believes that the Commission should now provide hard dates for implementation with an agenda that finalizes all rules by December 31, 2011 and phases in compliance with the rules throughout 2012. Eris Exchange proposes a timeline that focuses first on swaps that DCOs already clear as "swaps subject to clearing." Standard interest rate swaps provide a very good and appropriate starting point given that DCOs already clear these products, the market is very large, and the product is very standardized and highly liquid.

Given the state-of-readiness in the industry, Eris Exchange believes that multiple SEFs should be provisionally registered during late 2011, provided they file a complete application, and these SEFs would be ready and willing to make the swap "available for trading." Since many of the likely SEF entities are already "open for business," the first quarter of 2012 should be a period of voluntary compliance to "test the pipes" and resolve issues prior to implementing the clearing and execution mandate. The clearing and trading mandate for interest rate swaps could then be effective in the second quarter of 2012 for swap dealers and the largest major swap participants. During the remainder of the year, additional participants, such as smaller major swap participants and financial entities, should be phased in and subject to the mandate. Eris Exchange believes that Swap Data Repositories should be phased in simultaneously with the clearing and trading mandates, first with voluntary compliance and then with mandatory compliance. While Swap Data Depositories will be a convenient "one stop shop" for the housing of regulatory data, the data held in SDRs will also be readily available at the DCOs, and the DCOs have every financial and business interest to track and manage this data carefully. The implementation of SDRs should therefore not be a dependency for implementing either the clearing or the trading mandates.

Conclusion

Eris Exchange appreciates the opportunity to comment on this matter. Eris Exchange is fully operational today for trading and clearing of interest rate swap futures, and our product and trading protocols embody the guiding principles of the Dodd-Frank Act. In implementing the Dodd-Frank Act, we believe the Commission has an historic opportunity to improve the efficiency of the swaps market, providing great benefit to end users, and ultimately reduce transaction costs while also reducing systemic risk. The key to successful implementation, however, is to move forward quickly with a principles-based approach that fosters innovation and incentivizes DCMs, SEFs and DCOs to deliver concrete benefits to end users of swaps. The market is ready for the migration to cleared swaps trading, and is waiting only for clear direction and a roadmap from the Commission.

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If you have any questions or would like to learn more about Eris Exchange, please do not hesitate to contact Stephen Humenik, General Counsel and Chief Regulatory Officer at 312-626-2681 or stephen.humenik@erisfutures.com or Neal Brady at 312-253-9056 or neal.brady@erisfutures.com.

Sincerely,

A handwritten signature in black ink that reads 'Neal Brady' in a cursive script.

Neal Brady
Chief Executive Officer
Eris Exchange, LLC

cc: Chairman Gary Gensler
Commissioner Michael V. Dunn
Commissioner Jill E. Sommers
Commissioner Bart Chilton
Commissioner Scott D. O'Malia