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SUBMITTED ELECTRONICALLY
comments.cftc.gov

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

RE: Global Comment on Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act; 76 Federal Register 25274, May 4, 2011

Dear Mr. Stawick:

The American Bankers Association (ABA)[1] and the ABA Securities Association (ABASA)[2] are writing to provide global comments on the Commodity Futures Trading Commission's (CFTC or Commission) reopening and extension of comment periods on rulemaking to establish a comprehensive new framework for swaps regulation. We sincerely appreciate that the CFTC has provided an additional opportunity to comment on what is now a substantially complete mosaic of proposed rules. Having said that, it is important to keep in mind that the public is in the midst of analyzing some of the most complex rules in the mosaic on margin, capital, and swap definitions. Given the complexity of the interaction of the various proposals, the immediate significance of the issues for an economy that continues to struggle (in no small part due to the challenge to financial customers to digest all of the regulatory changes coming at them), and the importance of getting these rules right for the benefit of the long-term health and competitiveness of the U.S. economy, we do not think that thirty days is a sufficient time period in which to reconsider and provide meaningful comments on thirty-two proposed rules.

The CFTC and other regulators face a monumental task in crafting rules to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA) mandate to regulate the over-the-counter swaps markets. In less than a year, the Commission has already proposed a broad mosaic of

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1 The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its 2 million employees. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities. Learn more at www.aba.com.
2 ABASA is a separately chartered affiliate of the ABA that represents those holding company members of the ABA that are actively engaged in capital markets, investment banking, and broker-dealer activities.

new rules under its jurisdiction that will govern an entirely new market for trading complex derivative instruments.

The regulators and the public share a common interest in ensuring that the framework to implement the Dodd-Frank swaps regulatory mandate results in a successfully functioning market. The CFTC is explicitly seeking additional comment on the costs and benefits of the proposed rulemakings, which is certainly a matter of concern to market participants. However, the CFTC has not yet had the opportunity to provide the public with any insights into how the thousands of comments that it has received on the proposed rules may reshape those rules. In order to consider thoroughly the potential impact of so many interconnected rules of this magnitude, the regulators and public alike would benefit from another meaningful opportunity for notice and comment on the proposed rules before any of them are finalized.

Re-proposing rules is not an uncommon procedure, especially if the rules will have a significant market impact. The CFTC and the Securities and Exchange Commission (SEC) have re-proposed rules on numerous occasions.[3] The federal banking regulators re-proposed the “Recourse” risk-based capital rule twice before finalizing it.[4]

The ABA urges the CFTC to re-propose the rules establishing the new framework for swaps regulation in the order in which they will be implemented, preferably starting with data gathering in order to capture most effectively the appropriate products and market participants. We also strongly recommend a minimum sixty-day comment period for each of the re-proposed rules. Since some of the rules may be so closely interrelated that they will be implemented simultaneously, it remains likely that some – but not all – of the rules may be re-proposed simultaneously. The result may delay the implementation process by some months, but the desire for an accelerated and (unfortunately) premature regulatory certainty should not outweigh the need for comprehensive consideration of the market impact and potential market disruptions prior to finalizing the regulatory requirements.[5]

Thank you for your consideration of our comments.

Sincerely,

Diana L. Preston
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Vice President, Center for Securities, Trust & Investments, ABA

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[3] See, e.g., SEC Re-Proposed Rules for Nationally Recognized Statistical Rating Organizations, 74 Fed. Reg. 6,485 (Feb. 9, 2009); CFTC Confidential Information and Commission Records and Information, 73 Fed. Reg. 4,439 (Aug. 1, 2008); CFTC Amendments to Form ADV, 73 Fed. Reg. 13,958 (Mar. 14, 2008); SEC Termination of a Foreign Private Issuer’s Registration of a Class of Securities Under Section 12(g) and Duty To File Reports Under Section 13(a) or 15(d) of the Securities Exchange Act of 1934, 72 Fed. Reg. 1,384 (Jan. 11, 2007); SEC Regulation NMS, 69 Fed. Reg. 77,424 (Dec. 27, 2004); CFTC Foreign Futures and Foreign Options Transactions, 69 Fed. Reg. 17,998 (April 6, 2004).

[4] See 62 FR 59,943 (Nov. 5, 1997) and 65 FR 12,320 (Mar. 8, 2000).

[5] See Letter from twenty-four Democratic Congressmen to Chairman Gensler, Chairman Schapiro, and other regulators (“Regulatory certainty is urgently needed in the markets, but it is just as important that the rulemaking process be thorough so that we end up with the right result.”). See also Letter from ranking Senate Committee on Banking, Housing, and Urban Affairs member Shelby and nine other committee members to Chairman Gensler, Chairman Schapiro, and other regulators (February 15, 2011) (expressing concern about the potential economic harm from ill-conceived rules and asking whether additional time would improve the rulemaking process).