

David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
United States
www.cftc.gov

Chris Barnard
Germany

23 September 2011

- **17 CFR Parts 37, 38 and 39**
- **RIN Number 3038-AD60**
- **Swap Transaction Compliance and Implementation Schedule: Clearing and Trade Execution Requirements under Section 2(h) of the CEA**

Dear Mr. Stawick.

Thank you for giving us the opportunity to comment on your notice of proposed rulemaking: Swap Transaction Compliance and Implementation Schedule: Clearing and Trade Execution Requirements under Section 2(h) of the CEA.

You are proposing regulations that would establish a schedule to phase in compliance with certain new statutory provisions enacted under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). These provisions include the clearing requirement under new section 2(h)(1)(A) of the Commodity Exchange Act (CEA), and the trade execution requirement under new section 2(h)(8)(A) of the CEA. The proposed schedules would provide relief in the form of additional time for compliance with these requirements. This relief is intended to facilitate the transition to the new regulatory regime established by Dodd-Frank in an orderly manner that does not unduly disrupt markets and transactions.

I generally support your proposed compliance schedule, which should allow swap entities to transition to the new swaps regime in an orderly manner. I fully agree that the schedule should depend on various factors, especially the entity's experience, resources and the size and complexity of its transactions. To this end I support that an entity's average monthly swap transaction activity is a useful proxy for that entity's ability to comply with the Clearing and Trade Execution Requirements discussed here, rather than notional turnover or open exposure, as the number of swap transactions is a more accurate depiction of actual swap transaction activities.

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

Over time the swaps market will become experienced in the mandatory clearing and trade execution requirements. Therefore I strongly agree with and support that there should be a presumption that the CFTC will rely on the compliance schedule for each mandatory clearing determination that it issues, unless it finds that the compliance schedule is not necessary to achieve the presumed benefits (facilitating the transition to the new regulatory requirement established by Dodd-Frank in an orderly manner that does not unduly disrupt markets and transactions). Given the importance of clearing,¹ we must also consider that Dodd-Frank is hardly a new thing, and entities transacting swaps should be adequately prepared for all of its requirements, and regulations and rules promulgated thereunder. Entities should be presumed to manage own expectations in this regard.

Yours sincerely

Chris Barnard

¹ E.g. see letter from Senators Christopher Dodd and Blanche Lincoln to Representatives Barney Frank and Collin Peterson, dated 30 June 2010: "Congress determined that clearing is at the heart of reform..."