

November 25, 2011

VIA ELECTRONIC MAIL

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

Re: Comments on Proposed Order regarding Effective Date for Swap Regulation

Dear Mr. Stawick:

CME Group Inc. (“CME Group”)¹, on behalf of its four designated contract markets (“Exchanges” or “DCMs”), appreciates the opportunity to provide the Commodity Futures Trading Commission (“CFTC” or “Commission”) with its comments on the Commission’s proposed order (the “Proposed Order”)² regarding the effective dates of various key provisions under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank” or “DFA”). The Proposed Order in almost all material respects is identical to the effective date order currently in place, and in effect, seeks to extend several provisions of that order.

The existing effective date order divides the provisions of Dodd-Frank into four categories. Category 1 provisions, which explicitly require a final rulemaking from the Commission in order to become effective, did not take effect on July 16. Category 2 provisions took effect on July 16, but, to the extent that they relied on Category 1 provisions, have no legal effect. Included in Category 3 are statutory provisions in the existing Commodity Exchange Act (“CEA”) that were repealed on July 16. The provisions in Category 4 took effect on July 16. With the exception of Category 4 provisions, the existing effective date order exempted market participants from compliance with these individual provisions of DFA until the earlier of December 31, 2011 or a final rule implementing such provisions. This sunset provision, as anticipated by

¹ CME Group, the world’s largest and most diverse derivatives marketplace, consists of four separate Exchanges: the Chicago Mercantile Exchange, Inc. (“CME”), the Board of Trade of the City of Chicago, Inc. (“CBOT”), the New York Mercantile Exchange, Inc. (“NYMEX”) and the Commodity Exchange, Inc. (“COMEX”). These Exchanges offer the widest range of benchmark products available across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, metals, agricultural commodities and alternative investment products.

CME also includes CME Clearing, one of the largest central counterparty clearing services in the world, which provides clearing and settlement services for exchange-traded contracts, as well as for over-the-counter derivatives transactions through CME ClearPort®.

The CME Group Exchanges serve the hedging, risk management and trading needs of our global customer base by facilitating transactions through the CME Globex® electronic trading platform, our open outcry trading facilities in New York and Chicago, as well as through privately negotiated transactions.

² 76 Fed. Reg. 35372 (June 17, 2011).

Commissioners Sommers and O'Malia, as well as many commenters, necessitated the Commission's actions with respect to the current Proposed Order because it has not finalized many of the rulemaking needed to obviate another order providing temporary exemptive relief and clarity to market participants regarding their obligations under the CEA.

The Proposed Order makes the same mistake as the existing effective date order in that it contains a sunset provision that expires approximately 7 months after the order would become effective. We agree with Commissioner O'Malia that the sunset provision "will cut the transition period short and so will likely not provide necessary 'relief' to market participants, and (2) it demonstrates the lack of ordering of rulemakings combined with the failure to put forth an implementation schedule." As recommended in our July 1 comment letter on the existing effective date order, CME Group recommends that the Commission delete the sunset provision from any order adopted pursuant to this proposal.

With respect to Category 3 provisions, the Commission extended continued relief to markets and market participants operating pursuant to those statutory provisions in the existing effective date order. To do this, the Commission proposed, and ultimately adopted, an order that provided: (i) transactions or contracts that met Part 35 continued to receive the exemptive relief provided for therein and (ii) temporary exemptive relief to transactions in exempt or excluded commodities (and any person or entity offering or entering into such transactions) from the CEA (other than the anti-fraud and anti-manipulation provisions identified in the existing effective date order) that otherwise complied with Part 35, notwithstanding that:

- the transaction may be executed on a multilateral transaction execution facility;
- the transaction may be cleared;
- persons offering or entering into the transaction may be eligible contract participants ("ECPs") as defined in the CEA prior to July 16;
- the transaction may be part of a fungible class of agreements that are standardized as to their material economic terms; and/or
- no more than one of the parties to the transaction is entering into the transaction in conjunction with its line of business, but is neither an ECP nor an eligible swap participant ("ESP"), and the transaction was not and is not marketed to the public.

Because Part 35 will be repealed after December 31, 2011, the Commission is now proposing to provide temporary exemptive relief to any transactions, contracts or agreements that meet Part 35 as in effect on December 31, 2011. The Commission also is proposing to extend this portion of the exemptive relief "to include, beginning on January 1, 2012, transactions in agricultural commodities that fully meet the condition in part 35 as in effect on December 31, 2011." It is not clear, however, whether this aspect of the Commission's Proposed Order applies only to agricultural swaps that meet Part 35 as in effect December 31, 2011 or whether it extends to include agricultural swaps that meet Part 35 as in effect December 31, 2011 notwithstanding that:

- the transaction may be executed on a multilateral transaction execution facility;
- the transaction may be cleared;
- persons offering or entering into the transaction may be eligible contract participants ("ECPs") as defined in the CEA prior to July 16;
- the transaction may be part of a fungible class of agreements that are standardized as to their material economic terms; and/or

- no more than one of the parties to the transaction is entering into the transaction in conjunction with its line of business, but is neither an ECP nor an eligible swap participant ("ESP"), and the transaction was not and is not marketed to the public.

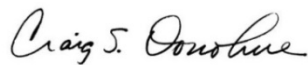
We believe the latter is consistent with new Commission regulation § 35.1 (and statements made by the Commission discussed below), and should be clarified in any order adopted by the Commission.

Finally, the Proposed Order purports to clarify in two footnotes aspects of the existing effective date order as it relates to agricultural swaps. First, the Commission states that it is clarifying that new regulation § 35.1 – effective January 1, 2012 – allows agricultural swaps to “transact subject to the laws and rules applicable to all other swaps” including “to the same extent that all other swaps are allowed to trade on DCMs, SEFs, or otherwise.” Today, all swaps, except agricultural swaps, may trade on DCMs, OTC or on an EBOT (for excluded commodities) or an ECM (for exempt commodities). Therefore, pursuant to the Proposed Order and new regulation § 35.1, like swaps based on exempt and excluded commodities, starting on January 1, 2012, swaps based on agricultural commodities may trade on either a DCM or ECM/EBOT (until such time as SEF status is available). The Commission should make this clear in the text of any order it issues pursuant to this proposal.

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CME Group thanks the Commission for the opportunity to comment on this matter. We would be happy to discuss any of these issues with Commission staff. If you have any comments or questions, please feel free to contact me at (312) 930-8275 or Craig.Donohue@cmegroup.com, or Christal Lint, Director, Associate General Counsel at (312) 930-4527 or Christal.Lint@cmegroup.com.

Sincerely,



Craig S. Donohue

cc: Chairman Gary Gensler
Commissioner Bart Chilton
Commissioner Jill Sommers
Commissioner Scott O'Malia
Commissioner Mark Wetjen