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- Comment for CFTC Public Roundtable Discussion on the "Futurization of Swaps"

Dear Ms. Jurgens.

Thank you for giving us the opportunity to provide comments for your CFTC Public Roundtable Discussion on the "Futurization of Swaps".

The Dodd-Frank Act amended the Commodity Exchange Act to establish a comprehensive regulatory framework to reduce risk, increase transparency and promote market integrity within the financial system by: providing for the registration and comprehensive regulation of swap dealers and major swap participants; imposing specific clearing and trade execution requirements on standardized derivative products; and creating rigorous recordkeeping and real-time reporting regimes. These benefits are being eroded by the futurization of swaps.

The futurization of swaps is already occurring,[1] and will accelerate in the coming months. The key issue here is not innovation, but rather regulatory arbitrage. Futures markets are less rigorously regulated compared with the swaps market, post Dodd-Frank. In particular: margin requirements for futures are generally lower than for swaps; pre-trade transparency on futures is lower than on swaps; and post-trade transparency on futures is lower than on swaps. This provides a strong incentive to futurize swaps.

[1] IntercontinentalExchange and the CME Group have already transitioned certain swaps to futures. See for example: http://ir.theice.com/releasedetail.cfm?ReleaseID=696379; http://ir.theice.com/releasedetail.cfm?ReleaseID=704089; http://ir.theice.com/releasedetail.cfm?ReleaseID=713717; https://www.theice.com/s2f_products.jhtml; and http://cmegroup.mediaroom.com/2012-09-18-CME-Group-to-Launch-Deliverable-Interest-Rate-Swap-Futures?pagetemplate=article

According to the CME News Release, their new Interest Rate Swap Futures product "has the same economic exposure as an interest rate swap, the margin and liquidity benefits of a futures contract, and at expiration all open positions will deliver into a CME Cleared Interest Rate Swap".[2] This wording clearly indicates that regulatory arbitrage is the key driver of this futurization of swaps.

I always support substance over form; if one particular product replicates the economic and risk profile of another product, then the two products should ideally be regulated in the same manner (level playing field). However the legal form, if the futurization of swaps effectively transitions economically equivalent products and contracts out of the swaps regulatory environment and into a different futures regulatory environment, then we do not, by definition, have a level playing field. I would urge the Commodities Futures Trading Commission to consider this issue, and in particular the following critical aspects of the futurization of swaps:

- ownership of and responsibility for the manufacturing, distribution, administration and reporting chain of futures compared with swaps;
- differing margin and capital requirements for the derivatives' entities;
- pre-trade and post-trade transparency.

We have to ensure a level playing field in regulation between futures markets and the swaps market. This will ensure that innovations in these markets are genuine, rather than just regulatory arbitrage.

Yours sincerely

C.R.B.

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[2] Ibid.