Eaton Vance
Investment Managers

November 25, 2013

Via Electronic Submission: http://comments.cftc.gov

Ms. Melissa Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Comments on Certification from Javelin SEF, LLC to Implement Available-to-Trade Determinations for Certain Interest Rate Swaps (IF 13-004)

Dear Ms. Jurgens:

Eaton Vance Management ("EVM")[1] is submitting this letter in response to the U.S. Commodity Futures Trading Commission's (the "Commission") request for comment on the revised submission from Javelin SEF, LLC regarding the *Javelin Determination of Made Available to Trade of certain Interest Rate Swaps made Pursuant to Parts 37 of the Rules of the Commodity Futures Trading Commission (Submission No. 13-06R)* dated October 31, 2013 ("Javelin Submission") pursuant to Commission regulation 40.6(c)(2).

EVM requests that based on the novel and complex issues related to made available-to-trade ("MAT") determinations raised in the Javelin Submission and identified below that it should be stayed by the Commission pursuant to Section 5c(c) of the Commodity Exchange Act (the "Act") and Commission regulations 40.6(c) and 40.7(a)(2)(iii). EVM believes that after the Commission's further review and analysis it will likely object to the novel "Classification by Maturity Bucket"[2] approach described in the Javelin Submission on the grounds that it is inconsistent with the goals of the Act and the Commission's regulations thereunder.

The Javelin Submission asserts that Classification by Maturity Bucket is an acceptable approach because the "liquidity characteristics of one swap or basket of swaps is transitive and generally carries to all other swaps that may be accurately replicated by use of such hedge

1 EVM is a subsidiary of Eaton Vance Corp. (NYSE: EV) ("EVC"), which is one of the oldest investment management firms in the United States, with a history dating back to 1924. EVM and its affiliates managed $273.1 billion in assets as of September 30, 2013, offering individuals and institutions a broad array of investment strategies and wealth management solutions. EVC conducts its investment management activities primarily through two subsidiaries, EVM and Boston Management and Research, which provide investment advisory and/or administration services to various Eaton Vance clients, including registered investment companies. EVM is registered as a commodity pool operator and commodity trading advisor with the National Futures Association.

2 *See* page 13 of Javelin Submission.

swaps." EVM respectfully disagrees with this assertion because the proposed approach essentially allows for interest rate swaps with different maturities to be deemed "economically equivalent." This is a subjective concept and one the Commission determined not to embrace when it declined to adopt the economically equivalent requirement in its June 4, 2013 Final Rule[3] because "the factors that could be considered may vary across different asset classes and products, the Commission recognizes the complexity of determining economic equivalence between swaps." The Commission further stated that based on comments it received on the Proposed Rule[4] that it had "determined that it is not feasible, for purposes of determining which swaps are available to trade, to define 'economic equivalent' with sufficient precision and clarity." Consistent with the arguments set forth in its February 17, 2012 comment letter related to the Proposed Rule, EVM continues to believe that an initial MAT determination should not be based on an economically equivalent swap given, among other things, the uncertain liquidity of such swap ("EVM Comment Letter"). The primary assertion made in the Javelin Submission is that trades with different maturities and coupons which fall within the same maturity bucket are equally liquid (*i.e.,* effectively "economically equivalent"). EVM believes that this may be an appropriate approach for dealers to hedge risk, but is not for a buy-side market participant because such trades are not offsetable.

The Javelin Submission focuses on sell-side participants where it only discusses how the "dealers" use swaps based on varying maturities to manage risk.[5] It asserts that all swaps that fall within a maturity range, regardless of maturity date and coupon, are essentially economically equivalent because dealers may choose standardized swaps to hedge non-standardized swaps. This may be true for dealers who use swaps to manage risk; however, this is not generally true for buy-side participants. The buy-side generally close swap positions by executing offsetting positions that terminate both trades and eliminate the line items in their portfolio. Therefore, they would not trade a 3 year and 4 year swap to offset a 3.6 year swap because these trades do not offset. As noted above, the Final Rule neither accommodates nor defines the "economically equivalent" concept. As such, EVM believes that unless the proposed swaps are fungible and mutually offsetting they are economically different for execution and should not be MAT.[6]

EVM believes interest rate swaps with the same coupon and maturity or those with whole year maturities (*e.g.,* 2 year, 3 year, 4 year, 5 year) ("Standardized Swaps") described in the Javelin Submission are not economically equivalent to non-standard swaps and therefore do not satisfy any of the six factors delineated in Sections 37.10(b) and 38.12(b) of the Act, for the following reasons:

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3 *See* Process for a Designated Contract Market or Swap Execution Facility To Make a Swap Available to Trade, Swap Transaction Compliance and Implementation Schedule, and Trade Execution Requirement Under the Commodity Exchange Act, 17 CFR Parts 37 and 38 (June 4, 2013). The Commission defined "economically equivalent swap" under proposed §§ 37.10(c)(2) and 38.12(c)(2) as a swap that the swap execution facility ("SEF") determines to be economically equivalent with another swap after consideration of each swap's material pricing terms.

4 *See* Process for a Designated Contract Market or Swap Execution Facility To Make a Swap Available To Trade, 76 FR 77728 (December 14, 2011).

5 *See* page 13 of Javelin Submission.

6 The EVM Comment Letter raised the same concerns.

1) Whether there are ready and willing buyers and sellers

Standardized Swaps have ready and willing buyers and sellers along with frequent trades and large numbers of market participants. The Javelin Submission references data on the volumes available.[7] The volume levels show a very liquid market; however, swaps that are non-standardized do not have ready and willing buyers and sellers. The reason for this is that there are more than 7,500 possible maturity dates going out to 30 years and an infinite number of coupons available. The vast number of different possible combinations is not easily fungible because they must have the same maturity and coupon to be offset. There are simply too many possible combinations of swaps for market participants to be monitoring every non-standardized swap. Therefore, it cannot be determined with any degree of certainty that these non-standard swaps have ready and willing buyers and sellers for every maturity date because of the number of possible variables.

2) The frequency or size of transactions and 3) trading volume

As swaps with the same whole year maturity are traded throughout the day they will often have different coupons because of market fluctuation. Once a swap is purchased by a buy-side market participant it can be difficult to match an offsetting trade with that swap because the offset requires the same coupon and maturity. An offset becomes more difficult when the swaps have non-whole year maturities. This mismatch causes such swaps to trade less frequently because of the number of possible maturity/coupon combinations and the minimal number of buy-side participants who have that same trade to offset. The number of possible combinations of swap maturity dates and coupons reduces the frequency of a specific non-standard swap trade and therefore also reduces the trade volume. A dealer may not be impacted by this lack of frequency and volume because the dealer may be able to bucket the swaps by a range of maturities; however, such lack of frequency and volume significantly impacts a buy-side participant's ability to off-set a trade.

4) The number and types of market participants

There is a wide range of market participants for Standardized Swaps. The market participants for non-standard swaps are fragmented due to the lack of fungibility of their positions. EVM believes this fragmentation dilutes the benefits from the depth of market participants in Standardized Swaps as well as reduces liquidity in non-standard swaps.

5) The bid/ask spread or 6) the usual number of resting firm or indicative bids and offers

Non-standard swaps also have wider bid/offers and will rarely have executable level quotes or indicative levels for bids. The wider bid/offers for these swaps are a function of the market indicating the difficulty for these trades to be offset as compared with Standardized Swaps that dealers use to hedge risk.[8] The Javelin Submission acknowledges this issue. These types of trades will also rarely have executable level quotes or indicative levels because there is usually limited daily trading on swaps that have too many combinations of maturity dates and prices.

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[7] *See* page 8 of Javelin Submission.

[8] *See* page 13 of Javelin Submission.

Based on the forgoing factors, EVM believes the Javelin Submission should not be permitted to rely on a subjective and novel Classification by Maturity Basket approach based on assertions of economic equivalence and should be limited to Standardized Swaps.

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EVM appreciates the opportunity to comment on the Javelin Submission. If you have any questions or wish to discuss the above comments further, please feel free to contact me at 617-482-8260.

Sincerely,

Payson F. Swaffield, CFA
Chief Income Investment Officer