



September 14, 2011

By electronic submission to www.cftc.gov

David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties, RIN 3038-AD25, 75 Fed Reg. 80638 (Dec. 22, 2010);

Regulations Establishing and Governing the Duties of Swap Dealers and Major Swap Participants, RIN 3038-AC96, 75 Fed. Reg. 71397 (Nov. 23, 2010);

Implementation of Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants, RIN 3038-AC96, 75 Fed. Reg. 71391 (Nov. 23, 2010); and

Designation of a Chief Compliance Officer; Required Compliance Policies; and Annual Report of a Futures Commission Merchant, Swap Dealer, or Major Swap Participant, RIN 3038-AC96, 75 Fed. Reg. 70881 (Nov. 19, 2010).

Dear Mr. Stawick:

The Futures Industry Association (“FIA”), the International Swaps and Derivatives Association, Inc. (“ISDA”) and the Securities Industry and Financial Markets Association (“SIFMA”) (together with FIA and ISDA, the “Associations”)¹ submit this letter to the Commodity Futures Trading Commission (the “CFTC”) with respect to the captioned proposed rulemakings (the “CFTC Proposals”). We are submitting these comments to supplement our earlier comment letters² regarding the captioned rule proposals and to urge the CFTC in the

¹ For background on the Associations, please consult the attached Appendix.

² Letter from Kenneth E. Bentsen, Executive Vice President, SIFMA, and Robert G. Pickel, Executive Vice Chairman, ISDA, to David A. Stawick, Secretary, CFTC (Feb. 17, 2011) (regarding external business conduct standards for swap dealers and major swap participants); Letters from John M. Damgard, President, FIA, and Kenneth E. Bentsen, Executive Vice President, SIFMA, to David A. Stawick, Secretary, CFTC (Jan. 18, 2011 & June 3, 2011) (regarding chief compliance officer requirements); Letter from Kenneth E. Bentsen, Executive Vice President, SIFMA to David A. Stawick, Secretary, CFTC (Jan. 24, 2011) (regarding duties of swap dealers and major swap participants); Letter from John M. Damgard, President, FIA, Robert G. Pickel, Executive Vice Chairman,

(footnote continued on next page)

strongest possible terms to work closely with the Securities and Exchange Commission (the “SEC”) (together with the CFTC, the “Commissions”) to harmonize the Commissions’ rules relating to the external and internal business conduct standards, including the chief compliance officer requirements, applicable to swap dealers, major swap participants, security-based swap dealers and major security-based swap participants under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”). Efforts to date by the Commissions to develop consistent rule proposals in these areas have not succeeded in producing harmonized results.

As the CFTC is aware, Congress sought to assure through Section 712(a) of Dodd-Frank that the Commissions adopt comparable and consistent regulations. In addition to this provision of Dodd-Frank, the President’s Financial Services Task Force similarly required the two agencies to provide a report on how to harmonize the regulation of the securities and futures markets to the greatest extent possible.³ Clearly, Congress did not intend for its allocation of jurisdiction between the Commissions to result in inconsistent or conflicting requirements that would produce substantially different results and increase the costs to market participants of implementing the measures necessary to comply with the Act. Significantly, from a cost-benefit perspective, consistent requirements will have the additional benefit of facilitating more efficient examination and supervision by the Commissions.

In these particular areas, there is little to no basis for the Commissions’ regulations to vary significantly, if at all: the relevant provisions of Dodd-Frank (Sections 731 and 764) are substantially identical, many of the products being regulated (*e.g.*, broad-based index and single-name credit default swaps and total rate of return swaps) are similar in all material respects and most of the affected market participants will be dual registrants subject to both Commissions’ business conduct standards.

As a practical matter, dual registrants will be compelled to comply with the stricter of the Commissions’ rules (where compatible), while compliance will be impractical or impossible for such registrants if the Commissions’ rules are inconsistent or conflicting. As a result, variations would impose costs, perhaps significant, without any discernible benefits. The CFTC should bear in mind that most if not nearly all security-based swap dealers will be dual registrants as a result of the allocation of jurisdiction between the Commissions with respect to swaps referencing securities. Many futures commission merchants that would be subject to the CFTC’s proposed chief compliance officer requirements are also broker-dealers subject to compliance obligations under self-regulatory organization rules that are inconsistent with the CFTC’s proposal.

(footnote continued from previous page)

ISDA, and Kenneth E. Bentsen, Executive Vice President, SIFMA, to David A. Stawick, Secretary, CFTC (Jan. 18, 2011) (regarding conflicts of interest requirements).

³ See Joint Report of the SEC and the CFTC on Harmonization of Regulation (Oct. 16, 2009). The fact that the relevant provisions are certified in separate sections of Title VII itself provides no basis for the adoption of substantially different rules. Most of the requirements required to be harmonized under Dodd-Frank are certified in this manner.

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We believe the SEC's relatively more recent proposed rules on business conduct standards (the "SEC Proposal") benefitted significantly from the public comment process following the release of the CFTC Proposals and, as a result, the SEC Proposal avoids many of the likely unintended consequences observed by commenters with respect to the CFTC Proposals. The SEC Proposal is also, in our view, generally consistent with the legislative intent of Sections 731 and 764 of Dodd-Frank, which as noted above are substantially identical.

As we noted in our earlier comment letter, we believe the CFTC has significantly underestimated the costs and misapprehended the adverse unintended consequences to which the CFTC Proposals would give rise. As a result, we believe the CFTC should take steps to avoid these potential effects. If the CFTC should at any time determine that post-adoption events warrant additional regulatory measures, it will have every opportunity to adopt such further measures as it determines to be warranted based on, and with the benefit of, its actual experience.

Accordingly, we respectfully request that the CFTC, as it moves toward the adoption of final business conduct standards, redouble its efforts to harmonize its rules with the SEC Proposal to as great an extent as possible. In order to facilitate that objective, we have attached for your convenience a copy of our earlier comment letter on the SEC Proposal as well as several of our previously submitted letters on the above-captioned CFTC Proposals. If you have any questions, please do not hesitate to contact the undersigned or our staff.

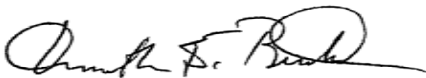
Respectfully submitted,



John M. Damgard
President
FIA



Robert Pickel
Executive Vice Chairman
ISDA



Kenneth E. Bentsen, Jr.
Executive Vice President
Public Policy and Advocacy
SIFMA

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cc: Honorable Gary Gensler, Chairman
Honorable Michael Dunn, Commissioner
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott O'Malia, Commissioner

Phyllis Cela, Chief Counsel, Division of Enforcement
Commodity Futures Trading Commission

Enclosure

Appendix: The Associations

The **Futures Industry Association** is the leading trade organization for the futures, options and OTC cleared derivatives markets. It is the only association representative of all organizations that have an interest in the listed derivatives markets. Its membership includes the world's largest derivatives clearing firms as well as leading derivatives exchanges from more than 20 countries. As the principal members of the derivatives clearinghouses, our member firms play a critical role in the reduction of systemic risk in the financial markets. They provide the majority of the funds that support these clearinghouses and commit a substantial amount of their own capital to guarantee customer transactions. FIA's core constituency consists of futures commission merchants, and the primary focus of the association is the global use of exchanges, trading systems and clearinghouses for derivatives transactions. FIA's regular members, who act as the majority clearing members of the U.S. exchanges, handle more than 90% of the customer funds held for trading on U.S. futures exchanges.

The **International Swaps and Derivatives Association** is the largest global financial trade association, by number of member firms. ISDA was chartered in 1985, and today has over 800 member institutions from 56 countries on six continents. These members include most of the world's institutions that deal in privately negotiated derivatives, as well as many of the businesses, governmental entities and other end users that rely on over-the-counter ("OTC") derivatives to manage efficiently the financial market risks inherent in their core economic activities.

The **Securities Industry and Financial Markets Association** brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit www.sifma.org.