

MEMO# 25574

October 21, 2011

Draft Comment Letter on Proposed CFTC Swaps Implementation Schedules; Comments Requested by October 27th

[25574]

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TO: DERIVATIVES MARKETS ADVISORY COMMITTEE No. 40-11
SEC RULES COMMITTEE No. 88-11 RE: DRAFT COMMENT LETTER ON PROPOSED CFTC
SWAPS IMPLEMENTATION SCHEDULES; COMMENTS REQUESTED BY OCTOBER 27

The Commodity Futures Trading Commission (“CFTC”) recently proposed two implementation schedules to phase in compliance with many of the Dodd-Frank Act requirements for swap transactions – one for the clearing and trade execution requirements and one for the trading documentation and margining requirements (together, “schedules”). [\[*\]](#) Comments on the schedules are due to the CFTC no later than November 4, 2011.

Our draft comment letter on the schedules is attached. The letter explains that ICI strongly supports the Commission’s phased in approach to implementation with the new rules and appreciates the Commission’s efforts to address issues raised by the Institute in its prior letter to the Commission regarding the process of finalizing and implementing such rules. It expresses ICI’s concerns, however, that the proposed schedules for phasing in compliance with the rules significantly underestimate the time needed for the swap market to transition to the new framework and for the transition to take place in an orderly manner that provides market participants with a level playing field and minimizes disruption to the marketplace.

The letter explains that, to ensure a smooth, efficient, and effective transformation of the swaps markets, the Commission should provide a transition period of 18 to 24 months following adoption of final rules. It further explains that rules should not be finalized until such time as the Commission has adequate data to inform its rulemaking and understand the economic effects associated with the unique attributes of a particular swap. Only then can the Commission, for example, make an educated determination to require mandatory clearing and therefore exchange trading (if available) having appropriately weighed related costs and benefits.

In addition, the letter seeks clarification from the Commission on a number of issues related

to the proposed schedules, including the interaction of the proposed time frames with the definition of major swap participant, the interaction of the trading documentation requirements with the mandatory clearing requirements, and the scope of the definition of third-party subaccount.

Please provide all comments on the draft letter to me, preferably in writing, (sarah.bessin@ici.org) by Thursday, October 27.

Sarah A. Bessin
Senior Counsel

[Attachment](#)

endnotes

[*] See ICI Memorandum No. 25505 (Sept. 20, 2011), available at http://www.ici.org/my_ici/memorandum/memo25505.

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