

SWAPS AND DERIVATIVES MARKET ASSOCIATION

June 17, 2010

RE: Increased Risk from Restrictions on Open Access to Clearing Houses and Closed Clearing House Governance

Dear Chairman Dodd:

The Swaps and Derivatives Market Association (SDMA) is a financial markets trade group comprised of more than 20 U.S.-based broker-dealers and futures commission merchants participating in all segments of the exchange-traded and over-the-counter derivative and securities markets.

The SDMA is concerned that the current financial reform bill may not fully protect the American taxpayer from another trillion dollar bailout to Wall Street.

Specifically, to ensure that the current systemic risk inherent in the credit default swap and interest swap markets is sufficiently mitigated by central clearing, the Conference must take bold steps to ensure that there is transparent, open and unfettered access to the clearing houses for all market dealers, clearing brokers and investors.

For central clearing houses to bring the desired level of safety and to avoid another crisis, the financial reform bill should ensure:

➤ Open Access at All Levels to Clearing

Current clearing house rules and ownership structures limit access only to those select financial institutions who offer both clearing and market making services and who also meet subjective sophistication requirements. Such requirements are decided by these incumbent firms who now act as gatekeepers to clearing.

Well-capitalized and independent clearing firms and dealers are denied access through these transparent efforts by an incumbent dealer group to protect their market share.

Open access, on the other hand, promotes clearing and reduces systemic risk inherent in these bilateral derivative contracts. Broad participation in clearing of these derivatives also distributes the risk over a well diversified number of market firms. Importantly, a greater number of dealers also ensures increased and broader liquidity, which is much needed in times of market crisis.

➤ Independence of Governance

The current closed governance and control mechanism at the clearinghouses is dangerous to the U.S. financial system and must be addressed.

The SDMA recommends that there be open, diverse and inclusive representation on clearing house boards and other committees which are responsible for all material issues, including access to clearing. Independent governance reduces the potential conflict of interest that arises when a small group of market incumbents seek to protect their own market share by making the rules and deciding access.

➤ Limitations of Ownership By Consortiums

At a global level, incumbent dealers of OTC derivatives have over time sought to control execution, data distribution and market protocol through various consortium initiatives. They now seek to control clearing in a similar way.

The SDMA recommends that such organized attempts to control, and indeed to own, any clearing house be limited by Congress. Clearing houses, although private enterprises, provide a critical role to the success of systemic risk limitation and thus the broader economy. Because of this, the Conference should take steps to limit any efforts of an incumbent dealer consortium to control or maintain a disproportionate ownership interest in a clearing house.

To ensure the success of central clearing is to considerably mitigate and proactively manage the systemic risk inherent in today's bilateral credit default and interest rate swap marketplace. Yet the success of clearing can only be assured if there is broad market participation of the many, not the few, clearing firms, dealers and end users. Through broad participation, the OTC derivative marketplace will experience greater stability, transparency, enhanced liquidity, reduced transaction costs and growth.

The SDMA is willing to answer any questions you may have as we all seek to advance the goal of open access to derivatives clearing. Please contact Mike Hisler, SDMA Spokesperson, at (212) 572-9041 for questions or further discussion. For your convenience, a copy of the paper *Lessening Systemic Risk: Removing Final Hurdles to Clearing OTC Derivatives* is also attached.

Sincerely,

The Swaps and Derivatives Market Association