



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Chairman

Timothy G. Massad
Chairman

August 6, 2015

ELECTRONIC MAIL

The Honorable Elizabeth Warren
Ranking Member
Subcommittee on Economic Policy
Committee on Banking, Housing,
and Urban Affairs
U.S. Senate

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
U.S. House of Representatives

Dear Senator Warren and Representative Cummings:

Thank you for your letter of July 16 regarding Section 716 ("716") of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") and the impact of its partial repeal. The issues you have raised are very important.

As you know, although the Dodd-Frank Act gave the Commodity Futures Trading Commission ("CFTC") primary responsibility for oversight of the swaps market, the enforcement of Section 716 and the defining of terms used to enforce the provision largely belong to the prudential regulators.

You asked specifically about the definitions of the terms "hedging", and "risk management purposes" that would have been used to determine which swaps trades could have been made by the bank under Section 716. For purposes of Section 716, defining these terms would be a responsibility of the prudential regulators. We therefore cannot calculate the value of swaps held by U.S. banks for each purpose or that would have been required to be moved out of the banks. The same limitation is true for "structured finance swap." We will, of course, be happy to provide the banking regulators any information we have that is useful to them.

Since the CFTC is not the implementing or enforcing agency for Section 716, we have not received applications pertaining to Section 716 nor have we made assessments regarding its impact.

You also asked about the impact on the implementation of 23A and 23B of the Federal Reserve Act and the upcoming rules on margin. The extent to which banks are required to pay or collect margin on swaps that are not held with a clearing organization is under the jurisdiction of the prudential regulators. We therefore will again defer to the prudential regulators for determinations on the appropriate structure of margin rules on such swaps.

Let me assure you that, regardless of where the swap activity resides within an organization, we will continue to apply our rules across the markets and work with the other regulators to ensure that we achieve the goals of Title VII of the Dodd-Frank Act. Our rules on mandatory clearing and trading and most other requirements apply to swap dealers whether they are banks, bank affiliates or other entities. While we already have achieved much greater transparency in these markets, we will continue to work to improve the information available to the regulators and the public wherever possible.

If you have any questions about these issues, please do not hesitate to contact me or Cory Claussen, Director of Legislative Affairs at 202-418-5383 and we will see that your inquiry is promptly answered.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy J. Ryan". The signature is fluid and cursive, with the first name "Timothy" being the most prominent part.