



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organização Internacional das Comissões de Valores
Organización Internacional de Comisiones de Valores

9 April 2014

The Hon. Mark P. Wetjen
Acting Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Chairman Wetjen,

**Impact of the Core Principles and Other Requirements for Swap Execution Facilities
(the SEF Rule) on Asia Pacific OTC Derivatives Markets**

We wish to inform you that the Asia Pacific Regional Committee (APRC) of the International Organization of Securities Commissions (IOSCO) would like to express our concerns to the Commodity Futures Trading Commission (the Commission) with respect to the above matter.

At the APRC meeting held in January 2014, capital market regulators from the Asia Pacific region discussed the extraterritorial reach and implications of footnote 88 of the SEF Rule. As we understand it, footnote 88 requires that any entity providing a platform which facilitates the execution or trading of swaps by a US person on a multiple-to-multiple basis must register and operate as a swap execution facility (SEF), even if the platform only executes or trades swaps which are not subject to the trade execution mandate.

While we appreciate that the Commission seeks to promote market stability and transparency through the SEF Rule and the recent trade execution mandate, these reforms appear to have caused market disruptions. As a general observation, a number of non-US platforms apparently have difficulty in ascertaining which clients qualify as US persons, and some have refrained from providing services to US participants.

More specifically, it appears that liquidity has been fragmented between US persons who are required to trade on SEFs, and non-US persons who are not required and prefer not to trade on SEFs. This may lead to different prices for similar transactions, resulting in less efficient markets. We are also concerned about the potential competition between SEFs and non-SEF

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platforms in the longer term, which may create an unfair advantage in market share for the former due to the wider range of products allowed to be traded on them.

In this regard, we strongly urge the CFTC (i) to exercise flexibility in its approach to SEF's registration requirements, (ii) to defer such requirements until such time swap trading on these non-US platforms are subject to the CFTC trading mandate, and (iii) to provide an exemption to non-US platforms if they are subject to comparable, comprehensive regulation and supervision under their home countries' regimes. This approach would serve to reduce market disruption, facilitate market readiness, and at the same time, will not detract from CFTC's commitment to the trade execution mandate.

We further support the collaborative approach adopted by the Commission in the July 2013 Path Forward Statement and the continued progress made with the European Commission this February. We share the view that regulators should defer to each other where the quality of their respective regulations and enforcement regimes achieve similar regulatory outcomes. We strongly support the CFTC's proposed development of rules to set out a process under section 5h(g) of the Commodity Exchange Act for foreign-based swap trading platforms to seek appropriate regulatory treatment under the U.S. law that recognises equivalent foreign requirements. We would encourage the Commission to continue to take constructive steps to foster regulatory coordination and cooperation with APCR members, so that market disruptions and any potential duplicative and conflicting requirements on cross-border activities may be addressed appropriately to ensure market stability.

To build on the strong spirit of cooperation and our shared objective of continued development and prosperity in both US and Asia Pacific markets, we look forward to your response or having a further discussion on the issues outlined above.

Yours sincerely,

Ashley Alder
Chairman

IOSCO Asia Pacific Regional Committee

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