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American Conference Institute's National Advanced Summit on



SWAPS & DERIVATIVES GLOBAL MARKETS REGULATION

Compliance, Regulatory Enforcement & Cross-Border Harmonization

June 29–30, 2015 + The Carlton Hotel on Madison Avenue + New York, NY

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A unique opportunity to learn
from speakers at CFTC, DOJ and
others. Featuring insights from:

Petal Walker

Chief Counsel for Commissioner
Bowen
U.S. Commodity Futures Trading
Commission

Christopher Ehrman

Director, Whistleblower Office
U.S. Commodity Futures Trading
Commission

Rick Glaser

Deputy Director, Division of
Enforcement
U.S. Commodity Futures Trading
Commission

Elise Pallais

Attorney Advisor
Office of the General Counsel,
U.S. Commodity Futures Trading
Commission

Benjamin D. Singer

Deputy Chief
U.S. Department of Justice
Criminal Division, Fraud Section

Richard Hayes

Deputy Chief, Civil Division
U.S. Attorney's Office,
Eastern District of New York
U.S. Department of Justice

Michael S. Nelson

Senior Vice President, Legal Group
Federal Reserve Bank of New York

Sessions include:

- + **Global market and cross-border harmonization:** synergizing US and European laws and regulation in the derivative market
- + **Over the counter margins on uncleared swaps:** high risk exposure and collateral for transactions
- + The CFTC's rule on **position limits and number of trades allowed in a single day** to effectively reduce speculation and decrease volatility
- + Using **central clearing houses** as a way to reduce systemic risk for certain transactions
- + **Physical forward contracts with embedded volumetric optionality excluded as swaps**
- + **Swap execution facilities:** permanent registration, mandatory clearing, and organization issues
- + Impact of **Volcker rule: implementation, prohibitions, and restrictions on proprietary trading**
- + **Chief compliance officer:** identifying the proper role and establishing a successful compliance program at FCMs, broker-dealers, swap dealers, DCMs, and DCOs
- + **CFTC's reporting requirements on larger trades,** understanding its implications and how to comply
- + Enforcement actions: **spoofing, disruptive trading practices, CFTC's anti-evasion rule,** and more
- + **Central banks: foreign exchange, foreign currency trading, and benchmarking currency**

Be sure to also book for the benchmarking workshop:

Documentation for OTC Swaps and Derivatives

Tuesday, June 30, 2015 | 1:45 p.m. to 4:45 p.m.

Learn from and meet:

Waqas Fahmawi

Fixed Income Derivatives Attorney
Bank of America

David Boyd Booker

Director & Senior Counsel
Crédit Agricole Corporate &
Investment Bank

Angana ("Mimi") Sengupta

VP & Counsel Legal & Compliance
Credit Suisse Securities (USA) LLC

Michael A. Piracci

Director | PCB Compliance
BARCLAYS

Bruce Fekrat

Group Exec. Dir & Associate GC
CME Group

Herbert Thornhill

Assistant General Counsel
NRG Energy

Laura Engelhardt

Vice President
Goldman, Sachs & Co.

Jamila Piracci

National Futures Association

David Buchalter

Managing Director, Senior
Managing Counsel
BNY Mellon

Sidney Vidaver

Director, Commodities Compliance
TD Securities (USA) LLC

Jason Silverstein

Exec. Dir. & Associate GC
CME Group

Led by faculty from CFTC, DOJ, Federal Reserve, National Futures Association, top financial institutions and outside attorneys who are tuned into the recent changes, this is the highest level Derivatives Summit out there that will shape the future of global swaps strategies in an evolving legal and regulatory regime.

Dodd-Frank has had a profound effect on virtually all aspects of the derivatives marketplace requiring most derivative contracts to be traded on a public exchange and to be processed, or cleared, through a third party to guarantee payment if one of the parties to a trade went out of business.

A couple of years into the implementation of the DFA, and with the recent CFTC and EC's announcements regarding their **cross-border approach**, advent of Swap Execution Facilities, futurization of the swap markets, among others, top industry experts will come together to discuss what kind of impact DFA has had so far, what that really means for the industry, and what the market model will look like going forward.

Simply stated, banks, issuers, hedge funds who trade commodities, investment management banks, broker-dealers,

and mutual funds are under scrutiny like never before. ACI's timely forum on **Swaps and Derivatives Global Markets Regulation** will help you lower your systemic risk. As faculty, it features leaders in the field, including the **CFTC, DOJ, Federal Reserve Bank**, and the **NFA**, and in-house insights from **Bank of America, Crédit Agricole Corporate & Investment Bank, Barclays, CME, NRG, Goldman Sachs & Co., BNY Mellon, TD Securities (USA) LLC**, and many more.

With all of the recent changes, you cannot afford to miss this event, which will provide even the most seasoned professionals with the most cutting edge comprehensive review of the industry. Do not miss the opportunity to learn from and network with top experts and gain the most up-to-date information and analysis on the current regulatory landscape.

Be sure to also book for the benchmarking workshop:

Documentation for OTC Swaps and Derivatives

Tuesday, June 30, 2015 | 1:45 p.m. to 4:45 p.m.

Who You Will Meet

- ✓ Risk Managers
- ✓ Asset Fund Managers
- ✓ Operations Managers
- ✓ Financial Officers
- ✓ Compliance Officers
- ✓ Auditors
- ✓ Private Practice Attorneys
- ✓ ISDA[®] Negotiators
- ✓ Legal Counsel

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Continuing Professional Education Credits



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Course objective: The legal and compliance environment of Swaps & Derivatives and their relationship to the business of financial institutions. (16.0 hours for conference; 3.5 hours for workshop)

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7:30 Continental Breakfast & Registration

8:00 **Chairs' Welcoming Remarks**

Willa Cohen Bruckner
Partner
Alston & Bird LLP

John Servidio
Partner
McGuireWoods LLP

8:05 **State of the Market: Reviewing the Impact of Dodd-Frank on the Derivatives Market to Date**

Jennifer Oosterbaan
Legal Counsel
TMX Group

Daniel Waldman
Partner
Arnold & Porter LLP

Susan C. Ervin
Counsel
Davis Polk & Wardwell LLP

Matthew A. Magidson
Partner
Lowenstein Sandler LLP

Rita M. Molesworth
Partner
Willkie Farr & Gallagher LLP

- Regulatory initiatives, rule-makings, interpretations, enforcement actions during the past year and possible agenda items for the next year
- What is the DFA's impact on hedge funds, collective investment vehicles, banks, and end-users to date?
- What are the issues that have developed since the implementation of the clearing and reporting rules?
- How are business practices adjusting to the changes?
- The interplay between regulatory agencies – how the CFTC, SEC, FERC, the Fed and the US Treasury overlaps are shaking out
- Are markets any safer today?
- Impact of the ISDA® Resolution Stay Protocol

9:25 **Global Market and Cross-Border Harmonization: Synergizing US and European Laws and Regulation in the Derivative Market**

Laura Engelhardt
Vice President
Goldman Sachs & Co.

Waqaas Fahmawi
Fixed Income Derivatives Attorney
Bank of America

Jamila Piracci
Vice President
National Futures Association

Lawrence B. Patent
Of Counsel
K&L Gates LLP

- Which regulations will govern?
- What is the standard for determining whether Dodd-Frank applies?
- What standards will the CFTC use to determine whether a country satisfies the “substituted compliance” test?
- How do the CFTC's regulations apply to transactions or entities in jurisdictions for which there is not a finding of “substituted compliance?”
- What will be the effect on entities or transactions in these jurisdictions?
- How should the rules be harmonized among countries?
- How is it impacting foreign dealers and US dealers with foreign branches or affiliates? How is it affecting hedge funds and other collective investment vehicles?
- What are the issues arising in implementation of MiFID and EMIR?
- Possible reconciliation with the SEC?
- What's the trigger for becoming a swap dealer and what can be done, if anything, to stay below triggering levels?
- To the extent that one is considered to be a swap dealer, in dealing with the counterparties, what are the transaction and entity level rules?
- What are the execution and clearing requirements?
- Under what circumstances will one be required to execute and clear?
- Must a US Person who engages in a swap transaction with a non-US swap dealer clear the swap on a DCO or not?
- What changes, if any, are needed with respect to LSOC regarding swaps involving non-US firms?
- Trade reporting for OTC derivatives
- How the regulations within EMIR may be parallel but not necessarily synergistic with the US
- How EMIR is intended to regulate the European financial market and slower time schedule with the US with a different focus
- What are the distinctions between EMIR and Dodd-Frank? What are the different rules on capital? What effect does the different rules have on the customer?

10:40 Morning Break

10:50 **Over the Counter Margins on Uncleared Swaps: High Risk Exposure and Collateral for Transactions**

Amgana (“Mimi”) Sengupta
Vice President & Counsel Legal and Compliance
Credit Suisse Securities (USA) LLC

David Buchalter
Managing Director, Senior Managing Counsel
BNY Mellon

Anthony Fawcett
Counsel
Purrington Moody Weil LLP

Willa Cohen Bruckner
Partner
Alston & Bird LLP

Matthew K. Kerfoot
Partner
Dechert LLP

- Margins on uncleared swaps
- Regulators' concern with not delivering enough collateral
- Requiring enough capital to hold in reserve
- Regulators' concern with over leveraging and borrowing too much to cover for a rainy day
- Clear the margins or meet the dealer's margin?
- Pending rules from European regulators on over the counter margins
- How are the dealers/banks dealing with compliance obligations?

12:10 **The CFTC's Rule on Position Limits and Number of Trades Allowed in a Single Day to Effectively Reduce Speculation and Decrease Volatility**

Bruce Fekrat

Group Executive Director and Associate General Counsel

CME Group

Sidney Vidaver

Director, Commodities Compliance

TD Securities (USA) LLC

- What are the position limits set forth by the CFTC?
- How do these limits affect the market?
- Position limits for energy, commodities and aggregation for trades
- What are the exceptions to the rules on limiting trades?
- Bona fide hedges
- Trades that cancel each other out
- What is the effect of going over a limit?
- What are the types of sanctions?
- Position limits to reduce speculation and decrease volatility

12:50 Networking Lunch for Speakers and Delegates

1:50 **Using Central Clearing Houses as a Way to Reduce Systemic Risk for Certain Transactions**

Petal Walker

Chief Counsel for Commissioner Bowen

U.S. Commodity Futures Trading Commission

Jason Silverstein

Executive Director & Associate General Counsel

CME Group

Kathryn M. Trkla

Partner

Foley & Lardner LLP

Robert S. Zwirb

Consulting Attorney

Cadwalader, Wickersham & Taft LLP

Ronald Filler

Professor of Law

New York Law School

- Do clearing houses have enough capital? Risks to banks?
- What happens if there is not enough capital? Do the members of the clearing houses pay? Do the customers pay?
- Clearing houses used as an early warning system
- Who pays for the clearing houses?
- What is the SEC's role in clearing house mandate?
- Which transactions must go through a clearing house?: Exchanged traded transactions; Cleared swaps and derivatives; Standardized interest rate swaps; Credit default swaps
- Non-deliverable forwards and clearing
- Commercial end user exemptions for clearing

3:10 Afternoon Break

3:20 **Physical Forward Contracts With Embedded Volumetric Optionality Excluded as Swaps**

Elise Pallais

Attorney Advisor, Office of the General Counsel

U.S. Commodity Futures Trading Commission

Kirsten Polyansky

Partner

Haynes and Boone, LLP

Michael A. Yuffee

Partner

Reed Smith LLP

- Definition of swap in Dodd-Frank
- CFTC 7 part test on when you have volumetric optionality
- CFTC's clarification of the Product Definition Rule
- What is the impact on end users?

4:20 **Swap Execution Facilities: Permanent Registration, Mandatory Clearing, and Organization Issues**

David Felsenthal

Partner

Clifford Chance US LLP

Peter Y. Malyshev

Counsel

Latham & Watkins LLP

Lauren Teigland-Hunt

Managing Partner

Teigland-Hunt LLP

- What is the significance of SEFs for market place?
- What are SEFs?: Definition and basic requirements; How do they differ from other trading platforms and services (including pre-SEF platforms?); How different from DCMs?; Expected competitive impacts; Anonymity v. disclosure of partners; Lessons learned so far/practical challenges
- Comparisons to SEC SB-SEF Proposal
- Cross-border issues and coordination with EU
- Made Available to Trade Rule
- Block Trade Rule
- The CFTC's role on rulemaking, decisions, and reviewing process about how trading occurs
- Trading in a multi-lateral environment
- Mandatory clearing
- How do packaged transactions work in SEF?
- What new oversight/enforcement will come out of SEF?
- Reporting requirements (ownership and control information) for major swap participants and swap dealers
- State of the CFTC's mandatory clearing and execution mandate
- Review of Rule 1.73

5:20 **Impact of the Volcker Rule: Implementation, Prohibitions and Restrictions on Proprietary Trading**

David Boyd Booker

Director & Senior Counsel

Crédit Agricole Corporate & Investment Bank

John Williams

Partner

Milbank, Tweed, Hadley & McCloy LLP

Julian E. Hammar

Of Counsel

Morrison & Foerster LLP

Ernest (Ernie) T. Patrikis

Partner

White & Case LLP

- What are the issues surrounding the implementation of Volcker?
- Prohibitions and restrictions on proprietary trading
- Does the definition of proprietary trading adequately distinguish permissible market making, underwriting, and hedging activities?
- Are "solely outside of the United States" trading and fund activities overly limited by the need to avoid any US nexus?
- What new issues have been raised?

6:30 Conference Adjourns

DAY TWO – TUESDAY, JUNE 30, 2015

7:30 Continental Breakfast

8:00 **Chief Compliance Officer: Identifying the Proper Role and Establishing a Successful Compliance Program at FCMs, Broker-Dealers, Swap Dealers, DCMs and DCOs**

Christopher Ehrman
Director, Whistleblower Office

U.S. Commodity Futures Trading Commission

Michael A. Piracci
Director | PCB Compliance
BARCLAYS

Deanna Reitman
Senior Attorney
DLA Piper LLP (US)

- What role will a Chief Compliance Officer as well as the compliance staff play?
- CCO responsibilities for establishing compliance procedures, conducting reviews, and providing a related certification
- How do these responsibilities change the role of Compliance within an organization and increase the personal liability of a CCO?
- What are CCO's reporting obligations?
- What are the elements that need to be in place that demonstrate a successful compliance program?

9:00 **CFTC's Reporting Requirements on Larger Trades: Understanding Implications and How to Comply**

Gary DeWaal
Special Counsel
Katten Muchin Rosenman LLP

John Servidio
Partner
McGuireWoods LLP

Nathan A. Howell
Partner
Sidley Austin LLP

- CFTC's action letter on reporting requirements
- Trading at a certain threshold
- What are you required to report and how do you report?

10:00 Morning Break

10:15 **Enforcement Action Cases: Spoofing, Disruptive Trading Practices, CFTC's Anti-Evasion Rule, and More**

Rick Glaser
Deputy Director, Division of Enforcement
U.S. Commodity Futures Trading Commission

Benjamin D. Singer
Deputy Chief
U.S. Department of Justice, Criminal Division, Fraud Section

Richard Hayes
Deputy Chief, Civil Division
U.S. Attorney's Office, E.D.N.Y., U.S. Department of Justice

Toby M. Galloway
Partner
Kelly Hart & Hallman LLP

Daniel A. Mullen
Partner
Fried, Frank, Harris, Shriver & Jacobson LLP

Stacie R. Hartman
Partner
Schiff Hardin LLP

- Recent CFTC enforcement actions against spoofing
- Cases related to manipulation
- What are the key trends in regulatory enforcement? What's the focus?
- What are some of the types of settlements that are being agreed to?
- Respondents required to admit findings made in consent orders?
- Investigation of benchmarks: What is the next set of investigations expected to be?; What should traders be thinking about in terms of how they utilize and interact with benchmarks?
- What do you do when you get a call that a regulator is investigating your client?
- How do you handle investigations?; How do you prepare to respond?; What are the steps?
- How do you focus the investigations in a meaningful way and mitigate the enormous costs?
- The new recklessness standard; anti-evasion rules

12:00 **Central Banks: Foreign Exchange, Foreign Currency Trading, and Benchmarking Currency**

Michael S. Nelson
Senior Vice President, Legal Group
Federal Reserve Bank of New York

Barry Temkin
Partner
Mound Cotton Wollan & Greengrass

- Impact of Swiss Central Bank deregulating the Swiss Franc
- Effect of loss and free flowing market
- Degree of leverage that foreign currency merchants permit their customers to have
- Role of CFTC in terms of equity risk and margins
- Investigations on banks that have been alleged to have rigged the foreign currency market

12:50 Conference Ends – Lunch for Workshop Attendees

POST-CONFERENCE BENCHMARKING WORKSHOP TUESDAY, JUNE 30, 2015

1:45 to 4:45 p.m. (registration opens at 1:30 p.m.)

Documentation and ISDA® Protocols for OTC Swaps and Derivatives in an Evolving Regulatory and Dodd-Frank Landscape

Matthew A. Magidson
Partner
Lowenstein Sandler LLP

Edward Ivey
Attorney
Linklaters LLP

This workshop will be a chance for participants to benchmark, compare and contrast their current practices with regard to the new documentation landscape for OTC swaps & derivatives. Regulatory scrutiny is increasing and it is important for all players to understand the impact this will have on standard agreements and supporting schedules. This session will provide a valuable drill-down on both the legal and documentation aspects stemming from recent and upcoming regulatory changes and will review case-study examples to illustrate why effective wording is essential when updating and negotiating documentation, master agreements and definitions. Issues include, but not limited to, equity and collateral areas, cross-product netting, set-off, portfolio reconciliations and dispute resolution.



SWAPS & DERIVATIVES GLOBAL MARKETS REGULATION

June 29–30, 2015

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