



June 11, 2009

The Honorable Timothy Geithner
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Secretary Geithner and Chairman Gensler:

The Association for Financial Professionals (AFP) welcomes the opportunity to provide formal comments on pending plans and legislation that seek to regulate the over-the-counter (OTC) derivatives market. As the global daily resource and advocate for over 16,000 finance and treasury professionals in the United States, AFP maintains that derivative products are essential risk management tools that financial professionals rely on to help stabilize prices and mitigate risk. We fully support the enactment of legislation that encourages secure and transparent markets. However, AFP members have expressed concerns about the unintended consequences that require mandatory clearing of derivatives and futures products. We are concerned that regulations mandating the clearing of derivatives might negatively impact members' ability to enter into custom interest rate and foreign currency exchange swaps.

AFP members manage and safeguard the financial assets of more than 5,000 U.S. organizations. Many of our members are responsible for issuing short-and long-term debt and for managing the corporate cash, 401(k) plans, and pension assets of their organizations. Many AFP members use interest rate and foreign exchange swaps in their daily business to mitigate risk for their organizations. We are concerned that inflexible regulation of the OTC derivatives market might negatively impact the sound and prudent practices of interest rate, foreign exchange swaps and ultimately make it impractical to use these products.

AFP applauds Treasury's efforts to prevent activities in the OTC markets from posing risk to the financial system and we agree that any regulation implemented should enhance transparency, prevent market manipulation and fraud, and maintain systemic stability. During a recent hearing in the Senate Agriculture Committee, Chairman Gary Gensler called for a comprehensive framework governing OTC derivatives dealers and derivatives markets. He went on to suggest that any regulation should promote transparency and efficiency of markets and market integrity. AFP fully supports all of these goals, but, must voice concern about the impact that proposals to require mandatory clearing for all derivatives contracts would impose on a company's ability to use these products to effectively mitigate and hedge their risks.

Specifically, many of AFP's financial accounting professionals have voiced concern over the possible conflicts between proposals for mandatory clearing, which may lead to the standardized contracts, and the strict hedge accounting rules imposed by the Financial Accounting Standard Board. Financial Accounting Standard 133 (FAS 133) requires a strict demonstration of the effectiveness of a given hedge, which would be impossible if customized contracts became prohibitively expensive or unavailable. With standardization, the ability to comply with the requirements of FAS 133 for applying hedge accounting treatment to swap transactions would become very difficult, if not impossible. The net result of this change would be less hedging and more risks being borne by companies in an environment already marked by significant volatility.

Regulation of the OTC derivatives market is of great interest to AFP members for a variety of reasons important to the profession. Recently, AFP surveyed our members to assess the integration of risk management practices within their corporate culture and governance framework. Our research indicates that the vast majority of our members use some type of OTC derivative product to mitigate financial risk. 68% of the companies surveyed use interest rate swaps and 77% of the companies use foreign exchange swaps.

When asked about the possible effects of severely restricting access to customized derivatives contracts, our members indicated that it would steeply increase their costs and add unnecessary volatility to their balance sheets.

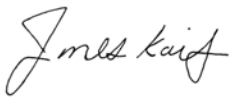
In one example, a large health care company revealed that it relies on the ability to swap interest rates from floating to fixed in order to hedge interest rate risk. According to a senior treasury professional, if done correctly, "one can achieve hedge accounting treatment and all changes due to interest rate volatility will run through the balance sheet rather than income statement. This takes volatility out of the income statement and presumably out of the share price."

Another example revealed that a utility company uses swap agreements to hedge its expected future energy usage. A senior treasury executive shared that the company may purchase a contract to lock in the price of its future energy purchases. Under the short cut method, FAS 133 requires them to exactly match the terms and the dates of delivery and, if they do not match, the hedge is rendered ineffective, from an accounting perspective. Simply stated, if any aspect of the contract varies from the future purchase of energy, that variance would have to be reported on the income statement, which could cause significant volatility in the earnings of the company.

AFP applauds the efforts of the Administration and the CFTC to bring transparency and stability to the OTC derivatives market, and prevent excessive speculation. Our membership, experts on financial risk management for businesses across the United States, need interest rate swaps and foreign exchange swaps as essential tools for prudent risk management. Common practices already have banks playing a role similar to that of a clearinghouse, making these safe and secure transactions. We urge you to ensure that safeguards against abuse in the derivatives markets do not come at the cost of proven risk management tools that are critical to the stability of American businesses.

We thank you for your hard work and consideration of AFP's views on this matter. Please do not hesitate to contact AFP's Director of Finance Practice, Brian Kalish, at 301.961.6564 or bkalish@afponline.org, if you have further questions on AFP or our members' practices.

Sincerely,



James A. Kaitz
President and CEO
Association for Financial Professionals

Cc: The Honorable Harry Reid, Senate Majority Leader
The Honorable Mitch McConnell, Senate Republican Leader
Members of the Senate Banking, Housing, and Urban Affairs Committee