



July 6, 2011

Ms. Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Order Pursuant to Sections 15F(b)(6) and 36 of the Securities Exchange Act of 1934 Granting Temporary Exemptions and Other Temporary Relief, Together with Information on Compliance Dates for New Provisions of the Securities Exchange Act of 1934 Applicable to Security-Based Swaps, and Request for Comment; File No. S7-24-11.

Dear Ms. Murphy:

Better Markets, Inc.<sup>1</sup> appreciates the opportunity to comment on the above-captioned order (“Order”), entered on June 15, 2011, which grants temporary exemptive relief from compliance with a limited number of the new requirements relating to security-based swaps imposed by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”).

## **INTRODUCTION**

Title VII of the Dodd-Frank Act tasks the Securities and Exchange Commission (“Commission”) with establishing and overseeing a comprehensive regulatory regime for transactions in security-based swaps. The Commission is required to develop new standards and procedures covering all aspects of the security-based swaps markets, including registration, clearing, exchange trading, data reporting, recordkeeping, capital, margin, business conduct, and enforcement. In addition, the Dodd-Frank Act expands the definition of a security to include security-based swaps, which will subject security-based swaps to the existing regulatory framework that has governed the capital markets for decades.

Implementing this system for the regulation of security-based swaps is a challenge, but a vitally important one. The long-term welfare of our financial system and our

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<sup>1</sup> Better Markets, Inc. is a nonprofit organization that promotes the public interest in the capital and commodity markets, including in particular the rulemaking process associated with the Dodd-Frank Act.

economy as a whole depends on establishing a derivatives market that is genuinely transparent, competitive, and far less prone to systemic risk.

The Commission's staff has worked diligently on a rule-making effort aimed at achieving these goals, and it deserves credit for the progress it has made to date. Nevertheless, given the scope of the regulatory requirements, the resources available to the Commission, and the Commission's ongoing responsibility for oversight of our capital markets, it is not feasible for the Commission to conclude all of the necessary rule-makings by the effective date of the Dodd-Frank Act, which is July 16, 2011. Accordingly, limited exemptive relief is appropriate and reasonable.

## **COMMENTS**

The Commission's Order is reasonable in terms of its scope and duration. With respect to scope, the Order applies only to those specific requirements under the Dodd-Frank Act that will actually become effective on July 16, and for which exemptive relief is necessary. Generally, the implementation of those provisions hinges on other steps, such as finalizing rules, setting up the registration regime, or establishing infrastructure. Until those preconditions are satisfied, implementation of the requirements covered by the Order is either impossible or impractical. Under these circumstances, exemptive relief is appropriate.

The duration of the exemptive relief is also appropriate. To limit the length of the exemptions, the Commission has generally imposed functional deadlines that are linked to accomplishment of the steps that must precede implementation of the regulatory requirements, including finalizing rules or registering market participants. The majority of the exemptions in the Order will terminate upon either the effective date or the earliest compliance date set forth in the Commission's implementing rules. This approach is rational, and it will minimize delay in implementing the critically important new regulatory structure for security-based swaps.

An important caveat is warranted, however. The Commission must continue its effort to implement all of the Dodd-Frank Act requirements applicable to security-based swaps as quickly as possible. Until the Title VII reforms are in place, our derivatives markets will continue to be exposed to the predatory, anti-competitive, and systemically risky behavior that induced the devastating financial crisis of 2008. The decision to afford exemptive relief must not diminish this urgency.

Nor should the Commission's Order be regarded as validation of the argument, advanced by some opponents of reform, that rule-making under the Dodd-Frank Act should be slowed or deferred for fear that the resulting rules will be hastily fashioned or ill-conceived. To the contrary, the Commission's decision to afford exemptive relief demonstrates that the agency is committed to a thorough, deliberative, and inclusive rule-making process. The Order confirms that the Commission is (a) taking the time that is necessary to write carefully considered rules, and (b) unwilling to allow implementation of the new regulatory requirements in a piecemeal fashion that would be unworkable.

Quite obviously, the Commission requires no further restraints or impediments on its rule-making process to ensure that the outcome is thorough, fair, and effective. The Commission should continue with its efforts to complete the implementation of the Dodd-Frank Act as expeditiously as possible.

**CONCLUSION**

The Order is a necessary and reasonable step in the regulatory process under the circumstances, but we urge the Commission to continue its work expeditiously to implement the Dodd-Frank Act and to protect the American investors and taxpayers who have had to foot the enormous bill for the financial crisis.

We hope these comments are helpful.

Sincerely,



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