

**From:** Kim Hovanes <khovanes@bfcmi.com>  
**Sent:** Monday, November 22, 2010 11:17 AM  
**To:** OTCDefinitions <OTCDefinitions@CFTC.gov>  
**Cc:** Alistair Fyfe <afyfe@bfcmi.com>; Derek Beitzel <dbeitzel@bfcmi.com>  
**Subject:** Futures Commission Merchants/Introducing Brokers  
**Attach:** CFTC Fut Comm Merchants Introducing Brokers.pdf

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Attached please find a letter from the Principals at B&F Capital Markets regarding Futures Commission Merchants and Introducing Brokers.

Thank you.

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## B&F CAPITAL MARKETS, INC.

November 22, 2010

Mr. David Stawick, Secretary  
Commodity Futures Trading Commission  
Via Electronic Mail

RE: Futures Commission Merchants and Introducing Brokers

Dear Mr. Stawick:

We are writing to you in regard to the expanded definition of Futures Commission Merchant and Introducing Broker contained in the Dodd-Frank legislation. Our company, B&F Capital Markets, headquartered in Cleveland, Ohio, manages and implements interest rate swap programs for approximately 20 regional and community banks throughout the U.S. with asset sizes ranging from \$100 million to \$15 billion. As Principals, we have a combined 40 years experience in the swap market working primarily with small and medium sized commercial borrowers.

Our bank clients use interest rate swaps as the primary vehicle to provide long-term fixed rates to their commercial borrowers. Swaps provide these borrowers with access to longer-term fixed rates than banks would otherwise offer due to the increased interest rate risk associated with traditional fixed rate loans. Swaps also provide rate structuring flexibility which is beneficial to both the banks and their borrowers. Swaps are not mass marketed to the retail market or to non-qualifying entities, but are targeted to specific commercial loan borrowers.

Under Section 721 of the Dodd-Frank Act, the definitions of Futures Commission Merchant and Introducing Broker were expanded to include those entities that "are engaged in soliciting or in accepting orders for ... a swap". Because our client banks accept property to secure their swap transactions (swaps are typically cross-collateralized with a Mortgage, Security or Guaranty Agreement), we believe they would be required to register as Futures Commission Merchants and their lenders as Associated Persons. In addition, B&F, which accepts orders for swaps on behalf of our clients, would have to register as an Introducing Broker.

We think that such registration is an unnecessary step for small and regional banks, whose interest rate swap activities are limited to transactions which provide effective fixed rates for their commercial borrowers, and whose swap activities are supervised by their prudential regulator. Registration would potentially affect hundreds of banks and thousands of commercial lenders who interact with commercial borrowers on swap transactions. This appears to be an unintended consequence of the registration requirements.

We respectfully request that the Commission exercise the authority granted to it under Section 721 and exclude regulated financial institutions from the definition of Futures Commission Merchant and Introducing Broker to the extent they continue to offer swaps only in connection with loans to commercial borrowers. If such an exclusion of regulated financial institutions is not feasible, we would request that commercial lenders be exempted from registering as Associated Persons and that such registration be limited to the product specialists who actually deliver the swap product.

We would be glad to make ourselves available should you have any questions or concerns about the above request.

Sincerely,



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