

BGC Derivative Markets, L.P.
110 E. 59th Street
New York, NY 10022

CFTC Letter No. 13-62; Claim of Relief

October 8, 2013

Via email: secretary@cftc.gov

Melissa Jurgens, Secretary of the Commission
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street NW
Washington DC 20581

Re: Notice of BGC Derivative Markets, L.P. Claiming Relief Under CFTC Letter No. 13-62

Dear Ms. Jurgens:

BGC Derivative Markets, L.P. (“BGC”) applied for registration as a swap execution facility (“SEF”) with the Commodity Futures Trading Commission (“CFTC” or the “Commission”) on September 4, 2013, and was granted temporary registration on September 19, 2013.

CFTC Letter No. 13-62 provides time-limited and specific no-action relief for temporarily registered SEFs from the requirement to comply with Commission Regulation 37.702(b). Commission Regulation 37.702(b) provides that:

A swap execution facility shall provide for the financial integrity of its transactions:

(b) For transactions cleared by a derivatives clearing organization:

(1) By ensuring that the swap execution facility has the capacity to route transactions to the derivatives clearing organization in a manner acceptable to the derivatives clearing organization for purposes of clearing; and

(2) By coordinating with each derivatives clearing organization to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of § 39.12(b)(7) of this chapter.

In Staff Guidance on Swaps Straight-Through Processing issued on September 26, 2013, staff noted that a SEF “must facilitate pre-execution screening by each Clearing FCM in accordance with Regulation 1.73 on an order-by-order basis.”

The relief in CFTC Letter 13-62 is conditioned upon a SEF submitting notice to the Commission by October 10, 2013 that it is availing itself of such relief. In order to claim this relief, the SEF must be temporarily registered as of October 2, 2013, and not already have the ability to facilitate pre-execution screening on an order-by-order basis. Further, a SEF is required to submit with its notice:


(1) Pursuant to Commission Regulation 40.6, any rule amendments that are necessary for full compliance with Commission Regulation 37.702(b), and any rule amendments that are necessary to facilitate full compliance with Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii), in accordance with the Staff Guidance; and

(2) A written representation that the SEF is undertaking all steps necessary to fully comply with Commission Regulation 37.702(b), and is undertaking all steps necessary to facilitate full compliance with Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii), in accordance with the Staff Guidance.

BGC hereby notifies the Commission that it is availing itself of the relief in CFTC Letter 13-62. In support of this notice, please find as Attachment 1 a submission under Commission Regulation 40.6 amending the BGC rulebook, and as Attachment 2, a written representation that BGC is undertaking all steps necessary to facilitate full compliance with Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii).

If you have any questions regarding this request, please contact Paul M. Architzel, outside counsel to BGC, at 202-663-6240.

Respectfully submitted,



Gary N. Distell

Attachments

cc: Ananda Radhakrishnan, Division of Clearing and Risk
David Van Wagner, Division of Market Oversight
Nancy Markowitz, Division of Market Oversight

BGC Derivative Markets, L.P.
110 E. 59th Street
New York, NY 10022

Attachment 1

Please find attached a Rule 40.6 Submission amending BGC Rules as necessary to comply with Commission Regulation 37.702(b), and any rule amendments that are necessary to facilitate full compliance with Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii), in accordance with the Staff Guidance on Swaps Straight-Through Processing issued on September 26, 2013.

SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional): 2013-01 Date: **October 8, 2013**

IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.

ORGANIZATION

BGC Derivative Markets, L.P.

FILING AS A:

 DCM SEF DCO SDR ECM/SPDC

TYPE OF FILING

• **Rules and Rule Amendments**

Certification under § 40.6 (a) or § 41.24 (a)

“Non-Material Agricultural Rule Change” under § 40.4 (b)(5)

Notification under § 40.6 (d)

Request for Approval under § 40.4 (a) or § 40.5 (a)

Advance Notice of SIDCO Rule Change under § 40.10 (a)

• **Products**

Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)

Swap Class Certification under § 40.2 (d)

Request for Approval under § 40.3 (a)

Novel Derivative Product Notification under § 40.12 (a)

RULE NUMBERS

Rule 501 – Required Transactions

Rule 502 – Permitted Transactions

Rule 850 – Trades Not Accepted for Clearing

DESCRIPTION

In accordance with Commodity Futures Trading Commission (“Commission”) Regulation 40.6(a), this is a submission, by BGC Derivative Markets, L.P., to the Commission for certification of amended Rules 501, 502 and 850. As described below, these rule amendments are intended to facilitate straight-through processing of swaps executed on BGC Derivative Markets, L.P.

BGC Derivative Markets, L.P.
New Rule Change Submission 2013-01
October 8, 2013

1. The text of the rule changes to the BGC Derivative Markets, L.P. Rulebook is attached. Additions are underlined and deletions are stricken through. This rule has been approved by BGC Derivative Markets, L.P.
2. The proposed effective date is ten days after the first Commodity Futures Trading Commission business day following recommencement of operations.
3. No opposing views were expressed with respect to the proposed rule changes.

**SUPPLEMENTAL EXPLANATION OF THE OPERATION, PURPOSE AND EFFECT OF
THE PROPOSED RULE**

These amendments to Rules 501, 502 and 850 in BGC Derivative Markets, L.P.'s Rulebook are necessary to achieve full compliance with Commission Regulation 37.702(b), and Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii), in accordance with Staff Guidance on Swaps Straight-Through Processing issued on September 26, 2013. These rule amendments are being made in light of the conditions of CFTC Staff Letter No. 13-62, and to enable BGC Derivative Markets, L.P. to rely on the time-limited no action granted therein.

Commission Regulation 37.702(b) establishes straight-through processing for SEFs, which provides certainty of execution and clearing. Commission Regulation 37.702(b) requires a SEF to coordinate with each DCO to which it submits transactions for clearing, to develop rules and procedures to facilitate prompt and efficient transaction processing in accordance with the requirements of Commission Regulation 39.12(b)(7). Commission Regulation 39.12(b)(7) sets forth time frames for DCOs to accept or reject trades for clearing.

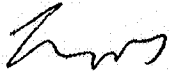
Commission Regulation 1.73(a)(2)(i) states that when a Clearing FCM provides electronic market access to a SEF or accepts orders for automated execution on a SEF, it shall use automated means to screen orders for compliance with such risk-based limits. The requirements of Commission Regulation 1.73(a)(2)(i) apply to orders placed pursuant to a request for quote procedure, if the means of order execution is automated. Commission Regulation 1.73(a)(2)(ii) provides that when a clearing FCM accepts orders for non-automated execution, it shall establish and maintain systems of risk controls reasonably designed to ensure compliance with the limits. Orders executed by non-automated means, such as voice brokerage, can be screened automatically if they are routed automatically. The amendments adopted by BGC Derivative Markets, L.P. facilitate compliance with these requirements and with straight-through processing.

The rules require that a Clearing Participant screen each Order submitted to the SEF on behalf of a Customer applying the Clearing Participant's risk limits for that Customer. Screening must be automatic for Orders entered through automated systems and may either be automated or non-

automated for other Orders. Rule 805 is being amended to reflect staff guidance that Swaps in Required Transactions that are rejected for clearing are void *ab initio*.

CERTIFICATIONS PURSUANT TO SECTION 5c OF THE
COMMODITY EXCHANGE ACT, 7 U.S.C. §7a-2 AND
COMMODITY FUTURES TRADING COMMISSION
RULE 40.6, 17 C.F.R. §40.6

I hereby certify that the foregoing rule amendments comply with the Commodity Exchange Act, 7 U.S.C. §1 *et seq.* and regulations thereunder.



By: Gary N. Distell
Title: Chief Compliance Officer
Dated: October 8, 2013

I hereby certify that a copy of this filing was posted on the BGC Derivative Markets, L.P. website the day of its submission to the Commodity Futures Trading Commission.



By: Gary N. Distell
Title: Chief Compliance Officer
Dated: October 8, 2013

BGC Derivative Markets, L.P. Rules

Rule 501. Required Transactions

(a) * * *

- (d) Facilitation of Straight-through Processing of Required Transactions. Required Transactions are required to be cleared. The following requirements shall facilitate the straight-through-processing of such transactions to the applicable Clearing Organization:
- (i) No Order for a Required Transaction may be submitted unless a Clearing Participant has been identified in advance for each party to the transaction;
 - (ii) Each Clearing Participant as required by Commission Regulation 1.73 shall establish risk-based limits in the proprietary account and in each customer account based on position size, order size, margin requirements, or similar factors, and
 - (A) When an Order is to be matched via the Electronic Order Book in accordance with the provisions of Rule 602 or through the RFQ Functionality, in accordance with the provisions of Rule 702a(a)(i), the Clearing Participant shall, as facilitated by the Facility, screen each Order for compliance with the limits established by the Clearing Participant through an automated system; or
 - (B) When an Order is to be matched via a Voice Trading Facility in accordance with Rule 703 or through the RFQ Functionality in accordance with the provisions of Rule 702a(a)(ii), the Clearing Participant shall, as facilitated by the Facility, screen each Order for compliance with the limits established by the Clearing Participant through an automated system or through a non-automated system of risk controls reasonably designed to ensure compliance with the limits established by the Clearing Participant.

Rule 502. Permitted Transactions

(a) * * *

- (b) Credit Approval for Permitted Transactions.
- (i) Permitted Transactions are not required to be cleared. Such transactions will be subject to the credit approval of each counterparty to the transaction before the matched Transaction is confirmed. Swaps that have not been submitted for clearing shall be settled in accordance with the terms agreed to by the parties.
 - (ii) Upon notice by Participants that are parties to an executed transaction that they wish voluntarily to submit an executed transaction to a clearinghouse that offers clearing of the Swap and to which both are a Clearing Member or have established a relationship with a Clearing Member, the Facility, on their behalf, will submit the transaction to the Clearing Organization where designated, either directly or via an STP Hub. Prior to such designated voluntary submission of such Swaps to a Clearing Organization, the transaction will be subject to the risk-based credit limit screening applicable to an Order as provided in Rule 501(d). Swaps that have been voluntarily submitted for clearing shall be settled in accordance with the rules of the Clearing Organization.

Rule 805. Trades Not Accepted for Clearing.

- (a) **Required Transactions.** In the event that a Required Transaction is ~~rejected~~ not accepted by the Clearing Organization to which it has been submitted, the Facility will so inform the Participants or Authorized Customers that are the counterparties to the trade. A trade for which the Facility has received a rejection notice from the Clearing Organization is void ab initio. ~~The Participants or Authorized Customers shall resubmit the trade with the assistance of the Facility to the Clearing Organization in accordance with the rules of the DCO.~~

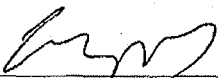
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Attachment 2

REPRESENTATION OF BGC DERIVATIVE MARKETS,
L.P.

BGC Derivative Markets, L.P. ("BGC"), hereby represents that BGC is undertaking all steps necessary to fully comply with Commission Regulation 37.702(b), and is undertaking all steps necessary to facilitate full compliance with Commission Regulation 1.73(a)(2)(i) and (a)(2)(ii), in accordance with the Staff Guidance on Swaps Straight-Through Processing issued on September 26, 2013.

For BGC Derivative Markets, L.P.



Name: Gary N. Distell
Title: Chief Compliance Officer

Dated: October 8, 2013