

**From:** Bill Boyk <bill.boyk@veriana.com>  
**Sent:** Thursday, September 23, 2010 2:02 PM  
**To:** JointSEC <JointSEC@CFTC.gov>  
**Cc:** Zach Pellman <zach.pellman@veriana.com>  
**Subject:** Joint Rules with SEC - Swap Definitions  
**Attach:** Trend Exchange Comment Letter on Swap Definitions.pdf

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Dear Mr. Stawick;

Attached is a comment letter from The Trend Exchange on the definitions of swaps. We appreciate the CFTC's request for public comments at this early stage in the rule making process and offer our assistance throughout the process.

Regards,  
Bill

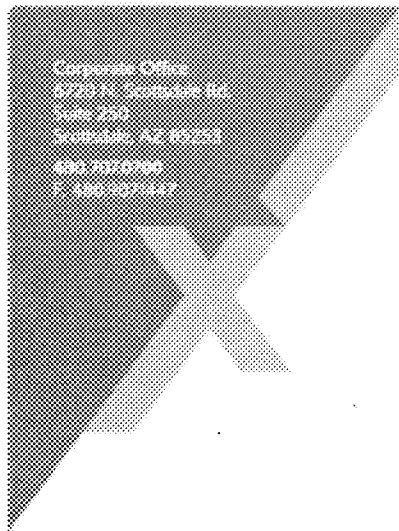
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The  
Trend  
exchange

September 23, 2010

Mr. David Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Re: Public Submissions on Wall Street Reform and Consumer Protection Act -- Swap Definitions

Dear Mr. Stawick:

The Trend Exchange Inc. ("TrendEx") wishes to commend the Commodity Futures Trading Commission ("CFTC") for requesting public comment early in the CFTC's process for rulemaking associated with The Dodd-Frank Act. TrendEx appreciates the opportunity to submit comments at this time and will limit its comments to the definition of swaps, the definition's application to transactions associated with the financing of motion picture production, and to compare the swap definition to the recent legislative ban on futures contracts based on movie box office revenues.

Title VII -- Wall Street Transparency and Accountability Act of 2010 defines "the term 'swap' [to mean] any agreement, contract or transaction (i) that is a put, call, cap, floor, collar or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind; (ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence; (iii) that provides on an executor basis for the exchange, on a fixed or contingent basis, or 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures or other financial or economic interests or property of any kind, or an interest therein or based on the value thereof,

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and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred. . . .”

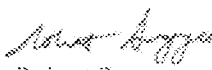
In support of its DCM application and submission for approval of its Opening Weekend Motion Picture Revenue Contract, TrendEx (known as Media Derivatives at the time of the submission) provided documentation that addressed financing the production of motion pictures and payment of talent based upon the box office success of a movie, as well as other downstream consequences of box office results such as foreign success, DVD sales, and cable distribution to name a few. Additionally, the CFTC heard testimony during its May 19, 2010 Public Meeting to Consider the Trading of Contracts Based on Motion Picture Box Office Receipts from experts in the financing of motion pictures that box office results play a key role in the development of financing structures within the industry. Many of the contracts and agreements created to finance motion pictures would meet the definition of a “swap” as defined in the legislation.

On June 14, 2010, The CFTC approved TrendEx’ product submission for Opening Weekend Box Office Revenues for the motion picture “Takers”. Subsequent to the CFTC’s approval, Congress banned futures products based on motion picture box office receipts including any index, measure, value or data related to such receipts, by specifically excluding them from the definition of “commodity”.

TrendEx believes it is important for the CFTC to give consideration to the legislative conundrum that has been created between the swaps definition that will allow transactions based on box office receipts, and the congressional ban on futures based on box office receipts. How can two derivative products that would both be offered within regulated environments and based on the same quantitative measure be treated differently by legislation?

TrendEx appreciates the time and effort the CFTC has given towards the review and approval of its DCM and product approval. We also recognize the commitment and effort the CFTC will be putting forth in creating the regulations associated with swaps in the upcoming year. We wish to offer our assistance in addressing swap transactions related to box office revenues and can facilitate the availability of parties that are experts in structuring these types of transactions.

Sincerely,

  
Robert Swagger  
CEO