TO: Comment File – RIN 3038-AC98

76 FR 3698 (Jan. 20, 2011)

FROM: Phyllis Dietz, Division of Clearing and Intermediary Oversight

RE: Comments on Proposed Risk Management Requirements for Derivatives Clearing

Organizations

On April 26, 2011, at 10:00 a.m. EDT, Chairman Gensler and Commission staff participated in a meeting with representatives of the Alternative Investment Management Association (AIMA) and Crossroads Strategies. Topics discussed included the impact of the EU's EMIR third country provisions on US central counterparties (CCPs).

AIMA and Crossroads Strategies representatives provided the following views: The EU's OTC derivatives clearing proposal (EMIR) contains provisions at Article 23 that should allow third country (i.e., US) CCPs to provide their services to European entities (EU banks and hedge funds, etc.). However, the rapporteur leading this in the European Parliament, Werner Langen, seems to be supporting wording which would require the third country CCP to be authorized in the same way as EU CCPs which would require the CCP to be in full compliance with EMIR (not just have equivalent provisions under their local law). EMIR and Title VII of the Dodd-Frank are similar but not the same, and thus a US CCP in compliance with Dodd-Frank would not be able to provide services to European entities. A further concern is that the Article 23 provisions seem to include CCPs clearing shares and bonds linked to exchanges as well as OTC derivatives, and applies on the European entity (rather than 'in the European Union') and thus European based HFMs could not access the US markets without the exchanges' CCP being in full compliance with EMIR.

Present at the meeting:

Todd Groomer, AIMA Stewart Hall, Crossroads Strategies Hunter Moorhead, Crossroads Strategies

CFTC

Chairman Gary Gensler Phyllis Dietz Eileen Donovan Jackie Mesa Bruce Fekrat Amanda Olear Kevin Walek Steve Sherrod