Remarks of Chairman Gary Gensler before the International Group of Treasury Associations and the U.S. Chamber of Commerce

September 27, 2013

Thank you, Tom Deas and David Hirschmann, for those introductions. I would also like to thank the International Group of Treasury Associations and the Chamber of Commerce for the invitation.

Five years ago, the U.S. economy was in a free fall.

Five years ago, the swaps market was at the center of the crisis. It cost middle-class Americans – and hardworking people around the globe – their jobs, their pensions and their homes.

Five years ago, the swaps market contributed to the financial system failing corporate America and the economy as a whole. Thousands of businesses closed their doors. I'm sure many of your organizations did not make budget.

President Obama met in 2009 with the G-20 leaders in Pittsburgh. They committed to bringing the swaps market into the light through transparency and oversight.

The President and Congress in 2010 gave the task of implementing swaps market reform to the Commodity Futures Trading Commission (CFTC) and security-based swaps market reform to the Securities and Exchange Commission.

With the CFTC's near completion of these reforms, the shift to a transparent, regulated marketplace benefitting investors, consumers and businesses is fully in motion.

This shift has taken place with a consistent eye toward ensuring these reforms work for end-users, America's job providers. It's the end-users in the non-financial side of our economy that provide 94 percent of private sector jobs.

Your companies rely on the derivatives marketplace to manage risk. Your companies also benefit from transparency and efficiency. The CFTC's 61 final rules, orders and guidance have brought traffic lights, stop signs, and speed limits to the once dark and unregulated swaps roads.

Now your companies can navigate these roads knowing there are bright lights and robust safety measures in place that didn't exist in 2008.

You can lock in a price or a rate and thus focus on what your companies do best – innovating, producing goods and services for the economy, and creating **jobs,** just as the gigantic letters say outside the Chamber's building.

Transparency

The first critical component of swaps market reform is transparency.

Today, the public and end-users can see the price and volume of each swap transaction as it occurs on a website, like a modern-day tickertape.

This transparency lowers costs for investors, consumers and businesses. It increases liquidity, efficiency and competition.

Regulators have benefited as well. Nearly $400 trillion in market facing swaps, representing 1.8 million separate transactions, are being reported into data repositories.

This transparency spans the entire marketplace – cleared as well as bilateral or customized swaps. Every product, without exception, now must be reported – interest rate; cross currency; foreign exchange; credit index; equity index; and commodities, such as energy and agricultural.

When end-users report their transactions, though, they are given more time to do so than other market participants.

Further, starting next week on October 2 the public and end-users will benefit as swap trading platforms come under new common-sense rules of the road.

Over time, market participants will benefit from the enhanced pre-trade transparency and competition of swap execution facilities (SEFs).

Non-financial end-users, such as your companies, will benefit as well, though you will get to choose whether or not to use the facilities. Companies will continue to be able to rely on customized transactions to meet their particular needs, as well as enter into large block trades.

SEFs are required to provide all market participants – dealers and non-dealers alike – with impartial access. They also provide the ability to compete by leaving live, executable bids or offers in an order book.

Some have called for delays in these reforms or even that certain platforms for foreign currency, energy swaps or other commodities no have to come under oversight at all.

But requiring trading platforms to be registered and overseen by regulators was central to the swaps market reform President Obama and Congress included in the Dodd-Frank Act. They expressly repealed exemptions, such as the so-called "Enron Loophole," for unregistered, multilateral swap trading platforms. They provided that such exemptions would expire by July 2012.

They did so based on a long public debate.

In fact, then Senator Obama in June 2008 called for fully closing the "Enron Loophole."

Acting on Congress' direction, the CFTC finalized rules for SEFs last spring. Now, more than a year after Congress' two-year deadline has passed, it's appropriate to fulfill this mandate, and, as they told us to do, for all swaps trading facilities, regardless of asset class.

Seventeen SEFs are temporarily registered. This is truly a paradigm shift. We understand that there are going to be issues that arise. Just as we have for the clearing mandate, just as we have for swap dealer registration that started nine months ago, just as we continue to do with the three swap data repositories – we want to work with market participants to smooth this transition. We will review requests for no-action relief on a case-by-case basis.

Though there may be issues, let there be no doubt that this is an important transition that the President and Congress mandated from a dark to a lit market.

This is a transition from a mostly dealer-dominated market to one where others have a greater chance to compete for your business.

This transition to greater transparency is critical so corporations and the public at large get the benefit of such transparency and competition.

Clearing

Another key component of completed swaps reforms is bringing transactions among financial institutions into central clearing.

This month, with the completion of phased implementation, mandatory clearing of interest rate and credit index swaps is a reality for swap dealers, hedge funds and other financial institutions.

Clearinghouses lower risk and promote access for market participants.

As of mid-September, after the last domestic clearing compliance date, 72 percent of new interest rate swaps were cleared. In total, over $180 trillion of the approximately $330 trillion market facing interest rate swaps market, or 54 percent, was cleared as of mid-September. This compares to only 21 percent of the market in 2008.

On October 9, the guaranteed affiliates and branches of U.S. persons are required to come into central clearing. Further, hedge funds and other funds whose principal place of business is in the United States or that are majority owned by U.S. persons are required to clear as well. No longer will a hedge fund with a P.O. Box in the Cayman Islands for its legal address be able to skirt the important reforms Congress put in place.

While financial entities are required to clear, the CFTC has ensured, as Congress provided in the Dodd-Frank Act, that end-users can choose whether or not to clear swaps that hedge or mitigate commercial risks.

The CFTC also has been thoughtful of end-users and other market participants in ensuring that most affiliate trades are exempt from both clearing and reporting requirements.

Further, CFTC staff provided relief to certain treasury affiliates entering into swaps on behalf of non-financial affiliates from the clearing requirement.

Swap Dealer Oversight

The third key component of swaps market reform is bringing oversight to swap dealers.

In 2008, swaps activity was basically not regulated in the United States, Europe or Asia. Among the reasons for this, it was claimed that financial institutions did not need to be specifically regulated for their swaps activity, as they or their affiliates already were generally regulated as banks, investment banks or insurance companies.

AIG's downfall was a clear example of what happens with such limited oversight.

Today, we have 82 swap dealers and two major swap participants registered. This group includes the world's 16 largest financial institutions in the global swaps market, commonly referred to as the G16 dealers. It also includes a number of energy swap dealers. Non-financial companies, however, other than those genuinely making markets in swaps, will not have to register as swap dealers.

Swap dealer oversight helps protect the public and end-users. It lowers risk and increases market integrity. Swap dealers throughout this year have had to report their transactions and comply with sales practice and other business conduct standards.

The Commission's proposed rule on margin provides that end-users will not have to post margin for uncleared swaps. We also continue to advocate with global regulators for an approach consistent with that of the CFTC. Such an approach was included in recently published international standards on margin.

International Coordination on Swap Market Reform

Since the 2009 meeting in Pittsburgh, the CFTC has been consistently coordinating with our international counterparts on swaps market reform. The United States, Europe, Japan and the largest provinces in Canada all have made substantial progress.

As the CFTC and the international regulatory community move forward with reform, we all recognize that risk knows no geographic border. AIG nearly brought down the U.S. economy through the operations of its offshore guaranteed affiliate.

It wasn't the only U.S. financial institution that brought risk back home from its far-flung operations during the 2008 crisis.

It was also true at Lehman Brothers, Citigroup, and Bear Stearns. Ten years earlier, it was true at Long-Term Capital Management.

The nature of modern finance is that financial institutions commonly set up hundreds, or even thousands, of legal entities around the globe. When a run starts on any part of an overseas affiliate or branch of a modern financial institution, risk crosses international borders.

The U.S. Congress was clear in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that the far-flung operations of U.S. enterprises are to be covered by reform.

The CFTC, coordinating closely with global regulators, completed guidance on the cross-border application of the Dodd-Frank Act in July. Swaps market reform covers transactions between non-U.S. swap dealers and guaranteed affiliates of U.S. persons, as well as swaps between two guaranteed affiliates.

The guidance embraces the concept of substituted compliances where there are comparable and comprehensive rules abroad.

This guidance is critical to protecting your companies from the risk of another foreign-affiliate failure.

Benchmark Interest Rates

This week, the CFTC brought yet another action against an entity for manipulation and false reporting related to the London Interbank Offered Rate (LIBOR).

This action against interdealer broker ICAP once again shows how LIBOR has been and can be readily and pervasively rigged.

It also highlights the importance of fulfilling the President and Congress' mandate of registering and bringing oversight to swap trading platforms, such as SEFs. You see, the abuses revealed this week include misconduct on ICAPS's swaps trading desk.

LIBOR and Euribor are critical reference rates for global futures and swaps markets. In the U.S., LIBOR is the reference rate for 70 percent of the futures market and more than half of the swaps market. It is the reference rate for more than $10 trillion in loans.

We must ensure that these benchmark interest rates have market integrity and that they are based on fact, not fiction.

The interbank, unsecured market that the benchmarks are intended to measure, however, essentially no longer exists, particularly for longer tenors.

The U.S. Financial Stability Oversight Council recommended that U.S. regulators work with foreign regulators, international bodies, and market participants to promptly identify alternative interest rate benchmarks anchored in observable transactions and supported by appropriate governance structures, and to develop a plan to accomplish a transition.

An International Organization of Securities Commissions (IOSCO) task force took an important step in announcing new principles in July that require benchmarks to be anchored by observable transactions and subject to robust governance processes that address potential conflicts of interest.

Building on IOSCO's work, the Financial Stability Board (FSB) is initiating a review of alternatives to existing benchmark interest rates, as well as considering any potential transition issues. I want to thank Tom Deas for his willingness to join the FSB's Market Participants Group, which will examine the feasibility and viability of adopting additional reference rates and potential transition issues.

Resources

I'd like to close by saying that the CFTC is currently an underfunded agency. We are only slightly larger than we were 20 years ago. At that time, we oversaw just the futures market, which is less than a tenth of the size of the swaps market we now oversee as well. The futures market also has grown five-fold, driven by rapid advances in technology

It is critical to the public's confidence – and the confidence of businesses across the globe that rely on these markets to hedge risk – that the regulator for these markets is well funded.

Investments in both technology and people are needed for effective market oversight – like having more cops on the beat.

The President has asked for $315 million for the CFTC. This year we've been operating with only $195 million – a cut from the last fiscal year, which was $205 million.

We are far short of the people we need to oversee our new mandate, the swaps market, and we've actually had to shrink by 30 people this year. Today our headcount of 680 is not much different than where we were 20 years ago.

I recognize that Congress and the President have real challenges with regard to our federal budget. I believe, though, that the CFTC is a good investment for the American public. It's a good investment to ensure our companies have a transparent and well-functioning market in which to hedge.

I don't believe our current funding is sustainable.

Without sufficient funding for the CFTC, the nation cannot be assured this agency can closely monitor for the protection of customer funds and utilize our enforcement arm to its fullest potential to go after bad actors in the futures and swaps markets.

Without sufficient funding for the CFTC, the nation cannot be assured that this agency can effectively enforce essential rules of the road that benefit the public and end-users by promoting transparency and lowering risk to the economy.

Conclusion

Thank you again for having me, it's my fifth time speaking to the Chamber of Commerce. In the past, I've spoken about the need for swaps market reform. Today, I'm glad I could tell you how far we've come.

I very much look forward to seeing what grade the Chamber will give the CFTC in next year's report card. David, you know I'm always willing to speak, if you'd like to invite me back.

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