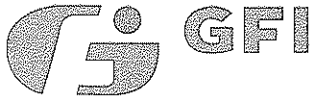
ADDRESS
55 Water Street
New York, NY 10041

CONTACT
phone 212.968.4100
fax 212.968.2386

INTERNET
www.GFIgroup.com



April 4, 2011

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Re: Registration and Regulation of Security-Based Swap Execution Facilities
File No. S7-06-11; RIN: 3235-AK93

Dear Ms. Murphy:

GFI Group Inc. ("GFI")[1] submits this letter in connection with the rules being proposed by the Securities and Exchange Commission (the "Commission") regarding the registration and regulation of security-based swap execution facilities ("SB SEFs").[2] GFI met with members of the Commission's staff (the "Staff") on February 24, 2011, to discuss certain aspects of the Proposed Rules, and the Staff suggested that GFI comment on certain matters that were discussed at that meeting. GFI is submitting this letter in response to the Staff's recommendation.

---

1 GFI and its affiliates provide competitive wholesale market brokerage services in a multitude of global over-the-counter ("OTC") and exchange-listed cash and derivatives markets for credit, fixed income, equity, financial, and commodity products. GFI's parent company makes its headquarters in New York and employs more than 1,700 people, with additional offices in London, Paris, Hong Kong, Seoul, Tokyo, Singapore, Sydney, Cape Town, Dubai, Tel Aviv, Dublin, Calgary, Englewood, New Jersey, and Sugar Land, Texas. GFI and its affiliates provide services and products to over 2,400 institutional clients, including leading banks, corporations, insurance companies, and hedge funds. GFI intends to operate a security-based swap execution facility that will be registered as such with the Commission. Some of the comments set forth in this letter are similar to comments that GFI previously made to the Commodity Futures Trading Commission ("CFTC") regarding the regulation of swap execution facilities. *See* letter from Scott Pintoff, General Counsel, GFI to David Stawick, Secretary, CFTC, dated March 8, 2011.

2 *See* Securities Exchange Act Release No. 34-63825 (February 2, 2011) (the "Proposed Rules").

I. Consolidated Trading Display

As we discussed in our meeting with the Staff, GFI currently operates a number of electronic brokerage platforms that facilitate the trading of swaps. Market participants access these platforms through an electronic screen that gives them a consolidated view of all the trading interest that is available through GFI in the relevant swap market. GFI proposes to maintain this functionality after it registers as an SB SEF,[3] and thus to display trading interest in swaps that are subject to the mandatory trade execution requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Cleared Swaps") on the same screen on which it displays trading interest in all other swaps ("OTC Swaps"). However, because the trading of Cleared Swaps and OTC Swaps will be subject to different rules, GFI's trading platform will identify which swaps are subject to the rules that apply to transactions that are deemed to be executed on its SB SEF (i.e., Cleared Swaps) and which swaps are not subject to those rules (OTC Swaps).

GFI believes that this proposal is consistent with the Securities Exchange Act of 1934, as amended (the "Exchange Act").[4] In this regard, we note that Section 3D(c) of the Exchange Act expressly permits a person that operates a national securities exchange and an SB SEF to use the same electronic system to facilitate the execution of securities and security-based swaps as long as it clearly identifies the facility on which such execution is deemed to occur. In our view, this indicates that Congress intended to let platform operators permit market participants to use a single gateway to access trading interest in financial instruments that are subject to different regulatory schemes as long as they take steps to eliminate the risk of confusion. GFI believes that its proposal to provide a consolidated display of all trading interest available through GFI in the manner discussed above is consistent with such intent. Accordingly, GFI requests that the Commission confirm our understanding on this matter when it adopts its final rules relating to the regulation of SB SEFs.

II. Impartial Access

Proposed Rule 809(a) provides generally that an SB SEF may permit only the following persons to become participants in an SB SEF: (1) registered security-based swap dealers; (2) registered major security-based swap participants; (3) registered broker-dealers; and (4) eligible contract participants (collectively, "Eligible Persons"). Under Proposed Rule 809(b), an SB SEF must permit all Eligible Persons that meet the requirements set forth in its rules to participate on the SB SEF in a manner that is consistent with the impartial access requirements in Section 3D(d) of the Exchange Act and proposed Rule 811(b).[5] Under proposed Rule 811(b), an SB SEF must, among other things, establish fair, objective, and not unreasonably discriminatory

---

3 GFI expects that one of its affiliates will register as an SB SEF with the Commission. Therefore, all references in this letter to GFI's registration as an SB SEF should be deemed to refer to the registration of such affiliate.

4 All references herein to the Exchange Act are to the Exchange Act as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank").

5 Section 3D(d)(2)(A)(ii) of the Exchange Act expressly permits an SB SEF to establish rules relating to limitations on access to the SB SEF.

standards for granting access to trading on the SB SEF and may not unreasonably prohibit or limit access to the SB SEF by applying these standards in an unfair manner.

GFI is concerned that by including registered broker-dealers in the class of Eligible Persons, the Proposed Rules could require an SB SEF to give a broker (including another SB SEF that is required to be registered as a broker-dealer under the Proposed Rules) that does not intend to act as a market participant direct access to its trading systems. As the Commission is aware, an SB SEF will incur significant administrative, operational, and compliance costs with respect to each person that it admits as a participant on the SB SEF. If such a participant actively trades on the SB SEF, then the incurrence of these costs may be justified by the liquidity provided by that market participant. Conversely, a broker that becomes a participant primarily or solely for informational purposes or to further its competitive interests will not provide the liquidity necessary to justify these costs.

GFI believes that the impartial access requirements of the Exchange Act should be interpreted in accordance with the purpose that they were intended to serve. As the Commission noted in the proposing release, the purpose behind the access requirements is to promote greater price competition in the trading of security-based swaps ("SB swaps").[6] This purpose can be best served if market participants utilize their access to an SB SEF for trading purposes rather than to gain a competitive or informational advantage that they cannot secure through their own efforts.

Accordingly, GFI requests that the Commission revise the Proposed Rules to clarify that an SB SEF may adopt objective rules that impose reasonable activity requirements on its participants that are solely registered as broker-dealers, and may limit or terminate the access of any such participant that does not meet these requirements, so long as these rules are applied in a fair and non-discriminatory manner. This approach would be entirely consistent with Section 3D(2)(A)(ii) of the Exchange Act, which expressly permits a SB SEF to adopt rules that establish limit on access to the SB SEF, and would help ensure that an SB SEF does not bear the cost and expense of supporting, regulating and examining market participants that do not intend to participate meaningfully on its trading platform.

III. Discretionary Authority

In the Proposing Release, the Commission has taken the position that an entity that meets the definition of "security-based swap execution facility" under Section 3(a)(77) of the Exchange Act also would fall within the definition of "broker" set forth in Section 3(a)(4) of the Exchange Act. However, because the Exchange Act sets forth a comprehensive regulatory framework for SB SEFs, the Commission has proposed to adopt Rule 15a-12 under the Exchange Act to conditionally exempt any SB SEF from the Exchange Act and the rules and regulations thereunder applicable to brokers other than Sections 15(b)(4), 15(b)(6) and 17(b) thereunder. However, this conditional exemption would not be available if the SB SEF acts as an agent of a

6 *See* 76 Fed. Reg. 10948, 11037 (February 28, 2011).

counterparty to a SB swap trade or acts in a discretionary manner with respect to the execution of a SB swap transaction.

GFI notes that in a separate comment letter filed today, the Wholesale Market Brokers' Association, Americas ("WMBAA") has requested that the Commission permit SB SEFs to exercise time and price discretion over customer orders without subjecting themselves to the full scope of broker-dealer regulatory requirements.[7] GFI concurs with this request for the reasons set forth in the WMBAA letter.

IV. FINRA Membership

In the Proposing Release, the Commission requested comment on whether there is a need for SB SEFs to become members of a national securities association and asked whether such a requirement would be beneficial because it would subject SB SEFs to regulatory oversight in addition to that which is provided by the Commission. We believe that any such oversight can and should be accomplished through an entity's registration as an SB SEF and that the imposition of any additional layer of oversight would be duplicative and unnecessary.

Under Section 3(a)(26) of the Exchange Act, the term "self-regulatory organization" includes a national securities association such as the Financial Industry Regulatory Authority ("FINRA"), but does not include an SB SEF. However, as the CFTC has noted, a swap execution facility is required to perform many self-regulatory functions, including trade practice surveillance, market surveillance, real-time market monitoring, investigations of possible rule violations, and taking disciplinary action.[8] Thus, we believe that the Commission should not require an SB SEF to join FINRA because such a requirement would effectively subject an SB SEF, which will have an array of self-regulatory duties, to the oversight of another self-regulatory organization. SB SEFs are subject to a comprehensive regulatory scheme, and any further regulation of SB SEFs would subject them to regulatory burdens that are neither necessary nor appropriate under the Exchange Act.

Further, we believe that requiring SB SEFs to become FINRA members creates an uneven playing field between SB SEFs and national securities exchanges. In this regard, we note that the Exchange Act does not require the Commission to distinguish between cleared swaps that are traded on an SB SEF and cleared swaps that are traded on a national securities exchange. Instead, the Exchange Act provides that a swap that is subject to mandatory clearing and is available for trading must be executed on a SB SEF or a national securities exchange, but does not favor one venue over the other. Thus, we believe that any proposal which requires SB SEFs, but does not require national securities exchanges, to become FINRA members imposes a discriminatory burden on SB SEFs that is inconsistent with the Exchange Act.

Finally, as noted above, SB SEFs that act in a discretionary manner will be subject to the full scope of broker-dealer regulation, including FINRA membership requirements. Thus, we do

---

7 *See* letter from Stephen Merkel, Chairman, WMBAA to Elizabeth M. Murphy, Secretary, Commission, dated April 4, 2011 (the "WMBAA letter").

8 *See* 76 Fed. Reg. 1214, 1224 n. 67 (January 7, 2011).

not believe that it is necessary for the Commission to separately require all SB SEFs to become FINRA members because the SB SEFs for whom such membership is most appropriate would already be required to become FINRA members under the terms of proposed Rule 15a-12.

V. "Not Readily Susceptible to Manipulation"

Section 3D(d)(3) of the Exchange Act (Core Principle 3) provides that an SB SEF shall permit trading only in SB swaps that are not readily susceptible to manipulation. Proposed Rule 812(b) accordingly provides that before an SB SEF may permit the trading of a SB swap on an SB SEF, the SB SEF's swap review committee must have determined, after taking into account all of the terms and conditions of the SB swap and the markets for the SB swap and any underlying security or securities, that such SB swap is not readily susceptible to manipulation.

We believe that once the Commission has declared these swaps to be subject to mandatory clearing, an SB SEF should not be required to corroborate the Commission's prior determination. Instead, as discussed below, we believe that an SB SEF should be permitted to rely on the analysis undertaken by the Commission in determining whether a swap should be subject to mandatory clearing.

Specifically, Section 3C(b)(5) of the Exchange Act requires the Commission to adopt rules governing the review by the Commission of swaps that are proposed by a clearing agency to be made subject to the mandatory clearing requirement. Under the Commission's proposed revisions to Exchange Act Rule 19b-4, a clearing agency that desires to make a swap available for clearing would be required to submit a significant amount of information about these swaps to the Commission for review.[9] Among other things, the clearing agency would be expected to provide information regarding pricing sources, models and procedures that demonstrate its ability to obtain price data to measure credit exposures in a timely and accurate manner, as well as measures of historical market liquidity and trading activity, and expected market liquidity and trading activity if the security-based swap is required to be cleared.[10] Although we cannot be certain, we believe that this information would permit the Commission to determine whether a swap is readily susceptible to manipulation, and we presume that the Commission would be unwilling to make a swap subject to mandatory clearing unless it believed that the swap in question was not, in fact, readily susceptible to manipulation.

Requiring an SB SEF independently, and repetitively, to demonstrate that the same swaps that the Commission has previously reviewed are not themselves readily susceptible to manipulation serves no regulatory purpose because the SB SEF would be doing nothing more than providing the Commission with information that it has previously analyzed in detail. Indeed, as a practical matter, a securities clearing agency that proposes to clear an SB swap is likely to have far greater access to information about the pricing and expected market for a security-based swap than the SB SEFs that merely propose to make the SB swap available for trading. Accordingly, we recommend that the Commission modify its proposed revisions to

---

9 *See* 75 Fed. Reg. 82490, 82495 (December 30, 2010).

10 *Id.*

Exchange Act Rule 19b-4 to provide that an SB SEF will be deemed to have satisfied the requirements of Core Principle 3 if the Commission has previously required that swap to be cleared.

VI. Clean Cross

The Proposing Release contains an extensive discussion on the manner in which block transactions should be required to be effected on an SB SEF. While the Commission has acknowledged that an SB SEF may establish different trading rules for block trades generally, it has taken the position that such trades should be required to interact with other trading interest on an SB SEF in order to comply with the pre-trade transparency requirements of Dodd-Frank. Thus, the Commission has stated that to the extent that liquidity exists on the central limit order book of an SB SEF, block trades must interact with any pre-existing bids and offers on the order book. The Commission has nonetheless asked whether it would be appropriate to provide an exception from this requirement for "clean-cross" transactions where such transactions are block size and exceed the size displayed on an SB SEF's order book. Given the wholesale nature of the market for SB swaps and the certainty of execution that such an exception would provide, we believe that the Commission should permit SB SEFs to adopt such a rule.

The Commission has acknowledged that the order interaction requirements of the Proposed Rules could have an adverse impact on market participants, but noted that such impact is mitigated by the fact that the Proposed Rules permit SB SEFs to establish flexible trading rules concerning block trades. Thus, the Commission suggested that an SB SEF could create one RFQ platform that caters to block trades and another that caters to smaller transactions. Further, the Commission noted that under the Proposed Rules, market participants would be able to choose whether to disseminate their intent to effect a block transaction to a narrow or broad segment of the market.

While GFI appreciates the flexibility provided by the Proposed Rules, such flexibility may be more apparent than real. In GFI's experience, market participants generally desire to view on a consolidated basis of all of the trading interest that is available on a swap trading platform. Therefore, GFI believes that an SB SEF that fragments its liquidity pool by utilizing different trading platforms for block and non-block transactions would fail to meet the reasonable expectations of participants. Furthermore, GFI does not believe that market participants that desire to widely disseminate their intent to trade in block size should be forced to incur the increased trading costs that will arise from permitting block transactions to be broken up. Finally, we note that the Commission has previously permitted the national securities exchanges to adopt rules that permit their members to bypass pre-existing trading interest in order to facilitate the execution of block transactions.[11] We see no reason why an SB SEF should be held to a different standard.

VII. Composite Indicative Quote

11 *See* Securities Exchange Act Release No. 31343 (October 21, 1992) (order approving the NYSE clean cross rule) and Securities Exchange Act Release No. 34089 (May 19, 1994) (order approving the Amex clean cross rule).

Proposed Rule 811(e) would require a SB SEF that operates a RFQ platform to create and disseminate a composite indicative quote for SB swaps traded on or through the SB SEF and to make such quotes available to all of its participants. GFI does not disagree with this requirement in principle. GFI believes, however, that an SB SEF that has disseminated a firm quote for the SB swap in question should be exempt from this requirement. As the Commission is aware, the informational content of a firm quote clearly exceeds that of an indicative quote, and requiring an SB SEF to display both firm and indicative quotes for the same SB swap may be misleading to market participants. Thus, we recommend that the Commission encourage SB SEFs to disseminate firm quotes for SB swaps traded on or through their platforms by relieving them of the obligation additionally to disseminate indicative quotes for these swaps.

* * *

GFI appreciates the opportunity to submit these comments. GFI believes that certain of the Commission's Proposed Rules would benefit from additional refinement so that they may further the goal of promoting the trading of swaps on SB SEFs. Accordingly, we urge the Commission to revise and clarify certain aspects of the Proposed Rules in light of the comments set forth above. If the Commission has any questions concerning the matters discussed in this letter, please contact me at (212) 968-2954, or Daniel E. Glatter, Assistant General Counsel, at (212) 968-2982.

Sincerely,

Scott Pintoff
General Counsel

cc: Honorable Mary L. Shapiro
Honorable Kathleen L. Casey
Honorable Elisse B. Walter
Honorable Luis A. Aguilar
Honorable Troy A. Parades