

Testimony of James Cawley

Javelin Capital Markets

Swaps & Derivatives Market Association

for

COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON CAPITAL MARKETS AND GOVERNMENT SPONSORED ENTERPRISES

United States House of Representatives

October 14th, 2011

Chairman Garrett, Ranking Member Waters, and Members of the Subcommittee, my name is James Cawley. I am Chief Executive Officer of Javelin Capital Markets, an electronic execution venue of OTC derivatives that will register as a Swaps Execution Facility under the Dodd Frank Act.

I am also here to represent the interests of the Swaps & Derivatives Market Association which is comprised of several independent derivatives dealers and clearing brokers, some of whom are the largest in the world.

Thank you for inviting me here today to testify.

HR 1838 Repeal of Dodd Frank Act Section 716

Let me first address HR 1838 that calls for the repeal of Section 716 of the Dodd Frank Act. Section 716 requires that the US Government can no longer bail out swap dealers that do not hold deposits from the American public.

The SDMA respectfully opposes HR 1838 because it will allow for further bail outs of Wall Street by Main Street.

We oppose HR 1838, because it is not the role of government to intervene in private business by picking winners and losers. Government bail outs of private business run contrary to the fundamental tenets of free enterprise in this country.

Swap dealers, like all other private businesses must be allowed to succeed or fail on their own merits.

Swaps dealers serve no prudential role in the economy. To be sure, as we have seen from the Financial Crisis of 2008, systemic risk born of the bilateral construct of an uncleared swap increased the systemic risk of these firms. But, the swap clearing mandate, under Dodd Frank, substantially mitigates such risk and thus, in the future, these firms will be allowed to fail without threatening our economy.

We oppose HR 1838 also because of the moral hazard implications. For swap traders to know that somehow their firms and their jobs will be protected by the US tax payer would only encourage further high risk behavior, and drastically increase the likelihood of another bail out.

Lastly, the SDMA opposes such a bill because even if the US taxpayer wanted to bail out Wall Street, it simply can't afford it. With budget deficits running close the 100% of GDP, the US taxpayer doesn't have the funds. Moreover, one need only look to the paralyzed economies of Ireland, Portugal, and Greece to appreciate the ills of taking bailing outs a 'bridge too far.'

As unfortunate as it is, bad actors in finance should be rewarded as bad actors in other industries; not with bail outs, but with bankruptcy.

HR 2586 Swap Execution Clarification Act

With regard to the Swap Execution Clarification Act that calls for an override of various pre trade transparency provisions of the Dodd Frank Act, the SDMA respectfully opposes it.

To not require SEFs to show live, firm bids and offers to the entire market so that participants can transact on them, would dangerously limit fair dealing, restrict competition and increase systemic risk.

As empirical experience and academic research show, the dissemination of live, actionable prices to all market participants simultaneously increases market integrity, promotes a level playing field, and increases liquidity.

Fair and open markets, attract more dealers and buy-side participants which, in turn, foster even greater liquidity. As evidenced by Financial Crisis of 2008, the credit default and interest rate swap markets can never have enough liquidity.

The SDMA opposes HR 2586 because it would increase transaction costs.

With regard to transaction costs in the swaps markets, it is estimated that market participants pay \$50 Billion annually.

By fostering greater pre and post trade transparency, it is estimated that such transaction costs will fall by 30% or \$15 Billion annually in the first few years after Dodd Frank.

That is \$15 Billion that corporations can use on their own balance sheets to invest in research and development or hire more workers.

That is \$15 Billion that loan portfolios can pass back to consumers in the form of cheaper small business loans or cheaper mortgages for American families.

To be clear, the current SEF rules promote transparency, fair dealing and lower transaction costs.

The SEF and CFTC have mindfully permitted different execution methods such as exchange-like anonymous *Central Limit Order Books* and *Request for Quote* methodologies. Moreover, the Commissions do not restrict voice/hybrid broking methodologies. They merely require that they operate with certain pre trade transparency precepts in mind.

The Commissions have wisely allowed the markets to decide which method works best in each market context.

The SDMA, too, has several voice broker constituent firms with many hundreds of voice brokers. After our review, we support the Dodd Frank Act as passed.

To be sure, to change the rules now would be expensive to roll back. Clearing houses, dealers, buy-side and trading venues have already invested hundreds of millions of dollars in anticipation of such rules. To reverse the rules now would be costly, inhibit capital formation, cost jobs and sacrifice economic growth.

No More Delay

To conclude, the SDMA calls on the members of this subcommittee to forgo proposed Bills HR 1838 and HR 2586 and instead request an immediate finalization of clearing, execution and trade reporting rules by the regulators.

As we enter our second global financial crisis in three years, we should all be mindful that the swaps markets are no better protected today than they were in 2008.

The sooner we implement Dodd Frank, the safer the American economy will be.

I thank you for your time and am glad to answer any questions.

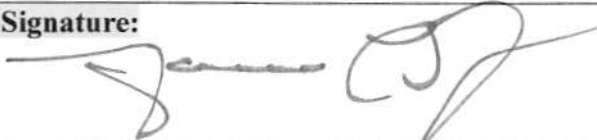
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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

1. Name: James Cawley	2. Organization or organizations you are representing: Javelin Capital Markets, & SDMA
3. Business Address and telephone number: [REDACTED]	
4. Have <u>you</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	5. Have any of the <u>organizations you are representing</u> received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2008 related to the subject on which you have been invited to testify? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6. If you answered .yes. to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets. 	
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