

Advanced Swaps & Other Derivatives 2011

New York City, October 18-19

Boston Groupcast Location, October 18-19

New Brunswick Groupcast Location, October 18-19

Live Webcast, www.pli.edu, October 18-19

Why You Should Attend

The credit crisis has led to the most extensive overhaul of financial regulation since the early 20th century. The reform legislation establishes a comprehensive framework for the regulation of over-the-counter derivatives and the market participants who transact in these products.

These reforms touch the activities of all participants in the swaps markets. From end users to major swap participants to swap dealers. They will also affect a broad range of market facilities from clearinghouses to exchanges, swap execution facilities and swap data repositories.

These reforms impose registration requirements, mandatory clearing and trading requirements, margin requirements, capital and business conduct standards, and transaction and position reporting, as well as limitations on swap positions.

The reforms also establish new limitations on the scope of derivatives and proprietary trading activities that may be conducted by certain financial institutions.

At this program, our distinguished faculty will provide a comprehensive overview of the new regulatory framework for over-the-counter derivatives and derivatives market participants, and explain how the new regulatory framework will affect these products, the structure of the market for these products and market participants. The program will also cover documentation issues, and recent developments in tax, accounting and litigation related to derivatives, as well as professional responsibility issues associated with derivatives.

What You Will Learn

- A comprehensive analysis of the new regulatory framework for OTC derivatives:
 - Who is required to register and as what?
 - How is cross-border activity covered under the new regulatory framework?
 - What are the new mandatory clearing and trading requirements?
 - What are the new reporting requirements?
 - What are swap execution facilities?
 - Who must be regulated as a swap execution facility?
 - What are the new margin requirements and to whom do they apply?
 - When must swap dealers be registered as futures commission merchants?
 - How will banks and their affiliates be affected by new limitations on derivatives and proprietary trading activities?
 - What are the new position limits applicable to OTC derivatives?
 - What changes have been made to existing insolvency law?

- How will the amended federal commodity and securities laws affect brokers, advisors and funds transacting in OTC derivatives?
- Significant issues relating to credit, equity and commodity derivatives
- Recent litigation developments related to derivatives
- Tax and accounting developments applicable to derivatives
- Professional responsibility and derivatives

Who Should Attend

This program is intended for experienced outside counsel, in-house attorneys, government lawyers, documentation managers, compliance officers, bankers, corporate and other end users of swaps and others involved in advanced structuring, negotiating and executing swap agreements and other derivative products. Counsel to derivatives market facilities and others involved in structuring, negotiating and executing swap agreements and other derivative products will also benefit from attending this program.

Advanced Swaps Day 1 - Tuesday, October 18, 2011

9:00 Opening Remarks

Gary Barnett, Joshua D. Cohn

9:15

Swaps, Security-Based Swaps and Mixed Swaps: What's Covered and What Isn't Covered by Dodd-Frank? Who Are the regulators? What Is the Extraterritorial Reach of Dodd-Frank?

- The CFTC, SEC and the Prudential Regulators
- Potential reach and likely impact on market participants
- Extraterritoriality

Moderators: *Gary Barnett, Joshua D. Cohn*

Robert W. Cook, Mary Johannes, Sarah Lee, Mark Steffensen

10:15 Networking Break

10:30

Clearing and Trading; Grandfathering; End-Users; Margin Posting for Cleared and Uncleared Transactions; Client Money Segregation; Loss Mutualization

- Mandatory clearing and trading requirements
- SEFs and trading facilities, including definitions, exceptions, regulation and registration
- Margin, segregation and loss mutualization: current state of play of models

Moderator: *Gary Barnett*

Michael D. Bopp, Anthony Cicia, Christopher L. Ramsay, William Thum, Kathryn M. Trkla

12:00 Lunch Break

1:15

Swap Execution and Reporting; Giveup and Backloading Arrangements

- Execution
- Give-up arrangements and the model FIA Execution Agreement/ forthcoming Futures Agreement Addendum
- Backloading

Geoffrey B. Goldman, Lauren Teigland-Hunt, Kathryn M. Trkla, Jeffrey T. Waddle

2:15 **Networking Break**

2:30

Swap dealers and Major Swap Participants: Who Are They and How Will They be Regulated? Reporting, Position Limits, Business Conduct Rules, Capital

- Swap Dealers, Major Swap Participants: who qualifies?
- Major internal changes: reporting and conduct
- Margin and capital requirements and effect on liquidity

Moderator: *Gary Barnett*

Robert C. Lee, Joanne Medero, Kenneth M. Raisler

4:00

Regulation of Other Swap Market Participants under the CEA and Securities Exchange Act of 1934: Clearing Members, Clearing Houses, and the Swap Activities of Banks

- CCPs
- Brokers and clearing members
- Advisors and funds
- Banks, including existing bank regulations, the Volcker Rule, Push-Out Provision and the Federal Reserve Act Section 23A/B

Moderator: *Gary Barnett*

Paul M. Architzel, Douglas E. Harris, Iona J. Levine, Mark E. Van Der Weide

5:00 **Adjourn**

Advanced Swaps Day 2 - Wednesday, October 19, 2011

9:00 **Recap and Introduction to Day Two**

Gary Barnett, Joshua D. Cohn

9:15

Principal Issues for Consideration and Negotiation in Derivatives Documentation- Implications of the New Regime; SCM v FCM Model; Optimizing Portfolio Management Across Products

- Swaps generally
- Commodity Swaps, Equity Swaps and CDS
- Legal and contractual considerations

Moderator: *Gary Barnett*

Silas Findley, Pia Friis

10:15 Networking Break

10:30

Principal Issues for Consideration and Negotiation in Derivatives Documentation- Implications of the New Regime; SCM v FCM Model; Optimizing Portfolio Management Across Products (continued)

11:30

Tax and Accounting

- Recent Tax Court decisions, *Anschutz, Calloway*
- New tax legislation addressing withholding on dividend substitutes
- New tax legislation affecting foreign financial institutions receiving U.S. source income (the QI-2 Rules)

Mark H. Leeds, Christopher Rogers

12:30 Lunch Break

1:45

Derivatives and Professional Responsibility

- Representing an organization
- SEC Rule of Professional Responsibility for Issuer's Counsel
- Reporting wrongdoing up the ladder within an organization
- Reporting a client's fraud to regulators
- Lawyer's role in complex structured finance transactions
- Title VII creates new professional responsibility challenges
- Email and metadata issues

Michael S. Sackheim

2:45 Networking Break

3:00

Litigation & Insolvency and Resolution Authority: Netting Opinions; Safe Harbors; Orderly Liquidation

- Review of recent cases of interest to the OTC derivatives market, including flip clauses, multilateral netting, and more
- Fraud prosecutions (synthetic structures and Rule 10b-5)
- What the recent orders and judgments issued mean for the OTC derivatives market
- Changes introduced by financial reform (FDIC-modeled provisions of Orderly Liquidation Authority can now apply to entities otherwise subject to the Bankruptcy Code or SIPA)
- Differences between Orderly Liquidation Authority, the Code and SIPA
- Potential effect on various stakeholders – shareholders, creditors and counterparties

Moderator: *Joshua D. Cohn*

Seth Grosshandler, Mark G. Hanchet, Sharmini Mahendran, Charles M. Miller, Harold S. Novikoff, R. Penfield Starke

5:00 **Adjourn**

Faculty

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