

Board of Governors of the Federal Reserve System
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Chris Barnard

20 June 2013

- **12 CFR Part 237: Regulation KK; Docket No. R-1458**
- **Prohibition Against Federal Assistance to Swaps Entities**

Dear Robert deV. Frierson.

Thank you for giving us the opportunity to comment on your Interim final rule: Prohibition Against Federal Assistance to Swaps Entities.

The Board invites comment on the interim final rule that treats an uninsured U.S. branch or agency of a foreign bank as an insured depository institution for purposes of section 716 of the Dodd-Frank Act and establishes a process by which a state member bank or uninsured state branch or agency of a foreign bank may request a transition period to conform its swaps activities to the requirements of section 716.

Under the Interim final rule, § 237.21 states that: "For purposes of section 716 of the Dodd-Frank Act (15 U.S.C. 8305) and this subpart, the term "insured depository institution" includes any insured depository institution as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) and any uninsured U.S. branch or agency of a foreign bank". This definition of insured depository institution includes U.S. branches of non-U.S. banks, thus treating such branches and U.S. banks equally under the provisions of section 716 of the Dodd-Frank Act. I strongly support this definition of insured depository institution for purposes of section 716 of the Dodd-Frank Act, as it corrects the "significant oversight" during Congressional drafting that was confirmed by Senator Lincoln.¹

¹ Refer to Senator Lincoln's colloquy on the Senate floor: "I wish to engage my colleague, Senator DODD, in a brief colloquy related to the section 716, the bank swap desk provision. In the rush to complete the conference, there was a significant oversight made in finalizing section 716 as it relates to the treatment of uninsured U.S. branches and agencies of foreign banks...This oversight on our part is unfortunate and clearly unintended...", 156 Cong. Rec. S5903-04 (daily ed. July 15, 2010).

Please note that the comments expressed herein are solely my personal views

I agree with the interim final rule, which is reasonable and timely. It is also sufficient and complete in order to secure full equal treatment between U.S. banks and U.S. branches of non-U.S. banks under the provisions of section 716 of the Dodd-Frank Act.

Yours sincerely

C.R.B.

Chris Barnard