

Crapo Opening Statement on Swap Execution Facilities Hearing:

Thank you, Mr. Chairman for holding this hearing on the development of Swap Execution Facilities (SEFs).

There are a number of different electronic trading models that could potentially be used for derivatives trading depending upon final rules by the SEC, CFTC, and international regulators.

While Title VII of the Dodd-Frank Act states that the SEC and CFTC shall consult and coordinate to the extent possible for the purposes of assuring regulatory consistency and comparability, the lawyers for the two agencies have not been able to agree what these terms means.

We should not then be surprised when the two agencies propose inconsistent approaches to the same rule sets. For the Swap Execution Facility rules, the SEC approach is more principles-based and is in general far less prescriptive than that of the CFTC.

While the Dodd-Frank Act missed a great opportunity to merge the SEC and CFTC and stop the bifurcation of the futures and securities markets we should continue to push for more coordination and consistent rules.

Swap Execution Facilities are likely going to dually register with the two agencies and it makes a lot of sense for the two regimes to be consistent.

While I applaud the SEC for taking a more flexible approach relative to CFTC, both agencies need to make their rules more accommodative of the different types of SEFs to provide maximum choice in trade execution to market participants.

Under the CFTC SEF version, the proposed rule requires swap users to request prices from no fewer than five dealers at a time.

This is generating a lot of controversy from the end-user community which argues it may ultimately serve to unnecessarily disadvantage end-users by limiting their ability to choose the appropriate number of counterparties and mode of execution in the way they deem most efficient and effective to hedge their commercial risk.

Since the Dodd-Frank Act stipulates that transactions required to be cleared must also be executed on a SEF or designated contract market there is significant interplay between the clearing, trading, and the definition of block trades.

According to the end-users, this could create a problem for some less liquid trades that could be suitable for clearing, but not for trade execution.

I have also been advised that the SEC's SEF approach is more consistent with what the Europeans are looking at but have not acted upon.

If we want to find a common international framework in order to avoid regulatory arbitrage and avoid competitive disadvantages we need to provide greater coordination and harmonization to get the rules right rather than rushing them through.