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Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE : Amendments to REG SHO's Market Maker Exemption
Release No. 34-56213; File No. S7-19-07

September 17, 2007

Ladies and Gentlemen:

Since the industry responses from CDMI and Chadbourne Park LLP have failed to deliver their comment letters on time, I respectfully ask the commission, to ignore those letters. They have had ample time to respond in a timely fashion. There is no empirical evidence in their letters anyway. None.

But if the commission is going to consider the content of their letters and not ignore them as per the authority given the commission per the APA, I would like the commission to consider the counter arguments to their letters and points as well.

Counterpoints to the option market maker comment letters:

CDMI letter

Belief Based Policy?

"CDMI believes that the elimination of the OMM exception will have the opposite effect by reducing liquidity in both the threshold security and the overlaying option, to the ultimate detriment of the investor."

This belief is wrong. Further more, it is indicative that a market maker presents no empirical evidence to support the case, just belief. First of all, the options market makers do not make markets in the equity security. The two are separate markets and separate securities with separate market makers.

Naked short selling the equity for any reason does not benefit equity investors. The only liquidity added to the equity threshold security is more sell side liquidity.

Existing Equity Investors Vs. Future Derivative Investors?

"Without the ability to maintain a consistent hedge, the OMM may decide that it is not rational to make markets in options with threshold securities as the underlying."

"The uncertainty, time, processing and expense necessary to pre-borrow when effecting a short sale, as well as the uncertainty and expense caused by a close out of a hedge, will by its nature adversely affect the OMMs' pricing of the option. Customers who wish to take positions in threshold securities and hedge such securities with options, and customers that simply want to take a position in options as a surrogate for the underlying security, may well find it inefficient to do so."

Equity securities markets and investors are being asked to continue to offer benefits and incur risk and expense for the benefit of options investors and option market makers for no offsetting gain to them. Again, the options market makers are asking the commission to be able to involuntarily conscript **existing** equity securities markets and investors into their business plans in order to lay off their own **future** business expenses and risks onto equity markets and investors. Derivative markets need to price in all risks before a position is taken. This one way street is not beneficial to equity markets and investors.

The marker maker comment letters are void of any empirical evidence to support their claims and show no benefits other than to themselves.

There are plenty of equity securities that trade without derivatives markets based on the equity. This does not harm equity securities markets or investors and there is empirical evidence that shows it does.

Finally, the business plan proposed by the option market makers seeks to reduce expenses and risks by not paying borrow fees to existing equity investors. This denies equity investors borrow fees and distorts the market for lending securities. Not to speak of the harm caused to issuers and the distortion of voting rights option market makers want to be able to cause as well.

Long Term Hedges Are No Problem

"For example, OMMs facilitate incoming order flow in LEAP option contracts that can expire up to two (2) years from the time the option is traded. An OMM must maintain a hedge for an extended period of time; often times the only available and/or economically feasible hedge is the underlying security. Therefore, it is critical for an OMM to have certainty when hedging its exposure that such hedge will not be closed out."

Without directly saying so, the implication of that statement is clear:

a) That option market makers have to have a hedge, and
b) That option market makers can only do so by causing long term delivery failures

To this I respond that they don't have to have anything. Nothing in the Securities Acts mentin that derivative markets even have to exist. If their business plan does not offer a viable product based on fair markets, then it's not a viable business plan and a product the markets support. In no case should they be able to claim prerogatives and rights conferred on them at the expense of equity investors, to make their business plan work.

Besides, option market makers can hedge **future** transactions in the way they say they need, to by entering into long term borrow agreements with **existing** equity securities investors. This would create a fair lending market and a fair exchange of rights and benefits between the markets that would benefit both. The current one way street is not a fair exchange.

If no such borrow agreements are available in exchange for a given price, then the option market makers would have to offer more in exchange for the long term borrow agreement. This is called price discovery.

And if none are available at any price, then option market makes need to find another way to hedge or just can't offer the product if it doesn't make business sense. Not all products are viable.

Long Term Hedge Expenses Can Be Predictable

"Moreover, the equity component of option value (the delta or volatility component) is variable over the life of an option. Ths means that during the term of the hedging of the risk of an equity option, an OMM will likely have to buy and sell (andlor add to an existing short position) the underlying equity. Concern about when a security may be closed out, and the cost of effecting a close out of that equity adds another uncertain factor to the analysis of the business risk of an OMM, skewing the pricing of the option."

If the option market makers want an assurance of stable, predictable expenses and risks over the life the hedge, they would be better off just entering into a fixed borrow agreement with **existing** equities investors to borrow their securities over a fixed period for a fixed price. What can be more predictable and stable than that? There would never be a close out requirement or risk for the option market makers. No matter what happens, as there would be no delivery failures involved.

So this complaint coming from the option market makers actually shows why it would be better if they did not cause delivery failures to begin with.

Chadbourne Park Letter

Internal Derivative Market Issues Should Not Spill Over

"UBS opposes the proposed changes and believes that the options market maker exception has continuing value. Options market makers provide valuable liquidity to the options markets, relying in large part on the ability to hedge their corresponding risk in the equity markets. They stand ready to buy and sell a broad range of option classes and series. More importantly, market makers have affirmative obligations to maintain active quotes in a certain amount of options series for certain periods of time. Failure to meet these minimum quotation requirements could lead to significant penalties by the various options exchanges. More importantly, options market makers do not have the choice of trading or not trading with orders that are routed to them, but instead must meet firm quote obligations and execute at their quotes."

While option market makers do provide liquidity in the options markets, they should not do so at the expense of equity markets. For this, options markets need to price in all expenses of providing liquidity without taking anything from equity investors. In this way, they can correctly quote the derivatives and meet all their quote and order requirements.

In any case, if the options exchanges want to fine their members or market makers, that is their business. Not the business of equity security investors and markets. The individual option market makers and the options exchanges can manage their business affairs and execute their business plans any way they like. But what they can not do, is infringe on equity securities markets and investors. This is what they must do.

Any problems and adjustments to the business plans and agreements between those parties to make the options markets work better needs to be settled between them. But their internal problems are not an excuse to have equity investors bail them out. Certainly the reverse is not the case.

Hedges Need To Be Market Based

"In order to manage this risk, market makers must be free to hedge their option positions in the equity trading markets. Without such hedging opportunities, market makers would not be able to provide the same level of trading support. Market makers would possibly choose to exit the market for particular options classes rather than be put in the situation of having to close out existing hedge positions or establish costly borrows against those positions, particularly in markets where borrowing the security might be difficult or impossible to effect. On the fringes, certain firms may determine not to be a market maker in any options. This would have a negative impact on cost of hedging, liquidity, depth of the market and spreads in the option markets. If these results are realized, the cost of this new rule would greatly outweigh any potential benefits to the market."

The arguments above are another reason why the option market makers should not effect delivery failures to begin with and enter into borrow agreements with **existing** equity securities investors instead. At some point there is an end to liquidity and an end to viable market transactions. This is normal. To continue just distorts the markets forcing somebody to lose capital.

The Bottom Line

"The exception to the affirmative determination requirement is absolutely necessary for option market makers to function in the market."

One would have to ask how derivative markets around the world are able to function where delivery failures are prohibited. Since these exist and are healthy, gaining on the U.S. derivative markets, this really calls into question that statement. The bottom line is, if the U.S. derivative markets revolve around subsidies from equity investors, then it is just not a viable business plan and should not be permitted to function and exist in its preset form. Option market makers need to learn how to adjust their business plans based on market prices and availability for their hedges.

Sincerely submitted,

Thomas Vallarino