



# Commodity Futures Trading Commission

## Office of Public Affairs

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## Q & A – Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades; Further Measures to Protect the Identities of Parties to Swap Transactions (Reproposal)

### What is the goal of the further notice of proposed rulemaking?

The further notice of proposed rulemaking proposes to define the criteria for grouping swaps into separate swap categories and to establish methodologies for setting appropriate minimum block sizes for each swap category. The proposal rules also set forth additional measures under part 43 of the Commission's regulations to prevent the public disclosure of the identities, business transactions and market positions of swap market participants. The proposed rules are designed to enhance market transparency and price discovery by making swap transaction and pricing data available to the public, while also protecting the identities, business transactions, and market positions of swap counterparties.

### What does section 2(a)(13) of the CEA require?

Section 727 of the Dodd-Frank Act amends the Commodity Exchange Act (CEA) by inserting a new section 2(a)(13), which requires the Commission to prescribe regulations specifying what constitutes a large notional swap transaction (block trade) for purposes of applying appropriate time delays to reporting such transactions to the public. CEA section 2(a)(13) also requires the Commission consider whether public disclosure of swap transaction and pricing data will "materially reduce market liquidity" and to prescribe rules that protect the identities of counterparties to mandatorily-cleared swaps, swaps excepted from the mandatory clearing requirement and voluntarily cleared swaps. CEA section 2(a)(13) further requires the Commission to prescribe rules that maintain the anonymity of business transactions and market positions of swap counterparties.

### Which swaps are subject to appropriate minimum block sizes?

Unless otherwise determined by the Commission under the proposed rules, all publicly reportable swap transactions under the Commission's jurisdiction in all five asset classes (i.e., interest rate, credit, equity, foreign exchange, and other commodity), whether cleared or uncleared, and regardless of the method of execution (e.g., executed bilaterally, or on a registered swap execution facility (SEF) or designated contract market (DCM)) are subject to appropriate minimum block sizes.

### What are the "swap categories" that are being proposed by the Commission?

For swaps in the interest rate asset class, the proposed rules establish 24 swap categories based on 8 tenor groups and 3 currency categories (super-major currencies, major currencies, and non-major currencies). For swaps in the credit asset class, the proposed rules establish 18 swap categories based on 6 tenor groups and three conventional spread groups (0 to 175 bps, 176 to 350 bps, 351 bps and above). For the FX asset class, the proposed rules establish swap categories based on unique currency combinations. For the other commodity asset class, the proposed rules establish swap categories based on: (1) those swaps based on contracts listed in appendix B to part 43 of the Commission's regulations; (2) swaps that are economically related to certain futures contracts; and (3) other swaps sharing a common product type, as designated in proposed Appendix D to part 43. All swaps in the equity asset class are grouped into the same category because these swaps would not be treated as block trades or large notional off-facility swaps.

### Who determines the appropriate minimum block sizes?

Under the proposed rules, the Commission would determine appropriate minimum block size for all swap categories.

### **How are the appropriate minimum block sizes calculated under the proposed rules?**

The proposed rules implement a two-period, phased-in approach to determining appropriate minimum block sizes.

For interest rate and credit swap categories, minimum block sizes in the initial and post-initial period would be determined using a 67-percent notional amount calculation.

For swaps in the FX asset class that are economically related to a futures contract, minimum block sizes in the initial period would be determined based on the block trade size thresholds set by DCMs. All FX swaps that are not economically related to a futures contract would qualify to be treated as block trades or large notional off-facility swaps during the initial period, subject to a time delay for public dissemination. In the post-initial period, appropriate minimum block sizes for all FX swap categories would be determined using a 67-percent notional amount calculation.

Swaps in the other commodity asset class would be subject to appropriate minimum block sizes during the initial period based on the proposed categories:

- For swaps whose underlying asset references or is economically related to one of the futures contracts listed in appendix B to part 43, minimum block sizes in the initial period would be determined based on the block sizes set for the related contracts by DCMs.
- For swaps whose underlying asset references or is economically related to one of the futures contracts listed in appendix B to part 43 that is not subject to a DCM block size minimum, treatment as a block trade or large notional off-facility swap would not be available.
- For swaps whose underlying asset references or is economically related to one of 18 futures contracts listed in the Commission's proposed rules, appropriate minimum block sizes would be determined based on the block sizes for the related contracts set by DCMs.
- For swaps whose underlying asset references or is economically related one of the 13 natural gas or electricity swaps proposed to be listed in appendix B to part 43, the initial minimum block size would be set at \$25 million.
- All other non-futures related swaps (categorized by product type) would be treated as block trades or large notional off-facility swaps.

In the post-initial period, appropriate minimum block sizes for all swaps in the other commodity asset class would be determined using the 67-percent notional amount calculation.

### **What are “economically-related” swaps?**

The proposed rules define “economically related” to mean a direct or indirect reference to the same commodity at the same location or locations, or with the same or a substantially similar cash market price series.

### **What additional contracts does the Commission propose to list in appendix B of part 43?**

For purposes of establishing appropriate minimum block sizes for certain swaps in the other commodity asset class, the proposed rules add 13 natural gas and electricity swap contracts to the existing 29 futures contracts (which includes Brent Crude Oil) in Appendix B to part 43 of the Commission’s regulations

### **Are swaps in the equity asset class subject to block trade or large notional off-facility swap treatment under the proposed rules?**

All swaps in the equity swap category (in the equity asset class) do not qualify for treatment as a block trade or large notional off-facility swap and, therefore, would not be subject to a time delay for public dissemination.

### **How will the appropriate minimum block sizes be implemented under the proposed rules?**

All initial appropriate minimum block sizes in proposed appendix F to part 43 would be effective 60 days following the publication in the Federal Register of the final rule. The proposed initial period—which would last for a minimum of one year—would expire following the Commission’s publication of post-initial appropriate minimum block sizes. Post-initial appropriate minimum block sizes would become effective on the first day of the second month following the date of their publication.

### **How does a phased-in approach to implementing appropriate minimum block sizes benefit market participants?**

The Commission anticipates that adopting a two-period approach to implementing appropriate minimum block sizes, in addition to the interim period established by the real-time reporting final rule, would allow market participants to better adjust their swap trading strategies to manage risk, secure new technologies and make necessary arrangements to comply with part 43 of the Commission’s regulations.

### **How do market participants obtain information about appropriate minimum block sizes?**

Proposed Appendix F to part 43 lists the initial appropriate minimum block sizes by asset class and swap category. Under the proposed rules, the Commission would publish the post-initial appropriate minimum block sizes on the Commission’s website and would publish updated block sizes thereafter in the same manner no less than once each calendar year.

### **How do parties to a swap notify their election for block trade or large notional off-facility swap treatment under the proposed rules?**

For publicly reportable swap transactions with a notional amount at or above an appropriate minimum block size, the parties to the transaction would be required to notify the registered SEF or DCM of its election to have their transaction treated as a block trade. The SEF or DCM would then notify the registered SDR of this election when submitting swap transaction and pricing data.

A reporting party who executes a large notional off-facility swap with a notional amount at or above an appropriate minimum block size would be required to notify the applicable registered SDR of its election to have the transaction treated as a large notional off-facility swap.

### **How are notional cap sizes determined under the proposed rules?**

In the initial period, cap sizes would be set as the greater of the interim cap sizes set forth under part 43 of the Commission’s regulations or the appropriate minimum block size for the respective swap category. If an appropriate minimum block size does not exist, then the cap size will be set at the interim cap size. In the post-initial period, the proposed rules establish a 75-percent notional amount calculation to determine cap sizes for the respective swap categories.

### **What limits do the proposed rules establish for public dissemination of certain swap transactions in the other commodity asset class with a specific delivery or pricing point?**

For swaps that have natural gas or related products as an underlying asset and a specific delivery or pricing point in the United States, SDRs would publicly disseminate a description of the specific delivery or pricing point based on one of the five industry-specific natural gas markets set forth by the Federal Energy Regulatory Commission (“FERC”). For swaps that have petroleum products as an underlying asset and a specific delivery or pricing point in the United States, SDRs would publicly disseminate a description of the specific delivery or pricing point based on one of the seven Petroleum Administration for Defense Districts regions. For swaps that have electricity and sources as an underlying asset and have a specific delivery or

pricing point in the United States, SDRs would publicly disseminate the specific delivery or pricing point based on a description of one of the FERC Electric Power Markets. For all other remaining commodities that have specific delivery or pricing points in the United States, SDRs would publicly disseminate specific delivery or pricing point based the 10 federal regions established by the U.S. Energy Information Administration. For swaps with non-U.S. specific delivery or pricing points, SDRs would publicly disseminate delivery or pricing points based on international regions set forth by the Commission.

### **Can I submit comments to the Commission in response to aspects of the final rule adopted by the Commission on December 20, 2011?**

No. The Commission is requesting comment on all aspects of the proposed regulations described in the further notice of proposed rulemaking. The Commission seeks comment in particular on several different variations and alternative approaches to its proposed approach to determining swap categories and calculating appropriate minimum block size calculations. This is not a re-opening of any rulemaking record for previous proposals or the final rule adopted by the Commission on December 20, 2011.