



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Proposed Rule Regarding an Inter-Affiliate Clearing Exemption

What is the purpose of the proposed rulemaking?

To promote responsible economic and financial innovation and promote fair competition, the Commission is proposing to permit certain affiliated counterparties within a corporate group to elect not to clear swaps entered into with affiliated counterparties when additional conditions are met. The proposed exemption would reduce clearing costs while continuing to promote transparency and sound risk management practices.

Who is an eligible affiliate counterparty?

Any counterparty to a swap, including a financial entity that enters into a swap with an affiliated counterparty where one counterparty directly or indirectly holds a majority ownership interest in the other, or where a third party directly or indirectly holds a majority ownership interest in both counterparties. In addition, both counterparties must report their financial statements on the same consolidated financial statements.

What conditions must be satisfied to rely on the proposed exemption?

Eligible affiliate counterparties that enter into an inter-affiliate swap may rely on the exemption to the clearing requirement if:

- Each counterparty elects not to clear the swap;
- The swap is documented in a swap trading relationship document;
- The swap is subject to a centralized risk management program;
- Under certain circumstances, each counterparty posts variation margin for each swap for which the exemption is elected;
- One of the following four conditions is satisfied for each affiliate: the affiliate is located in the United States; the affiliate is located in a jurisdiction with a comparable and comprehensive clearing requirement; the affiliate is required to clear swaps all swaps it enters into with non-affiliate counterparties; or the affiliate does not enter into swaps with non-affiliate counterparties; and
- The reporting counterparty, as determined by Commission rule, provides certain data to a registered swap data repository (“SDR”) or to the Commission.

Does the proposed exemption apply to swaps entered into with third parties outside the corporate group?

No; the proposed exemption applies only to swaps between affiliated counterparties as described above.