



Commodity Futures Trading Commission

Office of Public Affairs

Three Lafayette Centre

1155 21st Street, NW

Washington, DC 20581

www.cftc.gov

Final Rulemaking Q & A

What is the goal of the rulemaking?

This interim final rulemaking adopts Part 44 of the Commission's regulations requirements for the reporting by specified counterparties of swap transactions entered into before July 21, 2010 (the date of enactment of the Dodd-Frank Act) the terms of which had not expired by that date (pre-enactment unexpired swaps). The rule requires that certain information related to such transactions be reported to a registered swap data repository or to the Commission within 60 days of the registration of the appropriate swap data repository under new Section 21 of the CEA or by the compliance date to be established in permanent reporting rules to be established pursuant to new Section 2(h)(5) of the CEA, whichever occurs first. The goal of the rulemaking is to provide for retention of certain swap data until such time as permanent reporting rules are established under the Dodd-Frank Act.

Who is affected by the rules?

The parties affected by the rules are the designated counterparties to a pre-enactment unexpired swap transaction. Those counterparties are identified in new CEA Section 4r(a)(3) as follows: (i) with respect to a swap in which only one counterparty is a swap dealer or major swap participant, that entity is responsible for reporting the swap; (ii) with respect to a swap in which one counterparty is a swap dealer and the other counterparty is a major swap participant, the swap dealer must report the swap; and (iii) with respect to any other swap, the counterparties shall select one of them to report the swap.

What information must be reported by the specified counterparty?

The swap transactions that must be reported pursuant to new Section 4r of the CEA and the new interim final rule (Part 44 of the Commission's regulations) occurred prior to enactment of the Dodd-Frank Act. While not specified in the Act or in Section 4r, implicit in the reporting requirements is the obligation of each counterparty to such transactions to retain information and documents relating to the terms of the transactions. A Note to Part 44 advises that counterparties to a pre-enactment unexpired swap should retain, in anticipation of reporting, the following information:

- Any information necessary to identify and value the transaction
- The date and time of execution
- Information related to the price of the transaction
- Whether the transaction was accepted for clearing and if so, the identity of the clearing organization
- Any modification(s) to the transaction
- The final confirmation of the transaction

The Note does not require the creation or retention of new records or the reformatting of existing records.

How long will the interim final rule remain in effect?

The interim final rule is intended to establish—effective immediately—a future reporting requirement for pre-enactment unexpired swaps and to ensure that data relating to such transactions is preserved until such time as reporting can be effected, at a time either 60 days from the date of registration of a swap data repository that can accept the swap or on the effective date of permanent reporting rules mandated by new Section 2(h)(5) of the CEA. That section requires that rules adopted for the reporting of pre-enactment swaps must provide for the reporting of data no later than 180 days after the effective date of the section, which is 360 days from the date of enactment of the Dodd-Frank Act.