



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Market Oversight

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Temporary and Conditional Relief from the Requirements of §§ 20.3 and 20.4 of the Commission's Regulations Regarding Large Swaps Trader Reporting for Physical Commodities

Pursuant to authority delegated under § 20.8(a)(5) of the Commission's regulations, the Division of Market Oversight ("Division") of the Commodity Futures Trading Commission ("Commission") is making available temporary relief from the requirements of §§ 20.3 and 20.4 regarding large trader reporting of physical commodity swaps and swaptions ("swaps").

On July 22, 2011, the Commission published large trader reporting rules for physical commodity swaps. 76 FR 43851. The rules are codified in new part 20 of the Commission's regulations and became effective on September 20, 2011. Section 20.3 of the reporting rules requires daily reports from clearing organizations. Section 20.4 of the reporting rules requires daily reports from clearing members and swap dealers ("reporting entities"). Section 20.7 provides that unless otherwise instructed by the Commission, a clearing organization or reporting entity shall submit data records and any other information required by the reporting rules using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission. Section 20.8(a)(4) delegates to the Director of the Division the authority for determining the format, coding structure, and electronic data transmission procedures for part 20 reports.

Section 20.10 establishes a flexible implementation framework for reporting under part 20 of the Commission's regulations. More specifically, § 20.10(c) allows the Commission to

accept reports submitted pursuant to §§ 20.3 and 20.4 that differ in content, or are submitted in a form and manner other than as prescribed, for six calendar months following the effective date of part 20, provided that submitters are making a good faith attempt to comply with part 20. As mentioned earlier, § 20.8(a)(5) delegates the authority to accept such reports to the Director of the Division. The Division's authority to issue relief under § 20.10 expires on March 20, 2012.

Division staff is actively engaged in ongoing compliance and implementation discussions with clearing organizations, clearing members, potential swap dealers, and data service providers, separately and through the International Swaps and Derivatives Association and the Futures Industry Association. The Division believes that the participants in these discussions are representative of the parties that will be subject to the reporting rules.

The Division also believes that substantial progress has been made towards finalizing reporting guidance and an XML-based reporting format and record layout, and facilitating the ability of reporting parties to comply with such guidance and format requirements. The Division intends to issue and publicly distribute in the coming days a guidebook for part 20 reports to provide formal reporting guidance. The guidebook will include a final XML-based reporting format and record layout. The Division notes that an additional XML-based reporting format and record layout for §§ 20.3 and 20.4 reports may be accepted prior to March 20, 2012.

In order to facilitate the transition to fully compliant XML-based reporting under part 20, and consistent with the authority delegated by § 20.8(a)(5), the Director of the Division has determined to temporarily provide relief for less than fully compliant reporting under §§ 20.3 and 20.4 until March 20, 2012. Reliance on the relief is conditioned on the terms described below. These terms are demonstrative of a reporting party's good faith attempt to comply with

the requirements of part 20. Reporting parties that can readily file fully compliant §§ 20.3 and 20.4 reports, as prescribed by the Division, cannot rely or continue to rely on the relief described herein.

Beginning on November 21, 2011 for cleared swaps and January 20, 2012 for uncleared swaps, good faith will be demonstrated through the filing of otherwise fully compliant reports in an interim pipe-delimited text format in which the “|” character is placed between each data field, or the filing of less than fully compliant reports in a pipe-delimited text or XML-based format, as prescribed by the Division. Submitted reports may be prepared and submitted by clearing organizations or data vendors on behalf of reporting entities. The primary responsibility for compliant reporting, however, remains with the reporting entities that use third-party service providers.

Any reporting party that intends to rely on the safe harbor for reporting must submit an e-mail to the Division, as prescribed by the Division’s forthcoming guidebook to part 20, no later than 30 calendar days following initial reporting, describing with specificity: (1) ways in which the submission is not compliant with the data field requirements of §§ 20.3 and 20.4, (2) the arrangements that are being made for coming into compliance with such requirements, and (3) the anticipated date of full compliance with the requirements of part 20, including the submission of reports in an XML-based format, as prescribed by the Division.

As a further condition of this relief, clearing organizations for cleared swaps and reporting entities for cleared and uncleared swaps are required to provide open interest data for positions as of each month-end during the entire relief period, beginning on September 30, 2011, and ending on February 29, 2012; such data must be submitted no later than March 20, 2012.

Submitted open interest data must be reported on a futures equivalent basis in terms of the contracts listed in § 20.2 of the reporting rules. The open interest data, which shall be submitted in the pipe-delimited text format prescribed by the Division, must allow the Commission to readily identify and distinguish swaps by: (1) the identifier assigned by a clearing organization for a cleared product; and (2) the commodity reference price position type indicator as described by the Division in writing. Open interest attributable to uncleared swaps must also be separated by the counterparty to such swaps and reported as prescribed. The Division reminds the public that other applicable provisions of part 20, including the special call provision of § 20.5(b) and the books and records requirements of § 20.6, became effective on September 20, 2011.

The terms of this letter supersede the terms of the § 20.10(c) letter issued by the Division on September 16, 2011. Guidance relating to certain clearing members that are defined as such in § 20.1 solely because they are swap counterparties to exclusively-self cleared contracts as described in § 15.00 of the Commission's regulations will be provided separately. The Division intends to include all of the "as prescribed" form and manner instructions referenced above in a forthcoming guidebook to part 20 reports prior to November 21, 2011. Nothing in this letter alters the § 20.10(b) compliance date for potential swap dealers that are not clearing members. The effective date for such entities is tied to the effective date of a final Commission regulation further defining the term swap dealer.

Sincerely,



Richard A. Shilts
Director
Division of Market Oversight