Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Proposed Order to Address Effective Date for Swap Regulation

What is the purpose of the proposal?

Title VII of the Dodd-Frank Act establishes a comprehensive new regulatory framework for swaps. Section 754 of the Dodd-Frank Act provides that certain provisions are self-effectuating on July 16, 2011 (the general effective date set forth in Title VII), while others become effective upon the adoption of an implementing regulation by the Commission. The Commission's rulemakings to implement the Dodd-Frank Act will not be completed by July 16, 2011. Accordingly, this proposed Order is necessary to facilitate an appropriate transition to the new swap regulatory regime. Such an orderly transition will promote market efficiency, and will provide clarity to participants in the swaps market that is in the interest of the markets and the public.

What is covered by the proposed Order?

The proposed Order would provide two types of temporary exemptive relief with respect to various requirements applicable to certain transactions:

Part one of the proposed Order covers provisions of the Commodity Exchange Act (CEA) that would go into effect on July 16, but that reference terms such as "swap," "swap dealer," "major swap participant," or "eligible contract participant" that the Dodd-Frank Act requires the CFTC and SEC to "further define." These further definitional rulemakings will not be in place by July 16. Accordingly, the proposed Order would temporarily exempt persons or entities from complying with requirements in these provisions that are specifically related to these referenced terms until the effective date of the definitional rulemaking for such terms or December 31, 2011, whichever is earlier.

Part two of the proposed Order covers provisions of the CEA that will apply to certain transactions (primarily in financial and energy commodities) as a result of the repeal of various exemptions and exclusions in the CEA as of July 16, 2011. The proposed Order would temporarily exempt such transactions from certain CEA provisions until the repeal or replacement of certain of the Commission's regulations or December 31, 2011, whichever is earlier.

Are there any limitations on the temporary exemptive relief?

Yes. First, part one of the proposed Order provides relief from requirements only to the extent they specifically relate to entities or instruments such as swaps, swap dealers, major swap participants, or eligible contract participants. Neither part of the proposed Order would affect the Commission's authority with respect to futures contracts, options on futures, or transactions by retail customers in foreign currency or other commodities. Further, the proposed Order would not apply to any provision of Title VII of the Dodd-Frank Act that has already become effective, nor would it affect any implementing regulations that the Commission has issued or may promulgate under the Dodd-Frank Act, including any implementation dates contained therein.

Would the proposed Order limit the CFTC's ability to pursue fraud and manipulation?

No.

Are there provisions in Title VII of the Dodd-Frank Act that are not covered by the proposed Order?

Yes. Provisions of Title VII of the Dodd-Frank Act that require an implementing rulemaking will not become effective on July 16, and thus are not covered by the proposed Order. There also are some provisions that are self-effectuating and will become effective on July 16, but that are not included within the proposed Order. Separate lists of the provisions in each of these two categories will be posted on the CFTC website at www.cftc.gov.

Are commenters required to respond to all aspects of the proposed Order?

No, commenters can comment on any or all of the questions posed in the proposed Order.