



Commodity Futures Trading Commission

Office of Public Affairs

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Swap Transaction Compliance and Implementation Schedule: Trading Documentation and Margining Requirements under Section 4s of the CEA

The Commodity Futures Trading Commission (Commission) is proposing regulations that would establish a schedule to phase in compliance with the new trading documentation and margining requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

On July 21, 2010, the Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 731 of the Dodd-Frank Act requires the Commission to adopt rules governing documentation standards for Swap Dealers (SD) and Major Swap Participants (MSP). As described in Section 4s(i)(1), these documentation standards, "relate to the timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps."

- On January 13, 2011, the Commission proposed regulations related to the Trading Documentation that SDs and MSPs must enter into with their counterparties in order to establish a swap trading relationship and document the swap transactions that occur pursuant to that relationship. Specifically SDs and MSPs would be required to establish, maintain, and enforce written policies and procedures designed to ensure that each SD or MSP and its counterparty agree in writing to all terms of their swap trading relationship and have executed all agreements required by the rules.
- In today's Notice, the Commission is proposing a compliance schedule that is specific to the documentation requirements.

Section 731 of the Dodd-Frank Act also added a new Section 4s(e) to the CEA that requires the Commission to adopt rules establishing margin requirements for all registered SDs and MSPs that are not banks.

- On April 28, 2011, the Commission issued proposed regulations to implement the margin requirements for uncleared swaps for SDs and MSPs for which there is no prudential regulator.
- In this Further Notice, the Commission is proposing a compliance schedule that is specific to the Margin Requirements proposed by the Commission.

The Commission believes that it is in the public interest to afford SDs and MSPs additional time to comply with proposed rules related to Trading Documentation and Margin Requirements, depending on the type of counterparty with which the SD or MSP is trading.

- Market participants that are financial entities, as defined in Section 2(h)(7)(C) of the CEA, are grouped into the following four categories:
 - o Category 1 Entities include swap dealers, security-based swap dealers, major swap participants, major security-based swap participants, or active funds.
 - o Category 2 Entities include commodity pools; private funds as defined in Section 202(a) of the Investment Advisors Act of 1940 other than active fund; employee benefit plans identified in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974; or persons predominantly engaged in activities that are in the business of banking, or in activities

that are financial in nature as defined in Section 4(k) of the Bank Holding Company Act of 1956, provided that the entity is not a third-party subaccount.

- o Category 3 Entities include Category 2 Entities whose positions are held as third-party subaccounts.
- o Category 4 Entities includes any person not included in Categories 1, 2, or 3.
- For swap transactions with a Category 1 Entity, a covered swap entity and a swap dealer or major swap participant shall comply with the requirements no later than 90 days from the date of publication in the Federal Register.
- For swap transactions with a Category 2 Entity, a covered swap entity and a swap dealer or major swap participant shall comply with the requirements no later than 180 days from the date of publication in the Federal Register.
- For swap transactions with a Category 3 Entity or a Category 4 Entity, a covered swap entity and a swap dealer or major swap participant shall comply with the requirements no later than 270 days from the date of publication in the Federal Register.
- Nothing in the rule shall prohibit any person from complying voluntarily with the requirements of § 23.150 through § 23.158, and § 23.504 sooner than the implementation schedules proposed.