



Commodity Futures Trading Commission

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Interim Final Rule Regarding Reporting of Pre-enactment Swap Transactions

The Commodity Futures Trading Commission (CFTC) announced the publication in the Federal Register of final regulations governing the reporting of pre-enactment swap transactions. The rules implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

On July 21, 2010, the Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, the Dodd-Frank Act further amended the CEA to:

- **Require that swaps entered into before the date of the enactment of the Dodd-Frank Act be reported to a registered swap data repository.** Section 723 of the Dodd-Frank Act added new Section 2(h)(5) to the CEA to require that data be reported to a registered swap data repository or the Commission no later than 180 days after the effective date of that Section (July 21, 2010).
- **Require that the Commission adopt an interim final within 90 days of the enactment date of the Dodd-Frank Act** providing that such pre-enactment swaps shall be reported within 60 days after an appropriate swap data repository becomes registered or by the compliance date to be established by the permanent reporting rules to be established under Section 2(h)(5), whichever occurs first.

What is the purpose of the interim final rule?

The interim final rule establishes a reporting requirement for pre-enactment unexpired swaps that will remain in effect until permanent reporting rules are promulgated by the Commission pursuant to Section 2(h)(5) of the CEA. The interim final rule identifies the appropriate counterparties for reporting purposes and also establishes the information that should be preserved by counterparties until reporting can be effected.

What is an interim final rule?

An interim final rulemaking permits an agency to adopt as final, for good cause shown, a rule that has not been subject to the Administrative Procedure Act's mandated public notice and opportunity to comment. In an interim final rulemaking, the agency publishes the rule as final and concurrently solicits public comment (See 5 U.S.C. § 553(b)(3)(B)). An interim final rulemaking is warranted in these circumstances by the necessity to provide timely notice to counterparties that they may become subject to a reporting requirement for pre-enactment swaps and to advise with respect to the data that should be preserved with respect to such reporting.