DTCC Data Repository

REPORTING ~~COUNTERPARTY~~**ENTITY**

END-USER CLEARING EXCEPTION~~-~~**/EXEMPTION**

SWAP-BY-SWAP ~~DATA~~ **INSTRUCTIONS**

~~Rule~~

Section 2(h)(7)(A) of the CEA and CFTC Regulations §50.50 and §50.51, as well ~~as~~applicable CFTC ~~Staff No-Action Letter 13-22~~Letters, provide for ~~an exception~~a number of exceptions and exemptions from required clearing for swaps entered into by certain ~~End-Users (~~non-financial end users, financial cooperatives, treasury affiliates, bank holding companies and savings and loan holding companies, and community development financial institutions (collectively, the "End-User Exception").

The ~~full reporting requirements are listed~~Reporting Entity, as defined in CFTC Regulation ~~§50.50(a) through §50.50(d) and can be found at:~~

~~http://www.cftc.gov/LawRegulation/FederalRegister/FinalRules/2012-17291~~

~~Pursuant to CFTC Regulation §50.50(b),~~ 49.2 ("Reporting Entity"), may satisfy its reporting obligations ~~may be satisfied~~ on a swap-by-swap basis if the counterparty that is claiming the End-User Exception ("Electing Counterparty") ~~counterparty~~ has not submitted an Annual End-User Clearing Exception ~~Form as specified in CFTC Regulation §50.50(b)(2) or Reporting Condition (v) in CFTC Staff No-Action Letter 13-22.~~/Exemption Form. If the Reporting ~~Counterparty~~Entity elects to satisfy its reporting obligations on a swap-by-swap basis, the Reporting ~~Counterparty~~Entity is responsible for delivering the required data to ~~the~~ DTCC Data Repository (U.S.) LLC ("DDR") via the attached Reporting ~~Counterparty~~Entity End-User Clearing Exception ~~Swap-by-Swap Data~~ Form ("Swap-by-Swap Form").

The data provided in the Swap-by-Swap Form will be ~~linked~~matched, in a weekly report, to each swap for which the exception ~~in CFTC Regulation §50.50, the exemption in CFTC Regulation §50.51, or the relief in CFTC Staff No-Action Letter 13-22~~ is elected that involves the Reporting ~~Counterparty~~Entity and the ~~counterparty that elects relief from required clearing ("~~Electing Counterparty~~")~~ specified in the Swap-by-Swap Form. The Reporting ~~Counterparty~~Entity may provide the required data in lieu of the Electing Counterparty submitting an annual form as specified in CFTC Regulations §50.50(b)(2~~) and §)~~, 50.51(c~~) or Reporting Condition (v) in~~), and applicable CFTC ~~Staff No-Action Letter 13-22~~Letters. The Swap-by-Swap Form attached hereto will need to be submitted for each Electing Counterparty with whom the Reporting ~~Counterparty~~Entity engages in a swap activity (regardless of whether a different Reporting ~~Counterparty~~Entity has submitted a form for that Electing Counterparty).

~~Consistent with CFTC regulations, the Reporting Counterparty certifies~~ By executing the Swap-by-Swap Form~~-~~, the Reporting Entity certifies that it has ~~formed~~ a reasonable basis to believe that the Electing Counterparty satisfies the requirements of CFTC Regulation §50.50 ~~or §~~, 50.51 ~~or the General Conditions and Reporting Conditions of CFTC Staff No-Action Letter 13-22, as~~, or applicable CFTC Letters.

The following elections and representations must be reported by the Reporting ~~Counterparty~~Entity on ~~a~~each swap ~~by swap basis (See Step 2 below):~~ they submit where the End-User Exception has been elected:

1. Notice of election of the End-User Exception;

2. The identity of the counterparty ~~or counterparties~~(s) making the election~~.~~; and

3. The type of clearing exception or exemption being claimed.

The Swap-by-Swap Form must be updated as soon as practicable in the event that the Reporting ~~Counterparty~~Entity reasonably believes that any of the information contained on the Swap-by-Swap Form has changed. If no changes have occurred, the Reporting ~~Counterparty~~Entity must submit a new Swap-by-Swap Form on at least an annual basis.

~~In the event that both counterparties to a swap have elected to utilize the End-User Exception for an individual swap, an End-User Clearing Exception Form or a Swap-by-Swap Form, as applicable, must be on file with the DDR.~~

STEP 1: Reporting ~~Counterparty~~Entity Form – Reporting ~~Counterparty~~Entity Process

Prior to claiming the End-User Exception ~~on~~for a swap ~~by-swap basis~~, each Reporting ~~Counterparty~~Entity should complete and return a Swap-by-Swap Form. The process for filing a Swap-by-Swap Form is as follows:

1. ~~The Reporting Counterparty contact goes to pages 7-9 of this document. The Reporting Counterparty contact can either print the PDF document or download the PDF.~~

1. ~~The Reporting Counterparty~~Entity contact completes the ~~Reporting Counterparty~~ Swap-by-Swap Form (located at the end of this document) electronically ~~(Adobe) or manually as a hard copy (See form instructions below).~~.
2. The Reporting ~~Counterparty~~Entity contact returns completed document to the operations e-mail inbox at GTREndUserExemption@dtcc.com ~~either as a hard copy file or electronically through Adobe.~~.

~~The Swap-by-Swap Form provides information required by the regulations, as well as a contact for the Reporting Counterparty. Since the Reporting Counterparty is providing information relating to the Electing Counterparty, it is required that the Reporting Counterparty has formed a reasonable basis to believe that the content of the Swap-by-Swap Form is accurate and that the information provided is accurate for each swap entered into between the Reporting Counterparty and the Electing Counterparty.~~

Until all required information is provided, the Swap-by-Swap Form will not be considered complete. ~~The information requested is as follows:~~

The information requested on the Swap-by-Swap Form is as follows:

A) ELECTING COUNTERPARTY INFORMATION

1. Full Legal Name of the Electing Counterparty;
2. DTCC account number of the Electing Counterparty – this is optional. If the Electing Counterparty has a DTCC account number, it ~~should be~~maybe provided; and
3. ~~CICI/~~Legal Entity Identifier ("LEI ~~each Electing Counterparty will have this number as a CICI~~") – The Reporting Entity must provide the LEI ~~is~~for the Electing Counterparty as required ~~for the filing of this form~~

~~and required pursuant to~~ by Part 45 of the CFTC's regulations. If the Electing Counterparty is an individual Person, and ineligible to register for a LEI, then "Individual" may be entered in this field.

B) REPORTING ~~Counterparty~~ENTITY INFORMATION

1. Full Legal Name of the Reporting ~~Counterparty~~Entity;
2. DTCC account number, which is required for the Reporting ~~Counterparty~~Entity;
3. ~~CICI/~~LEI – Provide the Reporting ~~Counterparty~~Entity LEI~~/CICI~~;
4. Contact Name - the name of the person responsible for filing the Swap-by-Swap Form. This information is needed so DDR can contact the person if there is an issue with the form~~,~~ (e.g. required information is not provided ~~or~~, DDR has a questions ~~around~~about the information ~~that is~~ provided~~;~~, etc.);
5. Contact Phone; and
6. Contact E-mail.

C) REQUIRED REGULATORY INFORMATION

1. **Electing Counterparty Financial Entity Status** – Pursuant to CFTC Regulation §50.50(b), the Reporting ~~Counterparty~~Entity must disclose whether the Electing Counterparty it is a Financial Entity and, if so, what type of Financial Entity. ~~The inclusion~~In particular, the form includes the following types of Financial Entities: an ~~Eligible Treasury Affiliate section is also provided pursuant to conditions of the Treasury Affiliate No Action Relief~~insured small bank, savings association, farm credit system institution or credit union; a captive finance company; an exempt cooperative; an eligible treasury affiliate; a bank holding company or savings and loan holding company; and a community development financial institution.

2. **Hedge or Mitigate Commercial Risk of the Electing Counterparty -** This section is required to be checked ~~for any status~~when the selected Financial Entity Status of the Electing Counterparty is anything other than Exempt Cooperatives or Eligible Treasury Affiliate.

3. **Eligible Treasury Affiliate Relief -** Consistent with ~~the~~CFTC requirements ~~of CFTC Staff No   Action Letter 13 22,~~, this section is required to be checked if the Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty meets the ~~General~~ conditions contained in CFTC ~~Staff No Action~~ Letter ~~13-22~~No. 14-144.

4. **Exempt Cooperative** - Consistent with the requirements of CFTC Regulation §50.51, this section is required to be checked if the Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty will only elect the cooperative exemption for:

   - swaps entered into with a member of the exempt cooperative in connection with originating a loan or loans for that member, which satisfies the requirements of CFTC Regulation §1.3(ggg)(5)(i)-(iii); or
   - swaps that hedge or mitigate commercial risk related to loans to or swaps with members (as such swaps are described above).

5. ~~5.~~ **Financial Obligations** – Pursuant to CFTC Regulation §50.50(b), ~~the Reporting Counterparty must~~this section is required to be checked to indicate how the Electing Counterparty generally meets its financial obligations associated with entering into non-cleared swaps. At least one of the choices must be checked, but more than one choice may be checked. Additionally, the Reporting Entity has the option of providing information regarding the "other" methods of meeting financial obligations on behalf of the Electing Counterparty.
   ~~6.   Electing Counterparty is an~~

Issuer of Securities ~~ Reporting Counterparty must~~ Consistent with CFTC requirements, this section is required to be checked to indicate whether the Electing Counterparty is an issuer of securities, yes or no. If the Electing Counterparty is an issuer of securities, then this section should also indicate whether the ~~box indicating that the~~Electing Counterparty's appropriate committee of

6. the board of directors (or equivalent body) has reviewed and approved the decision to enter into swaps that are not

cleared ~~must be checked~~.

D) SIGNATURE BLOCK

The following information about the person completing the ~~Reporting Counterparty~~Swap-by-Swap Form is required:

1. Signature – ~~physical/wet or~~ Electronic.
2. Name of the signatory.
3. Title of the signatory.
4. Date executed and submitted.

E) ANNUAL FORM – DDR PROCESS

Once the Reporting ~~Counterparty~~Entity has returned the Swap-by-Swap Form, DDR will perform the following processes:

1. DDR will check to see if the Electing Counterparty has filed an Annual End User Clearing Exception/Exemption Form. If they have, DDR will contact the Reporting ~~Counterparty~~Entity and let them know the Annual End User Clearing Exception/Exemption Form will govern and the Swap-by-Swap Form will be not be utilized or retained by DDR.
2. Each submitted Swap-by-Swap Form will be reviewed for completeness. If any required field or question is left blank, DDR will communicate to the contact person that the form is incomplete and will need to be completed fully before processing.
1. ~~Once the Swap-by-Swap Form is complete, DDR will review the information provided and will discuss any questions with the contact person.~~
2. ~~Once the review by DDR is completed, DDR will send a report to the Reporting Counterparty listing all of the Electing Counterparties for which it has filed a Swap-by-Swap Form.~~
3. DDR will maintain a tracking spreadsheet showing the Reporting ~~Counterparty~~Entity name, the ~~End User~~ Electing Counterparty name, the ~~CICI~~LEI for each and the date on which the ~~verified~~completed Swap-by-Swap Form was filed.
4. DDR will create a report showing ~~all~~: 1) Reporting Entities and Electing Counterparties to swaps that have elected the End-User ~~Clearing~~ Exception ~~to validate that an~~, and 2) each Electing Counterparty for which a valid Annual End-User Clearing Exception/Exemption Form or a Swap-by- Swap Form has been ~~provided~~submitted. The report will be made available to the CFTC on a weekly basis.
3. ~~Although submitting updated Swap-by-Swap Forms on at least an annual basis is the obligation of the Reporting Party, DDR will track the date the Swap-by-Swap Form is completed and notify the Reporting Counterparty when the next Swap-by-Swap Form needs to be filed.~~

STEP 2: Swap by Swap Elections

CFTC Regulation §43.4(b) requires that the ~~counterparties~~ Reporting Entity indicate on real time messages that the ~~clearing~~End-User Exception has been elected. There is no requirement to identify the party claiming exception or the type of exemption being claimed, on real time messages. A True/False flag is provided for counterparties on the real time message for counterparties to indicate that the clearing exception is elected and the flag can exist on either party block.

<!-- This indicates Clearing Exception has been invoked -->

<endUserException>true</endUserException>

Applicable message types	Real-Time
	~~RT-PET*~~
	~~RT-PET~~

*~~If a true/false flag is used on combination messages, firms would need to update the position with the name of the party claiming clearing exception to be compliant with the CFTC rules.~~ The recommendation is that this flag

CFTC Regulation ~~§50.50~~45.3 requires ~~indication~~ the Reporting Entity to the swap to report the election of the ~~election~~End-User Exception, the type of clearing exception and identification of the Electing Counterparty, which refers to the counterparty(s) making the election ~~on a swap by~~ . The Reporting Entity to the swap ~~basis. This is done~~can indicate the Electing Counterparty by including a related party reference with the role of ~~"ClearingExceptionParty",~~"ClearingExceptionParty", or "Cooperative" as well as one of the standard identifiers for the party claiming the exception or exemption.

DDR will accept the message from its clients and derive the "Clearing Exception Type" field based on the on the role provided for the related party ~~reference below should~~as follows.

   a. The "Clearing Exception Type" field will be populated ~~on the related party block of the non-claiming party, and reference the party claiming the exception as the related party.~~with a value of "End-User" when:

//partyTradeInformation/relatedParty[role="ClearingExceptionParty"]
OR
//tradeHeader/partyTradeInformation/endUserException/text() - has a value of 'true'

Please note that the Part 43 real time message with the *enduserexception* flag set to true only indicates that the exemption is being elected, without identifying the counterparty making the election. In order to satisfy the Part 45 requirement that the reporting entity must identify the counterparty that is electing the end user exemption, the reporting entity must also send in a PET message identifying the counterparty electing the end user exception.

   b. The "Clearing Exception Type" field will be populated with a value of "Cooperative" when:
      //partyTradeInformation/relatedParty[role="Cooperative"]

A) FpML

The related party reference below should be populated on the related party block of the Reporting Entity, and reference the Electing Counterparty as the related party.

The role should be specified as "ClearingExceptionParty" if the clearing exception type is "End-User"; or "Cooperative" if the clearing exception type is "Cooperative".

Example 1:

Counterparty A claiming an *End-User* exception:

For example, if the non-Reporting ~~Party~~Entity is ~~claiming~~ the ~~clearing exception~~Electing Counterparty, then the party reference should be included on the Reporting ~~Party's~~Entity's related party block with reference to the non-Reporting ~~Party~~Entity.

<!-- This indicates Clearing Exception has been invoked for ~~BankA~~Counterparty A-->

<relatedParty>

    <partyReference href="~~BankA~~CounterpartyA"/>

    <role>ClearingExceptionParty</role>

<!—This role indicates the value of "End-user" should be auto-populated by DDR into the clearing exception type

field-->

</relatedParty>

<!-- Prefix and Value for ~~Bank~~Counterparty A -->

<party id="~~BankA~~CounterpartyA">

<partyId partyIdScheme="~~http://www.dtcc.com/coding-scheme/party-id~~http://www.dtcc.com/coding-scheme/party-id">00001111</partyId>

Example 2:

CounterParty A claiming a *Cooperative* exemption:

<!-- This indicates Clearing Exception has been invoked for Counterparty A-->

<relatedParty>

    <partyReference href="CounterpartyA"/>

    <role>Cooperative</role>

<!—This role indicates the value of "Cooperative" should be auto-populated by DDR into the clearing exception type field-->

</relatedParty>

<!-- Prefix and Value for Counterparty A -->

<party id="CounterpartyA">

<partyId partyIdScheme="http://www.dtcc.com/coding-scheme/party-id">00001111</partyId>

Applicable message types	RT* PET RT-PET* Confirm PET-Confirm RT-PET-Confirm* Snapshot
*If the RT message or any of the RT combination messages are sent in with the indication of the party claiming exception as opposed to the true/false flag described above, ~~the GTR~~DDR will still disseminate a true/false indicator ~~publically~~publicly.	

B) ~~.~~CSV

Clearing Exception or Exemption Party Prefix	(Conditional) Prefix of the party claiming end-user exception
Clearing Exception or Exemption Party Value	"true" or "false" or Party ID Value of the party claiming end-user exception. The Clearing Exception Party Prefix will be applicable only when Party ID value is provided.

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Clearing Exception or Exemption Type	"End-User" or "Cooperative"

While the Clearing Exception Type field is auto-populated by DDR for FpML submissions based on the role provided in the FpML message, participants should submit the clearing exception or exemption type field with one of the appropriate values selected when submitting using CSV.

In case of both CSV and FPML – if the submission is done on behalf of one party – the ~~End User~~ Clearing Exception party information will be applied only on that side of the position.

If the submission is done on behalf of both parties – the Clearing Exception party information will be applied on both sides of the position.

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REPORTING ~~COUNTERPARTY~~ENTITY

END-USER CLEARING EXCEPTION/EXEMPTION SWAP-BY-SWAP REPORTING ~~DATA~~FORM

~~This form is being submitted by the Reporting Counterparty for one or more swaps with the counterparty identified below that elects relief from required clearing (the "Electing Counterparty"). This form is only valid for swaps executed between the Reporting and Electing Counterparties identified below. The data provided hereunder will be applied to each swap entered into between the Reporting and Electing Counterparties to comply with CFTC Regulations §50.50 and §50.51 or CFTC Staff No-Action Letter 13-22 for which an exception, exemption, or other relief from required clearing is being elected and is in lieu of the Electing Counterparty submitting an annual form as specified in CFTC Regulation §50.50(b)(2) or Reporting Condition (v) in CFTC Staff No-Action Letter 13-22. In executing this form the Reporting Counterparty certifies that it has a formed a reasonable basis to believe that the Electing Counterparty satisfies the requirements of CFTC Regulations §50.50, §50.51 or the General Conditions and Reporting Conditions of CFTC Staff No-Action Letter 13-22, as applicable.~~

~~This form will be linked to each swap for which the exception in CFTC Regulation §50.50, the exemption in CFTC Regulation §50.51, or the relief in CFTC Staff No-Action Letter 13-22 is elected by the Electing Counterparty and reported by the Reporting Counterparty. Because this form will be used for reporting on a swap-by-swap basis, the Reporting Counterparty must have a reasonable basis to believe that the information provided in this form is accurate with respect to the swap and the Electing Counterparty *at the time the swap is reported to* the DTCC Data Repository (U.S.) LLC. At a minimum, this form must be updated annually, or in the event that the Reporting Counterparty has formed a reasonable basis to believe that any of the information contained on this form has changed, as soon as practicable.~~

ELECTING COUNTERPARTY INFORMATION

Full Legal Name:_____

DTCC Account Number (if applicable~~, CICI~~):_____ LEI:_____

REPORTING ~~COUNTERPARTY~~ENTITY INFORMATION

Full Legal Name:_____

DTCC Account Number:_____ ~~CICI/LE:~~ (required):_____
_____ LEI:_____

~~Contact Name:~~

Name: _____

Contact Phone:_____ E-mail~~:~~:_____

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ELECTING COUNTERPARTY FINANCIAL ENTITY STATUS

The Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty is: (One must be checked)

☐ Not a Financial Entity, as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act

☐ An Insured Small Bank, Savings Association, Farm Credit System Institution or Credit Union exempted under CFTC Regulation ~~§~~50.50(d)

☐ A Captive Finance Company excepted under Section 2(h)(7)(C)(iii) of the Commodity Exchange Act

☐ An Eligible Treasury Affiliate ~~Agent Entity~~ excepted under Section 2(h)(7)(D) of the Commodity Exchange Act

☐ A Cooperative exempted under CFTC Regulation ~~§~~50.51(a)

☐ An Eligible Treasury Affiliate meeting the conditions of ~~the~~CFTC Letter No~~Action Relief issued by~~. 14-144

☐ A Bank Holding Company or Savings and Loan Holding Company meeting the conditions of CFTC Letter No. 16-01

☐ A Community Development Financial Institution meeting the ~~CFTC's Division of Clearing and Risk on June 4, 2013 (CFTC Letter No. 13-22)~~conditions of CFTC Letter No. 16-02

HEDGE OR MITIGATE COMMERCIAL RISK OF THE ELECTING COUNTERPARTY

(Does not apply to Cooperative Exemption or Eligible Treasury Affiliate Relief ~~in CFTC Staff No-Action Letter 13-22~~)

~~Consistent with the requirements of Section 2(h)(7)(A)(ii) of the Commodity Exchange Act and CFTC Regulation §50.50(c),~~ ☐ The Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty will only   elect the end-user exception for swaps that hedge or mitigate commercial risk~~.~~ as described in Section 2(h)(7)(A)(ii) of the Commodity Exchange Act and CFTC Regulation 50.50(c).

ELIGIBLE TREASURY AFFILIATE RELIEF

~~Consistent with the requirements of CFTC Staff No-Action Letter 13-22,~~ ☐ The Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty meets the ~~General~~ conditions contained in CFTC ~~Staff No-Action~~ Letter ~~13-22~~14-144.

EXEMPT COOPERATIVE

~~Consistent with the requirements of CFTC Regulation §50.51(b),~~ ☐ The Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty will only elect the cooperative exemption for:

- swaps entered into with a member of the exempt cooperative in connection with originating a loan or

loans for that member, which satisfies the requirements of CFTC Regulation §1.3(ggg)(5)(i)-(iii); or

- swaps that hedge or mitigate commercial risk related to loans to or swaps with members (as such swaps are described above).

FINANCIAL OBLIGATIONS

The Reporting ~~Counterparty~~Entity has a reasonable basis to believe that the Electing Counterparty generally meets its financial obligations associated with entering into non-cleared swaps through the following means: (Check all that apply. *At least one must be checked*.)

- ☐ A written credit support agreement
- ☐ Pledged or segregated assets (including posting or receiving margin pursuant to a credit support agreement or otherwise)
- ☐ A written guarantee from another party
- ☐ The electing counterparty's available financial resources
- ☐ Means other than those described above (optional description of other means may be provided below)

ELECTING COUNTERPARTY IS AN ISSUER OF SECURITIES

~~Yes~~   ~~No~~

Is the Electing Counterparty an issuer of securities registered under section 12 of, or is required to file reports under section 15(d) of, the Securities Exchange Act of 1934?

- ☐ YES
- ☐ NO

If YES, please provide the required information below:

SEC Central Index Key number~~:~~:_____

- ☐ The Reporting ~~Counterparty~~Entity has formed a reasonable basis to believe that the appropriate committee of the _board of directors (or equivalent body) for the Electing Counterparty, has reviewed and approved the decision to enter into swaps that are exempt from the clearing requirement of section 2(h)(1), and section 2(h)(8) of the Commodity Exchange Act.

The Reporting ~~Counterparty~~Entity hereby certifies that it has formed a reasonable belief, based on representations from the Electing Counterparty or the through other means, that the information contained in this ~~End-User Clearing Exception Data~~Swap-by-Swap Form is true and accurate. The Reporting ~~Counterparty~~Entity also certifies that if the information provided in this form changes or is determined to be incorrect, that the Reporting ~~Counterparty~~Entity will provide the DTCC Data Repository (U.S.) LLC with an updated ~~this End-User Clearing Exception Data~~Swap-by-Swap Form as soon as practicable.

Signature~~:~~:_____   Date~~:~~:_____

~~Name: Title:~~Name: _____   Title: _____