

DTCC Data Repository

REPORTING COUNTERPARTY

END-USER CLEARING EXCEPTION SWAP-BY-SWAP DATA INSTRUCTIONS

Rule

REPORTING ENTITY END-USER CLEARING EXCEPTION/EXEMPTION BULK SPREADSHEET INSTRUCTIONS

Section 2(h)(7)(A) of the CEA and CFTC ~~Regulation §~~Regulations 50.50 and 50.51, as well applicable CFTC 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 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”) has not submitted an Annual End-User Clearing Exception/Exemption Form ~~as specified in CFTC Regulation §50.50(b)(2)~~. 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~~ Bulk Reporting ~~Counterparty~~Entity End-User Clearing Exception Swap-by-Swap Spreadsheet (“Bulk Swap-by-Swap Spreadsheet”) and ~~the~~ Reporting ~~Counterparty~~Entity End-User Attestation Letter (“Attestation Letter”).

The data provided in the Bulk Swap-by-Swap Spreadsheet will be ~~linked~~matched, in a weekly report, to each swap for which the exception ~~in CFTC Regulation §50.50~~ is elected that involves the Reporting ~~Counterparty and the counterparty that elects relief from required clearing~~ (“Entity Electing Counterparty”) specified in the Bulk Swap-by-Swap Spreadsheet. The Reporting ~~Counterparty~~Entity may provide the required data in lieu of the Electing Counterparty submitting an annual form as specified in CFTC ~~Regulation §~~Regulations 50.50(b)(2), 50.51(c), and applicable CFTC Letters. The Bulk Swap-by-Swap Spreadsheet ~~attached hereto will need to~~must be submitted for ~~any~~each Electing Counterparty with whom the Reporting ~~Counterparty~~Entity engages in a swap activity ~~and the Electing Counterparty elects the End-User Exception~~ (regardless of whether a different Reporting ~~Counterparty~~Entity has submitted a form for that Electing Counterparty).

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~~Consistent with CFTC regulations, the Reporting Counterparty certifies~~ By executing the [Bulk Swap-by-Swap Spreadsheet and the related Attestation Letter](#), ~~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~~[50.50, 50.51, or applicable CFTC Letters](#).

The following elections and representations must be reported by the Reporting ~~Counterparty~~[Entity](#) on ~~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 Bulk Swap-by-Swap Spreadsheet 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 Bulk Swap-by-Swap Spreadsheet has changed. If no changes have occurred, the Reporting ~~Counterparty~~[Entity](#) must submit ~~a new Bulk Swap-by-Swap Spreadsheet~~[an updated Attestation Letter](#) 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, a Swap-by-Swap Form or a Bulk Swap-by-Swap Spreadsheet, as applicable, must be on file with the DDR.~~

STEP 1: ~~Reporting Counterparty~~[Entity](#) Spreadsheet - Reporting ~~Counterparty~~[Entity](#) Process

Prior to ~~reporting a swap for which a counterparty has decided to elect and report~~[claiming](#) the End-User Exception ~~on for~~ a swap ~~by swap basis~~, each Reporting ~~Counterparty~~[Entity](#) should complete and return a Bulk Swap-by-Swap Spreadsheet and Attestation Letter:

1. ~~The~~ Reporting ~~Counterparty~~[Entity](#) contact goes to https://www.dtcc.com/products/derivserv/suite/us_swap_data_repository.php ~~the DDR Website~~ and clicks on the “DDR Reporting ~~Counterparty~~[Entity](#) Bulk ~~Swap-by-Swap Spreadsheet~~[Solution](#)” link and downloads the [Reporting Entity End-User Attestation Letter](#), the [Bulk Swap-by-Swap Spreadsheet](#) and the Instructions ~~(Please note that the Reporting Counterparty Attestation Letter and Bulk Swap-by-Swap Spreadsheet are at the end of the instructions)~~.
1. ~~The Reporting Counterparty contact can either print the PDF of the Attestation Letter or download it. The Reporting Counterparty will need to download the excel spreadsheet.~~
- 1.2. ~~The Reporting Counterparty~~[Entity](#) contact completes the ~~Reporting Counterparty~~ Attestation Letter on the firm’s letterhead.
- 2.3. The Reporting ~~Counterparty~~[Entity](#) completes the Bulk Swap-by-Swap Spreadsheet.
- 3.4. The Reporting ~~Counterparty~~[Entity](#) contact returns the completed Bulk Swap-by-Swap Spreadsheet and an executed copy of the Attestation Letter to the operations e-mail inbox at ~~GTR~~[EndUserExemption@dtcc.com](mailto:GTREndUserExemption@dtcc.com) ~~GTR~~EndUserExemption@dtcc.com as a soft copy file.

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Since the Reporting Counterparty is providing information relating to each Electing Counterparty, it is required that the Reporting Counterparty has formed a reasonable basis to believe that the content of the Bulk Swap-by-Swap Spreadsheet is accurate and that the information provided is accurate for each swap entered into between the Reporting Counterparty and each Electing Counterparty.

Until all required information is provided, the Bulk Swap-by-Swap Spreadsheet and Attestation Letter will not be considered complete. ~~The information requested is as follows:~~

The information requested is as follows:

ATTESTATION LETTER

1. Full Legal Name of the Reporting ~~Counterparty~~Entity;
2. ~~CICI~~/LEI of the Reporting ~~Counterparty~~Entity;
3. Contact Name - the name of the person responsible for filing the Bulk Swap-by-Swap Spreadsheet and Attestation Letter. This information is needed so that DDR can contact the ~~RCP~~person if there is an issue with the documents, if information is not provided, or if there are questions around the information that is provided;
4. Contact Phone; and
5. Contact E-mail.

BULK SWAP-BY-SWAP SPREADSHEET

A) ~~RC~~ELECTING COUNTERPARTY INFORMATION

1. Reporting Entity Legal Name – Legal name of Reporting ~~Counterparty~~Entity.
2. RCPReporting Entity DTCC ID – The Reporting Entity is required to provide a DTCC ID.
3. Reporting Entity LEI/CICI - LEI ~~or CICI~~ of Reporting Entity.

B) REPORTING ENTITY INFORMATION

1. ~~Electing Counterparty~~
- 2.4. ~~End User~~ Legal Name - Legal name of ~~End User~~Electing Counterparty.
5. ~~End User~~Electing Counterparty DTCC ID - The DTCC ID for the Electing Counterparty, if available.
- 3.6. ~~Electing Counterparty~~ LEI/CICI – LEI/CICI of ~~End User~~Electing Counterparty.

C) REQUIRED REGULATORY INFORMATION

Electing Counterparty Financial Entity Status

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Pursuant to CFTC Regulation 50.50(b), the Electing Counterparty must disclose whether it is a Financial Entity and, if so, what type of Financial Entity. In particular, the form includes the following types of Financial Entities: an 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.

7. **Not a Financial Entity** – The Reporting Entity has a reasonable basis to believe that the Electing Counterparty is not Financial Entity, as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act. State “YES” or “NO”, or leave blank for No.
8. **Insured Small Bank, Savings Association, Farm Credit System Institution or Credit Union** – The Reporting Entity has a reasonable basis to believe that the Electing Counterparty is exempted under CFTC Regulation 50.50(d). State “YES” or “NO”, or leave blank for No.
9. **Captive Finance Company** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty is excepted under Section 2(h)(7)(C)(iii) of the Commodity Exchange Act. State “YES” or “NO”, or leave blank for No.
10. **Eligible Treasury Affiliate** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty is excepted under Section 2(h)(7)(D) of the Commodity Exchange Act. State “YES” or “NO”, or leave blank for No.
11. **Cooperative** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty is exempted under CFTC Regulation 50.51(a). State “YES” or “NO”, or leave blank for No.
12. **Eligible Treasury Affiliate** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty meets the conditions of CFTC Letter No. 14-144. State “YES” or “NO”, or leave blank for No.
13. **Bank Holding Company or Savings and Loan Holding Company** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty meets the conditions of CFTC Letter No. 16-01. State “YES” or “NO”, or leave blank for No.
14. **Community Development Financial Institution** - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty meets the conditions of CFTC Letter No. 16-02. State “YES” or “NO”, or leave blank for No.

Hedge or Mitigate Commercial Risk of the Electing Counterparty

This section is required to be checked when the selected Financial Entity Status is any other than Exempt Cooperatives or Eligible Treasury Affiliate.

- ~~2. **Hedge or Mitigate Commercial Risk of the Electing Counterparty** - Consistent with the requirements of Section 2(h)(7)(A)(ii) of the Commodity Exchange Act and CFTC Regulation~~
 - ~~4.15. §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. State “YES” or “NO”, or leave blank for No.~~
 - ~~3. **Is End-User a Financial Entity** – A Financial Entity, as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act. State “YES” or “NO”, or leave blank for No.~~
- Is End-User**

Eligible Treasury Affiliate Relief

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Consistent with CFTC requirements, this section is required to be checked to indicate whether the Reporting Entity has a reasonable basis to believe that the Electing Counterparty meets the conditions contained in CFTC Letter No. 14-144.

5.16. Eligible Treasury Affiliate Relief - The Reporting Entity has a ~~Captive Finance Company~~ Captive Finance Company excepted under Section 2(h)(7)(C)(iii) of the Commodity Exchange Act reasonable basis to believe that the Electing Counterparty meets the conditions contained in CFTC Letter 14-144. State “YES” or “NO”, or leave blank for No.

4. Is End User Electing the Affiliate Agent Exception - Affiliate Agent Entity excepted under Section 2(h)(7)(D) of the Commodity Exchange Act. State “YES” or “NO” or leave blank for No.

Does the End User Qualify

Exempt Cooperative

Consistent with the requirements of CFTC Regulation 50.51, this section is required to be checked to indicate whether the Reporting Entity has a reasonable basis to believe that the Electing Counterparty will only elect the cooperative exemption for:

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

5. Exempt Cooperative - The Reporting Entity has a reasonable basis to believe that the Electing Counterparty will only elect the cooperative exemption for the **Small Bank Exception** - Insured Small Bank, Savings Association, Farm Credit System Institution or Credit Union exempted under CFTC Regulation

6.17. §50.50(d) reasons outlined above. State “YES” or “NO”, or leave blank for No.

A.

Financial Obligations

Pursuant to CFTC Regulation 50.50(b), 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 Electing Counterparty has the option of providing information regarding the “other” methods of meeting financial obligations.

7.18. Written Credit Support Agreement - 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. State “YES” or “NO”, or leave blank for No.

6. B. Pledged or Segregated Assets - The Reporting ~~Counterparty~~ 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. State “YES” or “NO”, or leave blank for No.

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- ~~8.19. **C. Written Third-Party Guarantee**—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. State “YES” or “NO”, or leave blank for No.
- ~~20. **D. Written Third-Party Guarantee** - The Reporting 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. State “YES” or “NO”, or leave blank for No.~~
- ~~9.21. **Available Financial Resources** - 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. State “YES” or “NO”, or leave blank for No.
- ~~10.22. **E. Means other than those described in Subsections A through D** - 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. ~~Such~~ other means ~~should~~must be ~~listed out~~specified.

Electing Counterparty is an Issuer of Securities

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 Electing Counterparty’s appropriate committee of the board of directors (or equivalent body) has reviewed and approved the decision to enter into swaps that are not cleared.

- ~~11.23. **Is End User Electing Counterparty an SEC Issuer/Filer** - 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? State “YES” or “NO”, or leave blank for No.~~
- ~~12.24. **SEC Central Index Key Number** - If the Electing Counterparty is 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, provide the SEC Central Index Number.~~
- ~~13.25. **Did the End User Electing Counterparty Receive Board Approval for the Election** - 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. State “YES” or “NO”, or leave blank for No.
- ~~7. **Treasury Affiliate**—The Electing Counterparty meets the definition of a Treasury Affiliate contained in CFTC Staff No-Action Letter 13-22. State “YES” or “NO”, or leave blank for No~~
- ~~8. **General Conditions for Treasury Affiliates**—The Reporting Counterparty has a reasonable basis to believe that the Electing Counterparty meets the General Conditions contained in CFTC Staff No-Action Letter 13-22.~~
- ~~9. **Exempt Cooperative**—The Electing Counterparty is an Exempt Cooperative as defined in CFTC Regulation 50.51(a). State “YES” or “NO”, or leave blank for No~~
- ~~10. **Election by Exempt Cooperative**—Reporting Counterparty 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~~

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~~Regulation §1.3(ggg)(5)(i) (iii); or~~

~~swaps that hedge or mitigate commercial risk related to loans to or swaps with members.~~

STEP 2: Bulk Solution – DDR Process

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

1. DDR will check ~~to see if whether~~ the Electing Counterparty has filed an Annual End-User Clearing Exception/Exemption Form. If ~~they have it has~~, DDR will ~~contact~~notify the Reporting ~~Counterparty~~ and ~~let them know~~Entity that the Annual End-User Clearing Exception/Exemption Form will govern and that the Electing Counterparty's information on the Bulk Swap-by-Swap Spreadsheet will be not be utilized by DDR. The RCPReporting Entity will be required to send ~~in an updated~~a revised Bulk Swap-by-Swap Spreadsheet, removing the entity for which an Annual End-User Clearing Exception/Exemption Form is already on file with DDR.

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2. Each submitted Bulk Swap-by-Swap Spreadsheet and Attestation Letter 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 Bulk Swap by Swap Spreadsheet and Attestation Letter are complete, DDR will review the information provided and will discuss any questions with the contact person.~~
3. DDR will maintain a tracking spreadsheet showing the Reporting Entity name, the Electing Counterparty name, the End User name, the CIGLEI for each and the date on which the verified/completed Bulk Swap-by-Swap Spreadsheet and Attestation Letter were filed.
4. DDR will create a report showing ~~all counterparties~~; 1) each Reporting Entity and Electing Counterparty that are parties to swaps that have elected the End-User Clearing Exception ~~to validate that an~~, and 2) each Annual End-User Clearing Exception/Exemption Form, Reporting Entity End-User Clearing Exception Swap-by-Swap Reporting Data form, or a Bulk Swap-by-Swap Spreadsheet that has been provided. The report will be made available to the CFTC on a weekly basis.
 - ~~2. Although submitting an updated Attestation Letter on at least an annual basis is the obligation of the Reporting Party, DDR will track the date the Attestation Letter is completed and notify the Reporting Counterparty when the next Attestation Letter needs to be filed. The Bulk Swap by Swap Spreadsheet needs to be updated and submitted as required~~

STEP 2:3: Swap by Swap Elections

CFTC Regulation §43.4(b) requires that the counterparties indicate on real time messages that the clearingEnd-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 Confirm*
<i>*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 should only be set to "True" on Real Time messages.</i>	

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CFTC Regulation ~~§50.5045.3~~ 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 as follows.

- a. The “Clearing Exception Type” field will be populated 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"]

FpML

The related party reference below should be populated on the related party block of the non-claiming party, and reference the ~~party claiming the exception~~ Electing Counterparty as the related party.

FpML

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 ~~PartyEntity~~ is claiming the clearing exception Electing Counterparty, then the party reference should be included on the Reporting ~~Party’sEntity’s~~ related party block with reference to the non-Reporting PartyEntity.

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

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```
<relatedParty>  
  <partyReference href="BankCounterpartyA"/>  
  <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 BankCounterparty A -->  
  
<party id="BankCounterpartyA">  
  
<partyId partyIdScheme="http://www.dtcc.com/coding-scheme/party-  
idhttp://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 GTRDDR will still disseminate a true/false indicator publicly .	

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.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.
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.