

Dodd-Frank Act Overview

CFTC Rulemakings



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Prepared by CFTC Staff for the Agricultural Advisory Committee

CFTC Rulemakings

As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFTC has been writing rules to regulate the swaps marketplace.

Swaps Regulation

The Dodd-Frank Act established a comprehensive new regulatory framework for swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system. Under the Dodd-Frank Act, the CFTC now:

- Regulates Swap Dealers
- Requires standardized derivatives to be centrally cleared
- Requires standardized derivatives to be traded on regulated exchanges or swap execution facilities
- Oversees a new swaps reporting and recordkeeping regime

Swap Dealers

Approximately 80 firms have registered as swap dealers.

Clearing Requirement

Interest rate swaps and some credit derivatives are currently required to be cleared.

Clearing Exceptions

- End-User Exception
- Inter-Affiliate Exemption
- Cooperative Exemption
- Treasury Affiliates

End-User Exception

§ 50.50(a) provides that a counterparty to a swap may elect the end-user exception to the clearing requirement under Section 2(h)(7)(A) of the CEA if it: (1) is not a “financial entity” as defined in Section 2(h)(7)(C)(i) of the CEA; (2) is using the swap to hedge or mitigate commercial risk as defined in § 50.50(c); and (3) provides or causes to be provided to a SDR or, if no SDR is available, the Commission, the information specified in proposed § 50.50(b).

Inter-Affiliate Exemption

The Commission adopted regulations to exempt swaps between certain affiliated entities within a corporate group from the clearing requirement.

Cooperative Exemption

- The Commission has proposed a rule pursuant to its authority under Section 4(c) of the CEA allowing cooperatives meeting certain conditions to elect not to submit for clearing certain swaps that such cooperatives would otherwise be required to clear in accordance with Section 2(h)(1) of the CEA.
- The Commission has not yet finalized the proposed cooperative exemption.
- The Division of Clearing and Risk has issued time limited no-action relief in order to alleviate the uncertainty for market participants during the period between when the clearing requirement becomes effective and when the Commission finalizes the proposed cooperative exemption.

Treasury Affiliates

The Division of Clearing and Risk provided eligible treasury affiliates that enter into swaps that are subject to the clearing requirement in section 2(h)(1) of the Commodity Exchange Act (CEA) and part 50 of the CFTC's regulations, with relief from the clearing requirement, subject to certain conditions and requirements.