



# Commodity Futures Trading Commission

## Office of Public Affairs

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## Proposed Order to Address Effective Date for Swap Regulations

The Commodity Futures Trading Commission is proposing to facilitate an appropriate transition to a new swap regulatory framework by granting temporary exemptive relief from certain requirements of the Commodity Exchange Act (as amended by the Dodd-Frank Act) that become effective on July 16, 2011.

### **Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act amends the CEA to establish a comprehensive new regulatory framework for swaps.**

- Section 754 of the Dodd-Frank Act provides that the general effective date for certain of the swap-related requirements of Title VII is 360 days after the date of the enactment, which is July 16, 2011. However, where a provision requires implementation by a rulemaking, Section 754 provides that the provision shall become effective not less than 60 days after publication of the final rule.
- Although certain Title VII provisions will become effective immediately upon the general effective date, i.e., July 16, 2011, others will be phased-in over a period of time following the general effective date. After July 16, market participants may be subject to certain Commodity Exchange Act (CEA) requirements but not others.
- In order to provide clarity regarding the applicability of various regulatory requirements to certain transactions after the general effective date, the CFTC is proposing to grant temporary exemptive relief in two parts.
  - In part one, the Commission is proposing to address provisions that would go into effect on July 16, but that reference terms such as “swap,” “swap dealer,” “major swap participant,” or “eligible contract participant” that the Dodd-Frank Act requires the CFTC and SEC to “further define.” These definitional rulemakings will not be in place by July 16. Accordingly, the Commission is proposing to temporarily exempt persons or entities from complying with these provisions until the effective date of the definitional rulemaking for such terms or December 31, 2011, whichever is earlier. The exemption would apply only to the extent the provision specifically relates to entities or instruments such as swaps, swap dealers, major swap participants, and eligible contract participants.
  - In part two, the Commission is proposing to address provisions of the CEA that will apply to certain transactions in exempt or excluded commodities (primarily financial and energy commodities) as a result of the repeal of various CEA exemptions and exclusions as of July 16, 2011. The Commission is proposing to temporarily exempt such transactions from certain CEA provisions until the repeal or replacement of certain of the Commission’s regulations or December 31, 2011, whichever is earlier.
- The proposed temporary exemptive relief would not apply to futures contracts, options on futures, or transactions by retail customers in foreign currency or other commodities. Further, the proposed Order would not apply to any provision of Title VII of the Dodd-Frank Act that has already become effective. It

also would not affect any implementing regulations that the CFTC has already issued or may promulgate under the Dodd-Frank Act, including any implementation dates contained therein.

- The proposed Order would not limit in any way the CFTC's ability to pursue fraud and manipulation.
- There are some provisions in Title VII of the Dodd-Frank Act that are not covered by the proposed Order. First, provisions that require an implementing rulemaking will not become effective on July 16, and thus are not covered by the proposed Order. Second, there also are some provisions that are self-effectuating and will become effective on July 16, but that are not included within the proposed Order. Separate lists of the provisions in each of these two categories will be posted on the CFTC website at [www.cftc.gov](http://www.cftc.gov).
- Commenters are encouraged to address all aspects of the proposed Order.