



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Process for Review of Swaps for Mandatory Clearing

What is the goal of the final rulemaking?

The Dodd-Frank Act requires any person that engages in a swap to submit the swap for clearing to a derivatives clearing organization (DCO) if the Commission has determined that the swap is required to be cleared. The goal of the final rulemaking is to implement a process by which the Commission will review swaps to determine whether they are required to be cleared.

Will the Commission review swaps that were being cleared by a DCO before the enactment of the Dodd-Frank Act?

Yes. Section 723(a)(3) of the Dodd-Frank Act provides that swaps listed for clearing by a DCO as of the date of enactment of the Dodd-Frank Act (referred to hereinafter as “pre-enactment swaps”) shall be considered submitted to the Commission. Once a swap is submitted to the Commission, the Commission must review it within 90 days to determine whether it is required to be cleared. After the final rule takes effect, the Commission will begin reviewing the pre-enactment swaps in accordance with the process set out in the final rule. A DCO that is clearing pre-enactment swaps may continue to clear them and does not have to wait for a determination from the Commission as to whether the swaps are required to be cleared.

Will the public have the opportunity to comment on the Commission’s mandatory clearing determinations?

Yes. The Commission will publish swap submissions on CFTC.gov and in the Federal Register, and the public will be invited to submit comments on the submission. The comment period will be open for 30 days and may be extended on a case-by-case basis.

Does a DCO have to wait for a mandatory clearing determination from the Commission before it can accept new swaps for clearing?

No. The rule specifies that if a DCO’s swap submission is received by the Commission by the open of business on the business day preceding the first day of clearing for the new swap, the DCO may begin clearing the swap as scheduled.