



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of  
Market Oversight

March 20, 2012

### **Staff No-Action Relief: Temporary and Conditional Relief from the Requirements of §§ 20.3 and 20.4 of the Commission's Regulations Regarding Large Swaps Trader Reporting for Physical Commodities**

On July 22, 2011, the Commission published large trader reporting rules for physical commodity swaps and swaptions ("swaps"). 76 FR 43851. The rules are codified in new Part 20 of the Commission's regulations and became effective on September 20, 2011. Section 20.3 of the reporting rules requires daily reports from clearing organizations. Section 20.4 of the reporting rules requires daily reports from clearing members and swap dealers ("reporting entities"). Section 20.7 provides that unless otherwise instructed by the Commission, a clearing organization or reporting entity shall submit data records and any other information required by the reporting rules using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission. Section 20.8(a)(4) delegates to the Director of the Division of Market Oversight ("DMO" or "Division") the authority for determining the format, coding structure, and electronic data transmission procedures for Part 20 reports.

On September 16, 2011, the Division issued a letter under Section 20.10(c) to relieve clearing organizations and clearing members as a class from the reporting requirements of Sections 20.3 and 20.4 until November 21, 2011 for cleared swaps, and January 20, 2012 for uncleared swaps. On November 18, 2011, the Division issued a second letter under Section 20.10(c) to establish a safe harbor for less than fully compliant reporting under Sections 20.3 and 20.4 until March 20, 2012. The safe harbor has allowed reporting parties to provide less than fully compliant reports to the Commission in an interim text-based format to facilitate the transition to fully compliant reporting under Part 20. The safe harbor has been conditioned on the submission of month-end open interest reports to the Commission for September 2011 through February 2012, as well as the submission of an e-mail describing how the submitted reports vary from fully compliant reports, arrangements being made to reach full compliance, and the anticipated date of full compliance. Under the terms of Section 20.10(c), the Division cannot extend relief from full compliance with Sections 20.3 and 20.4 beyond March 20, 2012.

Division and Office of Data and Technology ("ODT") staff has been actively engaged in ongoing compliance and implementation discussions with clearing organizations, clearing members, potential swap dealers, and data service providers, separately and through the International Swaps and Derivatives Association and the Futures Industry Association. The Division believes that the participants in these discussions are representative of the parties that will be subject to the reporting rules.

The Division also believes that substantial progress has been made towards finalizing reporting guidance and an XML-based reporting format and record layout, and facilitating the

ability of reporting parties to comply with such guidance and format requirements. The Division has, with substantial participation from ODT, developed and publicly distributed a guidebook for Part 20 reports to provide reporting guidance.

Notwithstanding the substantial progress that has been made, concerns have been raised regarding the ability of market participants to submit fully compliant reports under Part 20 by March 20, 2012. In light of these concerns, the Division will not recommend that the Commission commence an enforcement action against clearing organizations or clearing members for failure to submit fully compliant reports during the period from March 20, 2012 to July 2, 2012, assuming satisfaction of the conditions described below. This no-action relief will automatically expire on July 2, 2012. Reporting parties that can readily file fully compliant Section 20.3 and 20.4 reports cannot rely or continue to rely on the relief described herein.

As a condition of this relief, reporting parties must make a good faith attempt to comply with the requirements of Part 20. Good faith will be demonstrated through the filing of otherwise fully compliant reports in an interim pipe-delimited text format in which the “|” character is placed between each data field, or the filing of less than fully compliant reports in a pipe-delimited text or XML-based format, as prescribed by the Division. Submitted reports may be prepared and submitted by clearing organizations or data vendors on behalf of reporting entities. The primary responsibility for compliant reporting, however, remains with the reporting entities, irrespective of their use of third-party service providers.

As a further condition of this relief, clearing organizations for cleared swaps and reporting entities for cleared and uncleared swaps are required to provide open interest data for positions as of each month-end during the entire relief period, beginning on March 1, 2012, and ending on June 30, 2012. Such data must be submitted for each month no later than the fifteenth day of the following month (e.g., no later than April 15 for March month-end data). Submitted open interest data must be reported on a futures equivalent basis in terms of the contracts listed in Section 20.2 of the reporting rules. The open interest data, which shall be submitted in the pipe-delimited text format prescribed by the Division, must allow the Commission to readily identify and distinguish swaps by: (1) the identifier assigned by a clearing organization for a cleared product; and (2) the commodity reference price position type indicator as described by the Division in writing. Open interest attributable to uncleared swaps must also be separated by the counterparty to such swaps and reported as prescribed.

Any reporting party that intends to rely on this relief must submit an e-mail to the Division at [submissions@cftc.gov](mailto:submissions@cftc.gov) and [SwapsLTR@cftc.gov](mailto:SwapsLTR@cftc.gov), no later than March 30, 2012, describing with specificity: (1) ways in which the submission is not compliant with the data field requirements of Sections 20.3 and 20.4, (2) the arrangements that are being made for coming into compliance with such requirements, and (3) the anticipated date of full compliance with the requirements of Part 20 as prescribed by the Division.

Nothing in this letter alters the Section 20.10(b) compliance date for potential swap dealers that are not clearing members. The effective date for such entities is tied to the effective date of a final Commission regulation further defining the term swap dealer. In addition, nothing in this letter should be interpreted as altering the implementation schedule of Part 151 of the

Commission's regulations. Finally, the Division reminds the public that other applicable provisions of Part 20, including the special call provision of Section 20.5(b) and the books and records requirements of Section 20.6, became effective on September 20, 2011.

The no-action position taken herein is taken by the Division only and does not bind the Commission or any other Division or Office of the Commission's staff. As with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief provided herein, in its discretion.

If you have any questions regarding the content of this staff no-action letter, please contact Ali Hosseini at [ahosseini@cftc.gov](mailto:ahosseini@cftc.gov) or (202) 418-6144.

Sincerely,

Richard A. Shilts  
Director  
Division of Market Oversight