



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Real-Time Public Reporting Proposed Rulemaking

What is the goal of the proposed rulemaking?

The notice of proposed rulemaking proposes to implement a real-time public reporting regime for swaps and to specify the criteria for what constitutes a block trade and a large notional swap and the appropriate time delay for public dissemination of block trade and large notional swap transaction and pricing data. The proposed rules are designed to make swap transaction and pricing data available to the public in real-time, promote transparency and enhance price discovery while protecting the anonymity of market participants.

The Dodd-Frank Act requires that swap transaction and pricing data be reported “as soon as technologically practicable.” What does that mean under the proposed rules?

“As soon as technologically practicable” means as soon as possible, taking into consideration the prevalence, implementation and use of technology by comparable market participants.

What swaps are covered by the proposed rules?

The proposed rules cover all swaps (i.e., interest rate, currency, equity, credit and other commodity) under the CFTC’s jurisdiction, cleared and uncleared, regardless of the method of execution (e.g., executed on a swap execution facility, designated contract market or bilaterally negotiated)

Which parties to a swap must report real-time swap transaction and pricing data to registered entities under the proposed rules?

Parties to a swap are responsible for reporting swap transaction information to the appropriate registered entity in a timely manner, as prescribed below.

For those swaps executed on a swap execution facility or designated contract market, the parties satisfy their real-time reporting obligation by executing the swap on such trading facility or platform.

For those swaps that are not executed on a swap execution facility or designated contract market, the parties to the swap would report to a registered entity as follows:

- If one party is a swap dealer and the other is a major swap participant, the swap dealer should report to the registered entity.
- If one party is a swap dealer or major swap participant and the other party is not a swap dealer or major swap participant, the swap dealer or major swap participant should report to the registered entity.
- In all other situations, the parties shall decide which party to the swap will report to the registered entity.

Who will report real-time swap transaction and pricing data to the public under the proposed rules?

A real-time disseminator would be responsible for publicly disseminating swap transaction and pricing data in real-time. A real-time disseminator could be a registered swap data repository or a third party service provider that accepts swap transaction and pricing data from multiple data sources and publicly disseminates such data in real-time pursuant to the proposed rules.

When must real-time swap transaction and pricing data be reported to a real-time disseminator under the proposed rules?

Swap transaction data, including price and volume, must be real-time public reported as soon as technologically practicable after the time at which the swap transaction has been executed.

Under the proposed rules, parties to a swap executed on a swap execution facility or designated contract market fulfill their requirements to report to a registered entity by executing such swap transactions on a swap execution facility or designated contract market. Swap execution facilities and designated contract markets must report such swap transaction and pricing data to a real-time disseminator as soon as technologically practicable following execution of the swap transaction. A real-time disseminator includes a registered swap data repository that accepts and publicly disseminates swap transaction data and a third-party service provider through which the swap execution facility or designated contract market can publicly disseminate the swap transaction and pricing data in real-time. Swap execution facilities and designated contracts markets may provide swap transaction and pricing data to their market participants concurrent with or following the transmittal of such data to a real-time data disseminator.

For swaps executed off-facility in which at least one party is a swap dealer or major swap participant, the party that is responsible for reporting must report the real-time swap transaction and pricing data to a registered swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time. Such data must be reported by the reporting party as soon as technologically practicable following execution of the swap transaction. Swap dealers may provide swap transaction and pricing data to their customers concurrent with or following the transmittal of such data to a real-time data disseminator.

For swaps executed off-facility in which neither party is a swap dealer or major swap participant, the party that is responsible for reporting must report the real-time swap transaction and pricing data to a registered swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time. Such data must be reported by the reporting party as soon as technologically practicable following execution of the swap transaction.

When does execution of a swap occur under the proposed rules?

Execution of a swap is an agreement by the parties (whether orally, in writing, electronically or otherwise) to the terms of a swap that legally binds the parties to such swap terms under applicable law. Execution occurs immediately following or simultaneous with the affirmation of the swap. Affirmation is the process by which parties to a swap verify (orally, in writing, electronically or otherwise) that they agree on the primary economic terms of a swap (but not necessarily all terms of the swap). Affirmation may constitute “execution” of the swap or may provide evidence of execution of the swap, but does not constitute confirmation (or confirmation by affirmation) of the swap.

When must swap transaction and pricing data be publicly disseminated by a real-time disseminator under the proposed rules?

A real-time disseminator must disseminate real-time swap transaction and pricing data as soon as technologically practicable upon receipt of such data from a reporting party or a swap market unless such swap is subject to a time delay under the proposed rules.

What data needs to be real-time reported to the public under the proposed rules?

The proposed rules provide that the information in a list of specific data fields must be publicly disseminated so that the public can understand the product, price and volume.

What is a block trade under the proposed rules?

A block trade is a swap of large notional or principal value that

- 1) is made available for trading on a swap execution facility or designated contract market;

- 2) occurs off the swap execution facility's or designated contract market's trading system or platform pursuant to the swap execution facility or designated contract market rules;
- 3) is consistent with the appropriate minimum block size requirements in the proposed rules; and
- 4) is reported in accordance with the swap execution facility's or designated contract market's rules and procedures and subject to the appropriate time delay in the proposed rules.

What is the difference between a block trade and a large notional swap under the proposed regulations?

Block trades and large notional swaps are similar in that they are both swaps of large notional or principal value. However, unlike a block trade, a large notional swap is a swap that is not available for trading or execution on a swap execution facility or designated contract market. A large notional swap must be consistent with the appropriate minimum size requirements in the proposed rules. Additionally, a large notional swap must be reported in accordance with the appropriate time delay in the proposed rules.

What is the "appropriate minimum block size" under the proposed rules?

The "appropriate minimum block size" is the minimum notional or principal size of a category of swaps within an asset class that qualifies particular swaps to fall within the category of swap as a block trade or large notional swap. The appropriate minimum block size is calculated by a registered swap data repository or is prescribed by the Commission.

How is the appropriate minimum size of a block trade or large notional swap determined under the proposed rules?

Under the proposed rules, the appropriate minimum block size for a category of swaps within an asset class would be determined by a registered swap data repository. A registered swap data repository would make this determination for a category of swaps by selecting the greater of the resulting numbers from the following two tests:

- Distribution Test – Using data over the prior calendar year, a registered swap data repository would create an empirical distribution of the notional or principal transaction amounts within a category of swaps and would set a number that is greater than 95% of the notional or principal transaction amounts.
- Multiple Test – Using data over the prior calendar year, a registered swap data repository would calculate the mean, median and mode for a category of swaps and would then multiply the greatest of the mean, median or mode by five.

How long of a time delay would there be before a block trade or large notional swap transaction is publicly disseminated under the proposed rules?

Standardized block trades and large notional swaps will have a fifteen minute time delay from the time of execution until the time of public dissemination. The Commission is requesting comment regarding appropriate time delays for customized large notional swaps.