



Commodity Futures Trading Commission

Office of Public Affairs

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Registration Process Rules for Swaps Entities Q&A

What is the goal of the proposed rulemaking?

The proposal would establish a registration process for swap dealers and major swap participants so that they can comply with the registration requirement under the Dodd-Frank Act.

Who is required to register?

The Dodd-Frank Act requires all swap dealers and major swap participants to be registered. It contains definitions of “swap dealer” and “major swap participant” but requires the Commission to adopt rules that complete certain aspects of those definitions. Those rules will be proposed and adopted as part of a separate rulemaking from this one.

When will swap dealers and major swap participants be required to register?

Registration will not be required until the forthcoming Commission rules further defining the “swap dealer” and “major swap participant” terms (the “Definitional Rules”) become effective. Under the proposed registration rules, however, starting April 15, 2011 persons who believe that they are swap dealers or major swap participants will be *permitted* (but not required) to register. Registration would only become mandatory once the Definitional Rules become effective.

How does a person know if it comes within the “swap dealer” or “major swap participant” definition?

In many cases it is clear whether a person fits the statutory definition. But in other cases, a person will require the additional guidance of the Definitional Rules. As noted above, registration would not become mandatory until the Definitional Rules become effective.

Does registration as a swap dealer or major swap participant subject a person to other requirements?

The Dodd-Frank Act adds new Section 4s to the Commodity Exchange Act, and Section 4s requires registered swap dealers and major swap participants to meet specific requirements in the areas of capital and margin, reporting and recordkeeping, daily trading records, business conduct standards, documentation standards, trading duties, appointing a chief compliance officer, and, with respect to uncleared swaps, segregation of customer funds (the “Section 4s Requirements”). These Section 4s Requirements will be specifically set forth in additional separate Commission rulemakings.

How can a person who registers as a swap dealer or major swap participant comply with the requirements applicable to a swap dealer or major swap participant before rules have been adopted specifying the nature of those requirements?

Under these proposed rules, swap dealers and major swap participants register *on a provisional basis* until such time as all of the Commission rules implementing Section 4s Requirements become effective. Provisionally registered swap dealers and major swap participants would be immediately subject only to those Section 4s Requirement rules (if any) as are effective at the time they file their registration application, and they would be permitted to come into compliance with the remaining Section 4s Requirements as each of the separate rules for those requirements becomes effective. Once all of the rules implementing the Section 4s Requirements become effective, provisionally registered swap dealers and major swap participants who have come into compliance would become fully registered, and the need for provisional registration would cease. Persons registering after that time would immediately be fully registered and subject to all of the Section 4s Requirements.

Who will determine whether a person is in compliance with the Section 4s Requirement rules that apply when they register, and who will conduct ongoing compliance reviews of registered swap dealers and major swap participants?

The Commission is proposing three options in this regard. Under option number one the Commission would be directly responsible for ensuring compliance by swaps entities with all requirements applicable to them under the CEA and Commission regulations. Under option number two NFA (or any other association that may subsequently be registered as a futures association) would be responsible for ensuring compliance, subject to Commission oversight. Under option number three certain compliance oversight activities would be performed by the Commission and others would be delegated to NFA (or a subsequently registered futures association). The Commission specifically is requesting comment on these options (and for option number three, which oversight activities should be retained by the Commission and which should be delegated).