



DIVISION OF SWAP DEALER AND INTERMEDIARY OVERSIGHT

STAFF ADVISORY

CFTC Staff Advisory No. 15-66
Other Written Communication
December 17, 2015
Division of Swap Dealer and Intermediary Oversight

Audience: Provisionally Registered Swap Dealers and Major Swap Participants

Topic: Reporting Obligations under Regulations 23.204 and 23.205

I. Introduction and Background

The Division of Swap Dealer and Intermediary Oversight (“DSIO”) of the Commodity Futures Trading Commission (“Commission”) is issuing this advisory to remind swap dealers (“SDs”) and major swap participants (“MSPs”) of their obligations with respect to the data reporting requirements in Regulations 23.204 and 23.205. Accurate and timely information and data is essential to maintain a transparent and well supervised swap marketplace.

SDs and MSPs are required by Regulations 23.204 and 23.205 to report all information and data in the time and manner specified in Parts 43 and 45. This includes reporting continuation data in a manner sufficient to ensure that all data in the swap data repository (“SDR”) concerning swaps remains current and accurate.¹ It also includes correcting errors or omissions promptly after discovery.²

DSIO has observed that some SDs and MSPs are having reporting issues and failures resulting in not reporting accurate and timely data in accordance with the regulatory requirements. SDs and MSPs should evaluate their reporting practices to ensure compliance with their reporting requirements. DSIO discusses below some of the more common issues and failures it has observed and suggests some steps that might assist in addressing these issues.

The purpose of this advisory is to provide SDs and MSPs guidance and recommendations with regard to the data reporting requirements and it should not be interpreted as establishing new regulatory requirements.

¹ See 17 CFR § 45.4(a).

² See 17 CFR §§ 43.3(e)(ii) and 45.14. Even if the non-reporting party discovers the error or omission, such party is required to inform the reporting party promptly. See 17 CFR §§ 43.3(e)(i) and 45.14(b). It is then the reporting party’s obligation to submit the corrected data to the SDR. See 17 CFR §§ 43.3(e)(ii) and 45.14(b).

II. Examples of Reporting Issues

Since the implementation of Parts 43 and 45, DSIO has noted diverse reporting issues and failures by SDs and MSPs; however, the following appear with some frequency:

- a) Readily Apparent Errors: Some parties have incorrectly reported swap transactions with errors that should have been readily apparent. For example, certain swaps have been reported with extremely large notional values (*e.g.*, a notional value of \$1 quadrillion).
- b) Incomplete Reporting: DSIO has observed trade reports with important reporting fields blank, such as the counterparty's Legal Entity Identifier field, the U.S. person field, and the clearing exception electing counterparty field.
- c) Duplicative Swap Reporting: Duplicative swap reporting in SDR databases results in incorrect data.
- d) Calculation Errors: There are many instances in which the notional values of swap transactions appear to have been incorrectly calculated or reported.
- e) Reporting Delays: There are many instances in which there are persistent delays in the reporting of data and information.

III. Reminder of Reporting Requirements and Guidance

Proper reporting of swaps is an important obligation of SDs and MSPs. Firms should ensure that they have the systems and controls to properly report and to timely identify and correct any errors. Firms should periodically test their systems to ensure that the information is being properly transmitted. Further, any changes in systems that could have an effect on proper reporting should be tested and verified prior to any such changes.

The following are examples of some reporting practices observed by DSIO that SDs and MSPs may want to consider depending on their particular circumstances.

- a) Data Gatekeepers: Firms may want to use automated systems that perform verification processes to identify errors prior to reporting.
- b) Automated Review of Reported Data: The regulatory requirement to report presumes that such reporting will be accurate. To the extent an SD or MSP determines that data already reported is not accurate, it is required to correct such errors after discovery. To improve accuracy of reported data and correct errors promptly, an SD or MSP should seek to identify errors (which may be assisted by automated processes) and make timely corrections during the 48 hour SDR data accuracy confirmation period provided for in Regulation 49.11.
- c) Erroneous Record Checks: If an SDR flags potentially erroneous records during validation checks, SDs and MSPs should review, correct and resubmit information promptly. SDs and MSPs should also consider having a process in place to investigate errors to prevent future recurrences.

- d) Improved Change Management Practices: SDs and MSPs should review their procedures for managing system changes and updates to confirm they are adequately testing for reporting system impacts.
- e) Data Correction: Errors and omissions in reported data should be corrected promptly after discovery in accordance with Regulations 43.3(e)(ii) and 45.14. This obligation to correct erroneous or incomplete data pertains both to newly reported data, and to data reported prior to the issuance of this Advisory.
- f) Third-Party Service Providers: If an SD or MSP uses a third-party service provider to transmit data to a SDR, the SD or MSP remains responsible for complying with the reporting requirements. The SD or MSP should regularly confirm that all information that must be reported under Part 43 or 45 is, in fact, being properly reported to the SDR.

This advisory should not be construed in any way as excusing past violations or limiting the CFTC's ability to pursue any actions for reporting violations.