

DIVISION OF MARKET OVERSIGHT AND OFFICE OF DATA AND TECHNOLOGY ADVISORY REGARDING UPCOMING LEGAL ENTITY IDENTIFIER DEADLINE

A. PURPOSE

Reminder of imminent April 10 deadline for obtaining LEIs. The Division of Market Oversight (“DMO”) and the Office of Data and Technology (“ODT”) of the Commodity Futures Trading Commission (“CFTC” or “Commission”) issue this advisory to remind swap market participants of important obligations they have under the Commission’s swap data recordkeeping and reporting rules with respect to legal entity identifiers (“LEIs”), and of an approaching April 10, 2013, deadline for compliance applicable to all swap market participants.

B. SUMMARY

- LEIs, currently known as CICIs, are required for all swap market participants.
- The source for obtaining CICIs is the CICI Utility, available at www.ciciutility.org.
- **All** swap counterparties must obtain a CICI before April 10, 2013.
- For CICIs previously issued through third-party registration, the entity must self-certify the CICI data record before April 10, 2013. Entities that obtain CICIs through self-registration or assisted registration with permission do not need to also self-certify.
- All swap counterparties must maintain their own CICIs after issuance, including periodic recertification.
- All swap counterparties must use their CICIs in recordkeeping and swap data reporting.
- DMO and ODT suggest two immediate steps to ensure compliance with CICI requirements:
 - Each swap counterparty should visit www.ciciutility.org and check its CICI status.
 - Swap dealers should contact each of their counterparties regarding CICIs.

C. BACKGROUND

LEIs are required for all swap market participants. Part 45 of the Commission’s regulations establishes recordkeeping and data reporting requirements for swaps subject to the Commission’s jurisdiction.¹ Section 45.6, *Legal entity identifiers*, provides that each counterparty to any swap subject to the jurisdiction of the Commission must be identified in all recordkeeping and all swap data reporting by means of a single legal entity identifier (“LEI”) issued pursuant to CFTC rules.² As noted in Part 45, LEIs are essential data aggregation tools for the Commission and other financial regulators charged with fulfilling the systemic risk mitigation, market transparency, and market abuse prevention purposes of the Dodd-Frank Act.

¹ 17 CFR part 45, Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (Jan. 13, 2012), <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-33199a.pdf>.

² *Id.* at 2204.

LEIs are currently known as CICIs. On July 23, 2012, the Commission issued an Order (the “July 23 Order”) designating the provider of LEIs to be used in recordkeeping and swap data reporting pursuant to CFTC regulations.³ As noted in the Order, the Commission is a participant in an international process, now led by an international Regulatory Oversight Committee of which the Commission is a member, to establish a global LEI system. As provided in the Order, at the request of other international financial regulators participating in this international process, the Commission currently refers to the identifier required to be used in compliance with Part 45 as the CFTC Interim Compliant Identifier (“CICI”). Once the global LEI system becomes operational, the Commission anticipates that CICIs will transition into the global LEI system and be referred to as LEIs.

Source for obtaining CICIs. The July 23 Order designated DTCC-SWIFT as the provider of the LEIs (currently CICIs) to be used in complying with Part 45, and directed registered entities and swap counterparties subject to the Commission’s jurisdiction to use CICIs provided by DTCC-SWIFT for that purpose. CICIs are available from the CICI Utility operated by DTCC-SWIFT, through the CICI Utility web portal available at www.ciciutility.org.

Deadline for obtaining CICIs. Pursuant to Part 45, and taking into account no-action relief granted by DMO in Commission Letters Nos. 12-32⁴ and 12-41,⁵ the compliance dates on which registered entities and swap counterparties must commence full compliance with the requirement to obtain and use a CICI, as well as with all other provisions of CFTC’s swap data recordkeeping and reporting rules, are as follows:

- December 31, 2012 – Deadline for swap dealers (“SDs”), swap data repositories (“SDRs”), designated contract markets (“DCMs”), and derivatives clearing organizations (“DCOs”) to obtain and use CICIs in all recordkeeping and swap data reporting with regard to credit swaps and interest rate swaps.
- February 28, 2013 – Deadline for SDs, SDRs, DCMs, and DCOs to obtain and use CICIs in all recordkeeping and swap data reporting with regard to equity swaps, foreign exchange swaps, and other commodity swaps, and for major swap participants (“MSPs”) to do the same with respect to all swaps.
- April 10, 2013 – Deadline for all non-SD/MSP swap counterparties to obtain and use CICIs in all recordkeeping and swap data reporting with respect to all swaps.

³ 77 FR 53870 (Sept. 4, 2012), <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister072412c.pdf>.

⁴ Commission Letter No. 12-32, “Time Limited No-Action Relief for Swap Dealers from Certain Swap Data Reporting Requirements of Part 43, Part 45 and Part 46 of the Commission’s Regulations” (November 19, 2012).

⁵ Commission Letter No. 12-41, “No-Action Relief for Swap Dealers from Certain Swap Data Reporting Requirements of Part 43, Part 45 and Part 46 of the Commission’s Regulations Due to Effects of Hurricane Sandy” (December 5, 2012).

D. CICI REQUIREMENTS.

As Commission staff made clear in the *Q & A on Start of Swap Data Reporting* issued on October 10, 2012,⁶ and in the *Operational Guidance to the CICI Utility* issued on March 10, 2013,⁷ pursuant to Part 45, all swap counterparties are subject to the following CICI requirements:

- **Obtain a CICI before April 10, 2013.** Each swap counterparty subject to the Commission's jurisdiction must obtain a CICI by the compliance date applicable to that counterparty, and use the CICI in required recordkeeping as well as in required swap data reporting. This means that all swap counterparties, even those that are not SDs or MSPs, and even those not required to report swap data, must obtain a CICI before April 10, 2013. It also means that all SDs and MSPs must already have CICIs.
- **For CICIs issued through third-party registration, self-certify the CICI data record before April 10, 2013.** If a CICI has been obtained for a counterparty through third-party registration, without the explicit permission of the counterparty, the counterparty must validate or certify its own CICI data record with the CICI Utility before April 10, 2013. An entity that receives a CICI through self-registration, or assisted registration with explicit permission from the entity identified, does not need to self-certify its CICI data record when its CICI is issued, in addition to self-registering for its CICI. Self-registration includes assisted registration with permission, and self-registration constitutes self-certification.
- **Maintain the CICI after issuance, including periodic recertification.** Each entity must maintain its own CICI after it is issued, keeping its reference data current and accurate, and re-certifying the record at appropriate intervals. This includes entities receiving CICIs through assisted registration with permission, as well as entities whose CICIs were issued through self-registration or third party registration.
- **Use the CICI in recordkeeping and reporting.** All swap counterparties must use CICIs in both recordkeeping and reporting after the applicable compliance date. Non-reporting counterparties must provide their CICIs to their reporting counterparties, and reporting counterparties must then report the CICIs of their counterparties as well as their own.

E. SUGGESTED STEPS TO ENSURE COMPLIANCE

DMO and ODT urge swap counterparties to take the following steps immediately, to ensure compliance with Part 45 CICI requirements:

⁶ http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/startreporting_qa_final.pdf.

⁷ <http://www.cftc.gov/PressRoom/PressReleases/pr6526-13>.

- **Each swap counterparty should check its CICI status.** Each swap counterparty should log on to the CICI Utility web portal at www.ciciutility.org to check its CICI status.
 - If the counterparty does not have a CICI, it should self-register for a CICI without delay.
 - If the CICI Utility database already contains a CICI for the counterparty, the counterparty should (a) check the accuracy of its CICI reference data and make any needed corrections, and (b) self-certify the CICI if it was issued through third-party registration.
- **Dealers should contact counterparties regarding CICIs.** SDs and other reporting counterparties should (a) contact each of their swap counterparties to determine whether the counterparty has a CICI, (b) obtain the counterparty's CICI for reporting purposes if the CICI has already been issued, and (c) remind the counterparty of its obligation to obtain a CICI before April 10 if the counterparty does not yet have a CICI.