



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – End-User Exception to Mandatory Clearing of Swaps

What is the goal of the proposed rulemaking?

The goal of this rulemaking is to provide an easy-to-use process for end users who want to use the exception to mandatory clearing of swaps under the Dodd-Frank Act.

Who is an end user?

An end user is a non-financial entity that is using swaps to hedge or mitigate its commercial risks.

What does an end user do to comply with the law?

The end user must provide notice that it is using the exception to mandatory clearing. This notice is a user-friendly, check-the-box procedure spelled out in the rule.

How does an end user know if it is hedging or mitigating commercial risk?

The rule provides examples of uses of swaps that constitute hedging or mitigating commercial risk. The rule further spells out activity that does not qualify as hedging.

Is the proposed definition of hedging or mitigating commercial risk limited to positions that qualify for hedge accounting treatment or bona fide hedging treatment?

No. Although the proposed definition includes swaps that are recognized as hedges for accounting purposes or as bona fide hedging under Commission rules, the swaps included within the proposed exclusion for hedging or mitigating commercial risk are not limited to those categories. Rather, the proposal covers swaps hedging or mitigating any of a person's business risks, regardless of their status under accounting guidelines or the bona fide hedging rule.

What is the potential small bank clearing exception, and what is the CFTC doing about it?

Banks and other financial institutions are financial entities that, as a general rule, are barred by the Dodd-Frank Act from relying on the end-user clearing exception. However, the law also permits the CFTC to consider whether to exempt small financial institutions from the general rule that applies to all financial institutions.

As directed by the Dodd-Frank Act, the CFTC is seeking public comment on its options and what approach it should take on this issue.