

## Commodity Futures Trading Commission

Office of Public Affairs

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## Proposed Regulations Regarding Position Reports for Physical Commodity Swaps

The Commodity Futures Trading Commission (CFTC) announced the approval for publication in the Federal Register of proposed regulations concerning position reports for physical commodity swaps and swaptions. The regulations are necessary for implementing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

## On July 21, 2010, the Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, the Dodd-Frank Act further amended the CEA to:

- Require the Commission to limit the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to commodity futures and option contracts in exempt and agricultural commodities traded on or subject to the rules of a designated contract market (DCM). Such limits must be established within 180 and 270 days, respectively, of the Dodd-Frank Act's enactment (July 21, 2010).
- Require the Commission to establish position limits, including aggregate position limits, for swaps that are economically equivalent to DCM contracts in exempt and agricultural commodities (collectively, economically equivalent swaps). Such limits must be imposed simultaneously with limits on DCM contracts.

## The Commission's proposed regulations call for:

- Establishment of a reporting system to collect necessary data on economically equivalent swaps in order for the Commission to be able to enforce aggregate position limits with respect to such swaps as mandated by the Dodd-Frank Act. The proposed system would be analogous to the Commission's current reporting structure for receiving data on large positions in physical commodity futures contracts traded on DCMs.
- The proposed reporting system to serve as a transitional tool for swaps positional data until swap data repositories (SDRs) are in operation and potentially serving as the Commission's primary source for swaps positional data, at which time the Commission may either continue or discontinue the proposed system.
- A position to be deemed reportable under the proposed system if it is, in any one futures equivalent month, comprised of fifty or more economically equivalent swaps (on a futures equivalent basis) based on the same commodity underlying any of the DCM contracts listed in the proposed regulations.
- Clearing organizations to collect and report on a daily basis the aggregate proprietary and aggregate customer accounts of each of their clearing members.
- Clearing members and swap dealers to report on a daily basis their proprietary positions and their counterparty positions in economically equivalent swaps.
- Clearing organizations to keep records of transactions in economically equivalent swaps, and clearing members and swap dealers to keep records of all transactions related to positions that are reportable under the proposed regulations.
- Clearing members and swap dealers to submit, whenever an account becomes reportable under the proposed regulations, a 102S filing with the Commission identifying the direct owner or controller of the reportable account.
- Each person with a position that is reportable under the proposed regulations to submit, upon a special call by the Commission, a 40S filing with the Commission providing information on the reportable positions.