Commodity Futures Trading Commission
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Final Rulemaking on Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades; Further Measures to Protect the Identities of Parties to Swap Transactions

The Commodity Futures Trading Commission (Commission) is adopting a final rule that groups swaps into separate swap categories, establishes methodologies for setting appropriate minimum block sizes for block trades and large notional off-facility swaps in each category, and prevents disclosure of the identities of swap counterparties in connection with the real-time public reporting of swap transaction and pricing data. The final rulemaking implements provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)

On July 21, 2010, President Obama signed the Dodd-Frank Act, which amended the CEA to establish a comprehensive new regulatory framework for swaps and security-based swaps.

Section 727 of the Dodd-Frank Act amends the Commodity Exchange Act ("CEA") by inserting Section 2(a)(13). Section 2(a)(13) sets out several requirements that are relevant to the rules the Commission is adopting. First, this section requires public availability of swap transaction data in such form and at such times as the Commission determines appropriate to enhance price discovery. Section 2(a)(13) further requires the Commission to specify criteria for determining what constitutes a "large notional swap transaction (block trade)" for the purposes of applying time delays for reporting such transactions to the public. Finally, Section 2(a)(13) requires the Commission to protect the identities and maintain the anonymity of business transactions and market positions of swap counterparties.

Establish Appropriate Minimum Block Sizes and Protect Swap Counterparty Identities

The final rule: (1) specifies the criteria for determining swap categories and methodologies for determining the appropriate minimum block sizes for large notional off-facility swaps and block trades; and (2) provides increased protections for the identities of swap counterparties to large swap transactions and certain other commodity swaps.

Swap Categories in Each Asset Class

The final rule sets forth specific swap categories within the five asset classes previously established by the real-time reporting final rule: interest rate, credit, equity, foreign exchange, and other commodity. Swaps within each asset class are generally grouped based on common risk and liquidity profiles, as determined by the Commission.

Setting Minimum Block Sizes

The final rule provides that the Commission will set appropriate minimum block sizes for the swap categories within each asset class. The rule implements a two-period, phased-in approach. The Commission prescribes appropriate minimum block sizes during an initial period, which would last until registered swap data repositories have collected at least one year of reliable data for each asset class. The Commission then will analyze and use this data to establish post-initial appropriate minimum block sizes for each swap category using a 67-percent notional amount calculation. The Commission will update these post-initial appropriate minimum block sizes no less than once a year.

Anonymity Provisions

The final rule establishes measures to protect the identities of swap counterparties and to maintain the anonymity of their business transactions and market positions in connection with the public dissemination of publicly reportable swap transactions.

The rule amends existing Commission regulations to establish cap sizes for notional and principal amounts that mask the total size of a swap transaction based upon a 75-percent notional amount calculation for a given swap category. The term cap size is defined as the maximum limit of the principal or notional amount of a swap that is publicly disseminated.

The rule also establishes limits on the public dissemination of certain publicly reportable swap transactions in the other commodity asset class, which have specific delivery or pricing points.