



Commodity Futures Trading Commission

Office of Public Affairs

Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
www.cftc.gov

Q & A – Final Registration Process Regulations for Swaps Entities

What is the goal of the final rulemaking?

The final regulations establish a registration process for swap dealers and major swap participants so that they can comply with the registration requirement under the Dodd-Frank Act.

Who is required to register?

The Dodd-Frank Act requires all swap dealers and major swap participants to be registered with the Commission. It contains definitions of “swap,” “swap dealer” and “major swap participant” but directs the Commission to adopt regulations that further define those terms. On December 21, 2010, the Commission proposed regulations further defining the terms “swap dealer” and “major swap participant,” and on May 23, 2011, the Commission proposed regulations further defining the term “swap.” The Commission currently is in the process of finalizing those regulations (the “Swap Definitional Regulations”).

When will swap dealers and major swap participants be required to register?

Registration will not be mandatory until the Swap Definitional Regulations are finalized and become effective. Under the final registration regulations, however, persons who believe that they are swap dealers or major swap participants will be able – **but not required** – to register before then. Registration will only become mandatory once the Swap Definitional Regulations become effective.

How does a person know if it comes within the “swap dealer” or “major swap participant” definition?

In many cases it may be clear whether a person or entity fits within the statutory definition. But in other cases, a person will require the additional guidance of the Swap Definitional Regulations. As noted above, registration is not mandatory until the Swap Definitional Regulations become effective.

Does registration as a swap dealer or major swap participant subject a person to other requirements?

The Dodd-Frank Act added to the Commodity Exchange Act a new Section 4s, which requires registered swap dealers and major swap participants to meet specific requirements with regard to, among other things, capital and margin, reporting and recordkeeping, daily trading records, business conduct standards, documentation standards, trading duties, designation of a chief compliance officer, and, with respect to uncleared swaps, segregation of customer funds (the “Section 4s Requirements”). Section 4s further directs the Commission to adopt regulations to implement the Section 4s Requirements (the “Section 4s Implementing Regulations”), and the Commission is doing so through rulemakings separate and apart from this rulemaking.

What must a person do to apply for registration as a swap dealer or major swap participant?

The person must file a Form 7-R and, for each of its principals, a Form 8-R and a fingerprint card. Additionally, the person must demonstrate compliance with each Section 4s Implementing Regulation then applicable to it, and it is required demonstrate compliance with any other Section 4s Implementing Regulations if and as they become applicable to it.

Who will process registration applications and determine whether a person is in compliance with the applicable Section 4s Implementing Regulations?

The Commission is delegating to the National Futures Association the authority to perform the full range of registration functions for swap dealers and major swap participants, including the processing of applications for registration and confirmation of initial compliance with applicable Section 4s Implementing Regulations.

Do persons associated with swap dealers and major swap participants need to register?

Unlike associated persons of other registrants, such as FCMs, CPOs and CTAs, persons associated with swap entities are not required to register. However, subject to certain limited exceptions that the Commission has adopted, a swap dealer or major swap participant may not permit any person associated with it who is subject to a statutory disqualification under section 8a(2) or 8a(3) of the CEA to effect or be involved in effecting swaps on its behalf, if the swap dealer or major swap participant knows, or in the exercise of reasonable care should know, of the statutory disqualification.