Commodity Futures Trading Commission
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Proposed Rule on Swap Data Recordkeeping & Recording

The Commodity Futures Trading Commission (Commission) is proposing rules on swap data recordkeeping & recording, in accordance with the Dodd-Frank Act.

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

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Title VII of the Dodd-Frank Act amended the Commodity Exchange Act to establish a comprehensive new regulatory framework for swaps and security-based swaps. The legislation was enacted to reduce systemic risk, increase transparency, and promote market integrity within the financial system by, among other things: providing for the registration and comprehensive regulation of swap dealers ("SDs") and major swap participants ("MSPs"); imposing clearing and trade execution requirements on standardized derivative products; creating rigorous recordkeeping and data reporting regimes with respect to swaps, including real time reporting; and enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities, intermediaries, and swap counterparties subject to the Commission's oversight.

Swap Data Repositories

Section 728 of the Dodd-Frank Act establishes a newly-created registered entity—the swap data repository (SDR)—to collect and maintain data related to swap transactions as prescribed by the Commission, and to make such data electronically available to regulators.

Recordkeeping & Recording

Section 728 directs the Commission to prescribe standards for swap data recordkeeping and reporting. These standards are to apply to both registered entities and counterparties involved with swaps and are to be comparable to those for clearing organizations.

Section 729 requires that at least one counterparty to a swap must report data concerning that swap to an SDR. The determination of this reporting counterparty depends on the status of the counterparties involved. If only one counterparty is an SD, the SD is required to report. If one counterparty is an MSP, and the other counterparty is neither an SD nor an MSP (non-SD/MSP counterparty), the MSP must report. Where the counterparties have the same status—two SDs, two MSPs, or two non-SD/MSP counterparties—the counterparties must select a counterparty to report. In addition, Section 729 provides for reporting swap data to the Commission for swaps neither cleared by a DCO nor accepted by a SDR.

Enactment Timeline

After a 60-day comment period, the Commission plans to issue final regulations no later than July 15, 2011.