



U.S. COMMODITY FUTURES TRADING COMMISSION
ENSURING THE INTEGRITY OF THE FUTURES & OPTIONS MARKETS

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CFTC Issues Clearing Determination for Certain Credit Default Swaps and Interest Rate Swaps

Commission Requires First Swaps to be Cleared



Washington, DC – The Commodity Futures Trading Commission today issued new rules to require certain credit default swaps (CDS) and interest rate swaps to be cleared by registered derivatives clearing organizations (DCOs). The rules establish the first clearing determination by the Commission under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Under the rules, market participants are required to submit a swap that is identified in the rule for clearing by a DCO as soon as technologically practicable and no later than the end of the day of execution. The Commission voted 5 to 0 via seriatim to issue the Clearing Determination, which will become effective upon publication in the Federal Register.

The Dodd-Frank Act amended the Commodity Exchange Act (CEA) to prevent market participants from entering into a swap that the Commission has required to be cleared unless that person submits the swap for clearing to a DCO. The Dodd-Frank Act also requires the Commission to determine whether a swap is required to be cleared by either a Commission-initiated review or a submission from a DCO for the review of a swap, or group, category, type, or class of swap. The clearing requirement determination does not apply to those who are eligible to elect an exception from clearing, such as non-financial entities hedging commercial risk.

The rules codify statutory provisions that make clear that any swaps entered into prior to the enactment of the Dodd-Frank Act or prior to the application of the clearing requirement are not required to be cleared. The Commission also is issuing a regulation to prevent evasion of the clearing requirement and related provisions. This regulation aims to prevent evasion of the clearing requirement and prevent abuse of any exemption or exception to the clearing requirement under the Dodd-Frank Act.

Finally, pursuant to the clearing requirement determination, a DCO is required to post on its website a list of all swaps that it will accept for clearing and clearly indicate which of those swaps the Commission has determined are required to be cleared. The Commission is also posting on its website a list of the swap classes required to be cleared. Today's clearing requirement determination applies only to swaps currently cleared by four DCOs: CME; ICE Clear Credit; ICE Clear Europe; and LCH.Clearnet Ltd.

Classes of Swaps Required to be Cleared

The determinations require that swaps in four interest rate swap classes and two CDS classes be cleared under section 2(h) of the CEA. The determinations identify these classes by using basic specifications. Therefore, counterparties contemplating entering into a swap will be able to determine quickly whether or not the particular swap is subject to the clearing requirement.

The determinations identify the six classes of swaps as follows. The classes are identical to those contained in the proposed determinations.

Specification	Fixed-to-Floating Swap Class			
	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	28 days to 50 years	28 days to 50 years	28 days to 50 years	28 days to 30 years
4. Optionality	No	No	No	No

5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

Specification	Basis Swap Class			
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	28 days to 50 years	28 days to 50 years	28 days to 50 years	28 days to 30 years
4. Optionality	No	No	No	No
5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

Specification	Forward Rate Agreement Class			
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)	Yen (JPY)
2. Floating Rate Indexes	LIBOR	EURIBOR	LIBOR	LIBOR
3. Stated Termination Date Range	3 days to 3 years	3 days to 3 years	3 days to 3 years	3 days to 3 years
4. Optionality	No	No	No	No
5. Dual Currencies	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No

Specification	Overnight Index Swap Class		
1. Currency	U.S. Dollar (USD)	Euro (EUR)	Sterling (GBP)
2. Floating Rate Indexes	FedFunds	EONIA	SONIA
3. Stated Termination Date Range	7 days to 2 years	7 days to 2 years	7 days to 2 years
4. Optionality	No	No	No
5. Dual Currencies	No	No	No
6. Conditional Notional Amounts	No	No	No

Specification	North American Untranch CDS Indices Class
1. Reference Entities	Corporate
2. Region	North America
3. Indices	CDX.NA.IG CDX.NA.HY
4. Tenor	CDX.NA.IG: 3Y, 5Y, 7Y, 10Y CDX.NA.HY: 5Y
5. Applicable Series	CDX.NA.IG 3Y: Series 15 and all subsequent Series, up to and including the current Series CDX.NA.IG 5Y: Series 11 and all subsequent Series, up to and including the current Series CDX.NA.IG 7Y: Series 8 and all subsequent Series, up to and including the current Series CDX.NA.IG 10Y: Series 8 and all subsequent Series, up to and including the current Series CDX.NA.HY 5Y: Series 11 and all subsequent Series, up to and including the current Series
6. Tranch	No

Specification	European Untranch CDS Indices Class
1. Reference Entities	Corporate
2. Region	Europe
3. Indices	iTraxx Europe iTraxx Europe Crossover iTraxx Europe HiVol
4. Tenor	iTraxx Europe: 5Y, 10Y iTraxx Europe Crossover: 5Y iTraxx Europe HiVol: 5Y
5. Applicable Series	iTraxx Europe 5Y: Series 10 and all subsequent Series, up to and including the current Series iTraxx Europe 10Y: Series 7 and all subsequent Series, up to and including the current Series iTraxx Europe Crossover 5Y: Series 10 and all subsequent Series, up to and including the current Series iTraxx Europe HiVol 5Y: Series 10 and all subsequent Series, up to and including the current Series
6. Tranch	No

Implementation of the Clearing Requirement

The final rule provides greater clarity to market participants regarding the timeframe for bringing their swaps into compliance with the clearing requirement. Swap dealers and private funds active in the swaps market will be required to comply beginning on March 11, 2013, for swaps they enter into on or after that date. Accounts managed by third party investment managers, as well as ERISA pension plans, will have until September 9, 2013, to begin clearing swaps entered into on or after that date. All other financial entities will be required to clear swaps beginning on June 10, 2013, for swaps entered into on or after that date. With regard to the CDS indice on European corporate names, iTraxx, if no DCO offers iTraxx for client clearing by February 11, 2013, the Commission will delay compliance for those swaps until 60 days after an eligible DCO offers iTraxx indices for client clearing.

Market participants electing an exception from mandatory clearing under section 2(h)(7) of the CEA do not have to comply with the reporting requirements for electing the exception until September 9, 2013.

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