

## Publication of “Swap” Definition Triggers Dodd-Frank Derivatives Reform Compliance Dates

August 13, 2012

The [joint final rules](#) adopted last month by the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to further define the terms “swap” and “security-based swap” were published in the Federal Register today. The joint final rules, which were adopted by the CFTC on July 10, will become effective on October 12, 2012. These rules are a key component of the new regulatory regime imposed on the over-the-counter derivatives market by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

Publication of the joint final rules in the Federal Register triggers the compliance dates for a number of CFTC final rules. The chart below identifies the compliance dates for several of the key final rules that the CFTC has issued to date to implement Title VII of the Dodd-Frank Act that are triggered by the publication of the joint final rules in the Federal Register.<sup>1</sup> Market participants should be prepared to comply with the relevant Dodd-Frank Act requirements as of the dates listed below.

Rule	Effective Date	Compliance Date
<a href="#">Position Limits for Futures and Swaps</a>	1/17/12	Compliance with spot-month and non-spot-month legacy limits required on <b>October 12, 2012</b> .  The compliance date for non-spot month non-legacy Referenced Contracts will be set by CFTC order on a later date.
<a href="#">Real-Time Public Reporting of Swap Transaction Data</a>	3/9/12	<b>Compliance Date 1: October 12, 2012</b> Applicable to swap execution facilities (SEFs), designated contract markets (DCMs), swap dealers and major swap participants with regard to credit swaps and interest rate swaps.
		<b>Compliance Date 2: January 10, 2013</b> Applicable to SEFs, DCMs, swap dealers and major swap participants with regard to equity, foreign exchange and “other commodity” swaps.
		<b>Compliance Date 3: April 10, 2013</b> Applicable to all entities with respect to all swaps.

<sup>1</sup> This list identifies certain “key” components of the new regulatory regime imposed on over-the-counter derivatives by Title VII of the Dodd-Frank Act and is not meant to be exhaustive. Several other “key” rulemakings remain to be finalized, including those pertaining to capital and margin requirements and uncleared swaps documentation. In addition, the CFTC has initiated the [mandatory clearing determination process with respect to certain interest rate and credit default swaps](#) – such determinations are expected to be made in the fall. For more information, please contact any of the Sutherland attorneys listed below or the Sutherland attorney with whom you regularly work.

Rule	Effective Date	Compliance Date
<a href="#">Swap Data Recordkeeping and Reporting Requirements</a>	3/13/12	<b>Compliance Date 1: October 12, 2012</b> Applicable to swap dealers, major swap participants, SEFs, DCMs, swap data repositories (SDRs) and derivatives clearing organizations (DCOs) with regard to credit swaps and interest rate swaps.
		<b>Compliance Date 2: January 10, 2013</b> Applicable to swap dealers, major swap participants, SEFs, DCMs, SDRs and DCOs with regard to equity, foreign exchange and "other commodity" swaps.
		<b>Compliance Date 3: April 10, 2013</b> Applicable to all other entities with respect to all swaps.
<a href="#">Registration of Swap Dealers and Major Swap Participants</a>	3/19/12	<b>October 12, 2012</b>
<a href="#">External Business Conduct Standards for Swap Dealers and Major Swap Participants</a>	4/17/12	<b>October 14, 2012</b>
<a href="#">Internal Business Conduct Standards for Swap Dealers and Major Swap Participants</a> <sup>2</sup>	6/4/12	<i>Reporting, Recordkeeping and Daily Trading Records: <b>October 12, 2012</b></i>
		<ul style="list-style-type: none"> <li>• <i>Risk Management Program: <b>October 12, 2012</b></i></li> <li>• <i>Business Continuity Plan:</i> <ul style="list-style-type: none"> <li>○ If a swap dealer or major swap participant is subject to regulation by a Prudential Regulator or is an SEC registrant, <b>October 12, 2012.</b></li> <li>○ If a swap dealer or major swap participant is not subject to regulation by a Prudential Regulator or the SEC, <b>December 29, 2012.</b></li> </ul> </li> <li>• <i>Diligent Supervision, Conflicts of Interest Policies, Availability of Information and Antitrust: <b>October 12, 2012</b></i></li> </ul>
		<i>Chief Compliance Officer:</i> <ul style="list-style-type: none"> <li>• If a swap dealer or major swap participant is subject to regulation by a Prudential Regulator or is an SEC registrant, <b>October 12, 2012.</b></li> <li>• If a swap dealer or major swap participant is not subject to regulation by a Prudential Regulator or the SEC, <b>March 29, 2013.</b></li> </ul>

<sup>2</sup> Note that futures commission merchants (FCMs) and Introducing Brokers (IBs) are also affected by these regulations. Compliance dates for FCMs and IBs have been intentionally omitted from this chart.

Rule	Effective Date	Compliance Date
<a href="#">Swap Data Recordkeeping and Reporting Requirements for Pre-Enactment and Transition Swaps</a>	8/13/12	<b>Compliance Date 1: October 12, 2012</b> Applicable to swap dealers and major swap participants with regard to credit swaps and interest rate swaps.
		<b>Compliance Date 2: January 10, 2013</b> Applicable to swap dealers and major swap participants with regard to equity, foreign exchange and commodity swaps.
		<b>Compliance Date 3: April 10, 2013</b> Applicable to all other entities with respect to all swaps.



*If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.*

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