

**APPLY FOR YOUR LEGAL ENTITY IDENTIFIER
AND KEEP YOUR SWAP DATA: CFTC ISSUES
FINAL RULES FOR DATA RECORDKEEPING
AND REPORTING FOR HISTORICAL SWAPS**

June 15, 2012

To Our Clients and Friends:

The final rules for Swap Data Recordkeeping and Reporting Requirements (the “General Swap Data Rules”), generally applicable to swaps and with respect to certain on-going swap data reporting requirements applicable to outstanding swaps, were published in the Federal Register on January 13, 2012. For more information on the General Swap Data Rules, please refer to our client update memorandum [“Swap Data Recordkeeping and Reporting Under CFTC Rule Part 45 and Real-Time Public Reporting Under CFTC Rule Part 43 for Swap Counterparties That Are Not Swap Dealers or Major Swap Participants.”](#)

Supplementing the General Swap Data Rule, on June 12, 2012, the Commodity Futures Trading Commission (“CFTC”) published in the Federal Register the final rules (the “Final Rules”) regarding swap data recordkeeping and reporting requirements for certain swaps entered into before the compliance date of the General Swap Data Rules. The Final Rules published on June 12, 2012 will become effective on August 13, 2012.

The Final Rules cover two types of swaps:

- Swaps entered into before, July 21, 2010, the date of the enactment of the Dodd-Frank Act (the “DFA Enactment Date”) and which are still outstanding as of that date (the “Pre-Enactment Swaps”), and
- Swaps entered into on or after the DFA Enactment Date but before the compliance date of the General Swap Data Rules (“Transition Swaps,” and together with Pre-Enactment Swaps, the “Historical Swaps”).

There is a three-step, phase-in period for swap data reporting compliance. The compliance date of the Final Rules as applicable to a party to a swap depends on the status of such party and the type of swap it has entered into as described below.

- Swap dealers and major swap participants must commence full compliance with the Final Rules for credit swaps and interest rate swaps on the later of July 16, 2012, or 60 days after publication in the Federal Register of the CFTC’s final rules defining the term “swap.”
- Swap dealers and major swap participants must commence full compliance with the Final Rules for equity swaps, foreign exchange swaps, and other commodity swaps on or before 90 days after the compliance date for credit swaps and interest rate swaps.
- Parties who are neither swap dealer nor major swap participant must commence full compliance with the Final Rules for all swaps on or before 90 days after the compliance date applicable to swap dealers and major swap participants with respect to equity swaps, foreign exchange swaps and other commodity swaps.

Voluntary swap data reporting for Historical Swaps is also permitted prior to the applicable compliance date to alleviate possible issues for swap data repositories to receive large volume of data on a single day if all swap participants were to report swap data for Historical Swap on each relevant Compliance Date.

SWAP DATA RECORDKEEPING REQUIREMENTS

Recordkeeping and Retrieval for Historical Swaps in Existence on or After April 25, 2011

April 25, 2011 is used as a reference date because that was the date on which the CFTC published the notice of proposed rulemaking for the recordkeeping requirements of Historical Swaps. The Final Rules require each party to a Historical Swap in existence on or after April 25, 2011, to keep the following records regarding each such swap:

- Minimum primary economic terms (the “Primary Economic Terms”) included in Appendix 1* of the Final Rules, which include the Legal Entity Identifier of the parties, swap dealer status, major swap participant status, contract type, date of the trade, start date, end date, price, underlying assets, notional amount and payment information;

* *Appendix 1 of the Final Rules is attached as exhibits to this memorandum.*

- Copies of confirmations, master agreements or credit support agreements (and all amendments) if the party was in possession of such documents on or after April 25, 2011; and
- In addition to the above, for any Historical Swap that remains in existence on the compliance date applicable to such party, it must keep all records required to be kept under the General Swap Data Rules to the extent such records are created or available to a party on or after the applicable compliance date.

Swap dealers and major swap participants must keep such records in electronic form, or paper form if paper is the original and exclusive recording media as long as such paper records are retrievable and reportable as required by the Final Rules. A swap party that is not a swap dealer or major swap participant may keep such records in either electronic or paper form as long as such paper records are retrievable and reportable as required by the Final Rules.

Recordkeeping and Retrieval for Historical Swaps that Expired Before April 25, 2011

Each party to a Historical Swap that expired or was terminated before April 25, 2011 must keep the information and documents relating to the terms of the transaction that were in its possession on or after:

- October 14, 2010, for Pre-Enactment Swaps that expired or was terminated before April 25, 2011; and
- December 17, 2010, for Transition Swaps that expired or was terminated before April 25, 2011.

Such records must be retrievable by the party within five business days throughout the applicable retention period.

Record Retention and Retrieval

All documents and other records described above must be kept for the life of the swap, and for a period of at least five years from the final termination of the swap.

For Historical Swaps in existence on or after April 25, 2011, records must be kept in a form that is retrievable as follows:

- if the party to a swap is a swap dealer or major swap participant, the records must be readily accessible via real time electronic access by such party throughout the life of the

swap and shall be retrievable by such party or its affiliate within three business days through the remainder of the applicable recordkeeping period, or

- if the party to a swap is neither a swap dealer nor a major swap participant, the records must be retrievable by such party within five business days through the applicable recordkeeping period.

For Historical Swaps that expired or were terminated prior to April 25, 2011, records must be kept in a form that is retrievable by the party to the swap within five business days throughout the applicable recordkeeping period.

Inspection of Swap Data Records

All such retained records must be open to inspection upon request by the CFTC, the U.S. Department of Justice, the Securities and Exchange Commission, or any representative of an authorized prudential regulator. Copies of all records shall be provided by the recordkeeping party at its own expense to any representative of the CFTC upon request.

SWAP DATA REPORTING REQUIREMENTS

Reporting for Historical Swaps in Existence on or After April 25, 2011

For Historical Swaps in existence on or after April 25, 2011, the reporting party must report electronically, on (or prior to) the applicable compliance date, to a swap data repository (or the CFTC if no swap data repository is available) the following:

- All minimum Primary Economic Terms, including Legal Entity Identifier of the reporting party;
- The internal party identifier or Legal Entity Identifier used by the reporting party to identify the non-reporting party; and
- The internal transaction identifier used by the reporting party to identify the swap.

Reporting parties are required to comply with the swap continuation data reporting required under the General Swap Data Rules for uncleared Historical Swaps in existence on or after April 25, 2011, throughout the existence of such swaps, except that when the reporting party reports a change to a minimum Primary Economic Term, it is only required to report such change that is required to be reported for Historical Swaps. Swap continuation data reporting is not required for such Historical Swaps that have been cleared by a designated clearing organization.

Reporting for Historical Swaps Expired or Terminated Before April 25, 2011

The reporting party to a Historical Swap that expired or was terminated before April 25, 2011 must report to a swap data repository (or the CFTC if no swap data repository is available) information relating to the terms of the transaction in the reporting party's possession on or after:

- October 14, 2010, for Pre-Enactment Swaps that expired or was terminated before April 25, 2011; and
- December 17, 2010, for Transition Swaps that expired or was terminated before April 25, 2011.

The information may be reported via any method selected by the reporting party.

Determination of Which Party Must Report

Determination of which party must report swap data concerning Historical Swaps proceeds as follows:

- If only one party is a swap dealer, the swap dealer is the reporting party;
- If neither party is a swap dealer, and only one party is a major swap participant, the major swap participant is the reporting party;
- If both parties are not swap dealers or major swap participants, and only one party is a financial entity as defined in Section 2(h)(7)(C) of the Commodities Exchange Act, the financial entity is the reporting party;
- If both parties are not swap dealers or major swap participants, and only one party is a U.S. person, the U.S. person is the reporting party; and
- If the parties are categorized the same way, the parties must agree to select the reporting party.

Application for Unique Legal Entity Identifiers

By the applicable compliance date, each reporting party for a Historical Swap in existence on or after April 25, 2011 must obtain a Legal Entity Identifier as required by the General Swap Data Rules.

Within 180 days after the applicable compliance date, the non-reporting party for a Historical Swap in existence on or after April 25, 2011 must obtain a Legal Entity Identifier as required by the General Swap Data Rules and provide it to the reporting party for further reporting to the applicable swap data repository.

Reporting of Errors and Omissions

When a reporting party discovers an error or omission in previously reported data, it must correct such error or omission as soon as technologically practicable. However, if the Historical Swap is one that is subject to continuing swap data reporting requirement, then the reporting party can also correct the error or omission in its next daily report.

If a non-reporting party discovers an error or omission in previously reported data, it must promptly notify the reporting party so the reporting party can rectify such error or omission.

* * *

Please do not hesitate to contact us if you have any questions.

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EXHIBIT A	
Minimum Primary Economic Terms Data For Pre-Enactment And Transition Swaps	
CREDIT SWAPS AND EQUITY SWAPS	
(Enter N/A for fields that are not applicable)	
Data categories and fields	Comment
The Legal Entity Identifier of the reporting counterparty	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty is yet available, enter the internal identifier for the reporting counterparty used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty is a U.S. person.	Yes/No
The Legal Entity Identifier of the non-reporting party	As provided in § 46.4. This information is only required 180 days after the applicable compliance date
If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty is yet available, the internal identifier for the non-reporting counterparty used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No

An indication of whether the non-reporting counterparty is a U.S. person.	Yes/No
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
An indication of the counterparty purchasing protection	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
An indication of the counterparty selling protection	Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Information identifying the reference entity	The entity that is the subject of the protection being purchased and sold in the swap. Field values: LEI if available, or substitute identifier as above if LEI is not yet available, or name
Contract type	E.g., swap, swaption, forward, option, basis swap, index swap, basket swap
Execution timestamp	The date of the trade. If the time of the trade was recorded when the trade was executed and is known to the reporting counterparty, also include the time of the trade
Execution venue	The venue on or pursuant to the rules of which the swap was executed. Field values: name or identifier (if available) of the venue, or "off-facility" if not so executed
Start date	The date on which the swap starts or goes into effect
Maturity, termination or end date	The date on which the swap expires
The price	E.g., strike price, initial price, spread
The notional amount, and the currency in which the notional amount is expressed	
The amount and currency (or currencies) of any up-front payment	
Payment frequency of the reporting counterparty	A description of the payment stream of the reporting counterparty, e.g., coupon
Payment frequency of the non-reporting counterparty	A description of the payment stream of the non-reporting counterparty, e.g., coupon
Clearing indicator	Yes/No indication of whether the swap was or will be cleared by a derivatives clearing organization
Clearing venue	If the swap was or will be cleared, the identifier (if available) or name of the derivatives clearing organization

EXHIBIT B Minimum Primary Economic Terms Data For Pre-Enactment And Transition Swaps FOREIGN EXCHANGE TRANSACTIONS (OTHER THAN CROSS-CURRENCY SWAPS) (Enter N/A for fields that are not applicable)	
Data fields	Comments
The Legal Entity Identifier of the reporting counterparty	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty is yet available, enter the internal identifier for the reporting counterparty used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty is a U.S. person	Yes/No
The Legal Entity Identifier of the non-reporting party	As provided in § 46.4. This information is only required 180 days after the applicable compliance date
If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty is yet available, the internal identifier for the non-reporting counterparty used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty is a U.S. person.	Yes/No
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity

For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity
An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	<u>E.g.</u> , forward, non-deliverable forward (NDF), non-deliverable option (NDO), vanilla option, simple exotic option, complex exotic option
Execution timestamp	The date of the trade. If the time of the trade was recorded when the trade was executed and is known to the reporting counterparty, also include the time of the trade
Execution venue	The venue on or pursuant to the rules of which the swap was executed. Field values: name or identifier (if available) of the venue, or "off-facility" if not so executed
Currency 1	ISO code
Currency 2	ISO code
Notional amount 1	For currency 1
Notional amount 2	For currency 2
Exchange rate	Contractual rate of exchange of the currencies
Delivery type	Physical (deliverable) or cash (non-deliverable)
Settlement or expiration date	Settlement date, or for an option the contract expiration date
Clearing indicator	Yes/No indication of whether the swap was or will be cleared by a derivatives clearing organization
Clearing venue	If the swap was or will be cleared, the identifier (if available) or name of the derivatives clearing organization

EXHIBIT C	
Minimum Primary Economic Terms Data For Pre-Enactment And Transition Swaps	
INTEREST RATE SWAPS (INCLUDING CROSS-CURRENCY SWAPS)	
(Enter N/A for fields that are not applicable)	
Data field	Comment
The Legal Entity Identifier of the reporting counterparty	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty is yet available, enter the internal identifier for the reporting counterparty used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty is a U.S. person.	Yes/No
The Legal Entity Identifier of the non-reporting counterparty	As provided in § 46.4. This information is only required 180 days after the applicable compliance date
If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty is yet available, the internal identifier for the non-reporting counterparty used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty is a U.S. person.	Yes/No
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity

An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	<u>E.g.</u> , swap, swaption, option, basis swap, index swap
Execution timestamp	The date of the trade. If the time of the trade was recorded when the trade was executed and is known to the reporting counterparty, also include the time of the trade
Execution venue	The venue on or pursuant to the rules of which the swap was executed. Field values: name or identifier (if available) of the venue, or “off-facility” if not so executed
Start date	The date on which the swap starts or goes into effect
Maturity, termination or end date	The date on which the swap expires or ends
Day count convention	
Notional amount (leg 1)	The current active notional amount
Notional currency (leg 1)	ISO code
Notional amount (leg 2)	The current active notional amount
Notional currency (leg 2)	ISO code
Payer (fixed rate)	Is the reporting party a fixed rate payer? Yes/No/Not applicable
Payer (floating rate leg 1)	If two floating legs, the payer for leg 1
Payer (floating rate leg 2)	If two floating legs, the payer for leg 2
Direction	For swaps: whether the principal is paying or receiving the fixed rate. For float-to-float and fixed-to-fixed swaps: indicate N/A. For non-swap instruments and swaptions: indicate the instrument that was bought or sold.
Option type	<u>E.g.</u> , put, call, straddle
Fixed rate	
Fixed rate day count fraction	<u>E.g.</u> , actual 360
Floating rate payment frequency	
Floating rate reset frequency	
Floating rate index name/rate period	<u>E.g.</u> , USD-Libor-BBA
Clearing indicator	Yes/No indication of whether the swap was or will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization

EXHIBIT D	
Minimum Primary Economic Terms Data For Pre-Enactment And Transition Swaps	
OTHER COMMODITY SWAPS	
(Enter N/A for fields that are not applicable)	
Data field	Comment
The Legal Entity Identifier of the reporting counterparty	As provided in § 45.6. If no CFTC-designated Legal Entity Identifier for the reporting counterparty is yet available, enter the internal identifier for the reporting counterparty used by the swap data repository. If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the reporting counterparty* is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the reporting counterparty is a U.S. person.	Yes/No
The Legal Entity Identifier of the non-reporting party	As provided in § 46.4. This information is only required 180 days after the applicable compliance date
If no CFTC-approved Legal Entity Identifier for the non-reporting counterparty is yet available, the internal identifier for the non-reporting counterparty used by the swap data repository	If no repository identifier yet exists, the repository fills in this field after creating its identifier
An indication of whether the non-reporting counterparty is a swap dealer with respect to the swap	Yes/No
An indication of whether the non-reporting counterparty is a major swap participant with respect to the swap	Yes/No
If the non-reporting counterparty is not a swap dealer or a major swap participant with respect to the swap, an indication of whether the non-reporting counterparty is a financial entity as defined in CEA section 2(h)(7)(C)	Yes/No
An indication of whether the non-reporting counterparty is a U.S. person.	Yes/No
An indication that the swap is a multi-asset swap	Field values: Yes, Not applicable
For a multi-asset class swap, an indication of the primary asset class	Generally, the asset class traded by the desk trading the swap for the reporting counterparty. Field values: credit, equity, FX, rates, other commodity
For a multi-asset class swap, an indication of the secondary asset class(es)	Field values: credit, equity, FX, rates, other commodity

An indication that the swap is a mixed swap	Field values: Yes, Not applicable
For a mixed swap reported to two non-dually-registered swap data repositories, the identity of the other swap data repository (if any) to which the swap is or will be reported	
Contract type	<u>E.g.</u> , swap, swaption, option, basis swap, index swap
Execution timestamp	The date of the trade. If the time of the trade was recorded when the trade was executed and is known to the reporting counterparty, also include the time of the trade
Execution venue	The venue on or pursuant to the rules of which the swap was executed. Field values: name or identifier (if available) of the venue, or “off-facility” if not so executed
Start date	The date on which the swap commences or goes into effect (<u>e.g.</u> , in physical oil, the pricing start date)
Maturity, termination, or end date	The date on which the swap expires or ends (<u>e.g.</u> , in physical oil, the pricing end date)
Buyer	The counterparty purchasing the product: <u>e.g.</u> , the payer of the fixed price (for a swap), or the payer of the floating price on the underlying swap (for a put swaption), or the payer of the fixed price on the underlying swap (for a call swaption). Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Seller	The counterparty offering the product: <u>e.g.</u> , the payer of the floating price (for a swap), the payer of the fixed price on the underlying swap (for a put swaption), or the payer of the floating price on the underlying swap (for a call swaption). Field values: LEI if available, or substitute identifier as above if LEI is not yet available
Quantity unit	The unit of measure applicable for the quantity on the swap. <u>E.g.</u> , barrels, bushels, gallons, pounds, tons
Quantity	The amount of the commodity (the number of quantity units) quoted on the swap
Quantity frequency	The rate at which the quantity is quoted on the swap. <u>E.g.</u> , hourly, daily, weekly, monthly
Total quantity	The quantity of the commodity for the entire term of the swap
Settlement method	Physical delivery or cash
Price	The price of the swap. For options, the strike price
Price unit	The unit of measure applicable for the price of the swap
Price currency	ISO code

Buyer pay index	The published price as paid by the buyer (if applicable). For swaptions, applies to the underlying swap
Buyer pay averaging method	The averaging method used to calculate the index of the buyer pay index. For swaptions, applies to the underlying swap
Seller pay index	The published price as paid by the seller (if applicable). For swaptions, applies to the underlying swap
Seller pay averaging method	The averaging method used to calculate the index of the seller pay index. For swaptions, applies to the underlying swap
Grade	If applicable, the grade of the commodity to be delivered, e.g., the grade of oil or refined product
Option type	Descriptor for the type of option transaction. E.g., put, call, straddle
Option style	E.g., American, European, European Daily, European Monthly, Asian
Option premium	The total amount paid by the option buyer
Hours from through	For electric power, the hours of the day for which the swap is effective
Hours from through time zone	For electric power, the time zone prevailing for the hours during which electricity is transmitted
Days of week	For electric power, the profile applicable for the delivery of power
Load type	For electric power, the load profile for the delivery of power
Clearing indicator	Yes/No indication of whether the swap will be cleared by a derivatives clearing organization
Clearing venue	Identifier (if available) or name of the derivatives clearing organization

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Issued in Washington, DC on May 17, 2012 by the Commission.

David A. Stawick,

Secretary of the Commission.

Appendix to Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps—Commission Voting Summary and Statement of Chairman Gensler

Note: The following appendix will not appear in the Code of Federal Regulations.

On this matter, Chairman Gensler and Commissioner Sommers, Chilton, O'Malia and Wetjen voted in the affirmative; no Commissioner voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the final rule establishing swap data recordkeeping and reporting requirements for pre-enactment and transition swaps, collectively called “historical swaps.” One of the main goals of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) is to bring transparency to the unregulated swaps market. Starting this summer, light will shine for the first time on this market with the reporting both to the public and to regulators of nearly every swap transaction.

The historical swaps rule builds on already completed swaps market transparency rules. It will help give regulators a complete picture of the swaps market, including data on swaps in existence at the time of the Dodd-Frank Act's passage.

The rule provides market participants guidance on the reporting requirements for pre-enactment swaps (those entered into before the enactment of the Dodd-Frank Act)

as well as transition swaps (those entered into between the enactment date of the law and the applicable compliance date for swap data reporting). The rule specifies clearly what records must be kept and what data must be reported to swap data repositories (SDRs) with respect to these historical swaps. It ensures that the historical swaps data needed by regulators is available through SDRs beginning on the compliance date for swap data reporting.

The rule achieves the reporting benefits of Dodd-Frank while reducing the costs and burdens associated with recordkeeping for historical swaps. Recordkeeping requirements for these swaps are minimized for counterparties who are not swap dealers or major swap participants. These counterparties are permitted to maintain records in any format they choose, and are allowed five days to retrieve their records.

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