

SEC and CFTC Adopt Interim Final Rules on Reporting and Recordkeeping for Pre-Dodd-Frank Swaps

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The SEC and the CFTC have adopted substantially similar interim final rules concerning the reporting of swaps and security-based swaps (collectively, "Swaps") that were entered into prior to the enactment of the Dodd-Frank Act but whose terms had not expired as of July 21, 2010. These interim final rules have been adopted to satisfy the Dodd-Frank Act's requirement for interim rules related to reporting of pre-enactment unexpired swaps within 90 days of enactment of Dodd-Frank, which was on July 21, 2010. Permanent reporting rules, including reporting rules for post-enactment swaps, are required to be adopted by July 16, 2011. While actual reporting will not be required until one or more Swap repositories are registered, the new interim rules impose new recordkeeping obligations on persons who may be required to report pre-enactment Swaps (which will include Swap dealers, and in some cases, other Swap counterparties). The CFTC interim rule is now effective and the SEC interim rule will be effective upon publication in the Federal Register, which is expected within the next several days.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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