

CFTC Adopts Business Conduct Rule for Swap Dealers

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The CFTC recently finalized a Business Conduct Rule that establishes the standards that swap dealers (“SDs”) and major swap participants (“MSPs”) must follow in their dealings with counterparties. Interestingly, the CFTC has provided significant distinctions between the duties of SDs on one hand, and MSPs on the other, for the first time, reflecting the different roles these entities play in swap markets. At its broadest level, the Business Conduct Rule prohibits SDs/MSPs from engaging in fraud, deception or manipulation and requires SDs/MSPs to communicate with counterparties in a fair and balanced manner based on principles of good faith and fair dealing. In addition, the rule sets forth specific obligations for dealings with all counterparties, “Non-Swap Entities” and U.S. government entities, ERISA plans and other “Special Entities.”

The earliest that SDs and MSPs will have to comply with the Business Conduct Rule is approximately eight months following the rule’s publication in the Federal Register.

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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