

NFA Proposes to Amend Rules to Impose New Swaps Registration Requirement on FCMs, IBs, CPOs and CTAs

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On August 22, 2012, the National Futures Association (“NFA”) filed proposed rule changes with the Commodity Futures Trading Commission (“CFTC”) that will require futures commission merchants (“FCMs”), introducing brokers, commodity pool operators and commodity trading advisors that engage in activities involving swaps subject to CFTC jurisdiction to obtain NFA approval to act as “Swap Firms.” The proposed rules also would require all associated persons (“APs”) of Swap Firms who engage in activities involving swaps to be approved by NFA to engage in such activities. Swap Firms would also be required to have at least one of their principals registered as an AP and approved as a Swaps AP. Consequently, currently registered FCMs, introducing brokers, commodity pool operators and commodity trading advisors intending to engage in swaps activity must obtain NFA approval to act as Swap Firms and for their APs to act as Swaps APs, and must ensure that at least one of their principals becomes and remains registered as an AP and a Swaps AP.

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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