

CFTC Begins Review of Swap Reporting Rules with a Welcome Focus on Simplification and Regulatory Coordination

July 11, 2017 | Client Update | 4-minute read

The CFTC's swap reporting rules, which were among the first swap rules finalized after Dodd-Frank, have also been among the most technically difficult for the industry to implement. Regulatory and market participants agree that these technical difficulties have resulted in poor quality and inconsistent swap data, impeding the goal of transparency of the previously opaque swaps markets. While there has been broad post-financial crisis support for this goal, the CFTC's swap data reporting rules have been widely criticized as overly prescriptive, unnecessarily complex, and substantially different from similar reporting regimes being developed by the SEC for security-based swaps and by non-U.S. regulators for OTC derivatives.

On July 10, the [CFTC's Division of Market Oversight](#), at the direction of the two current CFTC commissioners, issued a [Roadmap](#) for the overhaul of its swap data reporting rules. The review is designed to “ensure that the CFTC receives accurate, complete, and high quality data” and to “streamline reporting, reduce messages that must be reported, and right-size the number of data elements that are reported to meet the agency's priority use-cases for swaps data.”^[1] The Roadmap envisions two stages for this review of swap data reporting:

- **“Tranche 1”** will focus on swap data repository operations, with a focus on data validation. It will seek to address swap data consistency and completeness problems by evaluating solutions involving additional data reconciliation requirements for swap counterparties. DMO staff expects Tranche 1 to result in a proposed rulemaking during the fourth quarter of 2017.
- **“Tranche 2”** will include a review of existing CFTC swap data reporting requirements and workflows to “focus on [a] minimum number of fields that allow [the] CFTC to perform its oversight functions, rather than capturing every data point on a swap;” to capture margin movements and other risk and position data required under the EU reporting regime; seek to eliminate multiple reporting streams and unnecessary messages; and to consider adjusting reporting deadlines. DMO staff expects to issue proposed rules to implement Tranche 2 in the first or second quarter of 2018, after the 2018 publication of CPMI-IOSCO recommendations for the international harmonization of swap reporting data elements.

In addition to the welcome attempt to reconsider and improve a critical set of rules, we find the following notable:

- The CFTC's timeline for overhauling the swap reporting regime is quite aggressive—with the DMO expecting compliance with revised final rules by the end of 2019—but is in line with the four months it took the CFTC to propose Parts 43, 45 and 49 after passage of the Dodd-Frank Act. Given that the industry blames many of the technical issues with swap reporting on the speed with which the CFTC adopted those rules, however, quality should not be sacrificed for speed.
- The Roadmap outlines an initiative separate and distinct from [Project KISS](#), which focuses on the more efficient application of existing regulations rather than amendments to those rules. The Roadmap, in contrast, envisions a full rulemaking process resulting in revised CFTC rules.

- An important focus of the Roadmap is coordination and data harmonization between the CFTC's swap data reporting rules and those of other jurisdictions. The Roadmap does not specifically mention harmonization of the CFTC swap and SEC security-based swap data reporting rules, however, we would expect that to be considered as part of the CFTC's evaluation of CPMI-IOSCO recommendations.
- The Roadmap identifies reporting deadlines under Part 45 as an area of focus, specifically with a view to determining whether T+1 reporting or other modifications to the current reporting deadlines may result in more accurate data. Roadmap does not specifically mention, but the CFTC's review should also include, an evaluation of Part 43 reporting deadlines to address concerns about information leakage and anonymity in less liquid sectors of the swaps markets.

The Roadmap is open for public comment for 40 days, with comments due August 21, 2017. Given the wide agreement on the necessity of a swap reporting regime, our view is that industry comment on the Roadmap will be most useful if it raises specific issues with the existing rules, demonstrated by concrete examples, rather than discussions about the benefits—or not—of swap data reporting more generally. The one exception to this approach may be for real-time dissemination requirements, for which the Roadmap calls for a broader evaluation “in light of goals of liquidity, transparency, and price discovery in the swaps market.”

[1] Commodity Futures Trading Commission, Division of Market Oversight, Division of Market Oversight Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations (July 10, 2017), available at [this link](#).

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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