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CFTC Proposes Maintaining Swap Dealer De Minimis Registration Threshold at $8 Billion with Expanded Exceptions

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On June 12, 2018, the CFTC published a **notice of proposed rulemaking** that would make permanent the $8 billion temporary swap dealer *de minimis* registration threshold currently in effect and would make other changes to the *de minimis* exception.

- **De Minimis *Registration Threshold Proposal***. As anticipated and foreshadowed by remarks by Chairman Giancarlo, the CFTC proposes to adopt the current *de minimis* registration threshold of $8 billion. The approach, as discussed in the notice of proposed rulemaking, is supported by data analysis in two prior CFTC staff reports and more recent staff analysis, as well as a recommendation by the U.S. Treasury in its 2017 report on capital markets.

- ***Three New Exceptions to the* De Minimis *Calculation***. The CFTC would create three new exceptions to the *de minimis* calculation, two of which would expand the availability of existing exclusions from the definition of swap dealer. Swaps that fit within these new exceptions would not need to be counted towards the *de minimis* registration threshold.

- ***Swap Notional Calculation Methodology Delegation of Authority***. The CFTC proposes to delegate authority to determine the methodology used to calculate the notional amount for any type of swap to the Director of the Division of Swap Dealer Intermediary Oversight.

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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