

Treasury Proposes FX Swap and Forward Exemption

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On April 29, 2011, the United States Department of the Treasury issued a proposed determination that would exempt foreign exchange (“FX”) swaps and forwards from the definition of “swap” for most Dodd-Frank purposes, including registration, clearing and trade execution. In proposing this determination, the Treasury Secretary is acting pursuant to the authority contained in Section 721 of Dodd-Frank to make such a determination if he finds that FX swaps and forwards should not be regulated as swaps and are not structured to evade the Dodd-Frank Act. FX swaps and forwards will be subject to swap data repository trade reporting requirements but will not be subject to “real-time” trade reporting requirements. For swap dealers and major swap participants, business conduct standards will also apply.

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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