

SEC Adopts Security-Based Swap Cross-Border Definitional Rule

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On June 25, the SEC adopted the first in a series of rules governing the cross-border reach of its security-based swap regulatory regime. The rules define the term “U.S. person” and provide the test for counting cross-border security-based swap transactions to determine whether a firm must register as a security-based swap dealer or a major security-based swap participant. The final rules also provide a process by which market participants or non-U.S. regulators can request that the SEC make a determination that a foreign regime’s security-based swap rules are comparable to the SEC’s, thereby permitting market participants in that jurisdiction to meet SEC rules through compliance with local law. Finally, the rules provide clarification of the SEC’s view of the cross-border application of its anti-fraud authority for all securities.

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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