

## CFTC Approves Two Final Rules and Two Proposed Rules at June 25 Open Meeting

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On June 25, the Commodity Futures Trading Commission held an open meeting where it approved two final rules, advanced two proposed rules and withdrew a previously proposed rule and supplemental proposal.

The two approved final rules include:

- Amendments to Part 37 of CFTC regulations that prohibit post-trade name give-up for swaps executed, pre-arranged, or pre-negotiated anonymously on or pursuant to the rules of a swap execution facility (SEF) and intended to be cleared. The final rule provides an exception for package transactions that include a component transaction that is not a swap intended to be cleared, including but not limited to US Treasury swap spreads. This rule becomes effective 60 days after publication in the *Federal Register*; however, the CFTC will phase in the compliance dates for the amendments. Swaps subject to the trade execution requirement under section 2(h)(8) of the Commodity Exchange Act (CEA) need not comply with the new rule until November 1, 2020, and swaps not subject to the trade execution requirement under section 2(h)(8) of the CEA need not comply with the new rule until July 5, 2021.
- Amendments to the CFTC's inter-affiliate exemption conditions under CFTC regulation 50.52, which exempts certain affiliated entities within a corporate group from the swap clearing requirement under the CEA. The amendments codify temporary alternative compliance frameworks established in prior no-action relief, which are intended to make an anti-evasionary condition workable for international corporate groups in the absence of foreign clearing regimes determined to be comparable to CFTC requirements. This final rule becomes effective 30 days after publication in the *Federal Register*.

The two proposed rules that were advanced include:

- Amendments to Part 38 of CFTC regulations that address the risk of electronic trading causing a market disruption on a designated contract market's (DCM) trading platform. The

proposed regulations would establish three electronic trading risk principles for DCMs, which cover (1) the implementation of exchange rules applicable to market participants to prevent, detect, and mitigate market disruptions and system anomalies associated with electronic trading; (2) the implementation of exchange-based pre-trade risk controls for all electronic orders; and (3) the prompt notification of the CFTC by DCMs of any significant disruptions to their electronic trading platforms. Comments for this proposed rule must be received on or before the latter of 60 days from the date of the CFTC vote, or 30 days following publication in the *Federal Register*.

- An amendment to the margin requirements for uncleared swaps for swap dealers and major swap participants for which there is no prudential regulator. The proposal would delay the compliance date for the initial margin requirements for smaller entities not covered by the CFTC's May 28, 2020 interim final rule, which delayed certain entities' compliance date to September 1, 2021, in recognition of the challenges faced by the entities as a result of the COVID-19 pandemic. The proposal would delay the smaller entities' compliance date to September 1, 2022, to mitigate the potential for a market disruption that could result from a large number of entities that would come into the scope of compliance by September 1, 2021. This proposed rule has a 60-day comment period following publication in the *Federal Register*.

The CFTC also approved the withdrawal of the Regulation Automated Trading Proposed Rule and Supplemental Proposed Rule. In addition, the CFTC approved a final rule modifying regulations implementing the Volcker Rule's prohibition on banking entities investing in or sponsoring hedge funds or private equity funds. The vote concluded on June 24 and coincided with the rule's approval by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Office of Comptroller of the Currency (OCC), and the Securities and Exchange Commission. This final rule becomes effective October 1, 2020. For more information, see the [June 26, 2020 edition of Corporate & Financial Weekly Digest](#).

The CFTC's press release, including links to voting drafts of the various rules considered at the meeting, is available [here](#).

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