

Cadwalader Cabinet: January 7, 2022

Article By:

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CFIUS Extends Time to Become "Excepted Foreign State" and "Excepted Real Estate Foreign State"

The Committee on Foreign Investment in the United States ("CFIUS") [extended](#) by one year the effective date for one of the criteria under the definitions of "Excepted Foreign State" and "Excepted Real Estate Foreign State." This final rule extends the effectiveness from February 13, 2022, until February 13, 2023, providing countries with additional time to qualify as excepted foreign states.

Under the rule, both terms are defined using a two-part conjunctive test. The time extension applies to the second criterion of this test, which is composed of the following determinations for both definitions:

1. Under 31 C.F.R. § 800.1001(a), which pertains to excepted foreign states, a foreign state has "established and is effectively utilizing a robust process to analyze foreign investments for national security risks and to facilitate coordination with the United States on matters relating to investment security."
2. Under 31 C.F.R. § 802.1001(a), which pertains to excepted real estate foreign states, a foreign state has completed "'significant progress' toward establishing and effectively utilizing the robust process that is described in § 800.1001."

Additionally, CFIUS [issued](#) a notice of action determining that both Australia and Canada have satisfied the second criterion of the test for excepted foreign states. In a separate [notice](#), CFIUS also determined that Australia and Canada have satisfied the second criterion for excepted real estate foreign states. As a result, both countries will remain excepted foreign states and excepted real estate foreign states.

CFTC Staff Grants Financial Reporting No-Action Relief to SDs in Singapore and Australia

CFTC Market Participants Division ("Division") staff provided financial reporting relief to nonbank swap dealers ("SDs") in [Australia](#) and [Singapore](#).

The Division stated that it will not recommend enforcement action pursuant to CFTC Regulation 23.105(e) ("Financial recordkeeping, reporting and notification requirements for swap dealers and major swap participants") against specified nonbank SDs, that prepare their annual audited financial reports in accordance with their home country standards in lieu of generally accepted accounting principles as adopted in the United States ("U.S. GAAP")

CFTC Letter 22-01, addressed to Goldman Sachs Financial Markets Pty Ltd, based in Australia, permits filing with the CFTC and NFA annual audited reports that contain all of the financial statements and footnote disclosures required by CFTC Regulation 23.105(e), prepared in accordance with Australian Accounting Standards Board ("AASB") in lieu of U.S. GAAP. Similar relief was provided in CFTC Letter 22-02 to Morgan Stanley Capital Group (Singapore) Pte. and J. Aaron & Company (Singapore) Pte.

The relief is subject to conditions, including that:

1. Each SD prepares and files with the CFTC and NFA specified reconciliation of certain statements; and
2. Each SD notifies the CFTC if there are any substantial differences between the AASB and Singapore Financial Reporting Standards (or "SFRS"), respectively, and International Financial Reporting Standards that would result in material differences to its annual audited financial reporting.

SIFMA Requests Comment Period Extension for Proposed Insider Trading Amendments

SIFMA [requested](#) that the SEC extend the comment period for proposed rule changes to various provisions covering affirmative defenses and disclosures related to insider trading.

In its [letter](#), SIFMA requested that the SEC extend a 45-day comment submission period to a 90-day period for proposed rule changes to SEA Rule 10b5-1 ("Trading on the Basis of Material Nonpublic Information in Insider Trading Cases"). The [proposed amendments](#) would include additional disclosures and conditions for affirmative defenses in insider trading cases (see [prior coverage](#)). SIFMA stated that additional time is needed to analyze the proposed rules and their impact on a broad range of market participants. In addition, SIFMA noted that multiple rule proposals are currently open for comment affecting the association's ability to fully consider the proposal and its potential effects within the current 45-day window.

Reg. Tracker: January 1 to January 15

The Cabinet Regulatory Tracker is a list of comment deadlines, effective dates, compliance deadlines and expiration dates. Click on the links below to view deadlines from January 1, 2022, to January 15, 2022.

Comment Deadlines

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- January 1: [CFPB - Request for Information Regarding the HMDA Rule Assessment](#)

Effective Dates

- January 1: [CFPB, FRB - Consumer Leasing \(Regulation M\)](#)
- January 1: [NCUA - Capital Adequacy: The Complex Credit Union Leverage Ratio; Risk-Based Capital](#)
- January 1: [OCC - Community Reinvestment Act Regulations](#)
- January 1: [CFPB - Home Mortgage Disclosure \(Regulation C\) Adjustment to Asset-Size Exemption Threshold](#)
- January 1: [CFPB, FRB - Truth in Lending \(Regulation Z\)](#)
- January 1: [CFPB - Fair Credit Reporting Act Disclosures](#)
- January 1: [CFPB - Truth in Lending Act \(Regulation Z\) Adjustment to Asset-Size Exemption Threshold](#)
- January 1: [CFPB, OCC, FRB - Appraisals for Higher-Priced Mortgage Loans Exemption Threshold](#)
- January 1: [PTO - International Trademark Classification Changes](#)
- January 1: [NCUA - Technical Amendments](#)
- January 1: [Farm Credit Administration - Regulatory Capital Rules: Tier 1/Tier 2 Framework](#)
- January 1: [NCUA - Corporate Credit Unions](#)
- January 1: [NCUA - Subordinated Debt](#)
- January 1: [CFPB - Truth in Lending \(Regulation Z\) Annual Threshold Adjustments \(Credit Cards, HOEPA, and Qualified Mortgages\)](#)
- January 1: [SEC - Optional Internet Availability of Investment Company Shareholder Reports: Partial Implementation](#)
- January 1: [SEC - Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts](#)
- January 1: [FINRA - Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission](#)

Compliance Deadlines

- January 1: [FRB - Single-Counterparty Credit Limits for Bank Holding Companies and Foreign Banking Organizations](#)
- January 1: [FINRA - Rule Change To Adjust FINRA Fees To Provide Sustainable Funding for FINRA's Regulatory Mission](#)

Expiration Dates

- January 1: [FRB, FDIC, OCC - Extended No-Action Relief on Loans to Insiders](#)
- January 1: [NCUA - Central Liquidity Facility](#)

Primary Sources

1. [Office of Investment Security, Department of the Treasury Final Rule: Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States](#)
2. [Office of Investment Security, Department of the Treasury: Determination Regarding Excepted Foreign States](#)
3. [Office of Investment Security, Department of the Treasury: Determination Regarding Excepted Real Estate Foreign States](#)
4. [CFTC Letter 22-01: No-Action Position for Goldman Sachs Financial Markets Pty Ltd to File Annual Financial Reports in Accordance with Australian Accounting Standards Board](#)
5. [CFTC Letter 22-02: No-Action Relief for Morgan Stanley Capital Group \(Singapore\) Pte. and J. Aron & Company \(Singapore\) Pte. to File Annual Financial Reports in Accordance with Singapore Financial Reporting Standards](#)
6. [SIFMA Press Release: Insider Trading Plans Proposed Rules](#)
7. [SIFMA Comment Letter: File No. S7-20-21; Rule 10b5-1 and Insider Trading](#)

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