

New International Swaps and Derivatives Association (ISDA) Protocol for Swap Documentation

Article By:

Guy C. Dempsey, Jr.

On March 22, the International Swaps and Derivatives Association (ISDA) published a new protocol (March 2013 Protocol) as part of its ongoing Dodd-Frank Documentation Initiative, which has the goal of assisting market participants in complying with rules for swaps promulgated by the **Commodity Futures Trading Commission** under the authority of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The March 2013 Protocol provides swap market participants with an efficient means to supplement their swap agreements to comply with requirements of three new CFTC rules:

- Confirmation, Portfolio Reconciliation, Portfolio Compression, and Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants, 77 Fed. Reg. 55904 (Sept. 11, 2012);
- End-User Exception to the Clearing Requirement for Swaps, 77 Fed. Reg. 42559 (July 19, 2012); and
- Clearing Requirement Determination Under Section 2(h) of the CEA, 77 Fed. Reg. 74284 (Dec. 13, 2012).

The bulk of the March 2013 Protocol deals with specific matters arising from the rules for Swap Trading Relationship Documentation (STRD). For instance, it allows for protocol adherents to incorporate 2002 ISDA master agreements into their dealings in order to meet the requirement that parties have STRD in place before or contemporaneously with entering into any swap.

The March 2013 Protocol has the same architecture as the ISDA protocol published in August 2012, consisting of 1) a protocol agreement, 2) a questionnaire and 3) a supplement. A party adheres to the March 2013 Protocol by paying a \$500 fee, submitting an adherence letter and exchanging (electronically or otherwise) questionnaires and supplements with counterparties.

The March 2013 Protocol is now open for adherence and the relevant documents (plus an official set of Frequently Asked Questions) can be found [here](#).

ISDA anticipates that the “ISDA Amend” electronic platform for exchanging Protocol documents will be updated in May to cover the March 2013 Protocol, but until then it will only cover the ISDA protocol published in August 2012. The ISDA Amend site can be found [here](#).

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