

Commodity Futures Trading Commission ("CFTC") Grants No-Action Relief for End Users from Swap Reporting Requirements

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On April 9, 2013, the Division of Market Oversight of the **U.S. Commodity Futures Trading Commission ("CFTC")** issued a no-action letter delaying the swap reporting compliance deadlines for end users and other swap counterparties that are not swap dealers or major swap participants ("non-SD/MSP counterparties"). The relief provided to market participants is effective immediately.

The CFTC had issued regulations setting forth various reporting requirements for swap transactions (Part 43 — real-time reporting for swap transactions, Part 45 — transactional data reporting to a registered swap data repository and Part 46 — historical swap data reporting) of the CFTC's regulations. The rules had established a deadline of April 10, 2013 for swap counterparties that are not swap dealers or major swap participants ("non SD/MSP counterparties"). Citing implementation concerns involving technological and operational capabilities, a number of market participants requested that the Division of Market Oversight provide a six-month extension of the compliance deadline. The CFTC's April 9 no-action letter does not grant the full six-month extension requested, but provides certain time-limited no-action relief to nonSD/MSP swap counterparties as described below.

1. No-Action Relief for Reporting of Interest Rate and Credit Swaps

The letter extends no-action relief for end users' interest and credit swaps reporting until *July 1, 2013*. However, non SD/MSP swap counterparties that are "financial entities", as defined in Section 2(h)(7)(C), must comply with reporting requirements under Part 43 and 45 on April 10, 2013.

2. No-Action Relief for Reporting of Equity, Foreign Exchange and Other Commodity Swaps

The no-action relief for end users who engage in swaps in other asset classes (e.g., equity, foreign exchange, and other commodities) is extended until *August 19, 2013*. For non-SD/MSP swap counterparties that are "financial entities," as defined in Section 2(h)(7)(C), the no-action relief extends until *May 29, 2013*.

3. No Action Relief for Historical Swap Data Reporting Under Part 46

The letter also extends no-action relief to end users' Part 46 historical swap data reporting for all swap asset classes until *October 31, 2013*. For non SD/MSP swap counterparties that are "financial entities," as defined in Section 2(h)(7)(C), the Part 46 no-action relief extends until *September 30,*

2013. Any pre-enactment or transition swap entered into prior to 12:01 a.m. on April 10, 2013 is reportable as a historical swap.

4. Compliance Date for Recordkeeping Obligations has not been Extended

The letter also confirms that the no-action relief provided for reporting requirements *does* not impact any Dodd-Frank-related recordkeeping obligations applicable to SDs, MSPs or end users. Thus, for historical swaps, end users must maintain records under the Part 46 rules for any such swaps entered into prior to April 10, 2013. With respect to swaps entered into on or after April 10, end users must maintain records under the Part 43 and 45 rules, and obtain a CFTC Interim Compliant Identifier for this purpose by April 10, 2013.

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