

Commodity Futures Trading Commission (CFTC) Grants No Action Relief to EU Swap Dealers from Swap Documentation Rules

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Demonstrating coordination between US swap rules and those of the European Union, the Commodity Futures Trading Commission issued a no action letter (no. 13-45) on July 11 that permits a company organized under the laws of the EU and registered as a swap dealer or major swap participant with the CFTC to satisfy its obligations under certain CFTC documentation rules by complying with similar rules enacted under Article 11 of the European Market Infrastructure Regulation (EMIR) and the related EMIR Technical Standards. The basis for the relief is a series of determinations that the relevant CFTC and EMIR rules are “essentially identical” for regulatory purposes. Unfortunately, the granularity of the relief, which in some cases gives different results for different subsections of the same rule, ensures that the relief will not be simple to apply.

The specific CFTC rules covered by the relief are as follow:

1. 23.501 (Confirmations)
2. 23.502 (other than 23.502(c)) (Portfolio Reconciliation)
3. 23.503 (Portfolio Compression)
4. 23.504(b)(2) (Incorporation of Confirmations into trading relationship documentation)
5. 23.504(b)(4) (Valuations)

The relief described in the letter does not apply to other sections of subpart I of Part 23 of the CFTC Rules. These requirements include § 23.502(c) (requiring reporting to the CFTC of any swap valuation dispute in excess of \$20,000,000 (or its equivalent in any other currency)), § 23.504 (except for (b)(2) and (b)(4))(swap trading relationship documentation), § 23.505 (end-user exception documentation) and § 23.506 (swap processing and clearing).

A CFTC press release announcing the relief can be found [here](#).

A copy of the letter can be found [here](#).

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