

# OTC Derivatives

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April 2, 2014

# Topics Covered

- Overview of Title VII Requirements
- Cross-Border Application of Title VII
- Swap Dealer Registration Requirements
- Entity-Level and Transaction-Level Requirements
- Key Entity- and Transaction-Level Requirements:  
Clearing, Exchange / SEF Trading and Trade Reporting
- Additional Key Entity-Level Requirements:  
Internal Business Conduct

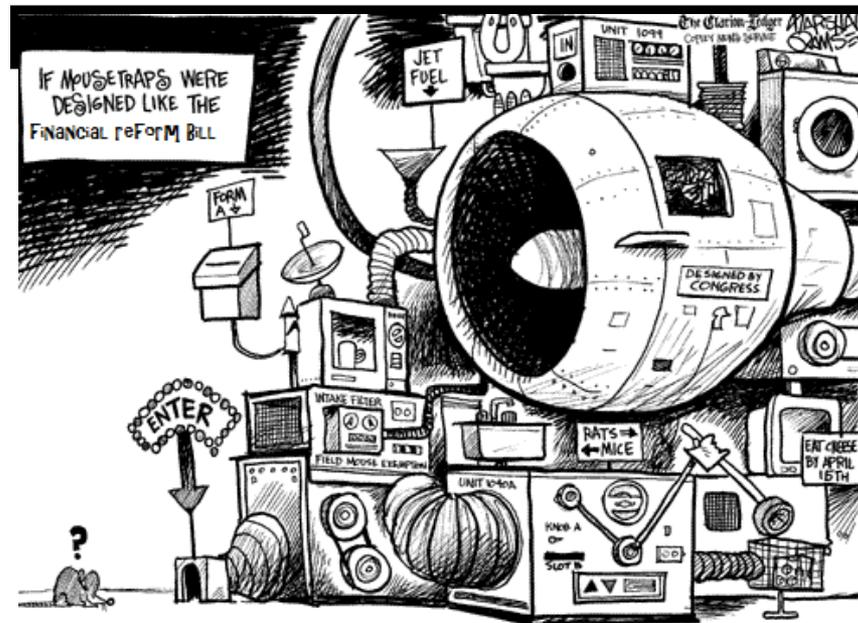
# **Overview of Title VII Requirements**

# Key Elements of Derivatives Reform

Registration and regulatory requirements for dealers and MSPs

Margin and capital requirements

Clearing and exchange/swap execution facility requirements



Trade Reporting

Position limits

International Implications

# Regulatory Status of Products

## CFTC

- Swaps and options on non-securities, such as:
  - Interest rate swaps and options
  - Energy and metal swaps
  - Agricultural swaps
  - Commodity swaps and options
  - Cross-currency swaps & NDFs
  - Foreign exchange options
- Swaps on broad-based indices
- Swaps on government securities

## SEC

### Security-Based Swaps

- Swaps on narrow-based security indices
- Swaps on a single security or loan

“Mixed Swaps”

## Exclusions\*

- Puts, calls, options on securities, indices of securities, CODs
- Contracts for purchase or sale of securities on a fixed basis or based on contingencies not related to creditworthiness
- Commodity futures contracts and security futures products
- Sale of a nonfinancial commodity for deferred delivery, where intended to be physically settled
- Deliverable FX forwards and swaps (for some provisions)

\*Identified banking products are excluded *unless* bank regulators find that they are actually swaps or security-based swaps or they are not regulated by a bank regulator and are swaps or security-based swaps

# Title VII Requirements by Market Participant

## Requirements for All Swaps Market Participants

- Mandatory Clearing
- Mandatory Trade Execution
- Margin Requirements for Uncleared Swaps
- Swap Reporting
- Recordkeeping
- Position Limits and Large Trader Reporting
- Prohibition on Off-Exchange Swaps with non-ECPs

## Additional Requirements for Swap Dealers and MSPs

- Registration
  - Capital
  - Books and records
  - Audit trail
  - Documentation standards
  - Other reporting
  - Swaps pushout rule
  - CCO requirements
  - Conflict of interest procedures
  - Business conduct standards
  - Risk management requirements
- 
- Disclosure re: operations, practice, financial integrity of transactions and conditions of swaps
  - No association with statutorily disqualified persons
  - Initial margin segregation by swap dealers and MSPs at customer's request for uncleared swaps

# **Cross-Border Application of Title VII**

# Title VII's Application to Activities Outside the United States

## CFTC:

- Dodd-Frank states that the CFTC's provisions of Title VII do not apply "to activities outside the United States unless those activities:
  - (1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or
  - (2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any [Title VII provisions]."

## SEC:

- Dodd-Frank states that the SEC's provisions of Title VII do not apply: "to any person insofar as such person transacts a business in security-based swaps without the jurisdiction of the United States, unless such person transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of [Title VII]."



# CFTC's Cross-Border Guidance and Exemptive Order

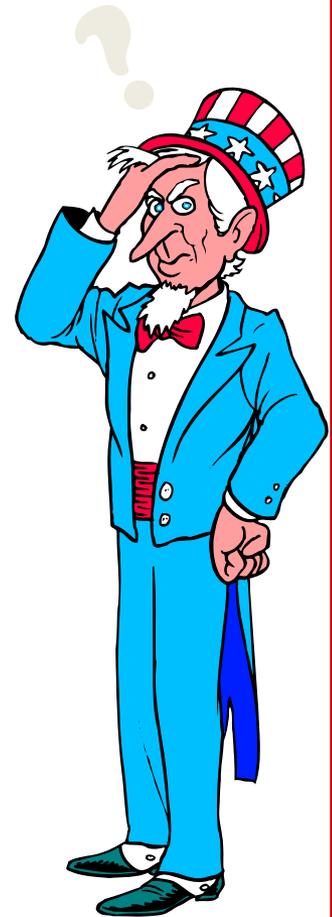
- The CFTC issued Final Cross-Border Guidance, which adopted an expansive approach to the application of Title VII requirements relating to swap dealers and MSPs outside of the United States.
- The CFTC also issued a series of exemptive orders that staged the implementation of certain provisions of the Cross-Border Guidance.
- The application of the CFTC's Cross Border Guidance largely hinges on the concept of a "U.S. person" and transactions being with entities that have sufficient nexus to the United States.



# Extraterritoriality: The CFTC's U.S. Person Definition

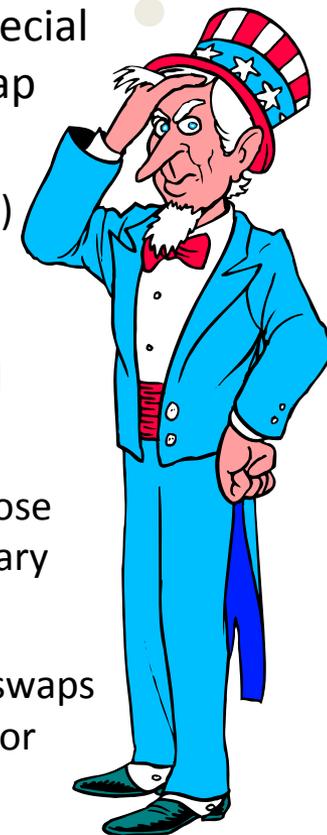
- The relevant definition of “U.S. person” is complicated and generally includes, but is not limited to:
  - natural people resident in the United States
  - businesses organized or incorporated within the United States or with a principal place of business in the United States, and pension plans for such entities
  - investment vehicles with majority U.S.-person owners
  - unlimited liability partnerships with majority U.S.-person owners
  - individual or joint accounts with beneficial U.S.-person owners
  - any estate of a decedent resident in the United States at death
  - any trust governed by U.S. jurisdiction if a U.S. court could exercise jurisdiction over the trust

The CFTC will also look to “facts and circumstances” to determine the U.S.-person status of a market participant.



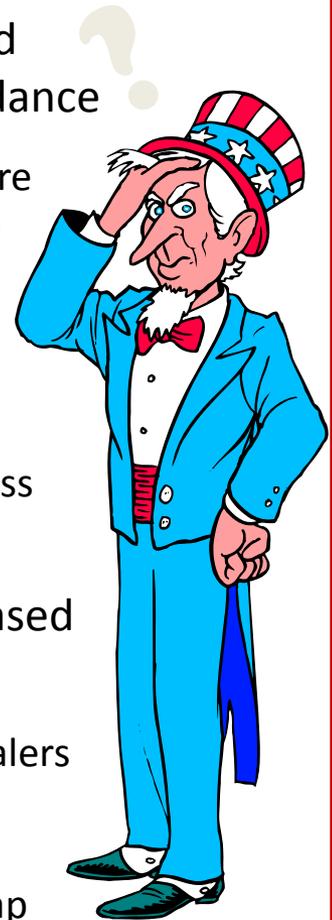
# Extraterritoriality: Other Key Definitions Relating to Counterparty Classification

- Additional key market participant classifications that are subject to special rules for registration “counting” purposes and application of CFTC swap requirements:
  - A foreign branch of a U.S. swap dealer (e.g., London branch of a U.S. bank) is classified by the CFTC as a “U.S. person” because it is not a separate legal entity from the U.S. parent
    - CFTC outlined factors for determining a bona fide foreign branch and when transactions are “with” a foreign branch
  - A “guaranteed affiliate” is a non-U.S. person that is affiliated with and whose swap obligations are guaranteed by a U.S. person (e.g., a non-U.S. subsidiary of a U.S. person whose transactions are guaranteed by such U.S. person)
  - An “affiliate conduit” generally includes non-U.S. persons that enter into swaps on behalf of one or more U.S. affiliates in order to provide risk mitigation or hedging services for such U.S. affiliates
    - No bright-line definition, but the CFTC outlined 4 factors it considers relevant in classifying affiliate conduits



# Extraterritoriality: Conduct-Based Analysis

- Footnote 513 of the Cross-Border Guidance: First hints of a U.S.-based conduct test for application of CFTC rules under the Cross Border Guidance
  - Transactions conducted by a U.S. branch of a non-U.S. swap dealer/MSP are subject to transaction-level requirements, even though the non-U.S. swap dealer/MSP remains a non-U.S. person
  - Application of CFTC regulations not solely tied to status of counterparties, but can depend on location of conduct
  - Similar to the jurisdictional approach employed by the SEC's proposed cross border rule
- CFTC Staff Advisory 13-69 (Nov. 14, 2013): The next step in the U.S.-based conduct test
  - Transaction-level requirements apply to transactions of non-U.S. swap dealers with non-U.S. counterparties that are “regularly” arranged, negotiated or executed by personnel or agents of the non-U.S. swap dealer located in the United States, even if booked in a non-U.S. branch of the non-U.S. swap dealer



# Extraterritoriality: Conduct-Based Analysis *(cont.)*

- Since the Staff Advisory:
  - Application of the Staff Advisory was delayed to January 14, 2014 (with certain exceptions) to allow the industry to reorganize operations in light of the Advisory.
  - On **December 4, 2013**, SIFMA/ISDA/IIB filed a complaint against the CFTC alleging that the CFTC unlawfully circumvented the requirements of the Administrative Procedures Act and the Commodity Exchange Act by characterizing its cross-border rules as “guidance” and conducting a flawed rulemaking process.
  - On **January 3, 2014**, the CFTC issued a request for comment, seeking comment from the public on the impact of the Staff Advisory (comments are due March 10, 2014).
  - In addition, the CFTC staff issued no-action relief further extending the January 14, 2014 deadline to **September 15, 2014**, while the CFTC solicits and reviews comments.



# **Swap Dealer Registration Requirements**

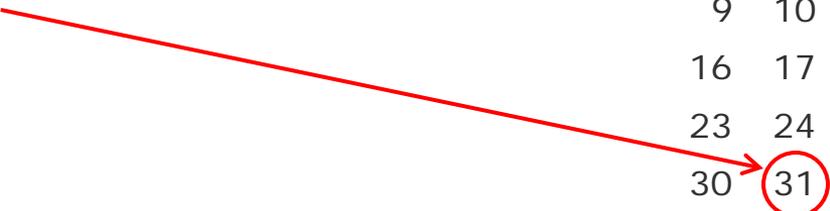
# Who Qualifies as a Swap Dealer?

- A swap dealer is an entity that:
  - Holds itself out as a dealer in swaps;
  - Makes a market in swaps;
  - Regularly enters into swaps with counterparties in the ordinary course of business;
  - Engages in any activity causing the entity to be commonly known in the trade as a dealer or market maker in swaps;
- Subject to certain exceptions and a *de minimis* exemption.

■ The swap dealer test is a qualitative test, similar to the SEC's broker-dealer test.

■ 102 (provisionally) registered swap dealers as of March 28, 2014.

December 2013						
S	M	T	W	Th	F	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					



# Who Qualifies as a Swap Dealer? *(cont.)*

The determination of who must register as a swap dealer entails:

- *De minimis* threshold calculation: The entity must have entered into at least \$8 billion in notional amount of swaps in a dealing capacity in the prior 12-month period (or \$25 million with “special entities”).
  - An entity that exceeds the *de minimis* threshold must register no later than two months after the end of the month in which the threshold is exceeded.
- Aggregation: Generally, an entity must aggregate swap dealing positions with those of its majority-owned affiliates, as follows:
  - A group must calculate, for each legal entity in the group that is not registered as a swap dealer, the amount of that particular entity’s swap activity that the individual entity must count towards its own *de minimis* threshold (see next slide for which swaps must be counted);
  - The group must then add the values obtained above together. If the sum for the group is above the *de minimis* threshold, an entity must register (it need not be the entity contributing the most to the threshold);
  - The group can then subtract from the aggregate the amount that the new registrant contributes towards the group *de minimis* threshold; and
  - Repeat until the group sum is less than the threshold.

# Swap Dealer Registration Requirements: Counting Swaps Towards the *De Minimis* Threshold

To determine the swap activity that an entity must count towards its *de minimis* threshold:

- A U.S. entity must include all swap dealing activity entered into over the prior 12 months, regardless of counterparty.
- A non-U.S. entity must include all swap dealing activity entered into over the prior 12 months with:
  - U.S. persons (other than with foreign branches of registered swap dealers); and
  - Non-U.S. persons which are guaranteed by a U.S. person (except where the guaranteed affiliate is (i) a swap dealer, (ii) is not a swap dealer but engages in *de minimis* swap dealing activity and is affiliated with a swap dealer or (iii) is guaranteed by a non-financial entity).

Swaps between affiliates and swaps not entered into in a dealing capacity need not be counted toward the *de minimis* threshold. Other exceptions exist for certain swaps connected to loans, swaps that hedge physical commodity risk and swaps that are entered into by qualifying floor traders.

# **Entity-Level and Transaction-Level Requirements**

# Entity-Level vs. Transaction-Level Framework

- The CFTC's Cross Border Guidance divides swap dealer compliance requirements into entity-level and transaction-level requirements.

Entity-level requirements (which apply to a swap dealer or MSP as a whole) include:

- Capital adequacy
- Chief compliance officer
- Internal business conduct
- Swap data recordkeeping
- Swap data repository (SDR) reporting
- Physical commodity swaps reporting (large trader reporting)

Transaction-level requirements (which apply to the individual swap) include:

- Clearing and swap processing
- Trade execution
- Margining and segregation for uncleared swaps
- Swap trading relationship documentation
- Trade confirmation
- Portfolio reconciliation and compression
- Real-time public reporting
- Daily trading records
- External business conduct standards

# Application of Entity- and Transaction-Level Requirements

## For U.S. swap dealers:

- Entity- and Transaction-level requirements apply to all transactions (other than as specified below with respect to non-U.S. branches of U.S. swap dealers) without substituted compliance, except that:
  - Transaction-level requirements (other than external business conduct standards) apply to transactions between a non-U.S. branch of a U.S. swap dealer and all counterparties, with the possibility of substituted compliance (and potential “emerging market” relief for certain non-U.S. branches) for transactions with non-U.S. counterparties and other non-U.S. branches of U.S. swap dealers; and
  - External business conduct standards do **not** apply to transactions between a non-U.S. branch of a U.S. swap dealer and non-U.S. persons.

## For Non-U.S. swap dealers:

- Entity-level requirements apply to all transactions, with the possibility of substituted compliance.
- Transaction-level requirements:
  - apply to transactions between a non-U.S. swap dealer and a U.S. person, with the possibility of substituted compliance for transactions with a non-U.S. branch of a U.S. swap dealer, and “essentially identical” compliance with EMIR risk mitigation rules available for transactions with a U.S. person, provided the non-U.S. swap dealer is subject to EMIR;
  - apply to transactions between a non-U.S. swap dealer and a non-U.S. person guaranteed by a U.S. person (or acting as a “conduit affiliate”), with substituted compliance potentially available;
  - do **not** apply to transactions between a non-U.S. swap dealer and a non-U.S. person that is not a guaranteed or conduit affiliate.

# Substituted Compliance and Comparability Determinations

- A non-U.S. swap dealer/MSP and foreign branch of U.S. swap dealer/MSP (in the case of transaction-level requirements with certain counterparties) may comply with the requirements of its home jurisdiction's law and regulations, in lieu of compliance with many of the CFTC requirements, if the CFTC finds that such regulations are comparable to and as comprehensive as U.S. swap regulations.
- On December 20, 2013, the CFTC approved a series of comparability determinations for:
  - certain entity-level requirements for Australia, Canada, the EU, Hong Kong, Japan and Switzerland; and
  - a limited number of transaction-level requirements for the EU and Japan.
- The CFTC deferred making comparability determinations for:
  - certain entity-level reporting requirements (Parts 45 and 46 of CFTC Rules, except the recordkeeping requirements of each Part); and
  - certain internal business conduct requirements (CFTC Rules 23.600(c)(2), 23.608, 23.609)

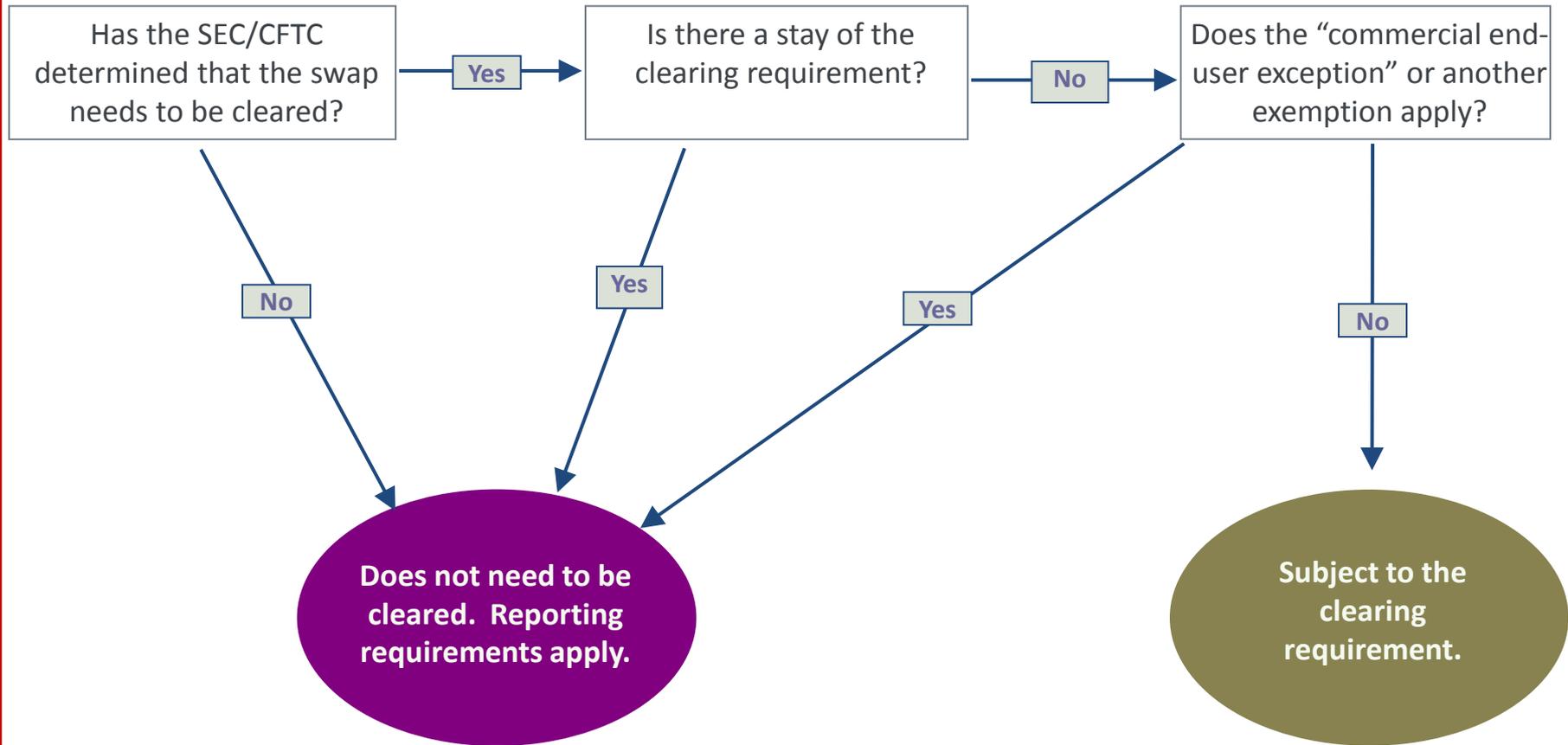
but issued temporary no-action relief for certain non-U.S. swap dealers (without a U.S. ultimate parent, in the case of the reporting relief) for compliance with such rules. (See the **Appendix** for a table summarizing the determinations and no-action relief.)

# SEC's Proposed Cross-Border Rule

- The SEC's Proposed Cross-Border rulemaking proposes to employ a different jurisdictional approach.
  - The proposal outlines a territorial approach to SEC jurisdiction, using the concept of "transactions conducted in the United States."
- The proposed definition of "U.S. person" is more narrow than that of the CFTC.
- The proposal also adopts an entity- and transaction-level approach to requirements, but differs from the CFTC's regime in key ways:
  - Certain transaction-specific requirements, such as reporting, clearing and trade execution are applied based on the territorial approach;
  - Entity- and transaction-level classifications only apply to requirements specific to SBS dealers; certain CFTC "transaction-level" requirements are "entity-level" under the SEC's regime.
- The proposal also outlines a potential substituted compliance regime.
- One challenge: How and whether to reconcile the SEC's cross border rulemaking with the CFTC guidance to allow market participants transacting in swaps in the United States or with U.S. persons to operate under a single (or at least closely-aligned) regulatory regime.

**Key Entity- and Transaction-Level  
Requirements:  
Clearing, Exchange / SEF Trading and  
Trade Reporting**

# Clearing Requirement



\*Swaps entered into before the clearing requirement is applicable are not required to be cleared if reported

# Cost Impact of Clearing

- Arrangements with Clearing Members
  - End users will need to access clearinghouses through their “clearing member,” who must be a futures commission merchant for CFTC-regulated swaps entered into by a U.S. person.
  - As a result, end users will need to create new relationships with clearing members, including cleared swap documentation agreements.
- Margin
  - End-users that are counterparties to cleared swaps will be required to post initial and variation margin to clearing members.
  - Clearing members must charge clients the clearinghouse minimum for each swap but may charge “excess margin.”

# Clearing: CFTC Designated Swaps

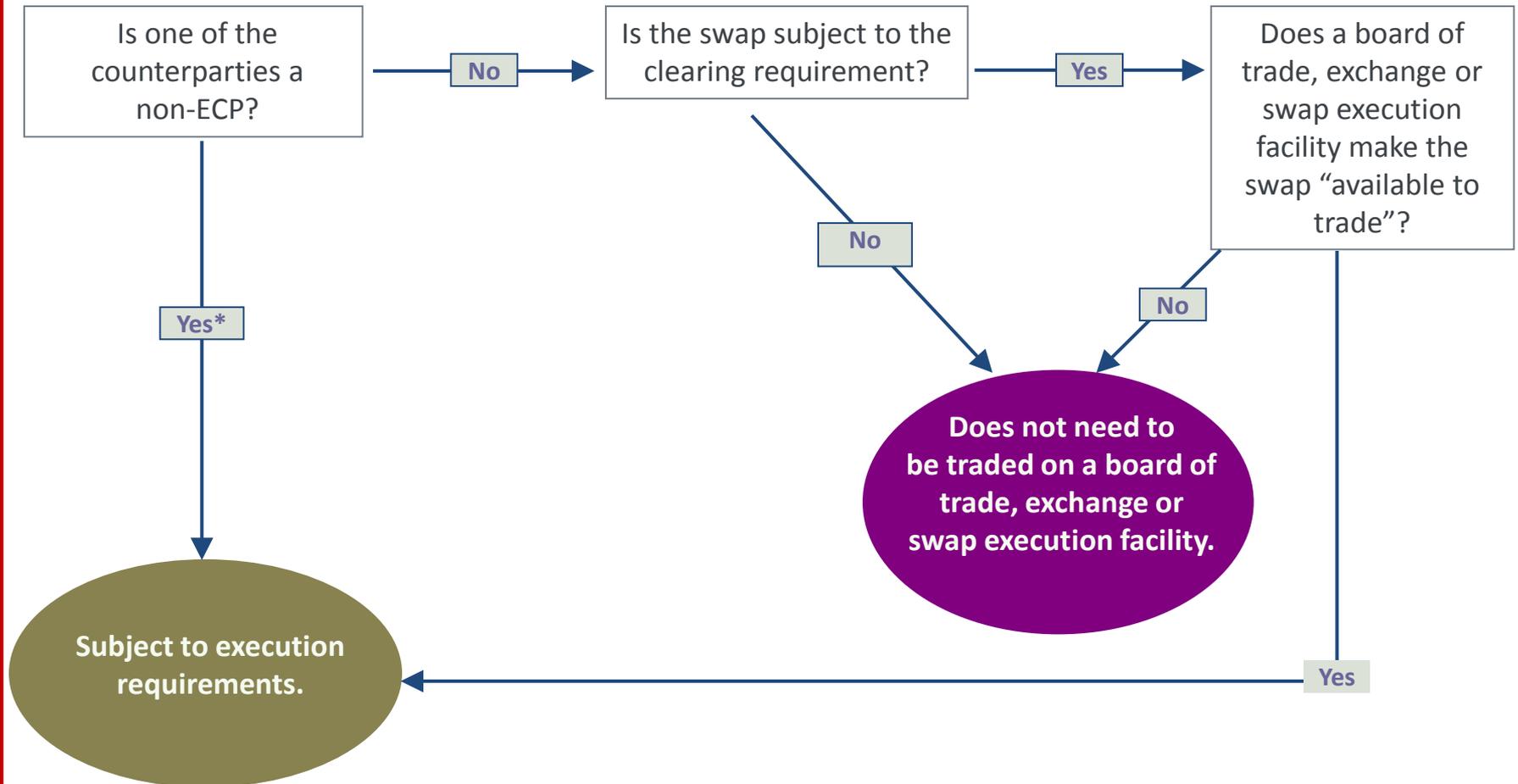
	Swaps Designated for Mandatory Clearing (as of Mar. 2014)
<b>Credit Default Swaps</b>	<ul style="list-style-type: none"><li>• Based on untranching indices covering North American corporate credits, the CDX North American Investment Grade (CDX.NA.IG) and the CDX North American High Yield (CDX.NA.HY)</li><li>• Based on untranching indices covering European corporate credits, iTraxx Europe, iTraxx Europe Crossover and iTraxx Europe High Volatility</li></ul>
<b>Interest Rate Swaps</b>	<p>The following instruments in U.S. dollars, euros, British pounds and (other than for overnight index swaps) Japanese yen:</p> <ul style="list-style-type: none"><li>• Fixed-to-floating swap;</li><li>• Floating-to-floating swap (basis swap);</li><li>• Forward rate agreement; and</li><li>• Overnight index swap</li></ul>

The CFTC is expected to designate additional classes of swaps for mandatory clearing, including potentially certain FX options and non-deliverable forwards.

# Certain Clearing Issues

- Since October 2013, the clearing mandate has applied more broadly to non-U.S. branches of U.S. banks than other participants in non-U.S. markets.
- The consensus among regulators that the “stricter” clearing mandate must apply may significantly limit the importance of substituted compliance for mandatory clearing.
- CFTC staff interpretation that foreign clearing members and central counterparties (“CCPs”) clearing swaps directly or indirectly for U.S. persons must register with the CFTC as futures commission merchants (“FCMs”) and derivatives clearing organizations (“DCOs”):
  - Has led many foreign CCPs to register with the CFTC as DCOs and establish FCM-style clearing infrastructure; and
  - Could cause foreign regulators (such as in the EU) to reject relief for U.S. CCPs because of the absence of reciprocal mutual recognition by the CFTC.

# Trade Execution Requirement



# Trade Execution Requirement: Exchange Trading – Swap Execution Facilities (SEFs)

CFTC Final SEF Rule	SEC Proposal
Any request-for-quote (RFQ) facility must require that any RFQ be transmitted to at least three market participants – subject to phase-in	No similar requirement
No similar requirement	Composite indicative quotes from RFQ responses must be made public
SEFs to determine whether a swap is made available for trading, subject to certification by the CFTC	SEC to serve as a central decision maker in determining whether a security-based swap is made available for trading
Brokers or dealers using an order book are subject to a delay between putting in a customer order and executing against that order with a proprietary order or another customer's order – 15 seconds, or shorter if the SEF determines appropriate	No similar requirement
SEF must provide RFQ requester with any firm bid or offer for the same swap on the SEF's order books, and RFQ requester must have option to execute against order book and RFQ responses	All trades, including RFQs, must interact with resting firm bids and offers based on a fair method
15-minute delay in reporting permitted for all information about a block trade involving swaps subject to mandatory clearing with a swap dealer counterparty	8- to 26-hour delay permitted for reporting of notional size for block trades, but all other information required to be reported in real time

# Trade Execution Requirement: Swaps “Made Available to Trade”

	Swaps Made Available to Trade (as of Mar. 2014)
<b>Credit Default Swaps</b>	<ul style="list-style-type: none"> <li>• 5-year untranching credit default swap indices based on the then-current on-the-run series or the preceding series that was replaced by the current one of the CDX North American Investment Grade (CDX.NA.IG) , the CDX North American High Yield (CDX.NA.HY),the iTraxx Europe or the iTraxx Europe Crossover index</li> </ul>
<b>Interest Rate Swaps</b>	<ul style="list-style-type: none"> <li>• Spot start date, par fixed rate U.S. dollar fixed-to-floating interest rate swaps with a tenor of 2, 3, 4, 5, 6, 7, 10, 12, 15, 20 or 30 years</li> <li>• IMM start date (next two IMM dates), par fixed rate U.S. dollar fixed-to-floating interest rate swaps with a tenor of 2, 3, 4, 5, 6, 7, 10, 12, 15, 20 or 30 years (standard and IMM end/roll date conventions)</li> <li>• IMM start date (next two IMM dates), MAC fixed rate U.S. dollar fixed-to-floating interest rate swaps with a tenor of 1, 2, 3, 4, 5, 6, 7, 10, 15, 20 or 30 years (standard end/roll date conventions)</li> <li>• Spot start date, par fixed rate euro or British pound fixed-to-floating interest rate swaps with a tenor of 2, 3, 4, 5, 6, 7, 10, 15, 20 or 30 years</li> </ul>

# Certain Trade Execution Issues

- For cleared swaps, market participants have raised operational issues and credit risk concerns in light of the CFTC staff's straight-through processing and impartial access guidance.
- For uncleared swaps, there is uncertainty relating to the application of SEF rules to certain bilateral documentation arrangements.
- The application of the SEF registration requirement to foreign swap trading platforms that allow access to U.S. persons has led to market fragmentation.
- The significant delay before trade execution requirements apply in non-U.S. jurisdictions may limit the efficacy of substituted compliance.
- To address some of these cross-border issues, the CFTC has issued temporary and conditional permanent no-action relief for EU-regulated multilateral trading facilities, although the effect of that relief remains unclear at this time.

# Swap Data Reporting

- The details of all swaps must be reported to a swap data repository (“SDR”) immediately and kept updated throughout the life of the swap.
- Most swaps are also subject to real-time reporting and public dissemination requirements, with delays in public dissemination for “block trades” and “large notional off-facility swaps.”
- The “reporting counterparty” in a transaction has primary responsibility for preparing and submitting swap data reports. Generally, this is the swap dealer/MSP, or U.S. counterparty if both parties are end users.
  - SEFs are responsible for reporting swaps executed on their platforms.
  - Both counterparties to the swap have a duty to correct reporting errors at all times.
- Both parties must obtain and use a unique legal entity identifier (an “LEI”) to facilitate the reporting counterparty’s compliance with CFTC rules.

# Certain Reporting Issues

- The CFTC recently published a request for comment relating to potential clarifications or modifications to its reporting rules to address, among other issues:
  - Interpretive issues, such as the scope of “confirmation data” that must be reported
  - Technological issues, such as those relating to the reporting of “continuation data”
  - Issues raised in connection with common transactional paradigms, such as derivatives prime brokerage, post-priced swaps and cleared swaps
  - Potential expansion of the types of data that must be reported and controls to help ensure the accuracy of reported data

**Additional Key Entity-Level  
Requirements:  
Internal Business Conduct**

# Key Internal Business Conduct Rules: CCO and Conflicts

- Chief Compliance Officer
  - Swap dealers and MSPs must designate a chief compliance officer with responsibility for:
    - Establishing and administering compliance policies;
    - Resolving conflicts of interest;
    - Identifying noncompliance issues; and
    - Preparing an annual compliance report.
- Conflicts of Interest
  - Swap dealers and MSPs must adopt and implement policies and procedures reasonably designed to ensure compliance with the conflict provisions, which include research conflicts and clearing conflicts. These generally require implementing information barriers between the business / trading unit and the clearing and research units.

# Key Internal Business Conduct Rules: Risk Management and Supervision

- Risk Management
  - Swap dealers and MSPs must:
    - Establish sophisticated entity-wide risk management systems to monitor and manage enumerated risks;
    - Monitor compliance with position limits;
    - Maintain business continuity; and
    - Maintain disaster recovery programs.
- Supervision
  - Swap dealers and MSPs must establish and maintain a system to supervise all activities relating to their businesses performed by their partners, members, officers, employees and agents.

# Key Internal Business Conduct Rules: Swap Data Recordkeeping

- Swap dealers and MSPs are required to maintain extensive regulatory records for all swaps and related to the business of the entity.
- Recordkeeping requirements for swap dealers and MSPs include maintaining:
  - business and governance records;
  - records of complaints and sales and marketing materials;
  - trading records for each swap and related positions, including oral recording of swap-related conversations;
  - complete audit trail for comprehensive trade reconstruction.
- Such records must include:
  - Complete transaction and position information; and
  - Documentation on which trade information is originally recorded.
- These requirements apply to historical and post-effective-date swaps to varying degrees.

# Appendix: Summary of Comparability Determinations for CFTC Entity-Level Requirements

Jurisdiction	Australia	Canada	European Union	Hong Kong	Japan	Switzerland
<b>CFTC Requirement</b>						
<b>Chief Compliance Officer (§ 3.3)</b>	Comparable, except Rules 3.3(e) and (f)	Comparable, except Rule 3.3(f)				
<b>Large Trader Reporting (Part 20)</b>	Sub Comp not available					
<b>Capital Adequacy (Proposed § 23.100)</b>	Determination deferred, pending final CFTC rules					
<b>Swap Data Recordkeeping (§§ 23.201, 23.203)</b>	Comparable, except § 23.203(b)(2)	Comparable	Comparable, except § 23.203(b)(2)			
<b>Risk Management Program (§ 23.600)</b>	Comparable, except § 23.600(c)(2)					
<b>Position Limit Monitoring (§ 23.601)</b>	Comparable	Comparable	Comparable	Comparable	Comparable	Comparable
<b>Diligent Supervision (§ 23.602)</b>	Comparable	Comparable	Comparable	Comparable	Comparable	Comparable
<b>Business Continuity and Disaster Recovery (§ 23.602)</b>	Comparable	Comparable	Comparable	Comparable	Comparable	Comparable

# Appendix: Summary of Comparability Determinations for CFTC Entity-Level Requirements *(cont.)*

Jurisdiction	Australia	Canada	European Union	Hong Kong	Japan	Switzerland
CFTC Requirement						
<b>Research and Clearing Conflicts (§ 23.605)</b>	Comparable	Comparable	Comparable	Comparable	Comparable	Comparable
<b>Availability of Information for Disclosure (§ 23.606)</b>	Comparable, except § 23.606(a)(2)	Comparable, except § 23.606(a)(2)	Comparable, except § 23.606(a)(2)	Comparable, except § 23.606(a)(2)	Comparable	Comparable, except § 23.606(a)(2)
<b>Restrictions on Counterparty Clearing Relationships (§ 23.608)</b>	No determination, timing relief available	No determination, timing relief available	No determination, timing relief available	No determination	No determination, timing relief available	No determination, timing relief available
<b>Clearing Member Risk Management (§ 23.609)</b>	Comparable	Comparable	Comparable	No determination	Comparable	No determination, timing relief available
<b>Swap Data Reporting (Part 45, except §§ 45.2, 45.6)</b>	Determination deferred, timing relief available	Determination deferred, timing relief available	Determination deferred, timing relief available	Determination deferred	Determination deferred, timing relief available	Determination deferred, timing relief available
<b>Historical Swap Data Reporting (Part 46, except §§ 46.2, 46.4)</b>	Determination deferred, timing relief available	Determination deferred, timing relief available	Determination deferred, timing relief available	Determination deferred	Determination deferred, timing relief available	Determination deferred, timing relief available
<b>Swap Data Recordkeeping (§§ 45.2, 45.6, 46.2, 46.4)</b>	Determination deferred	Determination deferred	Determination deferred	Determination deferred	Determination deferred	Determination deferred

# Appendix: Summary of Comparability Determinations for CFTC Transaction-Level Requirements

Jurisdiction	European Union	Japan
CFTC Requirement		
Daily Trading Records (§ 23.202)	Comparable, except §§ 23.202(a)(1) and (b)(1)	Comparable
Trade Confirmation (§ 23.501)	Comparable	No determination
Portfolio Reconciliation (§ 23.502)	Comparable	No determination
Portfolio Compression (§ 23.503)	Comparable	No determination
Swap Trading Relationship Documentation (§ 23.504)	Comparable only for §§ 23.504(b)(2) and (b)(4)	Comparable, except §§ 23.504(b)(5) and (b)(6)