

MEMO# 24898

January 21, 2011

CFTC Adopts Interim Final Rules for Reporting of Transition Swaps

[24898]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 9-11
ETF ADVISORY COMMITTEE No. 8-11
EQUITY MARKETS ADVISORY COMMITTEE No. 8-11
FIXED-INCOME ADVISORY COMMITTEE No. 10-11
SEC RULES MEMBERS No. 16-11
SMALL FUNDS MEMBERS No. 10-11 RE: CFTC ADOPTS INTERIM FINAL RULES FOR REPORTING OF TRANSITION SWAPS

The Commodity Futures Trading Commission (“Commission”) has adopted interim final rules for the reporting of information about swap transactions entered into after July 21, 2010 and prior to the effective date of the swap data reporting and recordkeeping rules implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act (“transition swaps”). [\[1\]](#) The rules require the reporting party to a transition swap to submit to a registered swap data repository (“SDR”) or to the Commission: (1) a copy of the transaction confirmation in electronic form, if available, or in written form, if there is no electronic copy; and (2) the time the transaction was executed, if available. The reporting party also must report to the Commission, on request, any information relating to a transition swap transaction.

The interim final rules are effective even though there are no registered SDRs to accept swap data and the Commission is not prepared to accept swap data. Consequently, the Commission explains in the Release that counterparties to transition swaps need to retain information and data related to the terms of each transaction so that it may be subsequently reported. This information would include, for example, the terms of the swap, the date and time of execution, the “volume” of the swap, information relevant to the price and payment for the transaction until the swap is terminated, and the final confirmation of the transaction. Reporting parties do not have to create or retain new records or reformat existing records. [\[2\]](#)

The party obligated to report the swap transaction is as follows:

- Where only one counterparty is a swap dealer or major swap participant, that swap

- dealer or major participant;
- Where one counterparty is a swap dealer and the other is a major swap participant, the swap dealer; and
- For all other swaps, the counterparties shall select the reporting party.

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endnotes

[1] See CFTC Release, Reporting Certain Post-Enactment Swap Transactions, 75 FR 78892 (December 17, 2010) (“Release”), available at <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2010-31579a.pdf>.

The rule extends to transition swaps similar requirements as those applicable to swaps that were entered into before July 21, 2010. The Dodd-Frank Act was enacted on July 21, 2010. See CFTC/SEC Adopt Rules for Reporting of Swaps, ICI [Memorandum](#) 24623 (October 18, 2010).

[2] The Release states that counterparties should be prepared to report transition swaps “at such time as reporting is required: the later of 90 days after July 15, 2011 or such other time after entering into the swap as the [Commission] may prescribed [sic] by rule.”

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