

CFTC PROVIDES TEMPORARY DODD-FRANK RELIEF**Agency takes action to allay market concerns**

The Commodity Futures Trading Commission issued a Final Order on July 14, 2011, which will temporarily exempt persons or entities from complying with certain provisions of the Dodd-Frank Act that become effective on July 16, 2011. The purpose of the Final Order is to avoid market disruptions while the CFTC continues to implement, in a deliberative manner, the new swap regulatory regime as directed by the Dodd-Frank Act. Among other things, the Final Order confirms:

1. The pre-Dodd-Frank Act definition of eligible contract participant will remain in effect until the rulemaking to further define that term is completed.
2. An entity that holds collateral for a customer's cleared swaps will not be required to register as a futures commission merchant until the expiration of the Final Order.
3. Over-the-counter transactions in exempt or excluded commodities (e.g., financial, energy and metals) that the Dodd-Frank Act makes subject to the Commodity Exchange Act ("CEA") will be permitted to be effected pursuant to an expanded version of the CFTC's Part 35 rules. Generally, since 1993, Part 35 has exempted from the CEA individually negotiated non-standardized swap agreements between eligible swap participants.
4. The Final Order's expanded Part 35 relief applies to transactions in exempt and excluded commodities only, and does not otherwise encompass agricultural commodities. Agricultural swap transactions may continue to be effected in the same manner as permitted prior to the Dodd-Frank Act in full compliance with Part 35. Agricultural option transactions may continue to be effected pursuant to the CFTC's Part 32 rules.
5. An entity exclusively participating in the swaps market as an intermediary would not have to register in any capacity with the CFTC prior to the completion of the rulemaking further defining the term swap.
6. The CFTC will address any potential compliance date gap periods within the context of each individual rulemaking. Gap periods could occur where final rules are adopted within 60 days before December 31, 2011, or where a final rule otherwise has a prescribed effective date after December 31, 2011.

The Final Order will expire on the earlier of the effective date of applicable rulemakings or December 31, 2011. The CFTC stated that the fixed expiration date will not affect its ability to provide further relief, as appropriate, to avoid undue disruption or costs to market participants.

The Final Order's temporary exemptive relief does not apply to futures contracts, options on futures, transactions by retail customers in foreign currency or other commodities, or any provision of the Dodd-Frank Act that is already effective.

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