

February 1, 2022

# CFTC Issues No-Action Relief For Swap Data Reporting Compliance Deadlines

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## No-Action Letter Issued by the CFTC's Division of Data Extends Compliance Deadlines for the 2020 Amendments to the Swap Data Reporting Rules

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### SUMMARY

On January 31, 2022, the CFTC's Division of Data issued no-action relief with respect to the compliance deadlines associated with the November 2020 amendments to its swap data reporting requirements. In response to concerns that affected firms needed additional time to address operational and technological issues to comply with the amended rules, the Division of Data stated that it would not recommend enforcement against an entity for: (i) failure to comply with the amendments to the rules before December 5, 2022 and (ii) failure to comply with the amendments to the post-initial cap size and block trade and large notional off-facility swaps rules before December 4, 2023, provided in each case that the entity complies with the swap data reporting rules that were in effect on January 1, 2021.

### BACKGROUND

In November 2020, the Commodity Futures Trading Commission ("CFTC") amended parts 43, 45, 46 and 49 of its rules, which establish the recordkeeping and swap data reporting requirements applicable to swap dealers and swap data repositories ("SDRs").<sup>1</sup> Among other things, the amendments: (i) defined swap data elements required to be reported to SDRs; (ii) added new swap data elements and revised existing swap data elements; and (iii) required that the swap data elements be reported to SDRs in a form and manner compliant with the CFTC's technical specifications.<sup>2</sup>

The amendments were effective on January 25, 2021, with an original compliance date of May 25, 2022, although the CFTC allowed entities until May 25, 2023 to comply with the amendments to regulation 43.4(h)

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(post-initial cap sizes) and regulation 43.6 (block trades and large notional off-facility swaps) (collectively, the “Block and Cap Amendments”).<sup>3</sup>

In connection with the amendments, the CFTC also discussed two data standards — the data transmission standard ISO 20022 and the Unique Product Identifier (“UPI”) — and noted that it intended to require their use when the standards became available.<sup>4</sup>

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### REQUEST FOR RELIEF

On January 20, 2022, an industry group, on behalf of its members, and certain SDRs, requested an extension to the proposed compliance deadlines, citing operational and technological issues that could not be resolved in time to meet those deadlines.<sup>5</sup> In particular, the request for relief states that SDRs needed more time to develop their final message specifications to comply with the revised technical specifications and to account for changes that the SDRs are making to their guidebooks. The request for relief further notes that, in the absence of final SDR message specifications, market participants have not been able to conduct the necessary review, design, build and test phases required to modify their swap reporting systems to comply with the amendments.<sup>6</sup> The request for relief also states that market participants need until December 5, 2022 to complete the build and testing of their modified reporting systems to ensure compliance with the amendments.

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### NO-ACTION RELIEF

On January 31, 2022, the Division of Data (the “Division”) issued a no-action letter in response to the request for relief.<sup>7</sup> The Division concurred that the operational and technical issues caused by the timing of the CFTC’s revised technical specifications “do not lend themselves to prompt resolution” prior to the original May 25, 2022 compliance date. The Division therefore issued the no-action letter, which provides that it would not recommend that the CFTC commence an enforcement action against an entity for: (i) failure to comply with the amendments before December 5, 2022 and (ii) failure to comply with the Block and Cap Amendments before December 4, 2023, provided in each case that the entity complies with the swap data reporting regulations that were in effect on January 1, 2021.<sup>8</sup> The no-action letter also confirmed the CFTC’s intention to require the use of the ISO 20022 and UPI data standards when they become available, which the Division expects to occur by the fourth quarter of 2023.<sup>9</sup>

ENDNOTES

- <sup>1</sup> Final Rule, [Swap Data Recordkeeping and Reporting Requirements](#), 85 Fed. Reg. 75503 (Nov. 25, 2020); Final Rule, [Real-Time Public Reporting Requirements](#), 85 Fed. Reg. 75422 (Nov. 25, 2020); and Final Rule, [Certain Swap Data Repository and Data Reporting Regulations](#), 85 Fed. Reg. 75601 (Nov. 25, 2020).
- <sup>2</sup> 17 C.F.R. § 45.13(a)(1). The CFTC published a revised version of its technical specifications in September 2021. See [CFTC Technical Specification, Part 43 and 45 swap data reporting and public dissemination requirements](#), Version 3.0 (Sept. 30, 2021), available at [https://www.cftc.gov/media/6576/Part43\\_45TechnicalSpecification093021CLEAN/download](https://www.cftc.gov/media/6576/Part43_45TechnicalSpecification093021CLEAN/download).
- <sup>3</sup> Final Rule, [Swap Data Recordkeeping and Reporting Requirements](#), 85 Fed. Reg. at 75503; Final Rule, [Real-Time Public Reporting Requirements](#), 85 Fed. Reg. at 75422; and Final Rule, [Certain Swap Data Repository and Data Reporting Regulations](#), 85 Fed. Reg. at 75601.  
  
A “cap size” is the maximum notional or principal amount of a publicly reportable swap transaction that is publicly disseminated. 17 C.F.R. § 43.2(a). Regulation 43.6 establishes the “appropriate minimum block size,” which means the “minimum notional or principal amount for a category of swaps that qualifies a swap within such category as a block trade or large notional off-facility swap” and is therefore eligible for a delay in public dissemination and an exception from certain trade execution requirements. *Id.*
- <sup>4</sup> See Final Rule, [Swap Data Recordkeeping and Reporting Requirements](#), 85 Fed. Reg. at 75536 (concluding that the Commission will mandate ISO 20022 “when the standard is developed”) and 75540 (noting that “the Commission is currently heavily involved in international efforts to introduce UPIs ... [and] [t]he Commission expects UPIs will be available [for implementation] within the next two years”).
- <sup>5</sup> [ISDA, DTCC Data Repository \(U.S.\) LLC, ICE Trade Vault, LLC, and CME Swap Data Repository, Letter Regarding a Request for an Extension of Compliance Date for Amendments to the Swap Data Reporting Rules](#) – 17 CFR Parts 43, 45, 46, and 49, Jan. 20, 2022.
- <sup>6</sup> *Id.* at 2.
- <sup>7</sup> CFTC Letter No. 22-03 (Jan. 31, 2022), available at <https://www.cftc.gov/PressRoom/PressReleases/8488-22>. Commissioner Stump’s statement can be found at <https://www.cftc.gov/PressRoom/SpeechesTestimony/stumpstatement013122>.
- <sup>8</sup> No-Action Letter at 3.
- <sup>9</sup> *Id.*

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