

Alert

Swaps Update: Packaged Transaction Relief Extended for Certain Transactions

May 5, 2014

The Commodity Futures Trading Commission (the “CFTC”) has announced implementation of the trade execution requirement for certain interest rate and credit default swaps. Beginning May 16, 2014, managers executing swaps subject to the trade execution requirement that are part of a “package transaction”¹ must be traded on a Swap Execution Facility (“SEF”) or Designated Contract Market (“DCM”), pursuant to the phased compliance timeline below. The CFTC had previously provided no-action relief for certain swaps that otherwise were required to be traded on a SEF or DCM related to package transactions. The current no-action relief may be accessed [here](#).

Product	Expiration of Relief ²
Where all components to a package transaction are swaps that have been “made available to trade” (“MAT”)	May 15, 2014
For package transactions in which the components include: <ul style="list-style-type: none"> • At least one swap component that has been MAT; and • All other components are swaps subject to mandatory clearing 	June 1, 2014
For package transactions in which the swap components: <ul style="list-style-type: none"> • Have been made MAT; and • All other components are U.S. Treasury securities (U.S. Dollar Swap Spreads) 	June 15, 2014
For package transactions (excluding U.S. Dollar Swap Spreads) in which the components include: <ul style="list-style-type: none"> • At least one swap component that has been MAT; and • At least one component that is not a swap 	Nov. 15, 2014

¹ A “package transaction” is a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a swap that is made available to trade and therefore is subject to the CEA section 2(h)(8) trade execution requirement; and (4) where the execution of each component is contingent upon the execution of all other components.

² Relief expires on 11:59 p.m. on the relevant date.

<p>For package transactions in which the components include:</p> <ul style="list-style-type: none"> • At least one swap component that has been MAT; and • At least one swap component that is under the CFTC’s exclusive jurisdiction and not subject to mandatory clearing 	Nov. 15, 2014
<p>For package transactions in which the components include:</p> <ul style="list-style-type: none"> • At least one swap component that has been MAT; and • And at least one swap component that is a swap over which the CFTC does not have exclusive jurisdiction 	Nov. 15, 2014

In addition, SEFs and DCMs will be permitted to implement rules that establish a “new trade, old terms” procedure. Market participants pointed out that clearing occurs on a leg-by-leg basis and that individual legs may be rejected by a clearing house because the risk of that leg, measured in isolation, could cause the trader to exceed its credit limit. Market participants stated that if the legs of the package trade are measured together, then the net risk may not exceed the credit limit. Accordingly, market participants requested relief from the straight-through processing requirements currently in place. The CFTC granted SEFs and DCMs time-limited no-action relief from methods of execution for required or permitted transactions, and CFTC regulations that prohibit pre-arranged trading, if a SEF or DCM permits a new trade, with terms and conditions that match the terms and conditions of the original trade, other than the time of execution, to be submitted for clearing. This no-action relief shall commence on May 16, 2014 and be provided until Sept. 30, 2014.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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