

Alert

CFTC Adopts Phase VI Compliance Date Extension for Initial Margin Compliance

October 29, 2020

On Oct. 15, 2020, the Commodity Futures Trading Commission (“CFTC”) approved amendments (“Amendments”)¹ to the margin requirements for uncleared swaps for swap dealers and major swap participants for which there is no prudential regulator (“Swap Margin Rule”) in order to delay the compliance schedule for the collection and posting of initial margin to Sept. 1, 2022 for financial end-users with smaller average daily aggregate notional amounts (“AANA”) of swaps and certain other financial products falling between \$8 billion up to \$50 billion (“Smaller Portfolio Group”). Through this new compliance date, the CFTC seeks to avoid market disruption due to the large number of entities required to comply.

The Swap Margin Rule originally took effect under a phased compliance schedule and applies to both initial and variation margin. Covered entities which enter into swaps prior to their relevant phase-in date, and which continue to hold the swap, are grandfathered from the Swap Margin Rule’s requirements until expiration. Variation margin was completely phased-in for all covered entities by March 1, 2017. Initial margin had originally been phased in over five phases from Sept. 1, 2016 to Sept. 1, 2020, depending on the size of the covered entity’s portfolio of non-cleared swaps and its counterparty’s portfolio of non-cleared swaps. In an effort to mitigate the operational challenges faced by covered entities caused by the coronavirus pandemic, the CFTC had adopted an interim final rule on May 28, 2020 changing phase-five compliance (with compliance date of Sept. 1, 2020) to cover entities falling within \$50 billion up to \$750 billion of AANA, and also added the additional phase-six compliance date of Sept. 1, 2021 available to the Smaller Portfolio Group, which has now been changed by the Amendments to Sept. 1, 2022.

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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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¹ The CFTC’s approved voting draft, available [here](#).