

ALERTS

SWAPS UPDATE: Investment Fund Deadline for Swap Data Reporting, Recordkeeping and CICIs Is April 10

March 21, 2013

The Commodity Futures Trading Commission (“CFTC”)’s April 10, 2013 deadline for investment funds that are U.S. Persons to comply with swap data reporting and recordkeeping rules is fast approaching. Investment funds must also obtain a CFTC Interim Compliant Identifier (“CICI”) by this deadline date.

Reporting

If an investment fund is trading with a CFTC-registered swap dealer, the swap dealer is obligated to report the swap, and the investment fund has no reporting requirement. However, if the fund is a U.S. Person and is trading with (1) another financial entity that is not a swap dealer (including such fund’s affiliates), (2) a non-financial entity, or (3) a non-U.S. swap dealer, there may be a reporting obligation. In those situations where an investment fund will be required to report a swap, such reporting will typically be made through a swap data repository. Investment funds should contact a swap data repository to coordinate the operational aspects of reporting. For more details, please see the SRZ Alert “CFTC Publishes Final Swap Data Rules and Real-Time Reporting Rules.”

Recordkeeping

Advisers to investment funds are obligated to keep records with respect to each swap for which an investment fund is a counterparty. Such

records must be maintained for the life of the swap and five subsequent years, and must be accessible within five days of a request. These requirements generally overlap with those already-applicable to registered investment advisers, but advisers should consider maintaining the required records in a format that will be easily accessible.

CICI

Investment funds must obtain a CFTC Interim Compliant Identifier by the April 10 deadline if they intend to transact in swaps. CFTC Rule Part 45 requires the use of a CICI in all swap reporting. A CICI is also required when adhering to the ISDA August 2012 DF Protocol and it may be used in Question 5(d) of Form PF (for the Legal Entity Identifier of the reporting fund). A CICI may be obtained through <http://www.ciciutility.org>. Funds must self-certify the CICI data record, even if the CICI has been issued through a third-party registrant. For a more detailed discussion related to CICIs, please see the SRZ Alert “Update for Swap Counterparties: New Web Portal Launched to Assign CFTC Interim Compliant Identifiers.”

If you have any questions concerning this *Alert*, please contact Craig Stein or your attorney at Schulte Roth & Zabel.

This information has been prepared by Schulte Roth & Zabel LLP (“SRZ”) for general informational purposes only. It does not constitute legal advice, and is presented without any representation or warranty as to its accuracy, completeness or timeliness. Transmission or receipt of this information does not create an attorney-client relationship with SRZ. Electronic mail or other communications with SRZ cannot be guaranteed to be confidential and will not (without SRZ agreement) create an attorney-client relationship with SRZ. Parties seeking advice should consult with legal counsel familiar with their particular circumstances. The contents of these materials may constitute attorney advertising under the regulations of various jurisdictions.

Related People



**Craig
Stein**

Partner
New York

Practices

FINANCE

HEDGE FUNDS

INVESTMENT MANAGEMENT

REGULATORY AND COMPLIANCE

STRUCTURED FINANCE