

Summary of Compliance Actions

ISDA August 2012 Dodd-Frank Protocol

What is the ISDA August 2012 Dodd-Frank Protocol (DF Protocol)?

The DF Protocol was published by the International Swaps and Derivatives Association (ISDA) and is designed to facilitate compliance with the Business Conduct Standards Rule described below and other relevant requirements promulgated by the Commodity Futures Trading Commission (CFTC). The DF Protocol is the fastest and most efficient way for certain major financial institutions and other large actively trading counterparties that meet the definition of "Swap Dealer," as set forth in Section 1a(49)(A) of the Commodity Exchange Act (CEA), to comply in a way that will minimally disrupt their trading activity.

What is the Business Conduct Standards Rule?

This rule requires that a Swap Dealer (1) conduct extensive diligence on counterparties and their advisers unless representations and certain safe harbors are utilized and (2) provide certain information, notices and disclosures to clients during the trade process.

What is the deadline for Swap Dealer compliance?

The compliance date respecting matters addressed by certain portions of the DF Protocol has been extended by the CFTC, as of December 18, 2012, from January 2, 2013 to May 1, 2013. That means that each Swap Dealer will be looking to counterparties to assist with the satisfaction of reporting requirements. Also, Swap Dealers are generally requiring all counterparties to adhere to the DF Protocol and to have completed the DF Protocol Questionnaire on or before May 1, 2013.

How do I complete the DF Protocol?

1. Complete an Adherence Letter. This may be done on ISDA's website: <http://www2.isda.org/functional-areas/protocol-management/protocol/8>.
2. Complete the DF Questionnaire, which includes affirmative representations respecting the legal status of the party completing the questionnaire (e.g., that such party is an "Eligible Contract Participant," as defined in Section 1a(18) of the CEA). This may be completed through Markit's ISDA Amend service. Alternatively, you may download the questionnaire from the ISDA website and fill it out directly.
3. Exchange DF Questionnaires with your Swap Dealer. This may be done through Markit's ISDA Amend service, or you may send the questionnaire directly to your Swap Dealer.

What is the DF Terms Agreement?

For counterparties that do not have master agreements in place (e.g., give-up transactions with an executing dealer), this is an optional section of the DF Questionnaire that will establish the necessary documentation.¹

Public Reporting & LEI/CICI Nos.

What is real-time public reporting?

Certain characteristics of all swap trades, where either the Swap Dealer or the client is a U.S. person, will be publicly reported in near-real time and published to a website. While all counterparty information will be removed from this publicly reported information, most material economic terms of the trade will be included. Counterparty information will be reported to the regulators. Each Swap Dealer will be responsible for reporting the trades to a swap data repository.

When does real-time public reporting begin?

Public reporting will begin on December 31, 2012 for rate and credit products and on January 10, 2013 for equities, commodities and FX products.

How do my post-trade allocations affect reporting?

Post-trade allocations that are received prior to the reporting deadline will be utilized to determine reportability (based on the U.S. person status of the allocated entity). In the absence of allocations, reportability may be qualified by the executing portfolio manager at the time of trade.

What is the CFTC Interim Compliance Identifier (CICI)?

The CICI is a unique alphanumeric identifier assigned to every legal entity that participates in the OTC swaps market. You may register your legal entity for a CICI at <http://www.ciciutility.org>.

Is the CICI different from the Legal Entity Identifier (LEI)?

No. It is expected that when the global initiative for the LEI is finalized, your CICI will become your LEI.

When do I need a CICI?

You will need to register by April 10, 2013 unless you qualify as a Swap Dealer or Major Swap Participant (under Section 1a(33)(A) of the CEA). Please note that as part of the DF Protocol adherence and questionnaire described previously, you will need an LEI/CICI number in order to complete the required documentation.

Mandatory Clearing

What is mandatory clearing?

The CFTC will require certain swaps to be cleared, with initial and variation margins posted to a Futures Commission Merchant (FCM), which will in turn post margins on behalf of its clients to the central clearinghouse selected by the client. The initial set of products is expected to include interest rate swaps on USD, EUR, GBP and JPY, as well as certain U.S. and European CDS indices.

When does mandatory clearing begin?

Mandatory clearing will be phased in by both product and market participant type. The CFTC is expected to publish a list of mandatorily cleared products as early as December 2012. That publication date will be the "determination date" and will start the clock on mandatory clearing.

For transactions between Swap Dealers, Major Swap Participants and Active Funds,² compliance will be 90 days after the determination date. For other financial entities, compliance will be 180 days after the determination date. For all other users, compliance will be 270 days after the determination date.³

How do I prepare for mandatory clearing?

To trade in a product that is subject to mandatory clearing, you will need to have a relationship with at least one FCM, as well as execution agreements in place with your Swap Dealers. To establish a clearing relationship, you will need to sign a Futures Agreement and an OTC Clearing Addendum.

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¹ Please carefully consider incorporating the DF Terms Agreement into your DF Questionnaire, since it is likely to result in less favorable terms than you would otherwise be able to obtain by negotiating an ISDA Master Agreement and Schedule with your Swap Dealer.

² Active Funds are private funds that are not third-party subaccounts and that execute at least 200 swaps monthly.

³ Certain end users who are able to satisfy certain criteria in the CEA may be able to obtain exemption from the mandatory clearing requirements (primarily corporate entities who are hedging risks and are not otherwise actively trading). Please contact us directly to discuss this matter in more detail.