

SEC and CFTC Request Comments on Significant Defined Terms in Title VII of Dodd-Frank

September 14, 2010

The Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) have recently undertaken the unprecedented task of implementing the multitude of regulatory changes recently brought about by the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act) signed into law in July, and in particular, under Title VII of the Act, known as the Wall Street Transparency and Accountability Act of 2010. At the heart of the regulations to be adopted by the SEC and the CFTC under Title VII of the Act are regulations needed to further define Title VII's definitions of "swap," "security-based swap," "swap dealer," "security-based swap dealer," "major swap participant," "major security-based swap participant," "eligible contract party," "security-based swap agreement," and "mixed swap." To assist the SEC and the CFTC in adopting regulations to further define and clarify the meaning of these terms, these regulators have issued a [release](#) requesting comments on the definitions. These comments must be submitted by **September 20, 2010**.

Whether a derivatives market participant ultimately falls within the jurisdiction of the SEC and the CFTC will in large part be based on the final definitions of the terms listed above. Such entities will face expansive clearing, exchange trading, position limits and reporting requirements that will significantly alter the way they engage in previously unregulated over-the-counter derivatives transactions. Derivatives market participants may wish to take advantage of this opportunity to constructively participate in the SEC and CFTC rulemaking process at its earliest stages.

Comments on the definitions can be submitted electronically on the SEC's Web site or the CFTC's Web site, by e-mail directly to the SEC or the CFTC or on paper delivered to the SEC or the CFTC. Comments may also be submitted on the Federal eRulemaking [Portal](#). More detailed directions for submitting comments can be found [here](#).

The SEC and the CFTC have also requested [comments](#) on the numerous regulations to be issued under Title VII and these comments do not need to be submitted by the September 20, 2010 deadline. In submitting comments on these regulations, derivatives market participants will have an additional opportunity to voice their views and concerns regarding the defined terms discussed above.

If you would like more information on the SEC and CFTC comment and rulemaking process, or assistance in preparing comments for submission to either regulator, please contact one of the Sutherland attorneys listed below.

We will continue to follow the implementation of the Act's provisions through the rulemaking process, and will keep you apprised of key developments.

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If you have any questions about this development, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

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