

CFTC Extends Most, But Not All, Proposed Rule Comment Periods; Lawmakers Propose Extension of Title VII's Deadline

May 6, 2011

A Second Bite at the Apple

Earlier this week the Commodity Futures Trading Commission (CFTC) published a [notice](#) in the Federal Register to announce the re-opening and extension of the public comment period for certain of its proposed rules to implement Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). The reopening/extension provides interested parties the opportunity to comment on the CFTC's proposed regulatory framework for swap transactions now that its "mosaic" of proposed rules is substantially complete.¹ The new public comment deadline for the affected proposed rules is June 3, 2011.

A list of the 32 proposed rulemakings whose public comment periods have been extended or reopened by the CFTC's notice is available [here](#). To the extent a proposed rule's comment period has already closed, such public comment period is now reopened until June 3, 2011. To the extent that a proposed rule's comment period is currently open but is set to close prior to June 3, 2011, the comment period deadline is now extended to June 3. Proposed rules whose comment periods are set to close after June 3, 2011 remain unaffected.

Several of the CFTC's proposed rulemakings whose comment periods have already closed were not included in the CFTC's notice, namely the proposed rulemakings pertaining to: (1) business affiliate marketing and the disposal of consumer information; (2) the privacy of consumer financial information; (3) position reports for physical commodity swaps; (4) the removal of reliance on credit ratings, (5) provisions common to registered entities; (6) market manipulation; (7) whistleblower incentives and protection; (8) position limits; (9) reporting by investment advisors to private funds; and (10) CPO and CTA compliance obligations. The public comment periods for these proposed rules will remain closed.

Also, the CFTC's proposed rulemakings pertaining to product definitions, capital requirements for swap dealers and major swap participants, and the legal segregation of cleared swap customer collateral have yet to be published in the Federal Register and are not affected by the CFTC's notice.

The CFTC's notice invites market participants to comment on the proposed new regulatory framework for swaps, in whole or in part, as well as on the costs and benefits of the proposed rulemakings (individually, in combination or globally). To the extent that market participants comment on the costs and benefits of the CFTC's proposed rules, such market participants are urged to provide quantitative or qualitative data in support of their views. Comments received during the reopened/extended public comment period will be treated as if they were received within the proposed rules' original public comment deadlines. The CFTC also requests comments on the order in which the CFTC should consider final rulemakings made pursuant to the Dodd-Frank Act.

¹ The CFTC has yet to issue proposed rules pertaining to the Volcker rule.

Lawmakers Propose to Extend Title VII's Deadline to December 31, 2012

Also this week, the House Agriculture Committee approved a bill to delay the implementation of Title VII of the Dodd-Frank Act, as well as the effective dates of CFTC and Securities and Exchange Commission (SEC) rules to implement it, until December 31, 2012. The extension would not apply to the CFTC's and SEC's rules to further define terms contained in the Dodd-Frank Act or to swap data reporting obligations. The bill, [H.R. 1573](#), will be considered by the House Financial Services Committee next week and, if approved, would subsequently be presented for a vote by the full House of Representatives.



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

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