

## Corporate & Financial Weekly Digest

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### CFTC Issues Proposed Rule on Process for Making a Swap Available to Trade

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If a swap execution facility (SEF) or designated contract market (DCM) makes a “swap available to trade,” all other SEFs and DCMs listing or offering that swap or an economically equivalent swap must also make those swaps available to trade for purposes of the trade execution requirements of section 2(h)(8) of the CEA. The Commodity Futures Trading Commission has now proposed a rule setting forth the process by which SEFs and DCMs may make a swap “available to trade.”

The proposed rule would require SEFs and DCMs to submit any determination that a swap is available to trade to the CFTC, either for approval or pursuant to a self-certified rule. In connection with any such submission, SEFs and DCMs would be required to consider (as appropriate) the following factors with respect to any such swap: (1) whether there are ready and willing buyers and sellers; (2) the frequency or size of transactions on SEFs and DCMs or of bilateral transactions; (3) trading volume SEFs and DCMs, or of bilateral transactions; (4) number and type of market participants; (5) bid/ask spreads; (6) the usual number of resting firm or indicative bids and offers; (7) whether a SEF or DCM’s trading system or platform will support trading in the swap; or (8) any other factor that the DCM or SEF may consider relevant. The CFTC proposal also requires SEFs and DCMs to conduct an annual review and assessment of each swap that such SEF or DCM has made available to trade to determine whether or not each swap should continue to be available to trade, and to submit such reports to the CFTC.

The proposed rule is open for public comment for 30 days from publication in the Federal Register. A copy of the proposed rule is available [here](#).