

Corporate & Financial Weekly Digest

March 2, 2012 by [Ross Pazzol](#)

CFTC Proposal to Determine the Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades

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In December 2010, the Commodity Future Trading Commission (CFTC) proposed a rule (the initial proposal) that set forth: (1) definitions for the terms "large notional off-facility swap" and "block trade"; (2) a method for determining the appropriate minimum block sizes for large notional off-facility swaps and block trades; and (3) a framework for timely reporting of such transactions and trades. The initial proposal also included provisions to protect the identities of swap counterparties by limiting disclosure of information and data relevant to the swap. In December 2011, the CFTC adopted a rule (the final rule) establishing time delays for the public dissemination of block trades and large notional off-facility swaps.

Based on public comments to the initial proposal, and to implement the real-time public reporting regulatory framework established in the final rule, on February 23, 2012, the CFTC voted 3-2 to propose further rules for public comment (the proposal) that: (1) specify the criteria for determining swap categories and methodologies for determining the appropriate minimum block sizes for large notional off-facility swaps and block trades; and (2) protect the identities of market participants that effect these trades.

In the proposal, the CFTC is proposing specific criteria for defining swap categories within the five asset classes established in the final rule: interest rate, credit, equity, foreign exchange, and other commodity. These proposed criteria are intended to address the following two policy objectives: (1) categorizing together swaps with similar quantitative or qualitative characteristics that warrant being subject to the same appropriate minimum block size; and (2) minimizing the number of the swap categories within an asset class in order to avoid unnecessary complexity in the determination process.

The CFTC is also proposing to set appropriate minimum block sizes within each of the asset classes. Under the proposal, there would be a phased-in approach with an initial and post-initial period. During the initial period of one year the CFTC would prescribe an appropriate minimum block size while registered swap data repositories would gather data on each asset class. The CFTC would then analyze the data to establish

appropriate minimum block sizes for the post-initial period using a 67 percent notional amount calculation for each swap category.

In addition, the proposal provides increased protections to the identities of swap counterparties and establishes methods to maintain the anonymity of such counterparties' business transactions and market positions with respect to the dissemination of reportable swap transactions to the public. Under the proposal, the CFTC would amend its existing regulations to establish cap sizes for notional principal amounts that would mask the total size of a swap transaction if it equals or exceeds the appropriate minimum block size for a given swap category.

Click [here](#) to read the proposal.

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