On July 13, 2012, the CFTC and SEC adopted rules further defining the term "swap." These rules were published in the Federal Register on August 13, 2012, and will take effect on October 12, 2012. The following timeline shows the estimated initial compliance dates for CFTC rules that are triggered by the publication of the final swap definition in the Federal Register.

NOW — Q4 – 2012

Oct · Nov · Dec

Dodd-Frank Rules Currently Requiring Compliance

- Recordkeeping requirements for pre-enactment and transition swaps.
- Prohibition on manipulation.
- Whistleblower incentives and protection.
- Large trader reporting rules for physical commodities (for DCOs and FCMs).

October 12

Generally Applicable Rules

- Swap definition takes effect.
- Position limits[1] (spot-month limits and nonspot-month legacy (generally agricultural) limits); related aggregation requirements[2]; and exemptions.
- Commodity options.

October 12

SD/MSP Rules

- Registration.
- Internal business conduct rules addressing: i) reporting, recordkeeping and daily trading records of SDs; ii) risk management; iii) monitoring of position limits; iv) diligent supervision; v) conflicts of interest; vi) the availability of records for disclosure and inspection; and vii) antitrust considerations.
- SDs/MSPs that are regulated by a bank regulator or registered with the SEC must comply with internal business conduct standards addressing: business continuity and disaster recovery; and chief compliance officers.
- Real-time (Part 43) and SDR reporting (Part 45) for interest rate and credit swaps.
- Recordkeeping and reporting requirements: pre-enactment and transition swaps that are interest rate or credit swaps.
- Business affiliate marketing and disposal of consumer information rules.
- Large trader reporting rules for physical commodities (for SDs/MSPs).
- Privacy of consumer financial information.
- Customer clearing documentation, timing of acceptance for clearing, and clearing member risk management.

October 12

Other Rules

- SDR registration.
- Registration of non-exempt commodity pool operators and commodity trading advisors.

October 15

- SD and MSP external business conduct standards.

November 8

- Collateral segregation (LSOC) regime for cleared swap.

December 29

- SDs/MSPs that are neither regulated by a bank regulator nor registered with the SEC must comply with internal business conduct standards addressing business continuity and disaster recovery.

December 31

- Compliance with CPO exemption in amended Rule 4.5 for registered investment companies.
- Compliance with rescission of CPO exemption in Rule 4.13(a)(4) and CPO exemption in amended Rules 4.13(a)(3) and 4.14(a)(8) for "grandfathered" private fund advisers and operators.
- Compliance will be required with respect to portions of the ECP definition that relate to commodity pools engaging in retail foreign exchange transactions and certain other commodity pools.

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[1] Nonspot-month position limits for nonlegacy contracts will be imposed by CFTC order within one month of the CFTC receiving at least one year of swaps open interest data under the CFTC's new swaps large trader rules. A lawsuit challenging the validity of the CFTC's new position limit rules was filed in December 2011 and may further delay implementation of the CFTC's new position limit regime.

[2] Pursuant to no-action relief granted by the CFTC Division of Market Oversight on July 24, 2012, market participants may comply with the CFTC's aggregation requirements as proposed to be amended in a May 30, 2012 proposal. This no-action relief is time limited to no later than December 31, 2012.

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Q1 – 2013 | Q2 – 2013 and Beyond | Effective Date TBD

Jan Feb Mar | Apr May Jun Jul Aug Sep Oct Nov Dec

January 1

- Expiration of relief for U.S.-based SDs and MSPs with respect to entity-level requirements.

January 10

- Swap reporting requirements for SDs/MSPs with respect to equity, foreign exchange and other commodity swaps (Part 43); (Part 45); and (Part 46).

January - February

- Clearing requirement takes effect for some interest rate swaps and index CDS for SDs, MSPs and active funds.[3]
- SEF registration and DCM Core Principle 9.[4]

March 29

- SDs/MSPs that are neither regulated by a bank regulator nor registered with the SEC must comply with internal business conduct standards addressing chief compliance officers.

April 10

- Swap reporting requirements for end-users (Part 43); (Part 45); and (Part 46).

April - May

- Clearing requirement takes effect for some interest rate swaps and index CDS for commodity pools, private funds and certain other financial entities. *See* note 3.

July 12

- Expiration of relief for foreign SDs and MSPs under the CFTC's proposed exemptive order regarding cross-border jurisdictional issues.

July - August

- Clearing requirement for some interest rate swaps and index CDS takes effect for all market participants, including ERISA plans and commercial end-users (end-user clearing exception takes effect). *See* note 3.

Effective Date TBD

Generally Applicable Rules

- Exchange/SEF-trading mandate.
- Clearing determinations for other types of swaps.

SD/MSP Rules

- Margin and capital requirements (CFTC margin rules); (CFTC capital rules); and (Bank regulators' margin and capital rules).
- Confirmation, portfolio reconciliation and portfolio compression requirements for SDs and MSPs.

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[3] Assumes that the CFTC will finalize a clearing mandate for some credit and interest rate swaps by October – November.

[4] Assumes that the CFTC will finalize these rules during the fourth quarter of 2012.

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Mark D. Young
Washington, D.C.
202.371.7680
Mark.D.Young@skadden.com

Maureen A. Donley
Washington, D.C.
202.371.7570
Maureen.Donley@skadden.com

Brian M. Duncan
Washington, D.C.
202.371.7396
Brian.Duncan@skadden.com

Prashina J. Gagoomal
Washington, D.C.
202.371.7522
Prashina.Gagoomal@skadden.com

George M. Gilbert
Washington, D.C.
202.371.7516
George.Gilbert@skadden.com

Daniel S. Konar II
Washington, D.C.
202.371.7102
Daniel.Konar@skadden.com

Rachel Kaplan Reicher
Washington, D.C.
202.371.7042
Rachel.Reicher@skadden.com