RELEASE Number
7729-18

May 17, 2018

CFTC Proposes Rule to Reduce Regulatory Burdens for U.S. Market Participants

Washington, DC — The Commodity Futures Trading Commission (CFTC) has approved a proposed rule to reduce regulatory burdens for U.S. market participants in order to promote economic growth and job creation, by bringing certain CFTC requirements in line with other U.S. regulators and is seeking public comments on the proposal.

"For more than a century, U.S. businesses have relied on the derivatives markets to hedge their cost of production," said CFTC Chairman J. Christopher Giancarlo. "These markets have allowed farmers and ranchers to hedge their costs of production and delivery price so that Americans can always find plenty of food on grocery store shelves. More than 90 percent of Fortune 500 companies use derivatives to manage commercial or market risk in their worldwide business operations. By reducing regulatory burdens for those who use our derivatives markets, that eliminates unnecessary red tape that hinders job creation, economic growth and innovation. We must enable U.S. job creators to remain competitive globally and this proposed rule seeks to assist with that effort."

The proposed rule amends the CFTC's margin requirements for uncleared swaps for swap dealers (SD) and major swap participants (MSP) (CFTC Margin Rule (https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2015-32320a.pdf)). The comment period ends 60 days after the proposal's publication in the Federal Register.

The proposed rule would ensure that master netting agreements are not excluded from the definition of "eligible master netting agreement" under the CFTC Margin Rule based solely on such agreements' compliance with certain rules recently adopted by the Board of Governors of the Federal Reserve System (FRS), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) that impose restrictions on qualified financial contracts (QFC). The proposed rule would also ensure that any legacy uncleared swap that is not subject to the CFTC Margin Rule would not become so subject if it is amended solely to comply with the QFC Rules.

The CFTC is required to establish margin requirements for uncleared swaps for all CFTC registered SDs and MSPs for which there is not a Prudential Regulator (i.e. Federal Reserve, FDIC, OCC, Farm Credit Administration, Federal Housing Finance Agency). The Prudential Regulators impose similar margin requirements on SDs and MSPs for which there is a Prudential Regulator in their margin rule. This proposal is consistent with rule changes (https://www.federalregister.gov/documents/2018/02/21/2018-02560/margin-and-capital-requirements-for-covered-swap-entities-proposed-rule) recently proposed by the Prudential Regulators to the Prudential Margin Rule and addresses suggestions received as part of CFTC's Project KISS (https://www.cftc.gov/PressRoom/PressReleases/pr7555-17) initiative for CFTC to harmonize its uncleared swap margin regime with that of the Prudential Regulators.

The CFTC Margin Rule was issued in January 2016 and establishes minimum requirements for SDs and MSPs to collect and post initial and variation margin for certain swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that the CFTC has exempted from registration. The CFTC Margin Rule is designed to help ensure the safety and soundness of SDs and MSPs while being appropriate for the risk associated with the uncleared swaps.