

[Securities Regulation Daily Wrap Up, SWAPS—CFTC proposes to ease part of swap portfolio reconciliation rule, \(Sept. 16, 2015\)](#)

Securities Regulation Daily Wrap Up

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The CFTC is requesting comment on a proposal to amend part of a rule that requires swap dealers and major swap participants to periodically reconcile their swap portfolios with one another. The proposal would exclude certain data from a swap's "material terms" for which parties must resolve discrepancies under CFTC Regulation §23.502. If adopted, the proposed rule would supersede CFTC Staff Letter 13-31. The comment period will end 60 days after publication in the Federal Register.

CFTC Chairman Timothy Massad [supported](#) the [proposed amendment](#), saying that replacing the existing no-action relief with a formal rule would give greater certainty to registrants and would further the Commission's ongoing process of simplifying, fine-tuning, and harmonizing its rules.

Portfolio reconciliation. Under Regulation §23.502, swap dealers (SDs) and major swap participants (MSPs) must reconcile their swap portfolios with one another, and must give non-SD and non-MSP counterparties regular opportunities for portfolio reconciliation. Regulation §23.500 prescribes elements of the portfolio reconciliation process, including that the parties must exchange and resolve any discrepancies in "material terms," which is defined as "all terms of a swap required to be reported in accordance with part 45 of this chapter."

In 2013, the International Swaps and Derivatives Association, Inc. (ISDA) asked the CFTC to specify that "material terms" had the same meaning as "primary economic terms" in Regulation §45.1, and that a number of data fields be excluded from the definition of "material terms," including timestamps and the unique swap identifier. In response, the CFTC Division of Swap Dealer and Intermediary Oversight issued [Staff Letter 13-31](#), which declined to interpret "material terms" as "primary economic terms," but did offer no-action relief to exclude the requested data fields.

Proposed amendment. The proposed rule would amend the definition of "material terms" in §23.500(g) to specifically exclude a modified version of the No-Action Excluded Data Fields. SDs and MSPs would still have to exchange the terms included in the Proposed Excluded Data Fields, but they could choose not to resolve discrepancies in the terms. The proposal would exclude some data fields for cleared swaps, but would retain these fields for uncleared swaps. The CFTC said this is because a discrepancy in this information could mean that the related information is incorrect in the records of a swap data repository, which could have an impact on the Commission's regulatory mission.

The CFTC requested comment on a number of aspects of the proposal, including what would be the cost savings resulting from not having to resolve discrepancies in material terms.

Commissioner Giancarlo criticism. Commissioner J. Christopher Giancarlo [supported](#) the issuance of the proposal for public comment, but questioned the need for periodic portfolio reconciliation after initial verification. He said it's unclear why the proposal requires SDs and MSPs continue to exchange all terms of a swap when they only need to reconcile material terms.

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