

[Securities Regulation Daily Wrap Up, SWAPS—SEC requests comment on report of security-based swap dealers’ and participants’ activity, \(Apr. 30, 2026\)](#)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By Rebecca E. Hoffman, J.D.

Data analyzed in the report were collected during 2024 to assess the effect of de minimis thresholds and other exemptions.

The SEC is [seeking feedback on its report](#) prepared pursuant to an earlier directive to examine the definitions of “security-based swap dealer” (SBSD) and “major security-based swap participant” from Exchange Act Section 3(a)(71)(A) and Rule 3a71-1, with a goal of determining whether exceptions based on de minimis and other thresholds should be retained or changed.

Comments will be accepted until 60 days after publication of this report in the *Federal Register*.

Shift the definition? Beginning in November of 2021, market participants began reporting to security-based swap data repositories about their transactions. New thresholds were scheduled to be phased in five years later, but the SEC granted [temporary](#) exemptive relief extending the current phase-in de minimis thresholds for security-based swap dealer registration until May 8, 2028. The thresholds were to be \$3 billion—rather than \$8 billion—for credit default swaps that constitute security-based swaps and \$150 million—rather than \$400 million—for non-credit default swaps. The temporary exemption is intended to promote the predictable termination of the phase-in period while preventing entities from incurring potentially unnecessary compliance burdens.

Determining whether a person is an SBSD depends on several factors, including whether the person seeks to profit by providing liquidity for conducting security-based swaps or acts as a market maker on an SBS exchange. “The de minimis exception strikes a balance between regulatory goals and burdens,” the report explains, “and reflects an intention to identify persons for whom regulation is warranted either ‘[d]ue to the nature of their interactions with counterparties’ or ‘to promote market stability and transparency, in light of the role those persons occupy within the [SBS] markets.’” The report here quotes the Commission’s earlier releases adopting the definitions.

Observations. One notable finding in the report is the scale of non credit default swap (CDS) activity. Based on 2024 transaction data, the staff estimates that more than 99 percent of security based swap “new trade activity” (trades newly executed and reported during 2024) involved non CDS products, with CDS accounting for less than one percent. This sharply contrasts with assumptions underlying the original thresholds, which were set when the Commission expected non CDS activity to represent only a small fraction of the SBS market. Staff cautioned that differences in reporting practices and data quality limit precise comparisons but, nevertheless, concluded that non CDS markets have become a far more significant component of SBS activity than previously anticipated.

Another interesting takeaway is that despite identifying numerous unregistered market participants with potential SBS dealing activity, the staff found that approximately 98 percent of all 2024 security based swap activity involved at least one registered SBSD. This suggests that existing registration requirements already capture the vast majority of meaningful market activity. Staff further estimated that even if additional firms were required to register as SBSDs based on de minimis thresholds, doing so would have only a limited effect on overall market coverage.

MainStory: TopStory ClearanceSettlement DoddFrankAct ExchangesMarketRegulation GCNNews
IssuerRegistration Swaps