Commodity Futures Trading Commission
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Q & A – Core Principles and Other Requirements for Swap Execution Facilities

What is a SEF?

Under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Congress amended the Commodity Exchange Act (CEA) to add a definition for swap execution facilities (SEFs), creating markets for the execution of swaps on trading systems or platforms that enable eligible contract participants to trade on a multilateral basis.

Who is affected by the proposed rulemaking?

The proposed rulemaking affects: trading systems and platforms for the trading of swaps, market participants trading swaps, intermediaries facilitating the trading of swaps and other registered entities or registrants under the CEA.

How did the Dodd-Frank Act amend the CEA, as applicable to SEFs?

The relevant sections include: Section 721 (defining SEFs), Section 723 (establishing an execution requirement for the trading of swaps on SEFs) and Section 733 (governing the registration and operation of SEFs). The Dodd-Frank Act amended the CEA:

- To require that the execution of swaps subject to the clearing requirements under the CEA must occur on a SEF or a designated contract market (DCM), except where no SEF or DCM makes the swap available for trading.
- To adopt fifteen core principles for SEFs under Section 733. All applicants must comply with the core principles as a condition of obtaining and maintaining their registration as SEFs. The core principles govern the general obligations of SEFs, including
    - Trading and products requirements;
    - Compliance obligations;
    - Operational capabilities;
    - Surveillance obligations; and
    - Financial information and resource requirements.

How does the proposed rulemaking implement the applicable provisions of the Dodd-Frank Act?

The proposed rulemaking implements the relevant provisions of the Dodd-Frank Act by proposing regulations, guidance and acceptable practices applicable to SEFs under Part 37 of Title 17 of the Code of Federal Regulations. The proposed regulations, guidance and acceptable practices incorporate the statutory definition, the execution requirement and the core principles as applicable to SEFs.

How is SEF registration affected?

The CEA Part 37 regulations provide procedures and substantive requirements for registration as a SEF:

- Applicants must file electronically for registration on new Form SEF, which consists of instructions, general questions and a list of exhibits (documents and supporting information) necessary for determining whether an applicant is able to demonstrate compliance with the core principles, statutory duties and regulations adopted by the Commission to implement those requirements.
- The Commission will review an application for registration as a SEF once it has received a completed submission of Form SEF.
- Upon request of the applicant, and when certain conditions have been met, the Commission may grant temporary grandfather relief to qualifying entities that, due to their operations, will be required to register as SEFs to continue operating as of the effective date of Part 37. The temporary grandfather relief would be optional and would enable a qualifying entity to operate without SEF registration on a short-term basis during the pendency of the application review process, if the applicant:
    - files a complete application on the application form, Form SEF;
    - notifies the Commission, at the time of its submission of the application, of its interest in operating under the temporary relief;
    - provides transaction data that substantiates that the execution or trading of swaps has occurred and continues to occur on the applicant's trading system or platform at the time the applicant submits the request; and
    - provides a certification that the applicant believes that its operation on a temporary basis will meet all the requirements of CEA Part 37;
- The Commission will grant the application if it finds that the SEF is appropriately organized and has the capacity to comply with the SEF core principles, SEF registration requirements, the CEA and Commission regulations thereunder.
- The Part 37 regulations further provide procedures for transfer of a SEF registration and for sale of equity ownership in a SEF.

What are some examples of the requirements proposed in the rulemaking?

- To prevent market disruptions, SEFs must implement trade risk control mechanisms that would operate under certain market conditions.
- SEFs must provide a basic functionality that provides all market participants with the ability to choose whether to post firm or indicative quotes to multiple parties, including all other parties participating in the SEF.
- Applicants and registered SEFs must meet specific financial resource requirements and establish operational and system safeguard requirements.
- SEFs need to provide impartial access to market participants for trading on the platform or system.
- Operational and system safeguards would need to be established.

How will new SEF provisions be implemented?

The proposed regulations, guidance and acceptable practices of new Part 37 will be implemented ninety days after publication of the final regulations, but the proposal would provide grandfather relief to swap venues that had been operating prior to the effective date of the final regulations. An applicant who submits a complete application and satisfies other conditions would be able to continue to operate, for a limited period of time, while staff reviews its SEF registration application.