

Implementation of Dodd-Frank Derivatives Market Reforms



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"Derivatives 2013: The State of the Art 40 Years after the Black-Scholes-Merton Model"

NYU Stern School of Business

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The Process That Produced Dodd Frank?



Swap Clearing Mandate

- The CFTC is making “clearing determinations” by asset class with interest rate swaps and credit index swaps started (although not completed). FX likely to be up next, with energy likely to follow.
- Clearing determinations will be put out for public comment.
- We do not yet know if the mandate for FX and energy will be phased in by participant type as it was for interest rate swaps and credit index swaps
- Phase-in to comply with US Persons definition that expired Oct. 9, 2013.

Swap Trading Requirement

- As of October 7, 17 Swap Execution Facilities (SEFs) have been provisionally approved by the CFTC.
- The role of principal traders.
- Re-emergence of turf battles between the CFTC and SEC over some swap and OTC option products (e.g., CDX IG, CMBX, ABX indices, dividend swaps, and variant swaps).
- No-actions and interpretive guidance.

Swap Reporting

- Real-time reporting of new swap transactions to Swap Data Repositories.
- Reporting of historical swaps to be completed by October 31, 2013.

Anti-Disruptive Trading... Where do we Stand?

- Title VII Section 747 of Dodd-Frank directs the CFTC to prohibit trading practices that, in the Commission's judgment, are disruptive of fair and equitable trading.
- No bright line in spite of CFTC guidance.
- “Know-it-when-we-see-it” approach.
- Likely to be resolved through enforcement actions.



Speculative Position Limits

- On Oct. 24 the CFTC is scheduled to meet to consider a new proposed rule. The previous position limits final rule was vacated by the courts.
- These federal limits will apply to 28 “core” commodity futures and economically equivalent swaps and options.
- These limits must be aggregated across all markets on the same commodity.
- Allows for a bona fide hedging exemption
- Affect on commodity ETFs? Commodity index funds?
- Cure for a disease that does not exist?

Other Issues

- CFTC Concept release on Automated Trading.
- Court challenges to Dodd-Frank rules.



WHAT DO WE WANT?
EVIDENCE-BASED CHANGE
WHEN DO WE WANT IT?
AFTER PEER REVIEW

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