

CFTC Proposes to Reduce Trade Option Reporting Requirements for Commercial End-Users

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Trade options are physically settled over-the-counter options on most deliverable commodities (*e.g.*, agricultural, energy, or metals) where the buyer is a producer, processor, commercial user or merchant of the commodity underlying the option.¹ On April 30, 2015, the Commodity Futures Trading Commission (CFTC) proposed rules to reduce trade option reporting requirements for commercial counterparties that are neither swap dealers nor major swap participants (end-users).² The proposal expands the no-action relief provided by the CFTC's Division of Market Oversight (DMO) in 2013, which provided end-users with an alternative to complying with the CFTC's Part 45 Swap Data Repository (SDR) reporting requirements.³ The comment period on the proposal will close 30 days after the proposal is published in the Federal Register.

Under the proposal, end-users would no longer be required to comply with CFTC Part 45 reporting requirements or make the annual Form TO filing with respect to trade options. Rather, end-users would only be required to file an email notice to DMO within 30 calendar days of entering into trade options having an aggregate notional value in excess of \$1 billion in any calendar year (whether or not reported to an SDR). Alternatively, an end-user could provide the email notice to DMO before entering into any trade options if the end-user reasonably expects to breach the \$1 billion threshold in any calendar year.

¹ The CFTC describes a trade option as "generally a commodity option purchased by a commercial party that, upon exercise, results in the sale of a physical commodity for immediate (spot) or deferred (forward) shipment or delivery." See CFTC Form TO and CFTC Rule 32.3(a).

² The proposal is available on the CFTC's website at: <http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister043015.pdf>.

³ See CFTC Letter No. 13-08 (April 5, 2013), available at: <http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/13-08.pdf>. For more information on this no-action letter, please refer to Skadden's April 8, 2013, client alert, available at: http://www.skadden.com/sites/default/files/publications/CFTC_No-Action%20Letter%20Relieves%20End-Users%20of%20Part%2045%20Reporting%20for%20Trade%20Options.pdf.