

shall not offer preferential pricing arrangements to any market participant on any basis, including volume discounts or reductions unless such discounts or reductions apply to all market participants uniformly and are not otherwise established in a manner that would effectively limit the application of such discount or reduction to a select number of market participants.

(2) All fees or charges are to be fully disclosed and transparent to market participants. At a minimum, the registered swap data repository shall provide a schedule of fees and charges that is accessible by all market participants on its Web site.

(3) The Commission notes that it will not specifically approve the fees charged by registered swap data repositories. However, any and all fees charged by swap data repositories must be consistent with the principles set forth in paragraph (b)(1) of this section.

APPENDIX A TO PART 49—FORM SDR

COMMODITY FUTURES TRADING COMMISSION

FORM SDR

SWAP DATA REPOSITORY APPLICATION OR AMENDMENT TO APPLICATION FOR

REGISTRATION REGISTRATION INSTRUCTIONS

Intentional misstatements or omissions of material fact may constitute federal criminal violations (7 U.S.C. §13 and 18 U.S.C. §1001) or grounds for disqualification from registration.

DEFINITIONS

Unless the context requires otherwise, all terms used in this Form SDR have the same meaning as in the Commodity Exchange Act, as amended, and in the Regulations of the Commission thereunder.

For the purposes of this Form SDR, the term "Applicant" shall include any applicant for registration as a swap data repository or any registered swap data repository that is amending Form SDR.

GENERAL INSTRUCTIONS

1. Form SDR and Exhibits thereto are to be filed with the Commodity Futures Trading Commission by Applicants for registration as a swap data repository, or by a registered swap data repository amending such registration, pursuant to Section 21 of the Commodity Exchange Act and the regulations thereunder. Upon the filing of an application for registration, the Commission will publish

notice of the filing and afford interested persons an opportunity to submit written data, views and arguments concerning such application. No application for registration shall be effective unless the Commission, by order, grants such registration.

2. Individuals' names shall be given in full (Last Name, First Name, Middle Name).

3. Signatures must accompany each copy of the Form SDR filed with the Commission. If this Form SDR is filed by a corporation, it must be signed in the name of the corporation by a principal officer duly authorized; if filed by a limited liability company, this Form SDR must be signed in the name of the limited liability company by a member duly authorized to sign on the limited liability company's behalf; if filed by a partnership, this Form SDR must be signed in the name of the partnership by a general partner authorized; if filed by an unincorporated organization or association which is not a partnership, it must be signed in the name of the organization or association by the managing agent, i.e., a duly authorized person who directs, manages or who participates in the directing or managing of its affairs.

4. If Form SDR is being filed as an initial application for registration, all applicable items must be answered in full. If any item is not applicable, indicate by "none," "not applicable," or "N/A" as appropriate.

5. Under Section 21 of the Commodity Exchange Act and the regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this form from Applicants for registration as a swap data repository and from registered swap data repositories amending their registration. Disclosure of the information specified on this form is mandatory prior to processing of an application for registration as a swap data repository. The information will be used for the principal purpose of determining whether the Commission should grant or deny registration to an Applicant. The Commission may determine that additional information is required from the Applicant in order to process its application. An Applicant is therefore encouraged to supplement this Form SDR with any additional information that may be significant to its operation as a swap data repository and to the Commission's review of its application. A FORM SDR WHICH IS NOT PREPARED AND EXECUTED IN COMPLIANCE WITH APPLICABLE REQUIREMENTS AND INSTRUCTIONS MAY BE RETURNED AS NOT ACCEPTABLE FOR FILING. ACCEPTANCE OF THIS FORM SDR, HOWEVER, SHALL NOT CONSTITUTE ANY FINDING THAT THE FORM SDR HAS BEEN FILED AS REQUIRED OR THAT THE INFORMATION SUBMITTED IS TRUE, CURRENT OR COMPLETE.

6. Except in cases where confidential treatment is requested by the Applicant and granted by the Commission pursuant to the Freedom of Information Act and Commission

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Regulation §145.9, information supplied on this form will be included routinely in the public files of the Commission and will be available for inspection by any interested person. The Applicant must identify with particularity the information in these exhibits that will be subject to a request for confidential treatment and supporting documentation for such request pursuant to Commission Regulations §40.8, and §145.9.

together with such exhibits as are being amended. The submission of an amendment represents that all unamended items and exhibits remain true, current and complete as previously filed.

**UPDATING INFORMATION ON THE FORM
SDR**

**ANNUAL AMENDMENT ON THE FORM
SDR**

1. Section 21 requires that if any information contained in Items 1 through 17, 23, 29, and Item 53 of this application, or any supplement or amendment thereto, is or becomes inaccurate for any reason, an amendment must be filed promptly, unless otherwise specified, on Form SDR correcting such information.

Annual amendments on the Form SDR shall be submitted within 60 days of the end of the Applicant's fiscal year. Applicants must complete the first page and provide updated information or exhibits.

An Applicant may request an extension of time for submitting the annual amendment with the Secretary of the Commission based on substantial, undue hardship. Extensions for filing annual amendments may be granted at the discretion of the Commission.

WHERE TO FILE

2. Registrants filing Form SDR as an amendment (other than an annual amendment) need file only the first page of Form SDR, the signature page (Item 13), and any pages on which an answer is being amended,

File registration application and appropriate exhibits electronically with the Commission at the Washington, D.C. headquarters in a format and in the manner specified by the Secretary of the Commission.

COMMODITY FUTURES TRADING COMMISSION

FORM SDR

SWAP DATA REPOSITORY
APPLICATION OR AMENDMENT TO APPLICATION FOR REGISTRATION

Exact name of Applicant as specified in charter

Address of principal executive offices

- If this is an **APPLICATION** for registration, complete in full and check here.
- If this is an **APPLICATION FOR PROVISIONAL REGISTRATION**, complete in full and check here.
- If this is an **AMENDMENT** to an application, or to an effective registration (other than an annual amendment) list all items that are amended and check here and list below.
- If this is an **ANNUAL AMENDMENT** to an application, or to an effective registration (other than an annual amendment) list all items that are amended and check here and list below.

GENERAL INFORMATION

1. Name under which business is/will be conducted, if different than name specified above:

2. If name of business is being amended, state previous business name:

3. Contact information, including mailing address if different than address specified above:

Number and Street

City State Country Zip Code

Main Phone Number Fax

Website URL E-mail Address

4. List of principal office(s) and address(es) where swap data repositories activities are conducted

<u>Office</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. If Applicant is a successor to a previously registered swap data repository, please complete the following:

a. Date of succession

b. Full name and address of predecessor registrant

Name			

Number and Street			

City	State	Country	Zip Code
_____	_____	_____	_____
Phone Number	Fax Number	E-mail Address	
_____	_____	_____	

6. Furnish a description of the function(s) that the Applicant performs or proposes to perform:

Please indicate which asset class(es) the Applicant intends to serve:

- Interest Rate
- Equity
- Credit
- Foreign Exchange
- Commodity (Specify) _____
- Other (Specify) _____

BUSINESS ORGANIZATION

7. Applicant is a:

- Corporation
- Partnership
- Limited Liability Company

Commodity Futures Trading Commission

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Other (Specify) _____

8. Date of formation: _____

9. Jurisdiction of organization: _____

List all other jurisdictions in which Applicant is qualified to do business (including non-US jurisdictions):

10. List all other regulatory licenses or registrations of Applicant (or exemptions from any licensing requirement) including with non-US regulators:

11. Fiscal Year End: _____

12. Applicant agrees and consents that the notice of any proceeding before the Commission in connection with its application may be given by sending such notice by certified mail to the person named below at the address given.

Print Name and Title

Number and Street

City State Zip Code

Phone Number Fax Number E-mail Address

SIGNATURES

13. The Applicant had duly caused this application or amendment to be signed on its behalf by the undersigned, hereunto duly authorized, this _____ day of _____, 20____. The Applicant and the undersigned represent hereby that all information contained herein is true, current and complete. It is understood that all required items and Exhibits are considered integral parts of this form and that the submission of any amendment represents that all unamended items and Exhibits remain true, current, and complete as previously filed.

Name of Applicant

By: _____
Manual Signature of Authorized Person

Print Name and Title of Signatory)

EXHIBITS INSTRUCTIONS

The following exhibits must be included as part of Form SDR and filed with the Commodity Futures Trading Commission by each Applicant seeking registration as a swap data repository, or by a registered swap data repository amending such registration, pursuant to Section 21 of the Commodity Exchange Act and regulations thereto. Such exhibits must be labeled according to the items specified in this Form. If any exhibit is not applicable, please specify the exhibit letter and indicate by “none,” “not applicable,” or “N/A” as appropriate. The Applicant must identify with particularity the information in these exhibits that will be subject to a request for confidential treatment and supporting documentation for such request pursuant to Commission Regulation §40.8, and §145.9.

If the Applicant is a newly formed enterprise and does not have the financial statements required pursuant to Items 25 and 26 of this form, the Applicant should provide *pro forma* financial statements for the most recent six months or since inception, whichever is less.

EXHIBITS I – BUSINESS ORGANIZATION

14. Attach as **Exhibit A** any person who owns ten (10) percent or more of Applicant’s equity or possesses voting power of any class, either directly or indirectly, through agreement or otherwise, in any other manner, may control or direct the management or policies of Applicant. “Control” for this purpose is defined in Commission Regulation §49.2(a)(3).

State in Exhibit A the full name and address of each such person and attach a copy of the agreement or, if there is none written, describe the agreement or basis upon which such person exercises or may exercise such control or direction.

15. Attach as **Exhibit B** to this application a narrative that sets forth the fitness standards for the board of directors and its composition including the number or percentage of public directors.

Attach a list of the present officers, directors (including an identification of the public directors), governors (and, in the case of an Applicant not a corporation, the members of all standing committees grouped by committee), or persons performing functions similar to any of the foregoing, of the swap data repository or of the entity identified in Item 16 that performs the swap data repository activities of the Applicant, indicating for each:

- a. Name
- b. Title
- c. Date of commencement and, if appropriate, termination of present term of position
- d. Length of time each present officer, director, or governor has held the same position
- e. Brief account of the business experience of each officer and director over the last five (5) years
- f. Any other business affiliations in the securities industry or OTC derivatives industry
- g. A description of:
 - (1) any order of the Commission with respect to such person pursuant to Section 5e of the Act;
 - (2) any conviction or injunction within the past 10 years;
 - (3) any disciplinary action with respect to such person within the last five (5) years;
 - (4) any disqualification under Sections 8b, and 8d of the Act.
 - (5) any disciplinary action under Section 8c of the Act.
 - (6) any violation pursuant to Section 9 of the Act.
- h. For directors, list any committees on which they serve and any compensation received by virtue of their directorship.

16. Attach as **Exhibit C** to this application the following information about the chief compliance officer who has been appointed by the board of directors of the swap data repository or a person or group performing a function similar to such board of directors:
 - a. Name
 - b. Title
 - c. Dates of commencement and termination of present term of office or position
 - d. Length of time the chief compliance officer has held the same office or position
 - e. Brief account of the business experience of the chief compliance officer over the last five (5) years
 - f. Any other business affiliations in the derivatives/securities industry or swap data repository industry
 - g. A description of:
 - (1) any order of the Commission with respect to such person pursuant to Section 5e of the Act;
 - (2) any conviction or injunction within the past 10 years;
 - (3) any disciplinary action with respect to such person within the last five (5) years;
 - (4) any disqualification under Sections 8b, and 8d of the Act.
 - (5) any disciplinary action under Section 8c of the Act.
 - (6) any violation pursuant to Section 9 of the Act.
17. Attach as **Exhibit D** a copy of documents relating to the governance arrangements of the Applicant, including, but not limited to:
 - a. the nomination and selection process of the members on the Applicant's board of directors, a person or group performing a function similar to a board of directors (collectively, "board"), or any committee that has the authority to act on behalf of the board, the responsibilities of each of the board and such committee, and the composition of each board and such committee; and
 - b. a description of the manner in which the composition of the board allows the Applicant comply with applicable core principles, regulations, as well as the rules of the Applicant.
 - c. a description of the procedures to remove a member of the board of directors, where the conduct of such member is likely to be prejudicial to the sound and prudent management of the swap data repository.
18. Attach as **Exhibit E** a narrative or graphic description of the organizational structure of the Applicant. Note: If the swap data repository activities are conducted primarily by a division, subdivision, or other segregable entity within the Applicant's corporation or organization, describe the relationship of such entity within the overall organizational structure and attach as Exhibit E only such description as applies to the segregable entity. Additionally, provide any relevant jurisdictional information, including any and all jurisdictions in which the Applicant or any affiliated entity is doing business and registration status, including pending application (e.g., country, regulator, registration category, date of registration). In addition, include a description of the lines of responsibility and accountability for each operational unit of the Applicant to (i) any committee thereof and/or (ii) the board.
19. Attach as **Exhibit F** a copy of the conflicts of interest policies and procedures implemented by the Applicant to minimize conflicts of interest in the decision-making process of the swap data repository and to establish a process for the resolution of any such conflicts of interest.
20. Attach as **Exhibit G**, a list of all affiliates of the swap data repository and indicate the general nature of the affiliation. Provide a copy of any agreements entered into or to be entered by the swap data repository, including partnerships or joint ventures, or its participants, that will enable the Applicant to comply with the registration requirements and core principles specified in Section 21 of the Commodity Exchange Act. With regard to an affiliate that is a parent company of the Applicant, if such parent controls the Applicant, an Applicant must provide (i) the board composition of the parent, including public directors, and (ii) all ownership information requested in Exhibit A for the parent. "Control" for this purpose is defined in Commission Regulation §49.2(a)(3).
21. Attach as **Exhibit H** to this application a copy of the constitution, articles of incorporation or association with all amendments thereto, and existing by-laws, rules or instruments corresponding

- thereto, of the Applicant. A certificate of good standing dated within one week of the date of the application shall be provided.
22. Where the Applicant is a foreign entity seeking registration or filing an amendment to an existing registration, attach as **Exhibit I**, an opinion of counsel that the swap data repository, as a matter of law, is able to provide the Commission with prompt access to the books and records of such swap data repository and that the swap data repository can submit to onsite inspection and examination by the Commission.
 23. Where the Applicant is a foreign entity seeking registration, attach as **Exhibit I-1**, to designate and authorize an agent in the United States, other than a Commission official, to accept any notice or service of process, pleadings, or other documents in any action or proceedings brought against the swap data repository to enforce the Act and the regulations thereunder.
 24. Attach as **Exhibit J**, a current copy of the Applicant's rules as defined in Commission Regulation §40.1, consisting of all the rules necessary to carry out the duties as a swap data repository.
 25. Attach as **Exhibit K**, a description of the Applicant's internal disciplinary and enforcement protocols, tools, and procedures. Include the procedures for dispute resolution.
 26. Attach as **Exhibit L**, a brief description of any material pending legal proceeding(s), other than ordinary and routine litigation incidental to the business, to which the Applicant or any of its affiliates is a party or to which any of its or their property is the subject. Include the name of the court or agency in which the proceeding(s) are pending, the date(s) instituted, and the principal parties thereto, a description of the factual basis alleged to underlie the proceeding(s) and the relief sought. Include similar information as to any such proceeding(s) known to be contemplated by the governmental agencies.

EXHIBITS II — FINANCIAL INFORMATION

27. Attach as **Exhibit M** a balance sheet, statement of income and expenses, statement of sources and application of revenues and all notes or schedules thereto, as of the most recent fiscal year of the Applicant. If a balance sheet and statements certified by an independent public accountant are available, such balance sheet and statement shall be submitted as Exhibit M.
28. Attach as **Exhibit N** a balance sheet and an income and expense statement for each affiliate of the swap data repository that also engages in swap data repository activities as of the end of the most recent fiscal year of each such affiliate.
29. Attach as **Exhibit O** the following:
 - a. A complete list of all dues, fees and other charges imposed, or to be imposed, by or on behalf of Applicant for its swap data repository services and identify the service or services provided for each such due, fee, or other charge.
 - b. Furnish a description of the basis and methods used in determining the level and structure of the dues, fees and other charges listed in paragraph a of this item.
 - c. If the Applicant differentiates, or proposes to differentiate, among its customers, or classes of customers in the amount of any dues, fees, or other charges imposed for the same or similar services, so state and indicate the amount of each differential. In addition, identify and describe any differences in the cost of providing such services, and any other factors, that account for such differentiations.

EXHIBITS III — OPERATIONAL CAPABILITY

30. Attach as **Exhibit P** copies of all material contracts with any swap execution facility, clearing agency, central counterparty, or third-party service provider. To the extent that form contracts are used by the Applicant, submit a sample of each type of form contract used. In addition, include a list of swap execution facilities, clearing agencies, central counterparties, and third-party service providers with

whom the Applicant has entered into material contracts. Where swap data repository functions are performed by a third party, attach any agreements between or among the Applicant and such third party, and identify the services that will be provided.

31. Attach as **Exhibit Q** any technical manuals, other guides or instructions for users of, or participants in, the market.
32. Attach as **Exhibit R** a description of system test procedures, test conducted or test results that will enable the Applicant to comply, or demonstrate the Applicant's ability to comply with the core principles for swap data repositories.
33. Attach as **Exhibit S** a description in narrative form or by the inclusion of functional specifications, of each service or function performed as a swap data repository. Include in Exhibit S a description of all procedures utilized for the collection, processing, distribution, publication and retention (e.g., magnetic tape) of information with respect to transactions or positions in, or the terms and conditions of, swaps entered into by market participants.
34. Attach as **Exhibit T** a list of all computer hardware utilized by the Applicant to perform swap data repository functions, indicating where such equipment (terminals and other access devices) is physically located.
35. Attach as **Exhibit U** a description of the personnel qualifications for each category of professional employees employed by the swap data repository or the division, subdivision, or other segregable entity within the swap data repository as described in Item 16.
36. Attach as **Exhibit V** a description of the measures or procedures implemented by Applicant to provide for the security of any system employed to perform the functions of a swap data repository. Include a general description of any physical and operational safeguards designed to prevent unauthorized access (whether by input or retrieval) to the system. Describe any circumstances within the past year in which the described security measures or safeguards failed to prevent any such unauthorized access to the system and any measures taken to prevent a reoccurrence. Describe any measures used to verify the accuracy of information received or disseminated by the system.
37. Attach as **Exhibit W** copies of emergency policies and procedures and Applicant's business continuity-disaster recovery plan. Include a general description of any business continuity-disaster recovery resources, emergency procedures, and backup facilities sufficient to enable timely recovery and resumption of its operations and resumption of its ongoing fulfillment of its duties and obligations as a swap data repository following any disruption of its operations.
38. Where swap data repository functions are performed by automated facilities or systems, attach as **Exhibit X** a description of all backup systems or subsystems that are designed to prevent interruptions in the performance of any swap data repository function as a result of technical malfunctions or otherwise in the system itself, in any permitted input or output system connection, or as a result of any independent source. Include a narrative description of each type of interruption that has lasted for more than two minutes and has occurred within the six (6) months preceding the date of the filing, including the date of each interruption, the cause and duration. Also state the total number of interruptions that have lasted two minutes or less.
39. Attach as **Exhibit Y** the following:
 - a. For each of the swap data repository functions:
 - (1) quantify in appropriate units of measure the limits on the swap data repository's capacity to receive (or collect), process, store or display (or disseminate for display or other use) the data elements included within each function (e.g., number of inquiries from remote terminals);
 - (2) identify the factors (mechanical, electronic or other) that account for the current limitations reported in answer to (1) on the swap data repository's capacity to

receive (or collect), process, store or display (or disseminate for display or other use) the data elements included within each function;

- b. If the Applicant is able to employ, or presently employs, the central processing units of its system(s) for any use other than for performing the functions of a swap data repository, state the priorities of assignment of capacity between such functions and such other uses, and state the methods used or able to be used to divert capacity between such functions and such other uses.

EXHIBITS IV — ACCESS TO SERVICES AND DATA

- 40. Attach as **Exhibit Z** the following:
 - a. As to each swap data repository service that the Applicant provides, state the number of persons who presently utilize, or who have notified the Applicant of their intention to utilize, the services of the swap data repository.
 - b. For each instance during the past year in which any person has been prohibited or limited in respect of access to services offered by the Applicant as a swap data repository, indicate the name of each such person and the reason for the prohibition or limitation.
 - c. Define the data elements for purposes of the swap data repository's real-time public reporting obligation. Appendix A to Part 43 of the Commission's Regulations (Data Elements and Form for Real-Time Reporting for Particular Markets and Contracts) sets forth the specific data elements for real-time public reporting.
- 41. Attach as **Exhibit AA** copies of any agreements governing the terms by which information may be shared by the swap data repository, including with market participants. To the extent that form contracts are used by the Applicant, submit a sample of each type of form contract used.
- 42. Attach as **Exhibit BB** a description of any specifications, qualifications or other criteria that limit, are interpreted to limit, or have the effect of limiting access to or use of any swap data repository services furnished by the Applicant and state the reasons for imposing such specifications, qualifications, or other criteria, including whether such specifications, qualifications or other criteria are imposed.
- 43. Attach as **Exhibit CC** any specifications, qualifications, or other criteria required of participants who utilize the services of the Applicant for collection, processing, preparing for distribution, or public dissemination by the Applicant.
- 44. Attach as **Exhibit DD** any specifications, qualifications, or other criteria required of any person, including, but not limited to, regulators, market participants, market infrastructures, venues from which data could be submitted to the Applicant, and third-party service providers who request access to data maintained by the Applicant.
- 45. Attach as **Exhibit EE** policies and procedures implemented by the Applicant to review any prohibition or limitation of any person with respect to access to services offered or data maintained by the Applicant and to grant such person access to such services or data if such person has been discriminated against unfairly.

EXHIBITS — OTHER POLICIES AND PROCEDURES

- 46. Attach as **Exhibit FF**, a narrative and supporting documents that may be provided under other Exhibits herein, that describe the manner in which the Applicant is able to comply with each core principle and other requirements pursuant to Commission Regulation §49.19.

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47. Attach as **Exhibit GG** policies and procedures implemented by the Applicant protect the privacy of any and all swap information that the swap data repository receives from reporting entities.
48. Attach as **Exhibit HH** a description of safeguards, policies, and procedures implemented by the Applicant to prevent the misappropriation or misuse of (a) any confidential information received by the Applicant, including, but not limited to “Section 8 Material” and “SDR Information,” as those terms are defined in Commission Regulation §49.2, about a market participant or any of its customers; and/or (c) intellectual property by Applicant or any person associated with the Applicant for their personal benefit or the benefit of others.
49. Attach **Exhibit II** policies and procedures implemented by the Applicant regarding its use of the SDR information that it receives from a market participant, any registered entity, or any person for non-commercial and/or commercial purposes.
50. Attach as **Exhibit JJ** procedures and a description of facilities of the Applicant for effectively resolving disputes over the accuracy of the transaction data and positions that are recorded in the swap data repository.
51. Attach as **Exhibit KK** policies and procedures relating to the Applicant’s calculation of positions.
52. Attach as **Exhibit LL** policies and procedures that are reasonably designed to prevent any provision in a valid swap from being invalidated or modified through the procedures or operations of the Applicant.
53. Attach as **Exhibit MM** a plan to ensure that the transaction data and position data that are recorded in the Applicant continue to be maintained after the Applicant withdraws from registration as a swap data repository, which shall include procedures for transferring the transaction data and position data to the Commission or its designee (including another registered swap data repository).

PART 50—CLEARING REQUIREMENT

SOURCE: 77 FR 44455, July 30, 2012, unless otherwise noted.

Subpart A—Definitions and Clearing Requirement

- Sec.
- 50.1 Definitions.
 - 50.2 Treatment of swaps subject to a clearing requirement.
 - 50.3 Notice to the public.
 - 50.4 Classes of swaps required to be cleared.
 - 50.5 Swaps exempt from a clearing requirement.
 - 50.6 Delegation of authority.
 - 50.7–50.9 [Reserved]
 - 50.10 Prevention of evasion of the clearing requirement and abuse of an exception or exemption to the clearing requirement.
 - 50.11–50.24 [Reserved]

Subpart B—Compliance Schedule

- 50.25 Clearing requirement compliance schedule.
- 50.26–50.49 [Reserved]

Subpart C—Exceptions and Exemptions to Clearing Requirement

- 50.50 Exceptions to the clearing requirement.

AUTHORITY: 7 U.S.C. 2(h) and 7a–1 as amended by Pub. L. 111–203, 124 Stat. 1376.

Subpart A—Definitions and Clearing Requirement

SOURCE: 77 FR 74335, Dec. 13, 2012, unless otherwise noted.

§ 50.1 Definitions.

For the purposes of this part,

Business day means any day other than a Saturday, Sunday, or legal holiday.

Day of execution means the calendar day of the party to the swap that ends latest, provided that if a swap is:

(1) Entered into after 4:00 p.m. in the location of a party; or

(2) Entered into on a day that is not a business day in the location of a party, then such swap shall be deemed to have been entered into by that party on the immediately succeeding business day of that party, and the day of execution shall be determined with reference to such business day.