

certification with the Commission in accordance with § 40.6 of this chapter.

[67 FR 53171, Aug. 14, 2002, as amended at 77 FR 66346, Nov. 2, 2012]

## PART 42—ANTI-MONEY LAUNDERING, TERRORIST FINANCING

### Subpart A—General Provisions

Sec.

42.1 [Reserved]

42.2 Compliance with Bank Secrecy Act

AUTHORITY: 7 U.S.C. 1a, 2, 5, 6, 6b, 6d, 6f, 6g, 7, 7a, 7a-1, 7a-2, 7b, 7b-1, 7b-2, 9, 12, 12a, 12c, 13a, 13a-1, 13c, 16 and 21; 12 U.S.C. 1786(q), 1818, 1829b and 1951-1959; 31 U.S.C. 5311-5314 and 5316-5332; title III, secs. 312-314, 319, 321, 326, 352, Pub. L. 107-56, 115 Stat. 307.

SOURCE: 68 FR 25159, May 9, 2003, unless otherwise noted.

### Subpart A—General Provisions

§ 42.1 [Reserved]

§ 42.2 Compliance with Bank Secrecy Act.

Every futures commission merchant and introducing broker shall comply with the applicable provisions of the Bank Secrecy Act and the regulations promulgated by the Department of the Treasury under that Act at 31 CFR part 103, and with the requirements of 31 U.S.C. 5318(l) and the implementing regulation jointly promulgated by the Commission and the Department of the Treasury at 31 CFR 103.123, which require that a customer identification program be adopted as part of the firm's Bank Secrecy Act compliance program.

## PART 43—REAL-TIME PUBLIC REPORTING

Sec.

43.1 Purpose, scope, and rules of construction.

43.2 Definitions.

43.3 Method and timing for real-time public reporting.

43.4 Swap transaction and pricing data to be publicly disseminated in real-time.

43.5 Time delays for public dissemination of swap transaction and pricing data.

43.6 [Reserved]

APPENDIX A TO PART 43—DATA FIELDS FOR PUBLIC DISSEMINATION

APPENDIX B TO PART 43—ENUMERATED PHYSICAL COMMODITY CONTRACTS AND OTHER CONTRACTS

APPENDIX C TO PART 43—TIME DELAYS FOR PUBLIC DISSEMINATION

AUTHORITY: 7 U.S.C. 2(a), 12a(5) and 24a, as amended by Title VII of the Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

SOURCE: 76 FR 1243, Jan. 9, 2012, unless otherwise noted.

§ 43.1 Purpose, scope, and rules of construction.

(a) *Purpose.* This part implements rules relating to the reporting and public dissemination of certain swap transaction and pricing data to enhance transparency and price discovery pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111-203, 124 Stat. 1376 (2010).

(b)(1) *Scope.* The provisions of this part shall apply to all swaps as defined in Section 1a(47) of the Act and any implementing regulations thereunder, including:

(i) Swaps subject to the mandatory clearing requirement described in Section 2(h)(1) of the Act, including those swaps that are excepted from the requirement pursuant to Section 2(h)(7) of the Act;

(ii) Swaps that are not subject to the mandatory clearing requirement described in Section 2(h)(1) of the Act, but are cleared at a registered derivatives clearing organization;

(iii) Swaps that are not cleared at a registered derivatives clearing organization and are reported to a registered swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time; and

(iv) Swaps that are required to be cleared under Section 2(h)(2) of the Act, but are not cleared.

(2) This part also shall apply to registered entities as defined in the Act, as well as to parties to a swap including swap dealers, major swap participants and U.S.-based market participants in a manner as the Commission may determine.

(c) *Rules of construction.* The examples in this part and in appendix A to this part are not exclusive. Compliance with a particular example or application of a sample clause, to the extent

applicable, shall constitute compliance with the particular portion of the rule to which the example relates.

(d) *Severability*. If any provision of this part, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application.

#### § 43.2 Definitions.

As used in this part:

*Act* means the Commodity Exchange Act, as amended, 7 U.S.C. 1 *et seq.*

*Affirmation* means the process by which parties to a swap verify (orally, in writing, electronically or otherwise) that they agree on the primary economic terms of a swap (but not necessarily all terms of the swap). Affirmation may constitute “execution” of the swap or may provide evidence of execution of the swap, but does not constitute confirmation (or confirmation by affirmation) of the swap.

*Appropriate minimum block size* means the minimum notional or principal amount for a category of swaps that qualifies a swap within such category as a block trade or large notional off-facility swap.

*As soon as technologically practicable* means as soon as possible, taking into consideration the prevalence, implementation and use of technology by comparable market participants.

*Asset class* means a broad category of commodities including, without limitation, any “excluded commodity” as defined in Section 1a(19) of the Act, with common characteristics underlying a swap. The asset classes include interest rate, foreign exchange, credit, equity, other commodity and such other asset classes as may be determined by the Commission.

*Block trade* means a publicly reportable swap transaction that:

(1) Involves a swap that is listed on a registered swap execution facility or designated contract market;

(2) Occurs away from the registered swap execution facility’s or designated contract market’s trading system or platform and is executed pursuant to the registered swap execution facility’s

or designated contract market’s rules and procedures;

(3) Has a notional or principal amount at or above the appropriate minimum block size applicable to such swap; and

(4) Is reported subject to the rules and procedures of the registered swap execution facility or designated contract market and the rules described in this part, including the appropriate time delay requirements set forth in § 43.5 of this part.

*Business day* means the twenty-four hour day, on all days except Saturdays, Sundays and legal holidays, in the location of the reporting party or registered entity reporting data for the swap.

*Business hours* means the consecutive hours of one or more consecutive business days.

*Confirmation* means the consummation (electronic or otherwise) of legally binding documentation (electronic or otherwise) that memorializes the agreement of the parties to all terms of a swap. A confirmation shall be in writing (electronic or otherwise) and shall legally supersede any previous agreement (electronic or otherwise) relating to the swap.

*Confirmation by affirmation* means the process by which one party to a swap acknowledges its assent to the complete swap terms submitted by the other party to the swap. If the parties to a swap are using a confirmation service vendor, complete swap terms may be submitted electronically by a party to such vendor’s platform and the other party may affirm such terms on such platform.

*Embedded option* means any right, but not an obligation, provided to one party of a swap by the other party to the swap that provides the party holding the option with the ability to change any one or more of the economic terms of the swap as those terms previously were established at confirmation (or were in effect on the start date).

*Executed* means the completion of the execution process.

*Execution* means an agreement by the parties (whether orally, in writing, electronically, or otherwise) to the terms of a swap that legally binds the