

### § 49.3

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(i) Any partner, officer, or director of such swap data repository (or any person occupying a similar status or performing similar functions);

(ii) Any person directly or indirectly controlling, controlled by, or under common control with such swap data repository; or

(iii) Any person employed by such swap data repository.

(10) *Position*. The term “*position*” means the gross and net notional amounts of open swap transactions aggregated by one or more attributes, including, but not limited to, the:

(i) Underlying instrument;

(ii) Index, or reference entity;

(iii) Counterparty;

(iv) Asset class;

(v) Long risk of the underlying instrument, index, or reference entity; and

(vi) Short risk of the underlying instrument, index, or reference entity.

(11) *Registered Swap Data Repository*. The term “*registered swap data repository*” means a swap data repository that is registered under Section 21 of the Act.

(12) *Reporting Entity*. The term “*reporting entity*” means those entities that are required to report swap data to a registered swap data repository. These reporting entities include designated contract markets, swaps execution facilities, derivatives clearing organizations, swap dealers, major swap participants and certain non-swap dealers/non-major swap participant counterparties.

(13) *SDR Information*. The term “*SDR Information*” means any information that the swap data repository receives or maintains.

(14) *Section 8 Material*. The term “*Section 8 Material*” means the business transactions, trade data, or market positions of any person and trade secrets or names of customers.

(15) *Swap Data*. The term “*swap data*” means the specific data elements and information set forth in part 45 of this chapter that is required to be reported by a reporting entity to a registered swap data repository.

(b) *Defined Terms*. Capitalized terms not defined in this part shall have the meanings assigned to them in §1.3 of this chapter.

### § 49.3 Procedures for registration.

(a) *Application procedures*. (1) An applicant, person or entity desiring to be registered as a swap data repository shall file electronically an application for registration on Form SDR provided in appendix A to this part, with the Secretary of the Commission at its headquarters in Washington, DC in a format and in the manner specified by the Secretary of the Commission in accordance with the instructions contained therein.

(2) The application shall include information sufficient to demonstrate compliance with core principles specified in Section 21 of the Act and the regulations thereunder. Form SDR consists of instructions, general questions and a list of Exhibits (documents, information and evidence) required by the Commission in order to determine whether an applicant is able to comply with the core principles. An application will not be considered to be materially complete unless the applicant has submitted, at a minimum, the exhibits as required in Form SDR. If the application is not materially complete, the Commission shall notify the applicant that the application will not be deemed to have been submitted for purposes of the 180-day review procedures.

(3) *180-Day review procedures*. The Commission will review the application for registration as a swap data repository within 180 days of the date of the filing of such application. In considering an application for registration as a swap data repository, the staff of the Commission shall include in its review, an applicant’s past relevant submissions and compliance history. At or prior to the conclusion of the 180-day period, the Commission will either by order grant registration; extend, by order, the 180-day review period for good cause; or deny the application for registration as a swap data repository. The 180-day review period shall commence once a completed submission on Form SDR is submitted to the Commission. The determination of when such submission on Form SDR is complete shall be at the sole discretion of the Commission. If deemed appropriate, the Commission may grant registration as a swap data repository subject to conditions. If the Commission

denies an application for registration as a swap data repository, it shall specify the grounds for such denial. In the event of a denial of registration for a swap data repository, any person so denied shall be afforded an opportunity for a hearing before the Commission.

(4) *Standard for approval.* The Commission shall grant the registration of a swap data repository if the Commission finds that such swap data repository is appropriately organized, and has the capacity: to ensure the prompt, accurate and reliable performance of its functions as a swap data repository; comply with any applicable provisions of the Act and regulations thereunder; carry out its functions in a manner consistent with the purposes of Section 21 of the Act and the regulations thereunder; and operate in a fair, equitable and consistent manner. The Commission shall deny registration of a swap data repository if it appears that the application is materially incomplete; fails in form or substance to meet the requirements of Section 21 of the Act and part 49; or is amended or supplemented in a manner that is inconsistent with this § 49.3. The Commission shall notify the applicant seeking registration that the Commission is denying the application setting forth the deficiencies in the application, and/or the manner in which the application fails to meet the requirements of this part.

(5) *Amendments and annual filing.* If any information reported on Form SDR or in any amendment thereto is or becomes inaccurate for any reason, whether before or after the application for registration has been granted, the swap data repository shall promptly file an amendment on Form SDR updating such information. In addition, the swap data repository shall annually file an amendment on Form SDR within 60 days after the end of each fiscal year.

(6) *Service of process.* Each swap data repository shall designate and authorize on Form SDR an agent in the United States, other than a Commission official, who shall 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.

(b) *Provisional registration.* The Commission, upon the request of an applicant, may grant provisional registration of a swap data repository if such applicant is in substantial compliance with the standards set forth in paragraph (a)(4) of this section and is able to demonstrate operational capability, real-time processing, multiple redundancy and robust security controls. Such provisional registration of a swap data repository shall expire on the earlier of: the date that the Commission grants or denies registration of the swap data repository; or the date that the Commission rescinds the temporary registration of the swap data repository. This paragraph (b) shall terminate within such time as determined by the Commission. A provisional registration granted by the Commission does not affect the right of the Commission to grant or deny permanent registration as provided under paragraph (a)(3) of this section.

(c) *Withdrawal of application for registration.* An applicant for registration may withdraw its application submitted pursuant to paragraph (a) of this section by filing with the Commission such a request. Withdrawal of an application for registration shall not affect any action taken or to be taken by the Commission based upon actions, activities, or events occurring during the time that the application for registration was pending with the Commission, and shall not prejudice the filing of a new application by such applicant.

(d) *Reinstatement of dormant registration.* Before accepting or re-accepting swap transaction data, a dormant registered swap data repository as defined in § 40.1(e) of this chapter shall reinstate its registration under the procedures set forth in paragraph (a) of this section; provided, however, that an application for reinstatement may rely upon previously submitted materials that still pertain to, and accurately describe, current conditions.

(e) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the

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Division of Market Oversight or the Director's delegates, with the consultation of the General Counsel or the General Counsel's delegates, the authority to notify an applicant seeking registration as a swap data repository pursuant to Section 21 of the Act that the application is materially incomplete and the 180-day period review period is extended.

(2) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this paragraph.

(3) Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in paragraph (e)(1) of this section.

(f) *Request for confidential treatment.* An applicant for registration may request confidential treatment for materials submitted in its application as set forth in §§ 40.8 and 145.9 of this chapter. The applicant shall identify with particularity information in the application that will be subject to a request for confidential treatment.

#### § 49.4 Withdrawal from registration.

(a)(1) A registered swap data repository may withdraw its registration by giving notice in writing to the Commission requesting that its registration as a swap data repository be withdrawn, which notice shall be served at least sixty days prior to the date named therein as the date when the withdrawal of registration shall take effect. The request to withdraw shall be made by a person duly authorized by the registrant and shall specify:

(i) The name of the registrant for which withdrawal of registration is being requested;

(ii) The name, address and telephone number of the swap data repository that will have custody of data and records of the registrant;

(iii) The address where such data and records will be located; and

(iv) A statement that the custodial swap data repository is authorized to make such data and records available in accordance with § 1.44.

(2) Prior to filing a request to withdraw, a registered swap data repository shall file an amended Form SDR to up-

date any inaccurate information. A withdrawal of registration shall not affect any action taken or to be taken by the Commission based upon actions, activities or events occurring during the time that the facility was designated by the Commission.

(b) A notice of withdrawal from registration filed by a swap data repository shall become effective for all matters (except as provided in this paragraph (b)) on the 60th day after the filing thereof with the Commission, within such longer period of time as to which such swap data repository consents or which the Commission, by order, may determine as necessary or appropriate in the public interest.

(c) *Revocation of Registration for False Application.* If, after notice and opportunity for hearing, the Commission finds that any registered swap data repository has obtained its registration by making any false or misleading statements with respect to any material fact or has violated or failed to comply with any provision of the Act and regulations thereunder, the Commission, by order, may revoke the registration. Pending final determination whether any registration shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate and in the public interest.

#### § 49.5 Equity interest transfers.

(a) *Equity transfer notification.* Upon entering into any agreement(s) that could result in an equity interest transfer of ten percent or more in the swap data repository, the swap data repository shall file a notification of the equity interest transfer with the Secretary of the Commission at its headquarters in Washington, DC in a format and in the manner specified by the Secretary of the Commission, no later than the business day, as defined in § 40.1 of this chapter, following the date on which the swap data repository enters into a firm obligation to transfer the equity interest. The swap data repository shall also amend any information that is no longer accurate on Form SDR consistent with the procedures set forth in § 49.3 of this part.