

- 49.8 Procedures for implementing registered swap data repository rules.
- 49.9 Duties of registered swap data repositories.
- 49.10 Acceptance of data.
- 49.11 Confirmation of data accuracy.
- 49.12 Swap data repository recordkeeping requirements.
- 49.13 Monitoring, screening and analyzing swap data.
- 49.14 Monitoring, screening and analyzing end-user clearing exemption claims by individual and affiliated entities.
- 49.15 Real-time public reporting of swap data.
- 49.16 Privacy and confidentiality requirements of swap data repositories.
- 49.17 Access to SDR data.
- 49.18 Confidentiality and indemnification agreement.
- 49.19 Core principles applicable to registered swap data repositories.
- 49.20 Governance arrangements (Core Principle 2).
- 49.21 Conflicts of interest (Core Principle 3).
- 49.22 Chief compliance officer.
- 49.23 Emergency policies and procedures.
- 49.24 System safeguards.
- 49.25 Financial resources.
- 49.26 Disclosure requirements of swap data repositories.
- 49.27 Access and fees.

APPENDIX A TO PART 49—FORM SDR

AUTHORITY: 7 U.S.C. 12a and 24a, as amended by Title VII of the Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010), unless otherwise noted.

SOURCE: 76 FR 54575, Sept. 1, 2011, unless otherwise noted.

§ 49.1 Scope.

The provisions of this part apply to any swap data repository as defined under Section 1a(48) of the Act which is registered or is required to register as such with the Commission pursuant to Section 21(a) of the Act.

§ 49.2 Definitions.

(a) As used in this part:

(1) *Affiliate*. The term “affiliate” means a person that directly, or indirectly, controls, is controlled by, or is under common control with, the swap data repository.

(2) *Asset Class*. The term “asset class” means the particular broad category of goods, services or commodities underlying a swap. The asset classes include credit, equity, interest rates, foreign exchange, other commodities, and such

other asset classes as may be determined by the Commission.

(3) *Commercial Use*. The term “commercial use” means the use of swap data held and maintained by a registered swap data repository for a profit or business purposes. The use of swap data for regulatory purposes and/or responsibilities by a registered swap data repository would not be considered a commercial use regardless of whether the registered swap data repository charges a fee for reporting such swap data.

(4) *Control*. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(5) *Foreign Regulator*. The term “foreign regulator” means a foreign futures authority as defined in Section 1a(26) of the Act, foreign financial supervisors, foreign central banks and foreign ministries.

(6) *Independent Perspective*. The term “independent perspective” means a viewpoint that is impartial regarding competitive, commercial, or industry concerns and contemplates the effect of a decision on all constituencies involved.

(7) *Market Participant*. The term “market participant” means any person participating in the swap market, including, but not limited to, designated contract markets, derivatives clearing organizations, swaps execution facilities, swap dealers, major swap participants, and any other counterparties to a swap transaction.

(8) *Non-affiliated third party*. The term “non-affiliated third party” means any person except:

- (i) The swap data repository;
- (ii) The swap data repository’s affiliate; or
- (iii) A person employed by a swap data repository and any entity that is not the swap data repository’s affiliate (and “non-affiliated third party” includes such entity that jointly employs the person).

(9) *Person Associated with a Swap Data Repository*. The term “person associated with a swap data repository” means:

(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