

swap asset class of the swap in question, including any change to any primary economic term or to any previously-reported primary economic terms data since the last snapshot. At a minimum, state data must include each of the terms included in the most recent FEDERAL REGISTER release by the Commission listing minimum primary economic terms for swaps in the swap asset class in question. The Commission's current lists of minimum primary economic terms for swaps in each swap asset class are found in appendix 1 to part 45.

Swap data repository has the meaning set forth in CEA section 1a(48), and in part 49 of this chapter.

Swap dealer has the meaning set forth in CEA section 1a(49), and in part 1 of this chapter.

Swap execution facility has the meaning set forth in CEA section 1a(50) and in part 37 of this chapter.

Valuation data means all of the data elements necessary to fully describe the daily mark of the transaction, pursuant to CEA section 4s(h)(3)(B)(iii), and to § 23.431 of this chapter if applicable.

Verification ("verify," "verified," or "verifying") means the matching by the counterparties to a swap of each of the primary economic terms of a swap, at or shortly after the time the swap is executed.

§ 45.2 Swap recordkeeping.

(a) *Recordkeeping by swap execution facilities, designated contract markets, derivatives clearing organizations, swap dealers, and major swap participants.* Each swap execution facility, designated contract market, derivatives clearing organization, swap dealer, and major swap participant subject to the jurisdiction of the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of such entity or person with respect to swaps, as prescribed by the Commission. Such records shall include, without limitation, the following:

(1) For swap execution facilities, all records required by part 37 of this chapter.

(2) For designated contract markets, all records required by part 38 of this chapter.

(3) For derivatives clearing organizations, all records required by part 39 of this chapter.

(4) For swap dealers and major swap participants, all records required by part 23 of this chapter, and all records demonstrating that they are entitled, with respect to any swap, to elect the clearing requirement exception pursuant to CEA section 2(h)(7).

(b) *Recordkeeping by non-SD/MSP counterparties.* All non-SD/MSP counterparties subject to the jurisdiction of the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, with respect to each swap in which they are a counterparty, including, without limitation, all records demonstrating that they are entitled, with respect to any swap, to elect the clearing requirement exception in CEA section 2(h)(7).

(c) *Record retention.* All records required to be kept pursuant to this section shall be retained with respect to each swap throughout the life of the swap and for a period of at least five years following the final termination of the swap.

(d) *Retention form.* Records required to be kept pursuant to this section must be kept as required by paragraph (d)(1) or (2) of this section, as applicable.

(1) Records required to be kept by swap execution facilities, designated contract markets, derivatives clearing organizations, swap dealers, or major swap participants may be kept in electronic form, or kept in paper form if originally created and exclusively maintained in paper form, so long as they are retrievable, and information in them is reportable, as required by this section.

(2) Records required to be kept by non-SD/MSP counterparties may be kept in either electronic or paper form, so long as they are retrievable, and information in them is reportable, as required by this section.

(e) *Record retrievability.* Records required to be kept by swap execution facilities, designated contract markets, derivatives clearing organizations, or

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swap counterparties pursuant to this section shall be retrievable as provided in paragraphs (e)(1) and (2) of this section, as applicable.

(1) Each record required by this section or any other section of the CEA to be kept by a swap execution facility, designated contract market, derivatives clearing organization, swap dealer, or major swap participant shall be readily accessible via real time electronic access by the registrant throughout the life of the swap and for two years following the final termination of the swap, and shall be retrievable by the registrant within three business days through the remainder of the period following final termination of the swap during which it is required to be kept.

(2) Each record required by this section or any other section of the CEA to be kept by a non-SD/MSP counterparty shall be retrievable by that counterparty within five business days throughout the period during which it is required to be kept.

(f) *Recordkeeping by swap data repositories.* Each swap data repository registered with the Commission shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all activities relating to the business of the swap data repository and all swap data reported to the swap data repository, as prescribed by the Commission. Such records shall include, without limitation, all records required by part 49 of this chapter.

(g) *Record retention and retrievability by swap data repositories.* All records required to be kept by a swap data repository pursuant to this section must be kept by the swap data repository both:

(1) Throughout the existence of the swap and for five years following final termination of the swap, during which time the records must be readily accessible by the swap data repository and available to the Commission via real time electronic access; and

(2) Thereafter, for a period of at least ten additional years in archival storage from which they are retrievable by the swap data repository within three business days.

(h) *Record inspection.* All records required to be kept pursuant to this section by any registrant or its affiliates

or by any non-SD/MSP counterparty subject to the jurisdiction of the Commission shall be open to inspection upon request by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Copies of all such records shall be provided, at the expense of the entity or person required to keep the record, to any representative of the Commission upon request. Copies of records required to be kept by any registrant shall be provided either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only. Copies of records required to be kept by any non-SD/MSP counterparty subject to the jurisdiction of the Commission that is not a Commission registrant shall be provided in the form, whether electronic or paper, in which the records are kept.

§ 45.3 Swap data reporting: creation data.

Registered entities and swap counterparties must report required swap creation data electronically to a swap data repository as set forth in this Section. This obligation commences on the applicable compliance date set forth in the preamble to this part. The reporting obligations of swap counterparties with respect to swaps executed prior to the applicable compliance date and in existence on or after July 21, 2010, the date of enactment of the Dodd-Frank Act, are set forth in part 46 of this chapter. This section and § 45.4 establish the general swap data reporting obligations of swap dealers, major swap participants, non-SD/MSP counterparties, swap execution facilities, designated contract markets, and derivatives clearing organizations to report swap data to a swap data repository. In addition to the reporting obligations