



Essential Guide for the CFTC rules rewrite

This guide focuses on the CFTC rewrite and what firms should consider as they prepare for the rule change.

The clock has now started ticking, with a Phase 1 implementation date now delayed to December 5, 2022.

Despite the 6 month extension provided by the CFTC, the planning and implementation process should start as soon as possible as there are several critical changes that will impact most market participants that have trade reporting obligations.

The rewrite is critically important as it delivers the most comprehensive change to reporting rules in the United States since OTC derivatives reporting was introduced by the CFTC under Dodd-Frank in 2012.

Which financial institutions are in scope for CFTC reporting?

CFTC reporting is a single sided reporting regime and reporting counterparty is determined by the hierarchy of the counterparties. Any entity that trades over the counter derivatives (OTC) in the U.S. would need to determine if they have reporting obligations.

What products need to be reported under CFTC?

Swaps governed by the CFTC across Interest Rates, Credit, Equity, FX and Commodity derivatives.

When does CFTC rules rewrite come into effect?

December 5, 2022

Which party is responsible for reporting the transaction?

- For swaps executed on SEF or DCM: must report to a SDR 'as soon as technologically practicable'
- For off-facility swaps, one party to the swap (reporting party) to report data as determined by the following reporting party hierarchy (unless otherwise agreed by the parties prior to the execution of the swap):
 - If one party is an SD and other party is an MSP, SD is the reporting party
 - If no party is an SD but one party is an MSP, MSP is the reporting party
 - If both parties are SD or MSPs, parties to agree who is the reporting party
 - If neither is an SD or MSP, but one party is a financial entity, financial entity is the reporting party
 - In all other cases, parties to agree who is the reporting party

What are the Real Time reporting requirements?

Swap transaction and pricing data are generally reportable 'as soon as technologically practicable' after execution. Part 43 outlines the requirements for reporting.

10 key changes to reporting

Data fields reduced to 128 & publication of new technical standards

Aligns all SDRs (Swap data Repository) to collect the CFTC mandated 128 fields, although additional and optional fields may be included by the respective SDR. Specifications are much more prescriptive and would require changes to valid values, enumerations and formats. Please note that each SDR will be publishing their own specifications to implement the new fields.

CFTC specifications available [here](#).

For now, firms can continue reporting in FpML, CSV, XML or other data formats their current SDR supports until ISO is mandated.

Part 45 data can be reported T+1 and T+2

Part 43 data still needs to be reported “As soon as Technologically Practicable” (ASATP).

For Part 45, SD/MSP/DCO reporting counterparties need to report swap data by T+1 following the execution date, while non-SD/MSP/DCO reporting counterparties must report swap data by T+2 following the execution date. Additional time delay for P45 allows for the industry to collect all relevant data for reporting.

Collateral and margin data for uncleared swaps

This is a new requirement and aligns the CFTC with other global regulators in mandating that SDs and MSPs report collateral and margin data in addition to valuations.

Valuation no longer required for non- SD/MSP

Eases the burden on smaller market participants by removing valuation requirements. The previous requirement was for firms to report quarterly Mark-to-Market valuations on open position. For many firms, this was an onerous and manual task, particularly as swaps were not a core part of their overall business activities.

Data verification requirements

The CFTC adopted a new requirement for a reporting counterparty to verify the accuracy and completeness for all of its open swaps at least once every 30 days.

The CFTC will require any SEF, DCM, or reporting counterparty to correct errors in swap data within 7 business days (or else notify CFTC staff) for both open swaps and swaps terminated or expired within retention periods.

For any Non-SD/Non-MSP the verification requirement is once a quarter. Market participants are able to use a third-party to fulfill this requirement.

Data Cleanup

The CFTC requires reporting parties to review, as early as possible, their open swaps data in order to identify and correct any errors.

The correction requirement also pertains to swaps that are no longer open, but are maintained by an SDR as if the swaps were still open swaps, prior to December 5, 2022.

CFTC Notification Requirements

After December 5, 2022, a SEF, DCM, or reporting counterparty that discovers data errors that it cannot timely correct must notify staff as required by the regulations including submitting a Swap Data Error Correction Notification Form.

The form can be found here - [Data Recordkeeping | CFTC](#).

The data points that need to be provided to the CFTC when such notification is made can be found [here](#).

Porting is explicitly allowed

Section 45.10 amends current rules to allow firms to change from one SDR to another and outlines how that process should occur. Under the current rules, porting was vaguely mentioned, and many market participants took the stance that since it was not explicitly allowed, then it must not be allowed. This ambiguity in the rules ensured that participants were essentially stuck using the SDR they originally selected, in many cases back in 2013, regardless of the SDR's technology, support, service or fee structure. This change puts the U.S. reg reporting landscape on equal footing with the rest of the world in allowing market participants the choice on what provider they want to use.

The process of porting is different to EMIR and the responsibility to transfer data is on the reporting counterparty, not on the TRs. This process is significantly simpler and should be quicker to implement as it's up to the market participants to drive.

Rewrite will be a 2 phased implementation

Phase 1 will cover the vast majority of the new requirements outlined above, but the implementation of the Unique Product Identifier (UPI) and the new ISO 20022 XML schema won't come in until Q4 2023. This creates significant challenges for firms as they have to factor the cost, complexity and the unknown on what Phase 2 will actually involve.

Impact to technical specifications for other regions

For those firms that use DTCC GTR as their trade repository in North America, the CFTC rewrite will impact their SEC and Canadian reporting as well. The GTR uses one common technical specification across the 3 jurisdictions so the impact to those market participants in scope for all 3 will be larger, particularly when it comes to testing their submissions across the 3 regions.

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