

CFTC approves final rule to amend trade option exemption

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On March 16 2016 the Commodity Futures Trading Commission (CFTC) [approved a final rule](#) that removes certain reporting and record-keeping requirements for trade option counterparties that are neither swap dealers nor major swap participants (non-SD/MSPs), such as commercial end users that transact in trade options in connection with their businesses. The final rule became effective on March 21 2016.

The final rule eliminates the Form TO annual notice reporting requirement for otherwise unreported trade options in CFTC Regulation 32.3(b). Further, non-SD/MSPs will not be subject to Part 45 reporting requirements in connection with their trade options. The CFTC did not propose a reporting requirement that commercial participants would need to provide notice to the CFTC of its trade options activities if such activities had a value of more than \$1 billion in any calendar year.

The final rule also eliminates the swap-related record-keeping requirements for non-SD/MSPs in connection with their trade option activities. However, non-SD/MSPs transacting in trade options with SDs or MSPs must obtain a legal entity identifier and provide it to their SD/MSP counterparties.

CFTC [No-Action Letter 13-08](#), which has provided conditional relief for non-SD/MSPs from certain swap-related reporting and record-keeping requirements, has been withdrawn. Further, given the elimination of the Form TO reporting requirement, CFTC staff is of the view that a trade option counterparty that is a non-SD/MSP is not required to report its otherwise unreported trade options for calendar year 2015 on Form TO.

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