

DERIVATIVES - USA

CFTC proposes rule establishing minimum capital requirements for swap dealers

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On December 2 2016 the Commodity Futures Trading Commission (CFTC) issued a proposed rule establishing minimum capital requirements for swap dealers and major swap participants.⁽¹⁾ As required by Section 731 of the Dodd-Frank Act, the rules mandate minimum levels of qualifying capital for certain swap dealers and major swap participants that are not subject to the capital rules of a prudential regulator.

Under the proposed rule, the calculation of capital may be performed using the alternative approaches method, which is based on existing US bank regulators' capital requirements or the CFTC's future commission merchant and the Security Exchange Commission's broker-dealer net liquid asset capital requirements.

In addition, swap dealers that predominantly engage in non-financial activities and major swap participants can elect minimum capital requirements based on the tangible net worth of the entities or use internal models to compute their regulatory capital, subject to CFTC or National Futures Association approval. The proposal also requires some swap dealers and major swap participants to satisfy certain liquidity requirements as well as reporting, record-keeping and notification requirements.

In a statement issued concurrently with the proposal, CFTC Chairman Timothy Massad expressed support for the rule, stating that the revised rule recognises the diversity of business models among swap dealers.⁽²⁾ Comments on the proposal are due 90 days following its publication in the *Federal Register*.

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Endnotes

(1) The text of the proposed rule is available [here](#).

(2) The text of Chairman Massad's statement is available [here](#).

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