Commodity Futures Trading Commission

Office of Public Affairs

Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
www.cftc.gov

Q & A – Capital Requirements for Swap Dealers and Major Swap Participants

For those SDs and MSPs that must meet the new capital requirements included in the proposed rules, what would those requirements be?

- An SD or MSP that is also a futures commission merchant (FCM) must meet existing FCM capital requirements, and under the proposed rules must maintain at least $20 million of adjusted net capital.

- If not an FCM, an SD or MSP that is a nonbank subsidiary of a U.S. bank holding company must meet the same capital requirements that U.S. banking regulations apply to the bank holding company. The proposed rules also specify a minimum of at least $20 million of Tier 1 capital.

- If not an FCM or a bank holding company subsidiary as described above, an SD or MSP must meet new capital requirements that would require it to maintain tangible net equity equal to $20 million plus additional amounts for market risk and over-the-counter derivatives credit risk. A firm's tangible net equity generally would be based on net equity as determined under U.S. GAAP, minus intangibles such as goodwill.

If an SD or MSP is not an FCM, and has a prudential regulator, must it meet capital requirements established by the CFTC?

No. The CFTC is proposing new capital requirements for SDs and MSPs that are not subject to a "prudential regulator," defined in the Dodd-Frank Act as the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Farm Credit Administration or the Federal Housing Finance Agency.

Do the proposed rules address whether internal models may be used in calculating the applicable capital requirements?

Yes. An SD or MSP may apply for Commission approval to use internal models for purposes of its capital calculations, but only if the internal models are approved and subject to ongoing review by the Federal Reserve Board or, as applicable, the SEC. The proposed rules also provide that the Commission may at any time determine by written order to accept applications requesting approval of internal models used by other SDs and MSPs that are not subject to review by the Federal Reserve Board or the SEC. If an SD or MSP is subject to the tangible net equity requirement and has not received approval to use internal models, it would be required to calculate its market risk and over-the-counter credit risk exposures based upon certain internationally recognized standardized methodologies under the Basel Accord.

Will the comment period be extended for the Commission's earlier proposed rulemaking for margin requirements for uncleared swaps?

Yes. The Commission has approved today extending the comment period for its proposed rules establishing margin requirements for uncleared swaps. The comment period for the proposed margin rules will be extended until the expiration of the comment period for these proposed capital rules, which will be 60 days after their publication in the Federal Register.