



Investment Management ADVISORY ■

NOVEMBER 18, 2014

CFTC Issues Further No-Action Relief for Trade Execution Mandate in Connection with Package Transactions

Many types of credit default swaps (CDS) and interest rate swaps (IRS) are currently subject to mandatory clearing and mandatory execution on a swap execution facility (SEF) or a designated contract market (DCM). Execution of package transactions,¹ however, has presented implementation challenges. As a result, the Commodity Futures Trading Commission (CFTC) previously granted no-action relief postponing the date execution of package transactions on SEFs and DCMs would be required.²

The previous no-action relief has expired for some types of package transactions, and the trade execution mandate must be met for those transactions. For other types of package transactions, the CFTC issued a no-action letter on November 10, 2014, affording market participants additional time to comply with the trade execution mandate, as summarized in the compliance timeline below.³ For parties to these package transactions, the CFTC is providing additional time to execute package transactions on SEFs or DCMs. For SEFs and DCMs, the CFTC is providing additional time to comply with requirements related to trade execution processes.

¹ A package transaction is "a transaction involving two or more instruments: (1) that is executed between two or more counterparties; (2) that is priced or quoted as one economic transaction with simultaneous or near simultaneous execution of all components; (3) that has at least one component that is a swap that is made available to trade and therefore is subject to the [Commodity Exchange Act] section 2(h)(8) trade execution requirement; and (4) where the execution of each component is contingent upon the execution of all other components." CFTC No-Action Letter No. 14-62 at 3 (May 1, 2014), available at <http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-62.pdf>.

² For a summary of previous no-action relief regarding package transactions, please see <http://www.alston.com/advisories/CFTC-package-Transactions/> and <http://www.alston.com/advisories/CFTC-involving-swaps/>.

³ To view the CFTC's press release, please see: <http://www.cftc.gov/PressRoom/PressReleases/pr7055-14>. To view the CFTC's no-action letter (Letter No. 14-137), please see: <http://www.cftc.gov/ucm/groups/public/@lrllettergeneral/documents/letter/14-137.pdf>.

Package Transaction Category	Relief Expiration
Each of the components is a swap subject to the trade execution requirement.	Relief expired May 15, 2014.
At least one of the components is subject to the trade execution requirement and each of the other components is subject to the clearing requirement.	Relief expired June 1, 2014.
Each of the swap components is subject to the trade execution requirement and all other components are U.S. Treasury securities.	Relief expired June 15, 2014.
Each of the swap components is subject to the trade execution requirement and all other components are agency mortgage-backed securities.	<p>The swap components subject to the trade execution requirement are exempt from the execution requirement until May 15, 2015.</p> <p>An SEF or DCM may offer any method of execution for the swap components subject to mandatory trade execution until May 15, 2015.</p>
At least one of the swap components is subject to the trade execution requirement and at least one of the components is a CFTC swap that is not subject to the clearing requirement.	<p>Swap components subject to the trade execution requirement are exempt from the execution requirement until February 15, 2015.</p> <p>An SEF or DCM may offer any method of execution for the swap components until February 12, 2016.</p> <p>SEFs need not offer an Order Book as a minimum trading functionality for the swap components until February 12, 2016.</p>
At least one of the swap components is subject to the trade execution requirement and at least one of the components is not a swap.	<p>Swap components subject to the trade execution requirement are exempt from the execution requirement until February 15, 2015.</p> <p>An SEF or DCM may offer any method of execution for the swap components until February 12, 2016.</p> <p>SEFs need not offer an Order Book as a minimum trading functionality for the swap components until February 12, 2016.</p>

Package Transaction Category	Relief Expiration
<p>At least one of the swap components is subject to the trade execution requirement and at least one of the components is a swap over which the CFTC does not have exclusive jurisdiction (e.g., a mixed swap).</p>	<p>The swap components subject to the trade execution requirement are exempt from the execution requirement until February 15, 2015.</p> <p>An SEF or DCM may offer any method of execution for the swap components until February 12, 2016.</p> <p>SEFs need not offer an Order Book as a minimum trading functionality for the swap components until February 12, 2016.</p>
<p>At least one individual swap component is subject to the trade execution requirement and at least one individual component is a bond issued and sold in the primary market.</p>	<p>Swap components subject to the trade execution requirement are exempt from the execution requirement until February 12, 2016.</p> <p>An SEF or DCM may offer any method of execution for the swap components until February 12, 2016.</p> <p>SEFs need not offer an Order Book as a minimum trading functionality for the swap components until February 12, 2016.</p>
<p>At least one individual swap component is subject to the trade execution requirement and all other components are contracts for the purchase or sale of a commodity for future delivery (i.e., futures contracts).</p>	<p>Swap components subject to the trade execution requirement are exempt from the execution requirement until November 14, 2015.</p> <p>An SEF or DCM may offer any method of execution for the swap components until November 14, 2015.</p> <p>SEFs need not offer an Order Book as a minimum trading functionality for the swap components until November 14, 2015.</p>

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If you have any questions or would like additional information, please contact your Alston & Bird attorney or any of the following members of the Financial Services & Products Group:

Investment Management Group

Malachi Alston
212.210.9511
malachi.alston@alston.com

Sean Doherty
212.210.9486
sean.doherty@alston.com

Laura S. Pruitt
202.239.3618
laura.pruitt@alston.com

David J. Baum
202.239.3346
david.baum@alston.com

Martin H. Dozier
404.881.4932
martin.dozier@alston.com

Timothy P. Selby
212.210.9494
tim.selby@alston.com

Julian L. Brody
212.210.9565
julian.brody@alston.com

Kristin P. Hinson
704.444.1332
kris.hinson@alston.com

Mitra Surrell
202.239.3685
mitra.surrell@alston.com

Willa Cohen Bruckner
212.210.9596
willa.bruckner@alston.com

Clay A. Littlefield
704.444.1440
clay.littlefield@alston.com

Maureen Whalen
704.444.1294
maureen.whalen@alston.com

Larcenia D. Cooper
212.210.9574
larcy.cooper@alston.com

Matthew W. Mamak
212.210.1256
matthew.mamak@alston.com

Alice F. Yurke
212.210.9519
alice.yurke@alston.com

Patrick C. DiCarlo
404.881.4512
pat.dicarlo@alston.com

Allison Muth
212.210.9521
allison.muth@alston.com

ALSTON & BIRD

WWW.ALSTON.COM

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ATLANTA: One Atlantic Center ■ 1201 West Peachtree Street ■ Atlanta, Georgia, USA, 30309-3424 ■ 404.881.7000 ■ Fax: 404.881.7777

BRUSSELS: Level 20 Bastion Tower ■ Place du Champ de Mars ■ B-1050 Brussels, BE ■ +32 2 550 3700 ■ Fax: +32 2 550 3719

CHARLOTTE: Bank of America Plaza ■ 101 South Tryon Street ■ Suite 4000 ■ Charlotte, North Carolina, USA, 28280-4000 ■ 704.444.1000 ■ Fax: 704.444.1111

DALLAS: 2828 North Harwood Street ■ 18th Floor ■ Dallas, Texas, USA, 75201 ■ 214.922.3400 ■ Fax: 214.922.3899

LOS ANGELES: 333 South Hope Street ■ 16th Floor ■ Los Angeles, California, USA, 90071-3004 ■ 213.576.1000 ■ Fax: 213.576.1100

NEW YORK: 90 Park Avenue ■ 15th Floor ■ New York, New York, USA, 10016-1387 ■ 212.210.9400 ■ Fax: 212.210.9444

RESEARCH TRIANGLE: 4721 Emperor Blvd. ■ Suite 400 ■ Durham, North Carolina, USA, 27703-85802 ■ 919.862.2200 ■ Fax: 919.862.2260

SILICON VALLEY: 1950 University Avenue ■ 5th Floor ■ East Palo Alto, California, USA, 94303-2282 ■ 650.838.2000 ■ Fax: 650.838.2001

WASHINGTON, DC: The Atlantic Building ■ 950 F Street, NW ■ Washington, DC, USA, 20004-1404 ■ 202.756.3300 ■ Fax: 202.756.3333