



Trade Reporting Responsibilities under CFTC Regulations Parts 43 and 45 for Bilateral Swaps

Determination as to whether a **Non-U.S. Swap Dealer*** is responsible to report swap transactions with the following counterparties:

Counterparty*	Part 43 Reporting (Real-Time)	Part 45 Reporting (SDR)
U.S. Swap Dealer	To Be Agreed Between the Parties**	To Be Agreed Between the Parties**
Foreign Branch of U.S. Swap Dealer	To Be Agreed Between the Parties/ Substituted Compliance May Be Available	To Be Agreed Between the Parties**
Non-U.S. Swap Dealer	Reporting is Not Required***	To Be Agreed Between the Parties/ Substituted Compliance May Be Available****
U.S. Branch of Non-U.S. Swap Dealer	To Be Agreed Between the Parties**	To Be Agreed Between the Parties/ Substituted Compliance May Be Available
U.S. Major Swap Participant	Yes	Yes
Foreign Branch of U.S. Major Swap Participant	Yes/Substituted Compliance May Be Available	Yes
Non-U.S. Major Swap Participant	Reporting is Not Required***	Yes/Substituted Compliance May Be Available****
U.S. Branch of Non-U.S. Major Swap Participant	Yes	Yes/Substituted Compliance May Be Available
U.S. Financial Entity	Yes	Yes
Non-U.S. Financial Entity	Reporting is Not Required***	Yes/Substituted Compliance May Be Available****
Other U.S. Person Counterparty	Yes	Yes
Other Non-U.S. Person Counterparty	Reporting is Not Required***	Yes/Substituted Compliance May Be Available****

* See the CFTC's *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 FR 45292 (Jul. 26, 2013) (the "Cross-Border Guidance") for the definitions of U.S. person, foreign branch and other relevant definitions. The swap reporting obligations may differ where the Non-U.S. Swap Dealer or the counterparty is a non-U.S. person that is guaranteed by or is an affiliate conduit of a U.S. person.

** Same hierarchical status "Reporting Party Rules" will apply. (See "[Swap Transaction Reporting Requirements Q&A](#)" at fn. 6)

*** The CFTC staff has taken the position that a non-U.S. swap dealer that regularly uses personnel or agents located in the United States to arrange, negotiate or execute swaps with non-U.S. persons should be required to comply with real-time reporting (and other transaction-level) requirements (even if the swap is booked in a non-U.S. branch of the non-U.S. swap dealer). The Division of Swap Dealer and Intermediary Oversight has, however, granted no-action relief from compliance with the requirements (extended until the earlier of September 30, 2016, or the effective date of other pertinent CFTC action). See CFTC Letter No. 15-48.

Reporting by the Non-U.S. Swap Dealer under Part 43 is not required where the counterparty is an international financial institution, such as the World Bank, notwithstanding that its principal place of business may be located in the United States. See Further Definition of 'Swap Dealer,' 'Security-Based Swap Dealer,' 'Major Swap Participant,' 'Major Security-Based Swap Participant' and 'Eligible Contract Participant,' 77 FR 30596 (May 23, 2012) (the "Final Entities Rules") at 30692 n.1180 for the definition of international financial institution.

**** The Division of Market Oversight has granted no-action relief to non-U.S. swap dealers established under the laws of Australia, Canada, the EU, Japan and Switzerland from compliance with SDR reporting requirements with respect to swaps with non-U.S. counterparties. The non-U.S. swap dealer may not be part of an affiliated group in which the ultimate parent entity is a U.S. swap dealer, U.S. major swap participant, U.S. bank, U.S. financial holding company or U.S. bank holding company. The relief extends until the earlier of (i) 30 days following the issuance of a comparability determination by the CFTC with respect to the SDR reporting rules for the jurisdiction in which the non-U.S. swap dealer is established, and (ii) December 1, 2015. See CFTC Letter No. 14-141.

Determination as to whether a **Non-U.S. Financial Entity (other than a Swap Entity)*** is responsible to report swap transactions with the following counterparties:

Counterparty*	Part 43 Reporting (Real-Time)	Part 45 Reporting (SDR)
U.S. Swap Dealer	No	No
Foreign Branch of U.S. Swap Dealer	No/Substituted Compliance May Be Available	No
Non-U.S. Swap Dealer	Reporting is Not Required	No/Substituted Compliance May Be Available
U.S. Branch of Non-U.S. Swap Dealer	No	No/Substituted Compliance May Be Available
U.S. MSP	No	No
Foreign Branch of U.S. MSP	No/Substituted Compliance May Be Available	No
Non-U.S. MSP	Reporting is Not Required	No/Substituted Compliance May Be Available
U.S. Branch of Non-U.S. MSP	No	No/Substituted Compliance May Be Available
U.S. Financial Entity	To Be Agreed Between the Parties	No
Non-U.S. Financial Entity	Reporting is Not Required	Reporting is Not Required
Other U.S. Person Counterparty	To Be Agreed Between the Parties	No**
Other Non-U.S. Person Counterparty	Reporting is Not Required	Reporting is Not Required

* See the Cross-Border Guidance for the definitions of U.S. person, foreign branch and other relevant definitions. The swap reporting obligations may differ where the Non-U.S. Financial Entity or the counterparty is a non-U.S. person that is guaranteed by or is an affiliate conduit of a U.S. person. Reporting under Parts 43 and 45 is not required where the counterparty is an international financial institution notwithstanding that its principal place of business may be located in the United States. See the Final Entities Rules at 30692 n.1180 for the definition of international financial institution.

** There may be an expectation on the part of the U.S. counterparty that the Non-U.S. Financial Entity will undertake to conduct the reporting notwithstanding that the U.S. counterparty is obligated to report under the rules.