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March 23, 2011

David A. Stawick, Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 - 21st Street, N.W.  
Washington, D.C. 20581

**VIA ELECTRONIC MAIL**

***Re: Sequencing of Release of Final Rules under the Dodd-Frank Act***

Dear Secretary Stawick:

On behalf of the Working Group of Commercial Energy Firms (the “Working Group”), Hunton & Williams LLP respectfully submits this letter regarding the order in which the Commodity Futures Trading Commission (the “Commission”) might issue final rules under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). The Working Group appreciates the opportunity to share its views with the Commission.

The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial and residential consumers. Members of the Working Group are energy producers, marketers and utilities. The Working Group considers and responds to requests for public comment regarding regulatory and legislative developments with respect to the trading of energy commodities, including derivatives and other contracts that reference energy commodities.

In developing the suggestions contained herein, the Working Group has focused on what it believes are the best interests of the swap markets, the Commission, other regulators, market participants, and the U.S. economy. The suggestions are based on the Working Group’s experience in the energy markets, but can be applied to all swap markets. The ideas expressed herein are not intended to promote the interests of any one group. We firmly believe that the well-being of any market participant benefits the swap markets as a whole.

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**I. GENERAL COMMENTS.**

The Working Group fully supports the Commission's focus on the sequencing of its rules under Title VII of the Dodd-Frank Act and the solicitation of input from market participants. A considered approach to the release of the final rules will greatly assist the transition of many market participants to the new regulatory paradigm, particularly for participants in swap markets such as the energy swaps market that the Commission largely has not regulated previously. If the Commission releases final rules, sets effective dates and sets implementation dates in a logical manner, market participants will have a meaningful opportunity to review such rules, evaluate their compliance obligations under such rules, and design and implement measures to meet such obligations in a reasonably efficient manner.<sup>1</sup>

The Working Group urges the Commission to not sacrifice sound reasoning for expediency and to take the time necessary to implement Title VII of the Dodd-Frank Act properly.<sup>2</sup> The Working Group recommends the Commission not release rules under title VII of the Dodd-Frank Act before such rules, taken in related subject matter groups, are fully developed. The market place is far better served if the Commission considers all of the final rules in a comprehensive and organized fashion. Doing so promotes consistency in terms and the overall design across the rules. Thus far, the rulemaking process has occurred piecemeal and not in a logical order, creating significant uncertainty in swap markets. A significant challenge in commenting on the rules proposed thus far is the impossibility for any market participant to understand how all of the rules fit together.<sup>3</sup> It will be substantially burdensome and costly if

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<sup>1</sup> The use of different effective dates (the date on which a rule becomes effective) and implementation dates (the date on which market participants must comply with the relevant rule) will allow the Commission to gradually phase-in the regulatory requirements imposed by Title VII of the Dodd-Frank Act while providing the market with regulatory certainty as to regulatory obligations.

<sup>2</sup> A similar request was made by Senator Stabenow, Chairman of the Senate Committee on Agriculture, Nutrition and Forestry. Senator Stabenow stated "We must consider how new rules will fit together in a way that makes sense for the markets; whether that is phasing-in implementation or carefully sequencing the rules,... We must make sure the market infrastructure is in place, the technology is ready, and that market participants are able to meet the requirements of this law. The new accountability and transparency we have created is clearly in the public interest and the most important thing is to get it right, not do it quickly." *Implementation of Title VII of the Wall Street Reform and Consumer Protection Act*, Senate Committee on Agriculture, Nutrition and Forestry, 112<sup>th</sup> Cong. (Mar. 3, 2011) (statement of Senator Stabenow).

<sup>3</sup> The Working Group also is concerned that the proposed rules released to date mandate requirements that do not work well together. For example, in the proposed rule on Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants (76 Fed. Reg. 6,715 (Feb. 8, 2011)), all documentation must be completed before or contemporaneous with trade execution, including the confirmation. (Proposed CFTC Rule § 23.504). However, in the proposed rule on Confirmation, Portfolio Reconciliation and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants (75 Fed. Reg. 81,519 (Dec. 28, 2010)), confirmations are done after trade execution. (Proposed CFTC Rule § 23.501).

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market participants must design and implement regulatory compliance and risk management programs without knowing all of the requirements of the Commission's regulations issued under the Dodd-Frank Act. The burden and cost are amplified as market participants face compliance deadlines that are too close in time.

A comprehensive review of the Commission's proposed rules shows that additional rulemakings are likely needed to further define key requirements and terms and how they will impact market participants.<sup>4</sup> In certain cases it might be appropriate for the Commission to reissue substantially revised versions of a proposed rule as comments received might demonstrate the need for significant changes from the initial proposed rule. Also, under established principles of administrative law, final rules are susceptible to challenge if (a) they did not provide parties with sufficient notice that the proposed rule might apply to them, thereby providing that person with a meaningful opportunity to comment or otherwise participate in the rulemaking process, or (b) do not constitute a logical outgrowth of the proposed rule. The Working Group encourages the Commission to facilitate continued public comment as it develops regulations.

At the close of the comment period of the last rule to be proposed under Title VII of the Dodd-Frank Act, the Commission should allow market participants a period of time to consider all of the rules proposed under Title VII of the Dodd-Frank Act in the aggregate.<sup>5</sup> Following the review period, the Commission should provide a period in which market participants can comment on all of the rules. These comments would not only address the merits and impacts of the rules on a holistic basis, but also the ultimate cost of implementation and the time it will take to comply with all requirements. The comments will no doubt be substantially more informed and complete as market participants will have the benefit of placing each rule within the overall context of the Commission's new regulatory regime.

## **II. MARKET PARTICIPANTS NEED AMPLE TIME TO COMPLY WITH PROPOSED RULES.**

Market participants have not had sufficient time to prepare to comply with rules to be issued by the Commission under Title VII of the Dodd-Frank Act. Title VII is a fundamental redesign of the derivative markets, particularly for the energy swap market. Title VII by itself did not provide an adequate basis for market participants to foresee all the implications of the

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<sup>4</sup> For example, the term "processed electronically" as used in proposed CFTC Rule 23.501 (swap confirmation) and the term "notional amount" as used in the proposed definition of "major swap participant" in proposed CFTC Rule 1.3(qqq) also must be further defined.

<sup>5</sup> We note that the Commission has informally continued to accept comments even though stated deadlines have passed. The Working Group proposes an official "open comment period."

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market redesign. Uncertainty continues as to certain key definitions, such as the definition of “swap” and the definition of “swap dealer.” Under the many proposed rules, entities face a myriad of potential requirements, many of which are interrelated and potentially redundant. While it might be reasonable to expect an entity to be in a position to quickly comply with one rule, it is not reasonable to expect an entity to be in immediate or almost immediate compliance with a substantial number of new rules at the same time or in rapid succession.

### **III. TWO IMPORTANT OBSERVATIONS ABOUT THE RULES AND THE MARKET PLACE.**

When considering the order in which the Commission might issue rules and the dates by which such rules become effective, the Commission should consider two concepts.

*First*, the Commission’s regulations can be structured as building blocks, one set of rules providing the necessary foundation for subsequent rules. Said a bit differently, the Commission should issue final rules in a manner that allows an entity to allocate resources, hire personnel and design and test systems to meet the requirements of one rule that then prepares such entity to address the requirements of a subsequent rule. For example, entities should be able to first hire a chief compliance officer who should have a reasonable period of time in which to write, test and implement policies and procedures that, in turn, allow that entity to provide compliant disclosure to its counterparties. In addition, many of the requirements imposed by the Dodd-Frank Act depend on the existence of other new regulatory entities. For example, the reporting requirements largely depend on swap data repositories being fully operational.

*Second*, not all entities that come within the definitions of “swap dealer” and “major swap participants” are the same or even similar. Some will have large swap portfolios and a substantial market share, presenting unique risks to the U.S. financial system. As these entities likely have been subject to prudential regulation by a financial regulator, their compliance and risk management infrastructure might be easily modified to meet the new requirements imposed by the Commission. Thus, compliance with the Commission’s rules may be a minor incremental cost.<sup>6</sup> In contrast, many entities that might come within the definitions of “swap dealer” and “major swap participant,” particularly those never subject to prudential regulation by a financial regulator, will likely have to make substantial or wholesale changes to their corporate structure and their compliance and risk management infrastructure. For these entities, the requirements of the Dodd-Frank Act and the Commission’s rules represent a fundamental redesign of their operations and, in some cases, their business. In particular, many commercial energy firms still do not know if they are, and do not anticipate being, swap dealers. However, if they are deemed

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<sup>6</sup> For example, if the Commission adopts capital and margin requirements modeled after those imposed on banks, a vast majority of such institutions are banks and will likely have systems in place to comply with such capital and margin requirements with minimal modifications.

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as such, this will be the first time many of them will be subject to prudential regulation and coming into compliance will be a costly, time consuming process.

Recognizing that all entities potentially designated as swap dealers are not similar: the Commission should concentrate its attention and resources to overseeing compliance by market participants previously subject to prudential regulation by a financial regulator, and that are commonly known today as swap dealers. The Commission should allow other entities that come within the definitions of “swap dealer” and “major swap participant” a longer period to meet their compliance obligations.

There is no standard test for determining which market participants are traditionally recognized as swap dealers. However, the Commission might focus on those bank holding companies that hold a vast majority of the market share in the swap markets. In his testimony before the House Committee on Agriculture, Chairman Gensler noted that 25 bank holding companies in the United States are a party to \$277 trillion notional in swaps, which constitutes over 90% of domestic swaps.<sup>7</sup> In addition, these bank holding companies are already subject to some degree of prudential regulation by a financial regulator. If the Commission concentrates on those 25 bank holding companies first, the Commission will capture a vast majority of U.S.-based swap activity as an initial matter and will likely be imposing regulation on those entities most prepared to comply in short order.

While the Dodd-Frank Act and the Commission’s regulations place most compliance obligations on swap dealers and major swap participants, many requirements will fall on entities that are not swap dealers or major swap participants. The Working Group recommends the Commission, to the greatest extent possible, impose compliance obligations on these market participants last, and only if necessary. Said differently, a swap dealer should come into compliance ahead of the end users with which it trades swaps.

Even after the definitions of “swap dealer” and “major swap participant” are finalized, some entities still might not have a clear understanding if they are covered by the definitions and will need to seek guidance from the Commission as to their status or attributes of about their businesses. Such a consultation process should be developed in light of the vague and overly broad definitions that have been proposed.

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<sup>7</sup> *Public Hearing to Review Implementation of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act*, House Committee on Agriculture, 112<sup>th</sup> Cong. (Feb. 10, 2011) (statement of Hon. Gary Gensler, Chairman, CFTC).

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**IV. RECOMMENDED IMPLEMENTATION PROCESS.**

As alluded to above, each of the Commission's rules have at least three dates that the Commission should coordinate in the sequencing of the final rules it issues under the Dodd-Frank Act: (a) the date the rule is issued; (b) the date the rule is effective and (c) the implementation date(s) on which the compliance obligations must be satisfied. The distinction between these dates is important. The Commission should issue final rules with sufficient notice and, by careful structuring of effective dates and compliance deadlines, provide ample time for entities to come into compliance. As an alternative, the Commission could make the implementation date of one or more rules contingent on the implementation date of other rules that should logically come first in the series of rulemakings.

The Working Group recommends that the Commission issue final rules and set their effective and related compliance dates as set forth in Exhibit A. Exhibit A is comprehensive, but not exhaustive, list of all of the rules the Commission has proposed under the Dodd-Frank Act. In constructing Exhibit A, the Working Group first determined the major goals of the Dodd-Frank Act, such as putting in place a mandatory clearing requirement and reporting regime. The Working Group then determined which rules must be in place to reach that goal and put such rules in groups for sequencing purposes. The Working Group next determined the order in which such rule groups should be implemented in order to allow the market to adapt and continue to function. Finally, the Working Group combined the implementation plans for each individual goal into a macro-implementation plan, or critical path for implementation, which is reflected in Exhibit A.

The Working Group developed its recommendations based on the observation above that the rules work together in an iterative, building block manner. Accordingly, the Commission should first release the definitional rules, including the definition of swap, (with ample periods to facilitate entities engaging with the Commission to resolve uncertainties and otherwise reorganize or restructure their businesses). The definitional rules will allow parties to make critical determinations about their regulatory status and the derivatives transactions into which they enter. In addition, the Commission should issue final rules for the institutions, such as swap data repositories and derivatives clearing organizations, that will lay the ground work for the new regulatory regime as soon as practicable. Three months after issuing the final definitions, the Commission should issue the registration rules. This will allow the Commission to identify those entities that warrant immediate and longer term regulatory oversight. About the same time or shortly thereafter, the Commission should release rules for governance and internal business conduct standards. Swap dealers and major swap participants should have a period of time to organize and develop their systems and personnel to comply with regulations that do not entail counterparty interface. Only after swap dealers and major swap participants have their corporate structure, systems, policies and procedures in place should the Commission's rules governing transactions with counterparties become effective. Finally, rules that may place compliance

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obligations on entities that are not swap dealers or major swap participants should become effective.

It is our expectation that, once all of the regulatory requirements are known, entities will immediately begin working to implement measures in an attempt to comply with all rules applicable to them. However, it would be unreasonable to expect entities to implement all of these measures at the same time. Time is needed to allow thoughtful design and preparation. In addition, a phased-in approach will allow entities to incur costs over time.<sup>8</sup>

Finally, where a proposed rule requires substantial changes to existing information technology infrastructure or the creation of new information technology infrastructure, the Working Group requests that the Commission adopt a “beta testing” period coupled with a good faith safe harbor. During the beta testing period, market participants should be required to attempt to comply with the rule in question. However, if a market participant attempts to comply with such rule and fails because the relevant technology fails, the market participant should not face any sanction.

## V. CHAIRMAN GENSLER’S SUGGESTED APPROACH TO IMPLEMENTATION.

In his speech before the Futures Industry Association, Chairman Gensler set forth a three group approach to the implementation of the final rules implementing Title VII of the Dodd-Frank Act.<sup>9</sup> The Working Group sees value in the Chairman’s suggested approach. However, there are three issues about which the Working Group disagrees with the Chairman’s plan.

*First*, the definition of “swap” should be issued at the beginning of the implementation process along with all other definitions. For many market participants, the scope of the definition of “swap” will be a substantial factor in the determination of whether they are a swap dealer or major swap participant. For example, without knowing which derivatives will be included in the definition of “swap,” market participants will be unable to perform the tests necessary to determine whether they are a major swap participant. Waiting to the end of the implementation process to issue the final definition of “swap” will introduce significant uncertainty into the swap markets.

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<sup>8</sup> The Working Group of Commercial of Energy Firms, in its comments to the Commission’s Proposed Rules on *Real-Time Public Reporting of Swap Transaction Data, Swap Data Recordkeeping and Reporting Requirements, and Reporting, Recordkeeping, and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants*, all filed with the Commission on February 7, 2011, suggested a phase-in approach for the multiple reporting and record keeping requirements that might serve as a model for an overall phase-in approach.

<sup>9</sup> CFTC Chairman Gary Gensler, *Implementing the Dodd-Frank Act*, Remarks before the Futures Industry Association’s Annual International Futures Industry Conference, Boca Raton, Florida (Mar. 16, 2011).

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*Second*, the rules that address the institutions that will serve as the foundation of the post Dodd-Frank Act market infrastructure should be introduced as soon as practicable. Without those rules in place, market participants might be required to put in place expensive, though temporary, changes to systems in order to comply with the Dodd-Frank Act requirements.<sup>10</sup> The Chairman's proposed implementation plan would place many of these rules in the middle group. The Working Group suggests that these rules be addressed as a threshold matter.

*Third*, the Chairman's proposal anticipates being able to issue all final rules within the next six months. The Working Group believes that Commission staff will need a substantial period of time to consider market participants comments on many rules and will need additional time to make necessary changes to such rules. The Chairman's suggested timing would severely limit Commission staff's ability to draft well reasoned and sound final rules.

## **VI. STATUTORY SUPPORT FOR EXTENDED COMPLIANCE PERIODS.**

Congress gave the Commission discretion in designing and implementing rules under the Dodd-Frank Act. In particular, Section 723 of the Act provided that the Commission, upon petition by market participants, could continue the availability of the exclusion of Section 2(h) of the CEA with respect to certain commodity transactions for up to one year after the general effectiveness of Title VII of the Dodd-Frank Act. Several entities applied to the Commission for the continued application of Section 2(h). The Commission might provide such continuation of Section 2(h) to facilitate an orderly transition to a new regulatory regime under the Dodd-Frank Act.<sup>11</sup> In addition, Section 754 of the Act allows the Commission to set effective dates for rules required under Title VII to be set at no earlier than sixty days after the publication of such rules. The authority granted to the Commission under Sections 723 and 754 of the Act should allow the Commission to provide the time necessary for market participants to come into compliance with the requirements of the new regulatory regime.

## **VII. CONCLUSION.**

The Working Group supports regulation that brings transparency and stability to the swap markets in the United States. The Working Group appreciates the balance the Commission must

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<sup>10</sup> For example, if there are no SDRs in place, market participants could be required to put in place technology to report swaps directly to the Commission. Once SDRs come online, market participants will be required to put in place technology to report to SDRs.

<sup>11</sup> If the Commission elects to use the 2(h) extension in Section 723 to help phase in Title VII of the Dodd-Frank Act's compliance requirements, it is possible that the implementation dates for certain rules will be extended beyond the maximum one year 2(h) extension period. In such an event, the Working Group suggests that the Commission use its existing statutory authority to address any gaps in the regulatory treatment of swaps and swap market participants.





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strike between effective regulation and not hindering the swap markets. Please let me know if you have any questions or would like additional information, including a working version of Exhibit A. In addition, members of the Working Group can be made available to meet with Commissioners or Commission staff to further discuss how the recommendations contained herein were reached.

Respectfully submitted,

/s/ David T. McIndoe  
David T. McIndoe  
Mark W. Menezes  
R. Michael Sweeney, Jr.  
Alexander S. Holtan

**Exhibit A**

# Sequencing of Issuance of Final Rules Under the Dodd-Frank Act

This chart shows the order in which the Working Group suggests the Commission issue final rules.

*The suggested schedule for the issuance of final rules does not include a hard start date. The Working Group recommends that the Commission start releasing the final rules in the sequence set forth below when each group of rules is ready to be considered.*

Month	0	1	2	3	4	5	6	7
<i>Definitions</i>	Propose Definition of Swap and Reopen Comment Period on Other Definitions		Comment Period Closes for All Definitions		Issue Final Rules			
<i>Duties</i>						Reopen Comment Period	Comment Period Closes	Issue Final Rules
<i>Capital and Margin</i>	Propose Rules		Comment Period Closes		Issue Final Rules			
<i>Institutions</i>			Issue Final Rules Before the End of This Period					
<i>Mandatory Clearing</i>			Issue Final Rules Before the End of This Period					
<i>Position Limits</i>			Reissue Proposed Rule	Comment Period Closes		Issue Final Rules		
<i>Reporting</i>			First TAC Meeting*	Second TAC Meeting*	Third TAC Meeting*	Reopen Comment Period	Comment Period Closes	Issue Final Rules
<i>Market Practices</i>					Issue Final Rules			
* Assuming there is an SDR								

**Definitions-** Given that the definition of "swap" has yet to be proposed and the comment period is closed on all other definitions, the Working Group requests that the Commission reopen the comment period for the other definitions upon proposing a definition of "swap," with such comment period for all such proposed rules closing in 60 days.

**Duties-** After all the final definitions are issued, market participants will have a clearer picture as to which entities the definitions cover. Market participants, armed with knowledge of the scope of the definitions, should be given an opportunity to comment on the proposed rules that might impose duties on them. Therefore, the Commission should reopen the comment period on those rules that impose duties on swap dealers and major swap participants after the final definitions have been published.

**Capital and Margin -** Capital and margin requirements should be made final (though not effective) on about the same day the definitions are finalized.

***Institutions-*** The Working Group urges the Commission to issue final rules for market institutions as soon as practicable. The existence of entities such as SDRs and SEFs is integral to the new regulatory framework for swap markets. These institutions must be in place before market participants can begin to comply with requirements such as mandatory clearing and reporting.

***Mandatory Clearing-*** As with market institutions, mandatory clearing rules should be finalized as soon as possible. The Commission should determine which swaps will be subject to the mandatory clearing requirements as soon as possible. To make this process efficient, the Working Group recommends the Commission, as an initial matter, address only those swaps currently being cleared.

***Position Limits-*** The Working Group, as discussed in its forthcoming comments on the proposed rule on position limits, anticipates that certain parts of the proposed position limits rules will have to be amended to such a degree that the proposed rule will have to be reissued. Once reissued, market participants should have at least an additional 30 days during which to comment on that proposed rule.

***Reporting-*** Reporting will be a complex logistical undertaking. As a threshold matter, to even begin this process, an SDR must be registered for the relevant class of swaps. The Working Group recommends the Commission hold multiple Technology Advisory Committee meetings to walk through implementation issues with regard to the proposed reporting rules. After those meetings, market participants should be given the chance to file additional comments on such proposed rules.

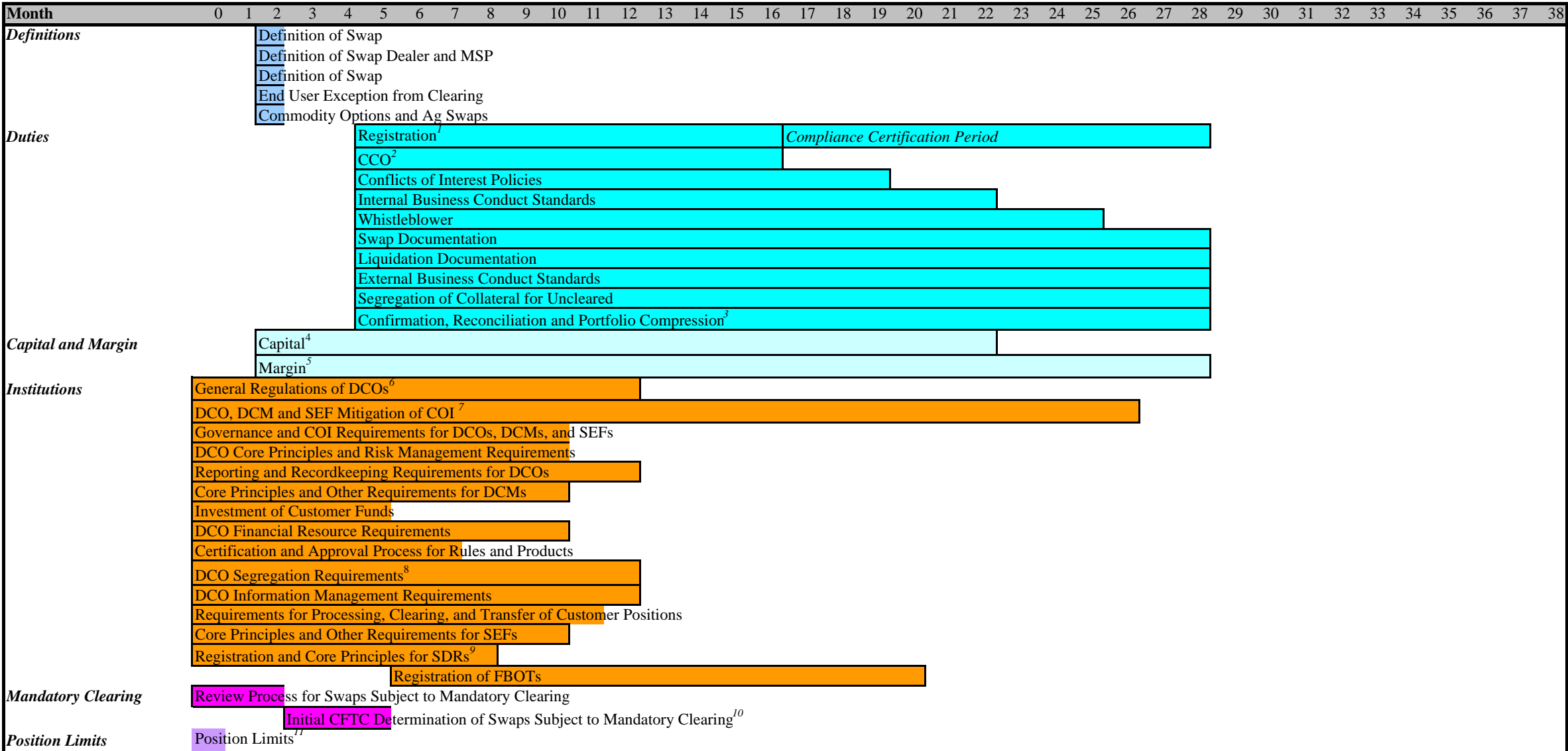
***Market Practices-*** Market practice rules should be issued by July 21, 2011, as required by Section 753 of the Act.

# Sequencing of Implementation Dates for Rules Under the Dodd-Frank Act

Box Opening = Final Rule Released (or operation begun)

Box Closing = Implementation Date

*The Implementation Date represents the time at which market participants must be in compliance with the relevant rule. For example, on the Implementation Date for the proposed rules on Registration and Core Principles for SDRs, any potential SDRs would have to be operational. The suggested implementation process does not include a hard start date. The Working Group recommends that the Commission start the suggested process when the final rules are ready to be issued in the sequenced manner suggested by the Working Group.*



Month	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38
<b>Reporting</b>	IFR on Pre-Enactment Swaps																																						
	IFR on Post-Enactment Swaps-Phase 1 <sup>12</sup>																							Phase 2 <sup>13</sup>															
	Real-Time Reporting-Phase 1 <sup>14</sup>																		Phase 2 <sup>15</sup>						Phase 3 <sup>16</sup>				Phase 4 <sup>17</sup>										
	Swap Data Reporting and Recordkeeping-Phase 1 <sup>14</sup>																		Phase 2 <sup>15</sup>						Phase 3 <sup>16</sup>				Phase 4 <sup>17</sup>										
	Reporting, Recordkeeping and Daily Trading-Phase 1 <sup>14</sup>																		Phase 2 <sup>15</sup>						Phase 3 <sup>16</sup>				Phase 4 <sup>17</sup>										
	Position Reports																																						

<sup>1</sup> In its comments to the Commission's proposed rule on the registration of swap dealers and major swap participants, the Working Group recommended that the Commission allow market participants a one year period in which they could determine if they would have to register as a swap dealer or major swap participant. Following the registration period, the Working Group suggests a phased in approach to the certification of compliance for rules applicable to swap dealers and major swap participants.

<sup>2</sup> The Working Group recommends that the Commission require market participants first hire a CCO, then allow the CCO to put in place internal business conduct standards and then put in place business conduct standards for interaction with counterparties.

<sup>3</sup> The Working Group recommends that the Commission delay issuing any rules regarding portfolio compression and reconciliation until after the compliance deadline for all rules required under Title VII of the Dodd-Frank Act have been issued. If the Commission chooses to issue such rules, the Working Group estimates that the compliance deadline for such rules would be up to 12 months after what is currently depicted given the likely intensive IT modifications that will be required to comply.

<sup>4</sup> Capital Requirements may be one of the most costly regulatory requirements under Title VII. Market participants should be afforded the opportunity to review these rules prior to making elections as to whether to continue trading that results in such entity being designated a swap dealer or major swap participant. Such entities should also be afforded ample time to take corporate actions necessary to meet the capital requirements.

<sup>5</sup> The implementation of margin requirements will require documentation standards to be in place.

<sup>6</sup> The Working Group suggests that DCOs be operational within ten months of the effective date of the Dodd-Frank Act. Such a time frame will allow the Commission to complete action to effect the mandatory clearing requirement as soon as practicable.

<sup>7</sup> The Working Group realizes that this proposed rule might require existing DCOs to alter their current ownership structure, so the implementation time period is set at 26 months. However, rules that are not affected by the ownership structure of the DCO should be implemented earlier.

<sup>8</sup> The Working Group realizes that the Commission has not issued a proposed rule on this topic. To allow market participants to understand the implications of central clearing of swaps, segregation requirements for DCOs must be in place prior to the mandatory clearing requirement.

<sup>9</sup> SDRs would have to be operational on this date to allow market participants to begin to comply with reporting requirements in a timely fashion.

<sup>10</sup> This short implementation period assumes that (a) the Commission only initially reviews swaps that are currently cleared to determine if they should be subject to the mandatory clearing requirement and (b) the DCOs clearing these swaps will quickly be able to comply with the requirements imposed on DCOs by the Dodd-Frank Act. Those swaps should be deemed submitted to the Commission on the effective date of Dodd-Frank and the Commission should review them within the statutorily required 90 day period. The proposed timeline would allow the Commission to start the implementation process as late as June of 2012 and still meet the G20 goal of clearing all standardized derivatives by the end of 2012.

<sup>11</sup> The Working Group is still reviewing the Commission's Proposed Rule on Position Limits and will provide comment on the implementation timing in comments on that proposed rule.

<sup>12</sup> All traditional swap dealer reporting parties previously subject to prudential regulation by a financial regulator ("Traditional Swap Dealers").

<sup>13</sup> All other reporting parties.

<sup>14</sup> All swaps executed on facility or cleared through a DCO.

<sup>15</sup> All standardized swap executed off-facility and not centrally cleared entered into by Traditional Swap Dealers.

<sup>16</sup> All other standardized swap executed off-facility and not centrally cleared and all non-standardized swaps executed off-facility and not centrally cleared entered into by Traditional Swap Dealers.

<sup>17</sup> All other non-standardized swaps executed off-facility and not centrally cleared.

## Rule Categories

<i>Definitions</i>	<i>Duties</i>	<i>Capital and Margin</i>	<i>Institutions</i>	<i>Mandatory Clearing</i>	<i>Position Limits</i>	<i>Reporting</i>	<i>Market Practices</i>	<i>Other</i>
Definition of Swap	NOPR on Swap Trading Relationship Documentation for SDs and MSPs	Capital Requirements	NOPR on Core Principles and Other Requirements for SEFs	NOPR on Process for Review of Swaps for Mandatory Clearing	Position Limits	IFR on Reporting of Pre-Enactment Swaps	ANOPR on Disruptive Trading Practices	JNOPR on Reporting by Investment Advisors to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF
NOPR on Further Definitions of SD, MSP and ECPs	NOPR on Orderly Liquidation Termination Provisions in Swap Trading Relationship Documentation for SDs and MSPs	Margin Requirement	NOPR on Governance and Additional COI Requirements for DCOs, DCMs, and SEFs	NOPR on Requirements for Processing, Clearing, and Transfer of Customer Positions		IFR on Reporting of Post-Enactment Swaps	NOPR on Prohibition of Market Manipulation	NOPR on Commodity Pool Operators and Commodity Trading Advisors: Amendments to Compliance Obligations
NOPR on End User Exception to Mandatory Clearing	NOPR on Designation and Duties of Chief Compliance Officer		NOPR on Core Principles and Risk Management Requirements for DCOs			NOPR on Real-Time Public Reporting of Swap Transaction and Pricing Data		NOPR on Conforming Amendments to Regulations Applicable to Commodity Pool Operators and Commodity Trading Advisors
NOPR on Commodity Options and Agricultural Swaps	NOPR on Conflict of Interest Policies for SDs & MSPs		NOPR on Reporting and Recordkeeping Requirements for DCOs			NOPR on Swap Data Reporting and Recordkeeping Requirements		NOPR on Removing References to Credit Ratings from Commission Regulations
NOPR on Definition of Agricultural Commodity	NOPR on Internal Business Conduct Standards for SDs and MSPs		NOPR on Registration of Intermediaries			NOPR on Reporting, Recordkeeping and Daily Trading Records for SDs & MSPs		NOPR on Business Affiliate Marketing and Disposal of Consumer Information Rules
	NOPR on Registration of Swap Dealers and Major Swap Participants		NOPR on Requirements for DCOs, DCMs, and SEFs Regarding the Mitigation of Conflicts of Interest			NOPR on Position Reports for Physical Commodity Swaps		NOPR on Privacy of Consumer Financial Information
	NOPR on Protection of Collateral of Counterparties to Uncleared Swaps		NOPR Regarding Investment of Customer Funds and Credit Ratings					NOPR on Conflict of Interest Policies for FCMs

## Rule Categories

<i>Definitions</i>	<i>Duties</i>	<i>Capital and Margin</i>	<i>Institutions</i>	<i>Mandatory Clearing</i>	<i>Position Limits</i>	<i>Reporting</i>	<i>Market Practices</i>	<i>Other</i>
	<b>NOPR on Whistleblower Provisions</b>		<b>NOPR on Financial Resources Requirements for DCOs</b>					
	<b>NOPR on Business Conduct Standards with Counterparties</b>		<b>NOPR on Provisions Common to Registered Entities (Certification and Approval Procedures for New Products, Rules and Rule Amendments Submitted to the CFTC by Registered Entities)</b>					
	<b>NOPR on Confirmation, Portfolio Reconciliation, and Portfolio Compression Requirements for Swap Dealers and Major Swap Participants</b>		<b>ANOPR on Protection of Cleared Swaps Customers Before and After Commodity Broker Bankruptcies</b>					