



Global Technical Committee and Futures Industry Association

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Document History

Revision	Date	Author	Revision Comments
0.1	July 31, 2013	Ryan Pierce, CME Group Niranjana Sharma, CME Group	Initial draft.
0.2	August 2, 2013	Ryan Pierce, CME Group	Updated based on results of August 1, 2013 GTC call: Changed elaborations of TrdType(828) enumerations. Clarified ClearingRequirementException(1932).
ASBUILT	Sept. 29, 2013	Lisa T.	ASBUILT version
	Oct. 14, 2013	Lisa T.	Added additional ClearingRequirementException(1932) enum value based on public comment feedback of additional CFTC requirement as published in the Federal Register.

1 Introduction

This gap analysis provides corrections and clarifications to the CFTC Part 43 and 45 extensions already added to the FIX Protocol. These were added to support CFTC regulatory requirements regarding reporting of swaps to Swap Data Repositories in the United States.

Changes include:

1. TrdType(828): Differentiating between large notional off-facility swaps and block swap trades executed on-facility.
2. ClearingRequirementException(1932): Adding enumerations to qualify the reason for the exception.

2 Business Requirements

2.1 Large Notional Off Facility Swaps vs. Block Swaps

The CFTC Part 43 requirements included text requiring indication of the following:

An indication of whether a publicly reportable swap transaction is a block trade or large notional off-facility swap. If a publicly reportable swap transaction is a block trade or a large notional off-facility swap and subject to a time delay in real-time public reporting pursuant to § 43.5, such block trade or large notional off-facility swap may be indicated as follows: Block trade or large notional off-facility swap ("BLK"). If a trade is not a block trade or large notional off-facility swap, then no indication would be publicly disseminated.

FPL interpreted this to mean that a single TrdType(828) enumeration should be created for both of these cases. However, the CFTC's final rules for "Procedures To Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades" (available at <http://www.cftc.gov/ucm/groups/public/%40lfederalregister/documents/file/2013-12133a.pdf>) makes clear a distinction between the two:

The Initial Proposal defined the term "large notional swap." See proposed § 43.2(l), 75 FR 76171. The Real-Time Reporting Final Rule finalized the term as "large notional off-facility swap," to denote, in relevant part, that the swap is not executed pursuant to a SEF or designated contract market's ("DCM") rules and procedures. See § 43.2, 77 FR 1182, 1244, Jan. 9, 2012. Specifically, the Real-Time Reporting Final Rule defined the term as an "off-facility swap that has a notional or principal amount at or above the appropriate minimum block size applicable to such publicly reportable swap transaction and is not a block trade as defined in § 43.2 of the Commission's regulations." Id. Throughout this final rulemaking, the Commission uses the term "large notional off-facility swap" as adopted in the Real-Time Reporting Final Rule.

The Initial Proposal's definition of "block trade" was similar to the final definition in the Real-Time Reporting Final Rule. See proposed § 43.2(f), 75 FR 76171. The Real-Time Reporting Final Rule defines the term "block trade" as a publicly reportable swap transaction that: "(1) [i]nvolves a swap that is listed on a SEF or DCM; (2) [o]ccurs away from the [SEF's or DCM's] trading system or platform and is executed pursuant to the [SEF's or DCM's] rules and procedures; (3) has a notional or principal amount at or above the appropriate minimum block size applicable to such swap; and (4) [i]s reported subject to the rules and

procedures of the [SEF or DCM] and the rules described in [part 43], including the appropriate time delay requirements set forth in § 43.5.” See § 43.2, 77 FR 1243.

Of note is the distinction of whether the swap is executed according to a Swap Execution Facility (SEF) or Designated Contract Market (DCM)'s rules. As the Dodd-Frank rules concerning SEFs take effect, this distinction becomes very important. Using the same TrdType(828) enumeration for both is not feasible. As such, this gap analysis proposes:

1. Renaming TrdType enumeration 58 from "Block swap trade or large notional off-facility swap" to "Large notional off-facility swap"
2. Creating a new TrdType enumeration for "Block swap trade (executed according to SEF or DCM rules)"

The existing enumeration is silent over whether SEF or DCM rules apply. This proposed change keeps the existing enumeration as less restrictive (e.g. SEF or DCM rules do not apply), while the newly created enumeration is more restrictive (e.g. SEF or DCM rules do apply.)

See Section 3.1 for further discussions on the GTC Aug. 1st call and final proposal of values.

2.2 Clearing Requirement Exception

The first phase of FPL's Part 43 and 45 gap analysis added the field ClearingRequirementException(1932) to indicate whether exceptions from the mandatory clearing requirements applied to either party of a swap. It originally was defined as an integer, not a Boolean, with two enumerations:

0 = No exception

1 = Exception

Because the field is an integer, it can be expanded. Currently, three distinct exceptions to mandatory clearing have been identified:

- End-user exception (see http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/eue_factsheet_final.pdf and <http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2012-17291a.pdf>)
- Inter-affiliate exception (see <http://www.cftc.gov/PressRoom/PressReleases/pr6553-13>)
- Treasury affiliate exception (see <http://www.cftc.gov/ucm/groups/public/@lrlattergeneral/documents/letter/13-22.pdf>)

This gap analysis proposes adding three enumerations to this field for these three types of exceptions. Additionally, the enumeration 1 = Exception will be modified to indicate that it can be used when one wants to note an exception to a clearing requirement without elaborating on the type of exception. And the description for the ClearingRequirementException field specifically references CEA Section 2(h)(7) and the Commission; this was modified to be more flexible, and changed to reference Section 2(h)(1) which is the clearing requirement itself, not the exception.

As such, the existing usage of the field prior to this gap analysis is still valid, but parties reporting to an SDR can provide more detail.

3 Issues and Discussion Points

3.1 TrdType(828) Expansion

TrdType 58 is currently defined as "Block swap trade or large notional off-facility swap". This mixes three distinct concepts: swap, block/large notional, and off-facility. Removing mention of "large notional off-facility swap" eliminates one of the three concepts by remaining ambiguous over whether the swap was traded on-facility or off-facility for general use. For CFTC swaps reporting use, an elaboration clarifies that this is for block swaps executed according to SEF or DCM rules.

Meanwhile, TrdType 54 is currently defined as "OTC". This can be extended to include all off-facility trading in general and, in the case of CFTC reporting of swaps, can represent large notional off-facility swaps.

After discussion within the GTC on August 1, 2013, call this gap analysis now proposes:

1. Changing the TrdType enumeration 58 from "Block swap trade or large notional off-facility swap" to "Block swap trade" with an elaboration indicating that it could be used for both on and off-facility swaps, but for CFTC regulatory reporting, it would be used for block swaps according to SEF or DCM rules.
2. Adding an elaboration to the TrdType enumeration 54 "OTC" to indicate that in general this represents off-market trades, but in the context of CFTC regulatory reporting of swaps, it represents a large notional off-facility swap.

3.2 Clarification around ClearingRequirementException(1932)

The field ClearingRequirementException(1932) had previously indicated an exception to a clearing requirement expressed by CEA Section 2(h)(7). This is known as the end-user exception. However, the CFTC now allows several other forms of exceptions to the clearing requirement. As such, the description of this field was modified to represent the clearing requirement itself, e.g. CEA Section 2(h)(1), and not any specific exception. Elaborations for the types of exceptions added by this gap analysis include CFTC references. The end-user exception references CEA Section 2(h)(7) in its elaboration.

It appears that, at present, only one of these exceptions need be indicated for a given swap. The inter-affiliate exception was created to address circumstances where the 2(h)(7) end-user exception does not apply. And the treasury affiliate exception was created to address circumstances where the inter-affiliate exception does not apply. So, should this assumption remain true, additional enumerations are the best option to model this concept. Should this assumption cease to be true in the future, this decision must be revisited.

October 14, 2013 update:

Public comment had identified an additional clearing requirement exception value that needs to be added to support exceptions for swaps entered into by cooperatives. Detailed can be found in the press release in Federal Register at <http://www.cftc.gov/PressRoom/PressReleases/pr6665-13> and the rule for clearing exemption nfor certain swaps entered into by a cooperative can be found here:

<https://www.federalregister.gov/articles/2013/08/22/2013-19945/clearing-exemption-for-certain-swaps-entered-into-by-cooperatives>

4 Proposed Message Flow

This gap analysis makes no changes to existing message flows.

5 FIX Message Tables

This gap analysis makes no changes to existing messages.

6 FIX Component Blocks

This gap analysis makes no changes to existing components.

7 Category Changes

This gap analysis makes no changes or additions to Categories.

Appendix A - Data Dictionary

Tag	FieldName	Action	Datatype	Description	FIXML Abbreviation	Add to / Deprecate from Message type or Component block
828	TrdType	CHANGE	int Reserved 1000Plus	Type of trade. ... 54 = OTC 54 = OTC- [Elaboration: Trade executed off-market. In the context of CFTC regulatory reporting for swaps, it is a large notional off-facility swap. In the context of MiFID transparency reporting rules this is used to report, into an exchange, deals made outside exchange rules.] 58 = Block swap trade or large notional off-facility swap 58 = Block swap trade- [Elaboration: Block trade executed off-market or on a registered market. In the context of CFTC regulatory reporting for swaps, it is a swap executed according to SEF or DCM rules.]	@TrdTyp	
1932	ClearingRequirementException	CHANGE	int	Specifies whether a party to a swap is using the clearing requirement exception pursuant to CEA Section 2(h)(7) and	@ClrReqmtExcpn	

Tag	FieldName	Action	Datatype	Description	FIXML Abbreviation	Add to / Deprecate from Message type or Component block
				<p>Commission regulations an exception to a clearing requirement. In the US, one such clearing requirement is CFTC's rule pursuant to CEA Section 2(h)(1).</p> <p>0 = No exception</p> <p>1 = Exception [Elaboration: Used to indicate an exception to a clearing requirement without elaborating on the type of exception.]</p> <p>TBD-2 = End-user exception- [Elaboration: In the US, see CFTC Final Rule on End-User Exception to Clearing Requirements for Swaps Fact Sheet http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/eue_factsheet_final.pdfCEA Section 2(h)(7).]</p> <p>TBD-3 = Inter-affiliate exception- [Elaboration: In the US, see CFTC Final Rule – Clearing Exemption for Swaps Between Certain Affiliated Entities http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2013-07970a.pdf PressRoom/PressReleases/pr6553-13]</p> <p>TBD-4 = Treasury affiliate exception-</p>		

Tag	FieldName	Action	Datatype	Description	FIXML Abbreviation	Add to / Deprecate from Message type or Component block
				<p>[Elaboration: In the US, see CFTC No Action Letter 13-22 No Action Relief from the Clearing Requirement for Swaps Entered into by Eligible Treasury Affiliates http://www.cftc.gov/ucm/groups/public/@lrlettergeneral/documents/letter/13-22.pdf]</p> <p>FBD5 = Cooperative exception [Elaboration: Clearing exception for certain swaps entered into by cooperatives. In the US, see Regulation 50.51(a) Definition of Exempt Cooperative: https://www.federalregister.gov/articles/2013/08/22/2013-19945/clearing-exemption-for-certain-swaps-entered-into-by-cooperatives]</p>		