
Compliance Dates Extended for End-user Adherence with the ISDA August 2012 Dodd-Frank Protocol

December 2012

On December 18, 2012, the U.S. Commodity Futures Trading Commission (the “CFTC”) extended the compliance dates for many of its business conduct rules with which “Swap Dealers” and “Major Swap Participants” will be required to comply. Consequently, end-users (e.g., hedge funds, private equity funds and commercial end-users) will have until **May 1, 2013** to adhere to the ISDA August 2012 Dodd-Frank (DF) Protocol (the “Protocol”).

As discussed in our previous alert, End-user Adherence with the ISDA August 2012 Dodd-Frank Protocol, the International Swaps and Derivatives Association, Inc. (“ISDA”) developed the Protocol to allow market participants to quickly and efficiently amend their existing swap documentation to comply with certain CFTC rules promulgated under the Dodd-Frank Act. Although end-users are not required by the CFTC to comply with these rules, Swap Dealers will be required to obtain certain specified information from their counterparties at the time new swap transactions are offered or executed. The Protocol includes notices, representations and covenants that will supplement the adhering parties’ existing swap documentation to ensure that Swap Dealers are in compliance with the CFTC’s rules and that end-users do not experience a disruption in their trading.

Although the deadline for compliance with the aforementioned rules has been delayed, end-users should be prepared to adhere to the Protocol and should determine which portions of the Protocol their Swap Dealers are requesting. Further, the CFTC announced that compliance with other rules relating to Portfolio Reconciliation and Swap Trading Relationship Documentation will be delayed until July 1, 2013 and ISDA is in the process of developing another protocol to address compliance with these rules.

To discuss further, please contact your primary Kleinberg Kaplan attorney or:

Lawrence D. Hui
212.880.9837
lhui@kkwc.com

Mary Kuan
212.880.9833
mkuan@kkwc.com

Brad Leiber
212.880.9815
bleiber@kkwc.com

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