

# MACFARLANES

## ISDA DODD-FRANK PROTOCOL TIMING - URGENT UPDATE

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### DERIVATIVES AND TRADING

Further to our earlier briefings, which can be found [here](#) and [here](#), last night the US Commodity Futures Trading Commission (CFTC) issued Interim Final Rules regarding Business Conduct and Documentation Requirements for Swap Dealers and Major Swap Participants (see press release [here](#) and Interim Final Rules [here](#)).

You will be relieved to hear that this release confirms, among other things, that many of the requirements of the external Business Conduct Standards rules are to be deferred.

The key effect of this, for the buy-side, is that Swap Dealers and Major Swap Participants will now continue to be able to engage in new or amended swap transactions with their counterparties post 31 December 2012 without requiring them to have adhered to the ISDA August 2012 Dodd-Frank Protocol. The new deadline for adherence is 1 May 2013.

This follows lobbying by ISDA and others to delay the full implementation of the Business Conduct Standards Rules, due to low-take up by the buy-side of the DF Protocol (at least until this week, and the rush to adhere, presumably spurred on by our previous update), lack of full guidance in relation to some of the CFTC Regulations, and other market challenges.

In addition, the implementation dates for two other rules are being pushed out until 1 July 2013, namely the Portfolio Reconciliation Rule and the Swap Trading Relationship Documentation Rule.

The dates for other parts of the relevant regulations have not been deferred. These include certain business conduct standards applicable to Swap Dealers and Major Swap Participants, including rules on fair dealing and reasonable diligence and rules prohibiting fraud and manipulation. However these rules are not within the scope/remit of the DF Protocol and so will not affect the deferral of the deadline for adherence.

While this means that Christmas Eve is no longer going to be spent on the Markit website, we would suggest completing any half-finished adherences promptly in the New Year to avoid this still being an issue in April.

Please contact your usual Derivatives and Trading contact for any queries.

#### CONTACT DETAILS

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