

CFTC trade reporting
Requirement - Counterparty 2 federal entity indicator¹

The U.S. Commodity Futures Trading Commission (“CFTC”) requires us, as the reporting counterparty to a swap to report certain information to a swap data repository under the CFTC swap data reporting rules. One of the required data elements is whether a counterparty is a “federal entity” as defined in Appendix 1 to Part 45 of the CFTC’s regulations.

We, the reporting counterparty, will report that you are not a “Counterparty 2 federal entity” as defined in Appendix 1 to Part 45 of the CFTC’s regulations, unless you inform us otherwise. To do so, please use the contact information provided in this communication correspondence.

The current definition of “Counterparty 2 federal entity indicator” appears below. Any subsequent updated definitions can be found on the CFTC website by clicking [here](#).

Definition of “Counterparty 2 federal entity indicator”² per Appendix 1 to Part 45 of CFTC regulations:
“Indicator of whether Counterparty 2 is:

(1) One of the following entities:

- a) An entity established pursuant to federal law, including, but not limited to, the following:
- i. An “agency” as defined in 5 U.S.C. § 551(1), a federal instrumentality, or a federal authority;
 - ii. A government corporation (examples: as such term is defined in 5 U.S.C. § 103(1) or in 31 U.S.C. § 9101);
 - iii. A government-sponsored enterprise (example: as such term is defined in 2 U.S.C. § 622(8));
 - iv. A federally funded research and development center on the master list referenced in 48 CFR 35.017-6; and
 - v. An executive department listed in 5 U.S.C. § 101; or
- b) An entity chartered pursuant to federal law after formation (example: an organization listed in title 36 of the U.S. Code); or (2) An entity that was established by, or at the direction of, one or more of the entities listed in clause (1), or has an ultimate parent listed in its LEI reference data that is an entity listed in clause (1) or in the first part of this clause (2).

Notwithstanding the foregoing, the Counterparty 2 federal entity indicator data element does not include federally chartered depository institutions.”

¹ #24 of “CFTC Technical Specification Parts 43 and 45 swap data reporting and public dissemination requirements,” https://www.cftc.gov/media/6576/Part43_45TechnicalSpecification093021CLEAN/download.

² https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/DF_17_Recordkeeping/index.htm

Commodity Exchange Act
Swap Exclusion - Transactions with Federal Reserve Banks, Federal Government, or Federal Agencies

Section 1a(47)(B) of the Commodity Exchange Act (“CEA”) excludes transactions with certain Federal counterparties from term “swap”. As such these transactions are not required to be reported under Parts 43 and 45 of the CFTC’s regulations.

We, the reporting counterparty, will not consider you to be a “Federal agency that is expressly backed by the full faith and credit of the United States” as defined by CEA Section 1a(47)(B)(ix), unless you inform us otherwise. To do so, please use the contact information provided in this communication correspondence.

An excerpt³ from the exclusions to the definition of “swap” in Section 1a(47)(B) of the CEA appears below. Any subsequent updated definitions can be found on the US Government Information website by clicking [here](#).

...

“(B) Exclusions.--The term `swap' does not include--

- ...(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the Federal Government, or a Federal agency that is expressly backed by the full faith and credit of the United States;”

³ <https://www.govinfo.gov/content/pkg/PLAW-111publ203/html/PLAW-111publ203.htm>