

CFTC Finalizes Amendments to Streamline Uncleared Swap Segregation Rules

April 2, 2019

On March 28, 2019, the Commodity Futures Trading Commission (the “**CFTC**”) released a unanimously adopted Final Rule (the “**Final Rule**”)¹ to amend its regulations governing the right of counterparties to elect segregation of initial margin posted to swap dealers and major swap participants in connection with uncleared swap transactions (the “**IM Seg Rules**”).²

The Final Rule was adopted in response to comments received pursuant to the CFTC’s Project KISS initiative, which suggested that the CFTC simplify some of the more complex, burdensome and prescriptive aspects of administering the IM Seg Rules.

The Final Rule follows a previous Notice of Proposed Rulemaking from July 24, 2018 (the “**Proposal**”).³ The Final Rule adopts the Proposal in its entirety without change. Consequently, for further information regarding the Final Rule, please see our previous alert memorandum based on the Proposal, “CFTC Proposes to Streamline Uncleared Swap Segregation Rules”, available at <https://www.clearygottlieb.com/-/media/files/alert-memos-2018/cftc-proposes-to-streamline-uncleared-swap-segregation-rules.pdf>.

The Final Rule becomes effective 30 days following its publication in the Federal Register.

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¹ Segregation of Assets Held as Collateral in Uncleared Swap Transactions, RIN 3038-AE78 (Mar. 28, 2019), available at: https://www.cftc.gov/sites/default/files/2019-03/federalregister032819b.pdf?utm_source=govdelivery.

² CFTC Regulations, Subpart L; 17 C.F.R. §§ 23.700-704; Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy, 78 Fed. Reg. 66621 (Nov. 6, 2013).

³ Segregation of Assets Held as Collateral in Uncleared Swap Transactions, 83 Fed. Reg. 36484 (July 30, 2018).