

## *Five key points from the SEC's reporting and public dissemination rule*

On July 13<sup>th</sup>, the Securities and Exchange Commission (SEC) adopted a final rule related to the reporting and public dissemination of security-based swap (SBS) transaction information. The rule builds on an earlier reporting rule for security-based swap dealers (SBSDs) finalized in 2015.<sup>1</sup>

- 1. Cleared trade reporting aligns with the CFTC's recent amendment to its reporting framework.** Last week's final SEC rule clarifies that registered clearing agencies are required to report any SBS to which they are a direct counterparty. This clarification makes the SEC rule consistent with a recent amendment adopted by the Commodity Futures Trading Commission (CFTC) to its reporting regime.<sup>2</sup> Therefore, the SEC's rule shows continued convergence between the SEC and CFTC in their swaps requirements, leading to reduced complexity for the many CFTC-registered swap dealers expecting to also register with the SEC as SBSDs.
- 2. Expanded reporting for non-US SBSDs.** The new SEC rule clarifies and expands the reporting duties for SBS transactions between two non-US entities with a "US nexus."<sup>3</sup> Although this expansion will provide greater transparency into SBS transaction pricing for SBSDs, it will also inevitably force non-US SBSDs to decide whether to restructure their operations to cease using US personnel in order to avoid the requirement.
- 3. Clarified compliance schedule for reporting of SBS.** The final compliance schedule takes into account the concerns SBSDs expressed in response to the proposed rule by clarifying when the finalized reporting requirements have to be met. As a result, SBSDs need not expend resources to meet the proposed ambiguous schedule which tied compliance to the "operational readiness" of the SBS data repositories (SBSDRs).<sup>4</sup> Instead, by removing the reliance on SBSDR "readiness" and clarifying that compliance will begin one month after the SBSD registers (or six months after the SBSDR registers), the SEC is allowing SBSDs to better prepare.
- 4. SBSDs now have certainty regarding which trades they should report.** The clarification that reporting won't occur until after SBSDs have registered has the added benefit of removing a key operational challenge that SBSDs were facing. If the SEC mandated reporting at the same time as registration – as the CFTC required of newly registered swap dealers a few years ago – SBSDs would have faced the same difficulty that CFTC-registrants did of not being able to accurately report on day 1. Reporting the correct trades depends on knowing whether the counterparty to the transaction is also a registered SBSD, thus making it very difficult to comply with a reporting rule on the same day that registrants are known. Therefore, the one month time period between SBSD registration and reporting is welcome news for the industry.

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- 5. SEC Chair White aims to have the remaining substantive requirements for SBSDs completed by the end of the year.** Chair White indicated that the SEC intends to finalize the remaining rules needed before the SEC will require registration (i.e., capital, margin, and segregation; recordkeeping; and statutory disqualification) by the end of 2016.<sup>5</sup> This vow to complete the rulemakings by year-end brings the SBS registration date even closer than the industry previously believed.<sup>6</sup> Market participants engaged in SBS should begin to prepare for the expedited schedule and expect to report soon thereafter.

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## Endnotes

1. The SEC is taking a rule-by-rule approach to finalizing its reporting framework and still has yet to address the reporting of block trades. See PwC's *First take, Ten key points from the SEC's swaps reporting and disclosure rules* (February 2015).
2. See PwC's *First take, Five key points from the CFTC's amendment to swap data reporting* (July 2016).
3. Transactions with a US nexus are those that are "arranged, negotiated, or executed" by personnel or agents located in the US. See PwC's *First take, Key points from the SEC's swaps proposal for non-US dealers* (May 2015).
4. See *First take* in note 1 for more information.
5. Registration will be required six months after these rulemakings required are finalized. See PwC's *First take, Ten key points from the SEC's swap dealer registration and waiver rulemakings* (August 2015).
6. See PwC's *First take, Ten key points from the SEC's business conduct standards for swap entities* (May 2016).

## *Additional information*

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