

FINANCIAL INSTITUTIONS ALERT

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

CFTC's Derivative Rulemaking Under Dodd-Frank Will Extend Into 2012

September 12, 2011

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") establishes a new regulatory scheme for the over-the-counter derivatives market. As we explained in a [prior Alert](#), this summer, the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") delayed the compliance deadline for many of the provisions of Title VII. At that time, the effective date was fast approaching, but the agencies had not completed required rulemaking related to the new derivatives regulations. While the SEC's compliance extension was tied to the completion of applicable rulemaking, the CFTC's extension was set to expire on December 31, 2011.

On September 8, 2011, the CFTC held an open meeting to discuss proposed rules extending the deadline for swap dealers and major swap participants to comply with new swap clearing and trading, swap dealer documentation, and margining requirements. During the meeting, Chairman Gary Gensler made it clear that the CFTC would not complete its Title VII rulemaking by the extended compliance deadline of December 31, 2011, stating "Let me start by saying that we are focused on considering these rules thoughtfully – not against a clock."¹ Gensler then set forth a tentative timeline for the CFTC to consider derivatives rules, which contained a significant number of items in the first quarter of 2012. Additionally, Gensler stated, "[m]uch like we did on July 14, this fall we also will consider further exemptive relief from the application of Dodd-Frank's Title VII requirements."

It now appears clear that it will be well into 2012 before the CFTC completes all rulemaking under Title VII of the Dodd-Frank Act. In the meantime, the CFTC is likely to provide additional extensions and exemptions on compliance. We will continue to monitor both the SEC's and the CFTC's rulemaking under Title VII and provide updates as appropriate.

¹ Gary Gensler, Chairman, Commodity Futures Trading Commission, Opening Statement, Meeting of the Commodity Futures Trading Commission (Sept. 8, 2011), [available here](#).

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