
Regulatory Notice 21-01

Issue Date: June 1, 2021
Attention: Compliance and Trading Departments
Subject: Post-Trade Name Give-Up Prohibition for Cleared Swaps (PTNGU)

On Wednesday, June 16, 2021, LatAm SEF will implement operational changes to support the prohibition on post-trade name give-up (“PTNGU”) mandated by the U.S. Commodity Futures Trading Commission (“CFTC” or the “Commission”) June 25, 2020 and published to the Federal Register July 24, 2020 (85 FR 44693 available at <https://www.cftc.gov/sites/default/files/2020/07/2020-14343a.pdf>).

Summary

PTNGU prohibits the disclosure of the identity of counterparties for a cleared swap. PTNGU is applicable to all parties involved in a cleared swap and includes all cleared swaps, including those cleared voluntarily, those cleared mandatorily, and those subject to the trade execution mandate (“MAT”).

LatAm SEF currently lists three products that are cleared and therefore subject to PTNGU. Of the three, one is subject to mandatory clearing and two are cleared voluntarily when both counterparties to a trade have established clearing instructions for the product. LatAm SEF does not currently list any products subject to an MAT filing.

For each of the cleared products LatAm SEF lists, we support clearing to Chicago Mercantile Exchange, Inc. and to LCH.Clearnet Limited. LatAm SEF lists the cleared products shown below along with the regulatory clearing status of each.

- Mexican MXN/TIE Interest Rate Swap – Mandatory clearing
- Chilean CLP/Cámara Promedio Overnight Index Swap – Voluntary clearing
- Colombian COP/IBR Overnight Index Swap – Voluntary clearing

Operational Changes

To prevent disclosure of counterparty identities for cleared swaps, the changes described below are being implemented.

- Parties involved in arranging a cleared swap are prohibited from disclosing the counterparty identities through any form of communication, whether directly, indirectly, or through a third-party.
- Trade Confirmations for cleared swaps will no longer show counterparty names to the party receiving the trade confirmation.
- MarkitWire trade affirmation for cleared swaps will be conducted using the “Anonymous Trade” function, which replaces counterparty name in MarkitWire with “Non Disclosed Legal Entity” or a similar placeholder.

Note: For non-cleared swaps, counterparty names will continue to be disclosed as has historically been done and as is required for market participant credit risk management and settlement.

Regulatory Background

As per the Commission’s final PTNGU rule, starting July 5, 2021, SEFs must prohibit PTNGU for all swaps that are executed, pre-arranged, or pre-negotiated anonymously on or pursuant to the rules of the SEF and “intended to be cleared” (“ITBC”). ITBC swaps include both swaps that are required to be cleared under section 2(h)(1) of the Commodity Exchange Act as well as voluntarily-cleared swaps.

In addition to ensuring systems and processes are in place to effectively administer and enforce a ban on PTNGU for ITBC swaps, SEFs were required to make conforming changes to their rulebooks pursuant to part 40 of the Commission’s regulations, to be effective and implemented no later than July 5, 2021.

Related LatAm SEF Rules

LatAm SEF adopted conforming changes to PTNGU in Rulebook, version 1.9.1, dated November 17, 2020, which included the following related changes:

- Rule 518. Post Trade Anonymity was added to establish rules prohibiting post-trade name give-up for transactions intended to be cleared. Rule 518 explicitly prohibits disclosure of counterparty identities directly or indirectly, including through a third-party service provider, for swaps executed, pre-arranged or pre-negotiated anonymously on or pursuant to the rules of a SEF and intended to be cleared by both counterparties. Rule 518(3) further establishes July 5, 2021 as the compliance date for swaps not subject to the trade execution requirement under section 2(h)(8) of the CEA.
- Rule 509. Intermediated Transactions/Introducing Brokers was amended to establish applicability of Rule 518 to Introducing Brokers.

Contacts

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