

U.S. DEPARTMENT OF THE TREASURY

Press Center



Administration's Regulatory Reform Agenda Reaches New Milestone: Final Piece of Legislative Language Delivered to Capitol Hill

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For the legislative language, visit [link](#). 

Acting on its commitment to restoring stability in our financial system, the Administration delivered legislative language to Capitol Hill today focusing on the regulatory reform of over-the-counter (OTC) derivatives. One of the most significant changes in the world of finance in recent decades has been the explosive growth and rapid innovation in the markets for credit default swaps (CDS) and other OTC derivatives. These markets have largely gone unregulated since their inception. Enormous risks built up in these markets – substantially out of the view or control of regulators – and these risks contributed to the collapse of major financial firms in the past year and severe stress throughout the financial system.

Under the Administration's legislation, the OTC derivative markets will be comprehensively regulated for the first time. The legislation will provide for regulation and transparency for all OTC derivative transactions; strong prudential and business conduct regulation of all OTC derivative dealers and other major participants in the OTC derivative markets; and improved regulatory and enforcement tools to prevent manipulation, fraud, and other abuses in these markets.

Today's delivery marks an important new milestone, as the Administration has now delivered a comprehensive package of financial regulatory reform legislation to Capitol Hill. Less than two months since the release of its white paper, "Financial Regulatory Reform: A New Foundation," on June 17, the Administration has successfully translated all of its proposals into detailed legislative text – a remarkable effort in both speed and scope. The Administration looks forward to working with Congress to pass a comprehensive regulatory reform bill by the end of the year.

- As part of the Administration's proposed legislation, credit default swap markets and all other OTC derivative markets will be subject to comprehensive regulation in order to:
 - o Guard against activities in those markets posing excessive risk to the financial system
 - o Promote the transparency and efficiency of those markets
 - o Prevent market manipulation, fraud, insider trading, and other market abuses
 - o Block OTC derivatives from being marketed inappropriately to unsophisticated parties
- These goals will be reached through comprehensive regulation that includes:
 - Regulation of OTC derivative markets
 - Regulation of all OTC Derivative dealers and other major market participants
 - Preventing market manipulation, fraud, insider trading, and other market abuses
 - Protecting unsophisticated investors

Regulation of OTC Derivative Markets

Require Central Clearing and Trading of Standardized OTC Derivatives:

- To reduce risks to financial stability that arise from the web of bilateral connections among major financial institutions, the legislation will require standardized OTC derivatives to be centrally cleared by a derivatives clearing organization regulated by the CFTC or a securities clearing agency regulated by the SEC.
- To improve transparency and price discovery, standardized OTC derivatives will be required to be traded on a CFTC- or SEC-regulated exchange or a CFTC- or SEC-regulated alternative swap execution facility.

Move More OTC Derivatives into Central Clearing and Exchange Trading:

- Through higher capital requirements and higher margin requirements for non-standardized derivatives, the legislation will encourage substantially greater use of standardized derivatives and thereby will facilitate substantial migration of OTC derivatives onto central clearinghouses and exchanges.
- The legislation proposes a broad definition of a standardized OTC derivative that will be capable of evolving with the markets.
 - o An OTC derivative that is accepted for clearing by any regulated central clearinghouse will be presumed to be standardized.
 - o The CFTC and SEC will be given clear authority to prevent attempts by market participants to use spurious customization to avoid central clearing and exchange trading.

Require Transparency for All OTC Derivative Markets:

- Accordingly, all relevant federal financial regulatory agencies will have access on a confidential basis to the OTC derivative transactions and related open positions of individual market participants.
- In addition, the public will have access to aggregated data on open positions and trading volumes.

Regulation of All OTC Derivative Dealers and Other Major Market Participants**Extend the Scope of Regulation to Cover all OTC Derivative Dealers and other Major Participants in the OTC Derivative Markets:**

- Our legislation will require, for the first time, the federal supervision and regulation of any firm that deals in OTC derivatives and any other firm that takes large positions in OTC derivatives.

Bring Robust and Comprehensive Prudential Regulation to all OTC Derivative Dealers and other Major Participants in the OTC Derivative Markets:

- Under the legislation, OTC derivative dealers and major market participants that are banks will be regulated by the federal banking agencies. OTC derivative dealers and major market participants that are not banks will be regulated by the CFTC or SEC.
- The federal banking agencies, CFTC, and SEC will be required to provide robust and comprehensive prudential supervision and regulation – including strict capital and margin requirements – for all OTC derivative dealers and major market participants.
- The CFTC and SEC will be required to issue and enforce strong business conduct, reporting, and recordkeeping (including audit trail) rules for all OTC derivative dealers and major market participants.

Preventing Market Manipulation, Fraud, and other Market Abuses**Provide the CFTC and SEC with the Tools and Information Necessary to Prevent Manipulation, Fraud, and Abuse:**

- The legislation gives the CFTC and SEC clear, unimpeded authority to deter market manipulation, fraud, insider trading, and other abuses in the OTC derivative markets.
- The CFTC and SEC will be given the authority to set position limits and large trader reporting requirements for OTC derivatives that perform or affect a significant price discovery function with respect to regulated markets.
- The full regulatory transparency that the legislation will bring to the OTC derivative markets will assist regulators in detecting and deterring manipulation, fraud, insider trading, and other abuses.

Protecting Unsophisticated Investors**Better Protect Unsophisticated Investors from Abuse in the OTC Derivative Markets:**

- The legislation will tighten the definition of eligible investors that are able to engage in OTC derivative transactions to better protect individuals and small municipalities.

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