

# ISDA August 2012 Dodd-Frank Protocol

*Passion to Perform*

## Overview

Deutsche Bank AG and DB Energy Trading LLC plan to register as swap dealers.

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") imposes new obligations on swap dealers in respect of swap transactions, including, disclosure obligations, suitability analysis and heightened obligations when dealing with "Special Entities". "Special Entities" are governmental plans, endowments, Federal and state agencies and other governmental entities and ERISA plans. Certain of these rules have an effective compliance date of January 1, 2013.

The ISDA August 2012 Dodd-Frank Protocol (the "DF Protocol") published by The International Swaps and Derivatives Association, Inc. (ISDA®) provides an industry solution to facilitate compliance with certain of these Dodd-Frank obligations.

The DF Protocol allows swap market participants to simultaneously amend multiple ISDA Master Agreements and other swap documentation using an online tool known as "ISDA Amend" which is supported by Markit®, a vendor platform.

To avoid disruption of your trading with Deutsche Bank AG or DB Energy Trading LLC we ask that you adhere to the DF Protocol as far in advance of the December 31, 2012 deadline as possible in order to permit us to integrate information provided by you through the DF Protocol into our processes and systems.

The DB Protocol has a two-step adherence process which includes online adherence which will be posted on the ISDA website and delivery of a questionnaire (the "Questionnaire") which will only be available for view by those swap counterparties which clients indicate they wish to 'match' with another swap counterparty. The Questionnaire will provide counterparty information and allow a party to indicate whether certain provisions of the DF Protocol are applicable to that party. Please note that while certain provisions set forth in schedules to the DF Protocol are specified as optional, in order for Deutsche Bank to continue trading with swap counterparties after December 31, 2012, Deutsche Bank will require that (i) all swap counterparties (other than a Special Entity) agree to Schedule 3, (ii) all swap counterparties that are non-ERISA Special Entities agree to Schedule 4 and (iii) all ERISA Plans agree to Schedule 5 or Schedule 6.

➔ Regulatory Deadline: DEC 31st

**What is a U.S. Person?** The CFTC has not finalized the definition of a U.S. Person but the following are included in the proposed guidance from the CFTC on this definition:

- Any natural person who is a resident of the United States
- Any corporation, partnership or other business entity that is organized under U.S. law or which has its principal place of business in the United States
- Any foreign branch or agency of a bank or other business entity that is a U.S. person
- Any individual account for the benefit of a U.S. person
- Any commodity pool, pooled account or "collective investment vehicle" of which a majority ownership is directly or indirectly held by a U.S. person
- Any commodity pool, pooled account or "collective investment vehicle" the operator of which is required to register as a commodity pool operator
- Any pension plan for the benefit of employees of an entity with its principal place of business in the United States
- Any estate or trust the income of which is subject to U.S. income tax, regardless of source

## More Information

Please visit the ISDA site [here](#) to adhere to the Protocol.

## Contacts

For ISDA Protocol questions, please contact [DF.Protocol@db.com](mailto:DF.Protocol@db.com)

If you have other questions, please contact your Deutsche Bank representative.

