The Dodd-Frank Wall Street Reform and Consumer Protection Act (Act) was signed into law by the President on July 21, 2010. This summary is from the perspective of non-financial end-user which is believed to comprise most of NAESB membership that would be subject to the Act. The updates since March 14, 2012 are noted by **bold underlined text.**

**Background:**

The Commodity Futures Trading Commission (CFTC) issued an order amending the previously-issued “Temporary Exemptive Relief” from certain provisions of the Act that would have otherwise taken effect on July 16, 2011. The temporary exemptive relief applies to provisions of the Act that require rulemakings. **The temporary exemptive relief will expire upon the earlier of the effective date of the relevant Final Rules or December 31, 2012.**

**Generally, the rules appear to be manageable by end-users, but would impose an additional administrative and cost burdens associated with establishing and maintaining an end-user's eligibility to use the end-user exception from the mandatory clearing requirement. There remains concern that the rules may reduce both the availability of various swap instruments, and counterparty liquidity, thereby restricting an end-user's ability to execute swap transactions with counterparties.**

**Major Final Rules affecting End-Users:**

Anti-Market Manipulation Rule – Final Rule on market manipulation or attempted market manipulation was effective 8/15/2011.

Whistleblower Rule – Final Rule on whistleblower program was effective 10/24/2011.

Position Limits – Final Rule on position limits during both short term and long term periods was effective on 1/17/2012. ISDA and SIFMA filed a complaint at the DC District Court contending the decision making process in developing the rule was flawed and the CFTC adopted the rule without making findings as to the necessary and appropriateness of the position limits, required by the Act. In regulatory terms, the rule is “arbitrary and capricious”. Separate DC District Court hearing on Preliminary Injunction staying Final Rule pending final resolution of complaint held 2/27/2012. **No rulings from the Court as of today. Initial spot month position limits currently scheduled to go into effect on 10/12/2012.**

Recordkeeping and Reporting – Final Rule was effective on 3/13/2012. **Reporting compliance deadlines will be phased-in depending on counterparties and types of swap transactions.**

Real-Time Reporting – Final Rule was effective on 3/9/2012. **Reporting Compliance deadlines will be phased-in depending on counterparties and types of swap transactions.**

**Recordkeeping and Reporting of Pre-Enactment or Transition Swaps (Historical Swaps) – Final Rule was effective on 8/13/2012. Reporting Compliance deadlines will be phased-in depending on counterparties and types of swap transactions.**

**Definition of “Swap Dealer” (SD), “Major Swap Participant” (MSP), etc. – Final Rule was effective 7/23/2012. Analysis using the requirements of this Final Rule will determine if an entity may be a non-Financial End-User, and whether it qualifies as an Eligible Contract Participant (ECP).**

**Definitions of “Swap” – Final Rule will be effective on 10/12/2012. NAESB WGQ Annual Plan item 13 discussions and findings may provide guidance of impact, if any, on NAESB Base Contract and other related forward contracts. Final Rule requests comments on forward contracts with embedded volumetric options.**

**Commodity Options – Final Rule was effective 6/26/2012. This rule’s trade option exemption will be discussed with Swap definition above.**

**End-User Exception – Final rule setting forth requirements to select exception to mandatory clearing will be effective 9/17/2012.**

**Other Final Rules affecting End-users:**

**Internal Business Conduct Standards for SDs and MSPs – Final Rule was effective 6/4/2012. Duties, reporting, recordkeeping, and daily trading records requirements for SDs and MSPs to impact counterparties.**

**External Business Conduct Standards for SDs and MSPs – Final Rule was effective 4/17/2012. External business conduct standards will govern SDs and MSPs in their dealings with swap counterparties, including “Special Entities.”**

**Margin Requirements for Uncleared Swaps for SDs and MSPs – Comment period on Proposed Rule reopened until 9/12/2012 in light of consultative paper by Basel Commission on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO).**

**Swap Trading Relationship Documentation Requirements for SDs and MSPs – Proposed Rule would impose swap trading relationship documentation requirements on SDs and MSPs which impact counterparties.**

**Inter-Affiliate Clearing Exemption – Proposed exemption from clearing requirement for certain affiliates within a corporate group subject to conditions. Comments on Proposed Rule due 9/20/2012.**

*Federal Register* publications of CFTC approved Final Rules may be found at the following link:

<http://comments.cftc.gov/FederalRegister/Final.aspx>

**Other Information for non-Financial End-Users:**

* **Most applicable Final Rules are issued and the compliance timelines have started. Illustrative timeline with some deadlines are set forth on the embedded document compliments of Skadden Law Firm of Washington, DC:**
* CFTC approves a Re-Proposed Rule on Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades and Further Measures to Protect the Identities of Parties to Swap Transactions.
* **On June 28, 2012, CFTC granted ICE Trade Vault provisional registration as Swap Data Repository (SDR)**. Depository Trust & Clearing Organization and Reval SDR Inc. have also sought “provisional” registration. (SDR Registration Rule issued 9/1/2011 effective 10/31/2011).
* **On July 23, 2012, CFTC issues Legal Entity Identifier Order designating DTCC-SWIFT as the provider of CFTC Interim Compliance Identifier (CICI) used for recordkeeping and reporting of swap transactions. DTCC-SWIFT established a web portal that provides free access to legal names, parent-company names and other information on participants in financial transactions (including CICI, where available). The latest portal link is:** [**http://www.ciciutility.org**](http://www.ciciutility.org)
* **On August 13, 2012, ISDA opened its ISDA D-F Protocol as part of its documentation Initiative to assist the industry with its compliance efforts including revisions to existing ISDA Agreements. More information available at the following links: (ISDA DF Documentation Initiative)** [**http://www2.isda.org/dodd-frank-documentation-initiative/**](http://www2.isda.org/dodd-frank-documentation-initiative/) **and   
  (ISDA DF Protocol)** [**http://www2.issda.org/functional-areas/protocol-management/protocol/8**](http://www2.issda.org/functional-areas/protocol-management/protocol/8)
* **Another example of third party service for ISDA amendments and related DF compliance is offered by Markit Financial Information Services at the following link:** [**http://www.markit.com/en/products/distribution/document-exchange/isda-amend.page#**](http://www.markit.com/en/products/distribution/document-exchange/isda-amend.page)
* **On August 20, 2012, EEI announced that its EEI Contract Drafting Committee is sponsoring an industry event on 9/12/2012 at various locations (Houston (live) with video-linked to New York, Chicago and Los Angeles). Event will cover proposal on documentation for “book-outs” (required by 10/12/2012) and other document changes under swap definition and related rules. The link to register for this event is:** [**http://react.bracewellgiuliani.com/reaction/RSGenPage.asp?RSID=8C8408E4C1E21D8DCB2E1B37C30711BCA4443419B0827C32A9F2E418D8902FD7A**](http://react.bracewellgiuliani.com/reaction/RSGenPage.asp?RSID=8C8408E4C1E21D8DCB2E1B37C30711BCA4443419B0827C32A9F2E418D8902FD7A)
* **On August 21, 2012, CFTC issued a proposed Rule to exempt purchase or sale of specifically defined “financial transmission rights,” “energy transactions,” “forward capacity transactions,” and “reserve or regulation transactions” that are offered or sold in a market administered by RTOs and ISOs pursuant to a protocol that is approved or permitted by FERC or PUCT.**
* **No new developments on actions by CFTC Technical Advisory Committee’s Subcommittee on Data Standardization.**