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CFTC Approves Proposed Rules and Other Commission Business

February 20, 2024

Washington, D.C. — The Commodity Futures Trading Commission announced today it approved the following matters:

Proposed Rule: Regulations to Address Margin Adequacy and to Account for the Treatment of Separate Accounts by Futures Commission Merchants

The Commission approved a proposed rule to implement requirements for futures commission merchants (FCMs) related to margin adequacy and the treatment of separate accounts of a single customer. Relatedly, the Commission withdrew its April 14, 2023 proposal to codify the no-action position in CFTC Staff Letter No. 19-17 regarding separate account treatment applicable to derivatives clearing organizations (DCOs) and, through DCO rules, to clearing FCMs. The current proposal would add new Regulation 1.44, which would apply directly to all FCMs, with respect to their customers, a margin adequacy requirement, similar to the one applicable to DCOs in Regulation 39.13(g)(8)(iii), which is designed to ensure that an FCM does not permit a customer to withdraw funds from its account if the balance after the withdrawal would be insufficient to meet the customer's initial margin requirements. Proposed Regulation 1.44 would also permit FCMs, whether clearing or non-clearing, to treat the separate accounts of a single customer as accounts of separate entities for purposes of the new margin adequacy requirement, and set forth risk-mitigating requirements, based on the no-action conditions and similar requirements in the April 2023 proposal. The current proposal contains modifications to the proposed requirements for separate account treatment based on additional feedback from commenters in response to the April 2023 proposal, including with respect to provisions related to the timing of margin payments and administrative errors or operational constraints that may result in untimely margin payments. [See [Fact Sheet](#)]

The public comment period closes on April 22, 2024.

Proposed Rule: Foreign Boards of Trade

The Commission unanimously approved proposed amendments to Part 48 of CFTC regulations and is seeking comments on the proposed amendments. The proposed amendments would permit a foreign board of trade (FBOT) registered with the CFTC to provide direct access to its electronic trading and order matching system to an identified member or other participant located in the United States and registered with the CFTC as an introducing broker for submission of customer orders to the FBOT's trading system for execution. The Commission is also proposing, in Part 48, to establish a procedure for an FBOT to request revocation of its registration, and to remove certain outdated references to "existing no-action relief."

The public comment period closes on April 22, 2024.

Proposed Rule: Requirements for Designated Contract Markets and Swap Execution Facilities Regarding Governance and the Mitigation of Conflicts of Interest Impacting Market Regulation Functions

The Commission issued for public comment a proposed rule for designated contract markets (DCMs) and swap execution facilities (SEFs) that would establish governance requirements regarding market regulation functions, as well as related conflicts of interest standards. The proposed rules would establish for DCMs and SEFs certain minimum fitness standards under DCM Core Principle 15 (Governance Fitness Standards) and SEF Core Principle 2 (Compliance with Rules), as well as rules for identifying, managing, and resolving conflicts of interest, and structural governance requirements to ensure that SEF and DCM governing bodies adequately incorporate an independent perspective under DCM Core Principle 16 (Conflicts of Interest) and SEF Core Principle 12 (Conflicts of Interest). The proposed amendments also address requirements relating to the following: composition requirements for board of directors and disciplinary panels; limitations on the use and disclosure by employees and certain others of material non-public information; requirements relating to chief regulatory officers, chief compliance officers, and regulatory oversight committees; and notification of certain changes in the ownership or corporate or organizational structure of a SEF or DCM. [See [Fact Sheet](#)]

The public comment period closes on April 22, 2024.

Application of Taiwan Futures Exchange Corporation for an Exemption from Registration as a DCO

The Commission issued an order of exemption from registration as a derivatives clearing organization (DCO) to Taiwan Futures Exchange Corporation (TAIFEX), under Section 5b(h) of the Commodity Exchange Act. This provision permits the Commission to exempt a clearing organization from DCO registration for swaps clearing if the Commission determines the clearing organization is subject to comparable, comprehensive supervision by appropriate government authorities in the clearing organization's home country. Subject to the terms and conditions of the order, TAIFEX is permitted to clear proprietary swap positions for its U.S. clearing members or affiliates of such clearing members.

[See [Order](#)]

ICE NGX Petition for Amended DCO Registration Order

The Commission approved an amended order of registration for ICE NGX Canada, Inc. (NGX), adding environmental contracts to the scope of contracts it is eligible to clear as a DCO under the Commodity Exchange Act. Subject to the terms and conditions of the amended order, NGX is authorized to provide clearing services for foreign futures, options on foreign futures, and swaps based on energy products or environmental products. NGX is located in Calgary, Alberta, Canada, and its parent company is Intercontinental Exchange, Inc.

[See [Order](#)]

All comments for proposed rules must be in writing and may be submitted electronically through the CFTC Comments [online](#) process. All comments received will be posted on [CFTC.gov](#). Chairman and Commissioners statements available [here](#).

-CFTC-

RELATED LINKS

Statement of Chairman Rostin Behnam in Support of the Proposed Requirements for DCMs and SEFs Regarding Governance and the Mitigation of Conflicts of Interest Impacting Market Regulation

Statement of Chairman Rostin Behnam in Support of Proposed Amendments to CFTC Regulations for Foreign Boards of Trade

Statement of Commissioner Kristin N. Johnson Ensuring the Integrity of Customer Protections for Customers of U.S. Introducing Brokers With Direct Access to Foreign Boards of Trade

Statement of Commissioner Kristin N. Johnson Regarding Regulations to Establish Margin Adequacy Requirements and Addressing Separate Account Treatment

Statement of Commissioner Christy Goldsmith Romero on the Importance of Strong Rules for Conflicts of Interest at Exchanges and Swap Execution Facilities

Statement of Commissioner Christy Goldsmith Romero on Proposed Rule Changing Post-Dodd Frank Act Reforms to Allow Direct Access of U.S. Customers to Foreign Boards of Trade Through Introducing Brokers

Statement of Commissioner Caroline D. Pham in Support of Foreign Board of Trade Proposal

Statement of Commissioner Caroline D. Pham in Support of the Treatment of Separate Accounts Proposal

Statement of Commissioner Kristin N. Johnson: Dissenting Statement on Incomplete Conflicts of Interest Rules, Lack of Vertical Integration Rules, and Equity Transfer Rules

Statement of Commissioner Caroline D. Pham on DCM and SEF Conflicts of Interest Proposal

Resources

- CFTC Regulations
- Commodity Exchange Act
- Privacy Policy
- Web Policy
- FOIA
- EEO Statement
- No Fear Act
- Accessibility Statement
- Procurement
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- Glossary

Actions

- Search Public Comments
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