

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Statement of Regulatory Priorities

The regulatory objectives of the Commodity Futures Trading Commission are to ensure that the commodity futures and option markets remain competitive and respond to underlying supply and demand factors by detecting and preventing threats of price manipulation, abusive trading practices, fraud, and other market disruptions, safeguarding the financial soundness of those markets, and providing for appropriate customer protection of those who trade on those markets. Futures markets that are free of manipulation and other anticompetitive forces can most effectively perform their vital economic functions of price discovery and risk transfer. To these ends, the Commission's objectives include protection of customer funds, ensuring the financial integrity of regulated intermediaries, and protection of customers from abusive trade practices.

CFTC

PROPOSED RULE STAGE

157. • USE OF ELECTRONIC MEDIA BY COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

Priority:

Other Significant

Legal Authority:

7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l; 7 USC 6m; 7 USC 6n; 7 USC 6o; 7 USC 12g

CFR Citation:

17 CFR 4.1; 17 CFR 4.2; 17 CFR 4.21; 17 CFR 4.26; 17 CFR 4.31; 17 CFR 4.36

Legal Deadline:

None

Abstract:

The CFTC is proposing certain technical changes to its rules governing filing and distribution of Disclosure Documents by commodity pool operators (CPOs) and commodity trading advisors (CTAs). These proposed rule amendments are intended to clarify certain rules that are premised upon the filing and distribution of paper documents, in light of the views set forth in the

Commissions's recent interpretative release concerning the use of electronic media by CPOs and CTAs.

Statement of Need:

These rule amendments are intended to obviate any potential for uncertainty when CPOs and CTAs elect to use electronic media to communicate or to distribute Disclosure Documents pursuant to the requirements of CFTC rules that were adopted with paper-based documents in mind. These rule amendments should facilitate the use of electronic media by CPOs and CTAs in a manner consistent with the purposes of existing disclosure requirements.

Alternatives:

The proposed revisions apply only in the event that a CPO or CTA elects to use electronic media, and they do not apply where a registrant elects to use traditional paper-based means to deliver a Disclosure Document or otherwise to communicate.

Anticipated Costs and Benefits:

These proposed rule amendments should facilitate the use of electronic media, on a voluntary basis, by CPOs and CTAs and this should promote efficiency and reduce costs.

Timetable:

Action	Date	FR Cite
NPRM	08/27/96	61 FR 44009
NPRM Comment Period End	10/28/96	

Small Entities Affected:

None

Government Levels Affected:

None

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CFTC

FINAL RULE STAGE

158. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS

Priority:

Other Significant

Legal Authority:

7 USC 6f(c)

CFR Citation:

17 CFR 1.14; 17 CFR 1.15

Legal Deadline:

None

Abstract:

On December 21, 1994, the Commission adopted, as phase 1 of the risk assessment rulemaking, final rules with respect to maintenance and filing of organizational charts, risk management policies, procedures and systems, and consolidated and consolidating financial statements. It also proposed "trigger" event reporting in the event of a 20 percent decline in a futures commission merchant's (FCM's) adjusted net capital. The Commission deferred action on the balance of the proposed rules, which related to reporting of position data and other data concerning FCM affiliates. With respect to the second phase of the rulemaking process, the Commission's staff will continue to work with other financial regulators, particularly the Securities and Exchange Commission, to design a reporting framework that is harmonized across regulatory structures and, to the extent possible, reflective of a consensus as to which data are most meaningful to regulators and can be provided without undue burden.

Statement of Need:

These rules, authorized by Congress in section 229 of the Futures Trading Practices Act of 1992, Public Law 102-546, 106 Stat. 3590 (1992), are intended to enhance the Commission's financial surveillance program by providing the Commission with access to information concerning the activities of affiliates of registered FCMs whose activities are reasonably likely to have a material impact on the financial or operational condition of the FCM. These adopted rules require registered FCMs to maintain certain records concerning the financial activities of such material affiliates, to file certain information with the Commission on an annual basis, and to provide additional information to the Commission upon the occurrence of specified events. The records required to be maintained and the information required to be filed routinely include an organizational chart, risk management policies, and consolidated and consolidating financial statements. In addition, notice of a 20 percent decline in an FCMs adjusted net capital is required. Proposals related to securities and

commodity position data, financial instrument holdings, information regarding positions of affiliates carried by FCM's, as well as certain other "trigger" events for reporting purposes have been deferred.

The Commission views these rules as necessary to fulfill its objectives of protecting customer funds and ensuring the financial integrity of regulated intermediaries. The rules are intended to enhance the safeguards of customer funds by providing the Commission with increased access to material information concerning the operations of affiliates of the FCM whose activities may expose the FCM to financial or operational risks. The new statutory authority under which these rules were adopted recognizes that, as illustrated by the experience of the CFTC and other regulators with several recent failures of regulated brokerage firms, the operations of regulated FCMs may be materially affected by, and only understood in conjunction with, the activities of affiliated entities, many of which may be unregulated. Concomitantly, the effectiveness of ongoing financial oversight programs may depend upon access to information concerning risks to the FCM created by affiliate activity, and the efficacy of regulatory responses to financial problems at the regulated entity may be enhanced by access to information concerning relevant affiliate activity.

Alternatives:

The proposals provide alternative filing options for an FCM that is also a securities broker-dealer, or that is part of a holding company with affiliates subject to the oversight of a Federal banking agency, State insurance commission, or a foreign regulator with which the Commission has an information-sharing agreement to avoid duplicative reporting burdens. The staff has also consulted extensively with other financial regulators, and continues to do so, to explore the extent to which they may share with the Commission on a confidential basis relevant risk assessment information concerning entities subject to their supervision so as to reduce duplicative requirements.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no

Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 USC 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Phase I Risk Assessment for Holding Company Systems	12/28/94	59 FR 66674
Final Action	09/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

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CFTC

159. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority:

Other Significant

Legal Authority:

7 USC 7a(a)(17)

CFR Citation:

17 CFR 1.67; 17 CFR 1.69

Legal Deadline:

None

Abstract:

The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992, which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee that would require abstention from deliberations and voting. The rulemaking will also provide guidelines on situations that would require a member to abstain from voting on a significant action because of a substantial financial

interest in the outcome of the vote, based on positions held personally or at an affiliated firm, as well as on other matters addressed by the statute. The action potentially impacts the selection and composition of contract market governing boards and committees.

Statement of Need:

This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive, and efficient.

Alternatives:

These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

Anticipated Costs and Benefits:

As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	05/03/96	61 FR 19869
NPRM Comment Period End	07/02/96	
Final Action	10/00/96	

Small Entities Affected:

None

Government Levels Affected:

None

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CFTC**160. FINANCIAL REPORTING AND DEBT-EQUITY RATIO REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS****Priority:**

Other Significant

Legal Authority:

17 USC 6f; 17 USC 6g; 17 USC 12a

CFR Citation:

17 CFR 1.10; 17 CFR 1.12; 17 CFR 1.17; 17 CFR 1.18; 17 CFR 1.52; 17 CFR 3.33; 17 CFR 145.5; 17 CFR 147.3

Legal Deadline:

None

Abstract:

The CFTC is proposing: (1) to amend its financial reporting cycle such that, among other things, FCMs and IBs would be required to submit unaudited financial reports within 17 business days, and certified year-end financial reports within 60 calendar days, of the "as of" date of the report (currently 45 calendar days and 90 calendar days are permitted, respectively); and (2) to amend its debt-equity ratio rule such that the 30 percent minimum equity requirement would apply to all of a firm's capital, rather than only to that portion of a firm's capital necessary to

meet the minimum financial requirement. The proposals follow discussions at a capital roundtable held in September 1995 where it was suggested that the CFTC explore ways to further harmonize its financial rules with those of the Securities and Exchange Commission. These proposals would achieve that objective and the CFTC also believes that it is appropriate to propose these amendments given the speed and complex nature of today's financial markets.

Statement of Need:

The rule proposals are intended to further harmonize the Commission's financial rules with those of the Securities and Exchange Commission. Many firms are dually registered with the CFTC and the SEC so the change in reporting cycles should not require a change in operations. The Commission also believes that more prompt reporting by all firms is appropriate in today's financial environment.

Alternatives:

The proposals were published for comment and the Commission will carefully consider the comments of interested parties.

Anticipated Costs and Benefits:

As a financial regulator, the CFTC is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	02/26/96	61 FR 7080
NPRM Comment Period End	03/27/96	
Final Action	03/00/97	

Small Entities Affected:

None

Government Levels Affected:

None

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