

## Commodity Futures Trading Commission

## § 37.5

demonstration should address the following specific factors to the extent that the factor is not self-evident:

(A) A high level of cash-market liquidity;

(B) Cash-market bid-ask spreads that are narrow relative to traded values;

(C) Relatively frequent cash market transactions involving participants that represent major segments of the industry;

(D) The absence of material impediments to participation in the cash market by commercial entities;

(E) Transfer of ownership of the cash commodity that is easily and readily accomplished at minimal cost;

(F) A pattern of cash market pricing that exhibits continuity and the absence of frequent, sharp price changes such that a person cannot readily move materially the price of the product in normal cash market channels;

(G) A history of actual trading experience that the contract or product's terms and conditions provide for a deliverable supply, or a reliable and acceptable cash-settlement procedure, that is adequate to minimize the threat of market abuses such as price manipulation and distortions, congestion, and defaults; and

(H) Procedures to effectively oversee the market, including a large trader reporting system, as well as a history of active surveillance to prevent or mitigate market problems.

(b) *Trading facilities limited to eligible commercial entities.* Any commodity, other than the agricultural commodities enumerated in section 1a(4) of the Act, is eligible under section 5a(b)(2)(F) of the Act to be traded on a derivatives transaction execution facility that limits participants on the facility to eligible commercial entities as defined by § 37.1(b) trading for their own account. *Provided, however,* an agricultural commodity enumerated in section 1a(4) of the Act may be so approved by the Commission under the procedures of paragraph (c) of this section.

(c) *Enumerated agricultural commodities.* [Reserved]

### § 37.4 Election to trade excluded and exempt commodities.

A board of trade that is or elects to become a registered derivatives transaction execution facility may, pursuant to section 5a(g) of the Act, trade agreements, contracts, or transactions that are excluded or exempt from the Act pursuant to sections 2(c), 2(d), 2(g), or 2(h).

### § 37.5 Procedures for registration.

(a) *Notification by contract markets.* To operate as a registered derivatives transaction execution facility pursuant to section 5a of the Act, a board of trade, facility or entity that is designated as a contract market, must:

(1) Comply with the core principles for operation under section 5a(d) of the Act and the provisions of this part 37; and

(2) Notify the Commission of its intent to so operate by filing with the Secretary of the Commission at its Washington, DC headquarters a copy of the facility's rules (which may be trading protocols) or a list of the designated contract market's rules that apply to operation of the derivatives transaction execution facility, and a certification by the contract market that it meets:

(i) The requirements for trading of section 5a(b) of the Act; and

(ii) The criteria for registration under section 5a(c) of the Act.

(b) *Registration by application.* A board of trade, facility or entity shall be deemed to be registered as a derivatives transaction execution facility thirty days after receipt by the Commission of an application for registration as a derivatives transaction execution facility unless notified otherwise during that period, or, as determined by Commission order, registered upon conditions, if:

(1) The application demonstrates that the applicant satisfies the requirements for trading and the criteria for registration of sections 5a(b) and 5a(c) of the Act, respectively;

(2) The submission is labeled "Application for DTF Registration";

(3) The submission includes: