

## Commodity Futures Trading Commission

## § 38.5

entity as a contract market upon conditions.

(2) The Director may submit to the Commission for its consideration any matter that has been delegated in this paragraph.

(3) Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in paragraph (e)(1) of this section.

[66 FR 42277, Aug. 10, 2001, as amended at 67 FR 62352, Oct. 7, 2002; 67 FR 62878, Oct. 9, 2002]

### § 38.4 Procedures for listing products and implementing contract market rules.

(a) *Request for Commission approval of rules and products.* (1) An applicant for designation, or a designated contract market, may request that the Commission approve under section 5c(c) of the Act, any or all of its rules and subsequent amendments thereto, including both operational rules and the terms or conditions of products listed for trading on the facility, prior to their implementation or, notwithstanding the provisions of section 5c(c)(2) of the Act, at anytime thereafter, under the procedures of §§ 40.5 or 40.3 of this chapter, as applicable. A designated contract market may label a product in its rules as, "Listed for trading pursuant to Commission approval," if the product and its terms or conditions have been approved by the Commission and it may label as, "Approved by the Commission," only those rules that have been so approved.

(2) Notwithstanding the forty-five day review period for voluntary approval under §§ 40.3(b) and 40.5(b) of this chapter, the operating rules and the terms and conditions of products submitted for voluntary Commission approval under § 40.3 or § 40.5 of this chapter that have been submitted at the same time as an application for contract market designation or an application under § 38.3(a)(2) to reinstate the designation of a dormant contract market as defined in § 40.1 of this chapter, or while one of the foregoing is pending, will be deemed approved by the Commission no earlier than the facility is deemed to be designated or reinstated.

(b) *Self-certification of rules and products.* Rules of a designated contract market and subsequent amendments thereto, including both operational rules and the terms or conditions of products listed for trading on the facility, not voluntarily submitted for prior Commission approval pursuant to paragraph (a) of this section must be submitted to the Commission with a certification that the rule, rule amendment or product complies with the Act or rules thereunder pursuant to the procedures of §§ 40.6 and 40.2 of this chapter, as applicable. *Provided, however,* any rule or rule amendment that would, for a delivery month having open interest, materially change a term or condition of a contract for future delivery in an agricultural commodity enumerated in section 1a(4) of the Act, or of an option on such a contract or commodity, must be submitted to the Commission prior to its implementation for review and approval under § 40.4 of this chapter.

(c) An applicant for designation, or a designated contract market, may request that the Commission consider under the provisions of section 15(b) of the Act any of the contract market's rules or policies, including both operational rules and the terms or conditions of products listed for trading.

[66 FR 42277, Aug. 10, 2001, as amended at 67 FR 62878, Oct. 9, 2002]

### § 38.5 Information relating to contract market compliance.

(a) Upon request by the Commission, a designated contract market shall file with the Commission such information related to its business as a contract market, including information relating to data entry and trade details, in the form and manner and within the time as specified by the Commission in the request.

(b) Upon request by the Commission, a designated contract market shall file with the Commission a written demonstration, containing such supporting data, information and documents, in the form and manner and within such time as the Commission may specify, that the designated contract market is in compliance with one or more core principles as specified in the request.