

support for any request for confidential treatment pursuant to the procedures set forth in § 145.9 of this chapter.

(d) If, upon review, the Commission finds the application for registration to be complete, the Commission may approve or deny the application. In reviewing the application, the Commission will consider, among other things:

(1) Whether the foreign board of trade is eligible to be registered as defined in § 48.2(b) and;

(2) Whether the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate governmental authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are respectively subject under the Act, Commission regulations, and other applicable United States laws and regulations, if any, and;

(3) Any previous Commission findings that the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate government authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are subject under the Act, Commission regulations, and other applicable United States laws and regulations, if any; and

(4) Whether the foreign board of trade and its clearing organization have adequately demonstrated that they meet the requirements for registration specified in § 48.7.

(5) The Commission's determination that the foreign board of trade and its clearing organization are subject to comprehensive supervision and regulation by the appropriate government authorities in their home country or countries that is comparable to the comprehensive supervision and regulation to which designated contract markets and derivatives clearing organizations are subject will be based upon a principles-based review conducted in a manner consistent with this part 48 pursuant to which the Commission will

look to determine if the government authorities support and enforce regulatory objectives in the oversight of the foreign board of trade and the clearing organization that are substantially equivalent to the regulatory objectives supported and enforced by the Commission in its oversight of designated contract markets and derivatives clearing organizations.

(e) If the Commission approves the application, the Commission will issue an Order of Registration. If the Commission does not approve the application, the Commission will, after appropriate notice and an opportunity to respond, issue a Notice of Action specifying that the application was not approved and setting forth the reasons therefor. The Commission, in its discretion, may impose conditions in the Order of Registration and may, after appropriate notice and an opportunity to respond, amend, suspend, or otherwise restrict the terms of an issued Order of Registration or issue an Order revoking registration.

(f) A foreign board of trade whose application is not approved may reapply for registration 360 days after the issuance of the Notice of Action if the foreign board of trade has addressed any deficiencies in its original application or facts and circumstances relevant to the Commission's review of the application have changed.

**§ 48.6 Foreign boards of trade providing direct access pursuant to existing no-action relief.**

(a) A foreign board of trade operating pursuant to existing no-action relief as of the effective date of this part 48 must register with the Commission pursuant to this part in order to continue to provide direct access to its electronic trading and order matching system from the United States.

(b)(1) The application of a foreign board of trade operating pursuant to existing no-action relief must include a complete Form FBOT and Supplement S-1, as set forth in the appendix to this part. If the foreign board of trade, as part of its application for registration, wishes to rely on information and documentation previously submitted electronically in connection with its request for no-action relief in order to

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demonstrate that it satisfies the registration requirements set forth in § 48.7, (limited application) the foreign board of trade must:

(i) Specifically identify the information or documentation previously submitted;

(ii) Identify the specific registration requirements set forth in § 48.7 that are satisfied by such information or documentation; and

(iii) Certify that the information remains accurate and current.

(2) If the foreign board of trade wishes to rely on information and documentation previously submitted in hard copy in connection with its application for no-action relief, the foreign board of trade must also resubmit the identified information or documentation. A foreign board of trade that has submitted a complete application for no-action relief that is pending as of February 21, 2012 may also apply for registration pursuant to these limited application procedures.

(c) A foreign board of trade operating pursuant to existing no-action relief must submit a limited application for registration, determined in good faith by the applicant to be complete, within 180 days of February 21, 2012. If, at any time after August 20, 2012 but before a limited application is approved or disapproved, the Commission determines that the application is materially incomplete, the Commission may, after providing the foreign board of trade with notice and an opportunity to respond to the determination of incompleteness, withdraw the existing no-action relief if the Commission determines that the application cannot be made complete in a timely manner. The foreign board of trade may continue to operate pursuant to the existing no-action relief, subject to the terms and conditions contained therein, August 20, 2012, while the Commission is reviewing its application, and until the Commission approves or disapproves the application or otherwise withdraws the existing no-action relief. The no-action relief is automatically withdrawn upon issuance of an Order of Registration or upon disapproval.

### § 48.7 Requirements for registration.

An applicant for registration must demonstrate that it and, where applicable, its clearing organization meet the following requirements. The registration requirements applicable to clearing organizations may alternatively be met by demonstrating that the clearing organization is registered and in good standing with the Commission as a derivatives clearing organization. The Commission, in its discretion, may request additional information and documentation in connection with an application for registration and an applicant for registration must provide promptly any such additional information or documentation. The Commission, in its discretion, also may impose additional registration requirements that the Commission deems necessary after appropriate notice and opportunity to respond.

(a) Foreign Board of Trade and Clearing Membership:

(1) The members and other participants of the foreign board of trade and its clearing organization are fit and proper and meet appropriate financial and professional standards;

(2) The foreign board of trade and its clearing organization have and enforce provisions to minimize and resolve conflicts of interest; and

(3) The foreign board of trade and its clearing organization have and enforce rules prohibiting the disclosure, both during and subsequent to service on a board or committee, of material non-public information obtained as a result of a member's or other participant's performance of duties as a member of their respective governing boards and significant committees.

(b) The Automated Trading System:

(1) The trading system complies with Principles for the Oversight of Screen-Based Trading Systems for Derivative Products developed by the Technical Committee of the International Organization of Securities Commissions,

(2) The trade matching algorithm matches trades fairly and timely,

(3) The audit trail captures all relevant data, including changes to orders, and audit trail data is securely maintained and available for an adequate time period,