

## Commodity Futures Trading Commission

## § 39.2

- 39.35 Default rules and procedures for uncovered credit losses or liquidity shortfalls (recovery) for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.
- 39.36 Risk management for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.
- 39.37 Additional disclosure for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.
- 39.38 Efficiency for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.
- 39.39 Recovery and wind-down for systemically important derivatives clearing organizations and subpart C derivatives clearing organizations.
- 39.40 Consistency with the Principles for Financial Market Infrastructures.
- 39.41 Special enforcement authority for systemically important derivatives clearing organizations.
- 39.42 Advance notice of material risk-related rule changes by systemically important derivatives clearing organizations.

APPENDIX A TO PART 39—FORM DCO DERIVATIVES CLEARING ORGANIZATION APPLICATION FOR REGISTRATION

APPENDIX B TO PART 39—SUBPART C ELECTION FORM

AUTHORITY: 7 U.S.C. 2, 7a-1, and 12a; 12 U.S.C. 5464; 15 U.S.C. 8325.

SOURCE: 76 FR 69430, Nov. 8, 2011, unless otherwise noted.

### Subpart A—General Provisions Applicable to Derivatives Clearing Organizations

#### § 39.1 Scope.

The provisions of this subpart A apply to any derivatives clearing organization as defined under section 1a(15) of the Act and § 1.3(d) of this chapter which is registered or deemed to be registered with the Commission as a derivatives clearing organization, is required to register as such with the Commission pursuant to section 5b(a) of the Act, or which voluntarily applies to register as such with the Commission pursuant to section 5b(b) or otherwise.

#### § 39.2 Definitions.

For the purposes of this part:

*Activity with a more complex risk profile* includes:

(1) Clearing credit default swaps, credit default futures, or derivatives that reference either credit default swaps or credit default futures and

(2) Any other activity designated as such by the Commission pursuant to § 39.33(a)(3).

*Back test* means a test that compares a derivatives clearing organization's initial margin requirements with historical price changes to determine the extent of actual margin coverage.

*Customer* means a person trading in any commodity named in the definition of commodity in section 1a(9) of the Act or in § 1.3 of this chapter, or in any swap as defined in section 1a(47) of the Act or in § 1.3 of this chapter; *Provided, however*, an owner or holder of a house account as defined in this section shall not be deemed to be a customer within the meaning of section 4d of the Act, the regulations that implement sections 4d and 4f of the Act and § 1.35 of this chapter, and such an owner or holder of such a house account shall otherwise be deemed to be a customer within the meaning of the Act and §§ 1.37 and 1.46 of this chapter and all other sections of these rules, regulations, and orders which do not implement sections 4d and 4f of the Act.

*Customer account* or *customer origin* means a clearing member account held on behalf of customers, as that term is defined in this section, and which is subject to section 4d(a) or section 4d(f) of the Act.

*Depository institution* has the meaning set forth in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

*House account* or *house origin* means a clearing member account which is not subject to section 4d(a) or 4d(f) of the Act.

*Key personnel* means derivatives clearing organization personnel who play a significant role in the operations of the derivatives clearing organization, the provision of clearing and settlement services, risk management, or oversight of compliance with the Act and Commission regulations and orders. Key personnel include, but are not limited to, those persons who are or perform the functions of any of the