

## Commodity Futures Trading Commission

## § 40.10

other part of the application not covered by a request for confidential treatment.

(b) The following submissions provided by an electronic trading facility on which significant price discovery contracts are traded or executed will be public: rulebook, the facility's regulatory compliance chart, documents establishing the facility's legal status, documents setting forth the facility's governance structure, and any other parts of the submissions not covered by a request for confidential treatment (§40.8(b) will be removed on July 20, 2012).

(c) A registered entity's filing of new products pursuant to the self-certification procedures of §40.2 of this part, new products for Commission review and approval pursuant to §40.3 of this part, new rules and rule amendments for Commission review and approval pursuant to §40.4 or §40.5 of this part, and new rules and rule amendments pursuant to the self-certification procedures of §40.6 and §40.10 of this part shall be treated as public information unless accompanied by a request for confidential treatment. If a registered entity files a request for confidential treatment, the following procedures shall apply:

(1) A detailed written justification of the confidential treatment request must be filed simultaneously with the request for confidential treatment. The form and content of the detailed written justification shall be governed by §145.9 of this chapter;

(2) All material for which confidential treatment is requested must be segregated in an appendix to the submission;

(3) The submission itself must indicate that material has been segregated and, as appropriate, an additional redacted version provided;

(4) Commission staff may make an initial determination with respect to the request for confidential treatment without regard to whether a request for the information has been sought under the Freedom of Information Act;

(5) All requests for confidential treatment shall be subject to the process provided by §145.9 of this chapter.

(6) A submitter of information under this part may appeal an adverse deci-

sion by staff to the Commission's Office of General Counsel. The form and content of such appeal shall be governed by §145.9(g) of this chapter.

(7) The grant of any part of a request for confidential treatment under this section may be reconsidered if a subsequent request under the Freedom of Information Act is made for the information.

(d) Commission staff will not consider confidential treatment requests for information that is required to be made public under the Act. The terms and conditions of a product submitted to the Commission pursuant to §§ 40.2, 40.3, 40.5 and 40.6 of this part shall be made publicly available at the time of submission.

### § 40.9 [Reserved]

### § 40.10 Special certification procedures for submission of rules by systemically important derivatives clearing organizations.

(a) *Advance notice.* A registered derivatives clearing organization that has been designated by the Financial Stability Oversight Council as a systemically important derivatives clearing organization shall provide notice to the Commission not less than 60 days in advance of any proposed change to its rules, procedures, or operations that could materially affect the nature or level of risks presented by the systemically important derivatives clearing organization. A notice submitted under this section shall be subject to the filing requirements of §40.6(a)(1) and the Web site publication requirements of §40.6(a)(2).

(1) The notice of a proposed change shall provide the information required to be submitted under §40.6(a)(7) and shall specifically describe:

(i) The nature of the change and expected effects on risks to the systemically important derivatives clearing organization, its clearing members, or the market; and

(ii) How the systemically important derivatives clearing organization plans to manage any identified risks.

(2) Concurrent with providing the Commission with the advance notice or