

## § 40.7

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gratuity and similar funds, but not guaranty, reserves, or similar funds; declaration of holidays, and changes to facilities housing the market, trading floor or trading area;

(D) *Standards of decorum.* Standards of decorum or attire or similar provisions relating to admission to the floor, badges, or visitors, but not the establishment of penalties for violations of such rules; and

(E) *Fees.* Fees or fee changes, other than fees or fee changes associated with market making or trading incentive programs, that:

(1) Are less than \$1.00; or

(2) Relate to matters such as dues, badges, telecommunication services, booth space, real time quotations, historical information, publications, software licenses or other matters that are administrative in nature.

(F) *Securities indexes.* Routine changes to the composition, computation or method of security selection of an index that is referenced and defined in the product's rules, and which is made by an independent third party.

(G) *Option contract terms.* For registered entities that are in compliance with the daily reporting requirements of § 16.01 of this chapter, changes to option contract rules relating to the strike price listing procedures, strike price intervals, and the listing of strike prices on a discretionary basis.

(H) *Trading months.* For registered entities that are in compliance with the daily reporting requirements of § 16.01 of this chapter, the initial listing of trading months which are within the currently established cycle of trading months.

[76 FR 44790, July 27, 2011, as amended at 76 FR 45666, Aug. 1, 2011]

### § 40.7 Delegations.

(a) *Procedural matters.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Clearing and Risk and, separately, to the Director of the Division of Market Oversight, to be exercised by either Director, as appropriate, or by such employees of the Commission that either Director may designate from time to time, the following authorities, with the concurrence of the General

Counsel or the General Counsel's delegate:

(i) To request, pursuant to § 40.3(c)(2) or § 40.5(c)(1)(ii) of this part, that the registered entity requesting approval amend the proposed product, rule or rule amendment, or supplement the submission to the Commission;

(ii) To notify the registered entity, pursuant to § 40.3(e) or § 40.5(e) of this part, that the Commission is not approving, or is unable to approve, the proposed product, rule or rule amendment;

(iii) To make all determinations reserved to the Commission in § 40.10.

(2) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Clearing and Risk and, separately, to the Director of the Division of Market Oversight, to be exercised by either Director, as appropriate, or by such employees of the Commission that either Director may designate from time to time, the following authorities, after consultation with the Office of General Counsel or the General Counsel's delegate to notify a registered entity:

(i) Pursuant to § 40.3(d) of this part, that the time for review of the submission has been extended because the product raises novel or complex issues that require additional time for review;

(ii) Pursuant to § 40.5(d) of this part, that the time for review of the submission has been extended because the proposed rule or rule amendment raises novel or complex issues that require additional time for review or is of major economic significance;

(iii) Pursuant to § 40.6(c) of this part, that the proposed rule or rule amendment has been stayed because there exist novel or complex issues that require additional time to analyze, or there is potential inconsistency with the Act or the Commission's regulations.

(3) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Clearing and Risk and, separately, to the Director of the Division of Market Oversight, to be exercised by either Director, as appropriate, or by such employees of the Commission that either Director may designate from time to time, the authority to notify a registered entity,

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pursuant to § 40.3(d) or § 40.5(d) of this part, that the time for review of the submission has been extended, or that a rule certified pursuant to § 40.6(c) has been stayed, because the submission is incomplete or provides an inadequate explanation.

(4) *Emergency rules.* The Commission hereby delegates to the Director of the Division of Market Oversight and, separately, to the Director of the Division of Clearing and Risk, to be exercised by either Director, as appropriate, or by such other employee or employees of the Commission that either Director may designate from time to time, authority to receive notification of emergency rules under § 40.6(a)(6)(ii) of this part.

(5) The Commission hereby delegates to the Director of the Division of Market Oversight, to be exercised by the Director or by such employees of the Commission that the Director may designate from time to time, with the concurrence of the General Counsel or the General Counsel's delegate, the authority to determine whether a rule change submitted by a designated contract market for a materiality determination under § 40.4(b)(5) of this part is not material (in which case it may be reported pursuant to the provisions of § 40.6(d) of this part), or is material, in which case he or she shall notify the registered entity that the rule change must be submitted for the Commission's prior approval.

(b) *Approval authority.* The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Clearing and Risk and, separately, to the Director of the Division of Market Oversight, to be exercised by either Director, as appropriate, or by such employees of the Commission that either Director may designate from time to time, with the concurrence of the General Counsel or the General Counsel's delegate, the authority to approve, pursuant to section 5c(c)(3) of the Act and § 40.5 of this part, rules or rule amendments of a registered entity that:

(1) Relate to, but do not substantially change, the quantity, quality, or other delivery specifications, procedures, or obligations for delivery, cash settlement, or exercise under an agree-

ment, contract or transaction approved for trading by the Commission; daily settlement prices; clearing position limits; requirements or procedures for governance of a registered entity; procedures for transfer trades; trading hours; minimum price fluctuations; and maximum price limit and trading suspension provisions;

(2) Reflect routine modifications that are required or anticipated by the terms of the rule of a registered entity;

(3) Establish or amend speculative limits or position accountability provisions that are in compliance with the requirements of the Act and the Commission's regulations;

(4) Are in substance the same as a rule of the same or another registered entity which has been approved previously by the Commission pursuant to section 5c(c)(3) of the Act;

(5) Are consistent with a specific, stated policy or interpretation of the Commission; or

(6) Relate to the listing of additional trading months of approved contracts.

(c) Notwithstanding the provisions of this section, the Director of the Division of Clearing and Risk and, separately, the Director of the Division of Market Oversight may submit to the Commission for its consideration any matter that has been delegated pursuant to this section.

(d) Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising any of the authority delegated pursuant to this section.

[76 FR 44790, July 27, 2011, as amended at 78 FR 22419, Apr. 16, 2013]

### § 40.8 Availability of public information.

(a) The following sections of all applications to become a designated contract market, swap execution facility, derivatives clearing organization, or swap data repository shall be made publicly available: Transmittal letter and first page of the application cover sheet, proposed rules, narrative summary of the applicant's proposed activities and regulatory compliance chart, documents establishing the applicant's legal status, documents setting forth the applicant's corporate and governance structure and any