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Part XLVI

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Acting Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581; (202) 418-5096, edonovan@cftc.gov.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, (5 U.S.C. 601, *et seq.*) (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

Semiannually, each agency shall publish in the **Federal Register** a regulatory flexibility agenda that shall contain:

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules that it presently expects may be considered during the course of the next year. These rules may have some impact on small entities.¹ In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: “Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda.”

The Commission’s spring 2007 regulatory flexibility agenda is set forth below.

Issued in Washington, DC on February 28, 2007, by the Commission.

Eileen A. Donovan,
Acting Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3349	Offering and Selling Security Futures Products Traded on Foreign Boards of Trade to United States Persons; Requirements for Foreign Stock Index Contracts To Qualify as Non-Narrow-Based Indices	3038-AB75
3350	Interagency Proposal To Consider Alternative Forms of Privacy Notices Under the Gramm-Leach-Bliley Act	3038-AC04
3351	Execution of Off-Centralized Market Transactions: Regulation 1.38 and Guidance on Core Principle 9	3038-AC07
3352	Exemption From Registration for Certain Foreign Persons	3038-AC26
3353	Debt Securities Conforming Amendments	3038-AC31
3354	Exemption From Federal Speculative Position Limits	3038-AC36
3355	Registration of Futures Commission Merchants, Introducing Brokers, Commodity Trading Advisors, Commodity Pool Operators and Leverage Transaction Merchants	3038-AC37
3356	Extension of Time for Commodity Pool Operators To File Pool Annual Reports	3038-AC38
3357	Technical and Clarifying Amendments to Part 40 of the Commission’s Regulations	3038-AC39
3358	Periodic Revision of Federally Established Position Limits	3038-AC40

Commodity Futures Trading Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3359	Limitations on Withdrawals of Equity Capital	3038-AC27
3360	Conflicts of Interest in Self-Regulation and Self-Regulatory Organizations	3038-AC28
3361	Electronic Filing of Notices of Exemption or Exclusion Under Part 4 of the Commission’s Regulations	3038-AC33

¹ The Commission published its definition of small entity to be used in connection with rulemaking proceedings on April 30, 1982 (47 FR 18618). Pursuant to that definition, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic

impact on a substantial number of small entities. Accordingly, the listing of a rule in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda that includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and

meaningful opportunity to participate in and comment on the formulation of new or revised regulations. In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, posts an advisory on its Web site (<http://www.cftc.gov>) that lists rules that the Commission is considering or will consider in the near future.

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Commodity Futures Trading Commission—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3362	Introducing Broker Electronic Filing of Annual Reports	3038-AC34
3363	Advertising by Commodity Pool Operators, Commodity Trading Advisors, and the Principals Thereof	3038-AC35

Commodity Futures Trading Commission (CFTC)

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3349. OFFERING AND SELLING SECURITY FUTURES PRODUCTS TRADED ON FOREIGN BOARDS OF TRADE TO UNITED STATES PERSONS; REQUIREMENTS FOR FOREIGN STOCK INDEX CONTRACTS TO QUALIFY AS NON-NARROW-BASED INDICES

Priority: Substantive, Nonsignificant
Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: Not Yet Determined

Legal Deadline: Other, Statutory, December 21, 2001, Within one year after the date of enactment of the Commodity Futures Modernization Act of 2000.

Abstract: The Commission and the Securities and Exchange Commission are required to jointly issue: (1) Rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of security futures products traded on or subject to the rules of a foreign board of trade to United States persons, and (2) rules and regulations that set forth the requirements for foreign stock index contracts to qualify as non-narrow-based indices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Related RIN: Related to 3038-AB78

RIN: 3038-AB75

3350. INTERAGENCY PROPOSAL TO CONSIDER ALTERNATIVE FORMS OF PRIVACY NOTICES UNDER THE GRAMM-LEACH-BLILEY ACT

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 7b-2; 7 USC 12a(5); 15 USC 6801 et seq

CFR Citation: 17 CFR 160

Legal Deadline: None

Abstract: Subtitle A of the Gramm-Leach-Bliley Act (GLB Act), captioned Disclosure of Nonpublic Personal Information (15 U.S.C. 6801 et seq.), requires each financial institution to provide a notice of its privacy policies and practices to its consumer customers. In general, the privacy notices must describe a financial institution's policies and practices with respect to disclosing nonpublic personal information about a consumer to both affiliated and nonaffiliated third parties, and provide a consumer a reasonable opportunity to direct the institution not to share nonpublic personal information about the consumer with nonaffiliated third parties. The GLB Act agencies, which include eight Federal regulators including the CFTC, have published substantially identical regulations to implement GLB title V, known collectively as the "privacy rule." Many notices issued under the privacy rule were long and complex, and difficult to compare with each other.

The Financial Services Regulatory Relief Act of 2006 amended the GLB Act, requiring the agencies to propose a model form to consumers. This so-called "safe harbor" model form is set forth in the joint NPRM issued by the GLB Act agencies in March. The NPRM seeks comment on the content and form of the form, among other matters. The NPRM was developed jointly by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission and the CFTC. The comments will be considered by all the GLB Act agencies before adopting a final rule.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/03	68 FR 75164
ANPRM Comment Period End	03/29/04	
NPRM	03/29/07	72 FR 14939
NPRM Comment Period End	05/29/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3038-AC04

CFTC

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3351. EXECUTION OF OFF-CENTRALIZED MARKET TRANSACTIONS: REGULATION 1.38 AND GUIDANCE ON CORE PRINCIPLE 9**Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763**CFR Citation:** 17 CFR 1; 17 CFR 38**Legal Deadline:** None

Abstract: Since the Commission originally promulgated Regulation 1.38, the Commodity Futures Modernization Act of 2000 (CFMA) was signed into law. The CFMA, among other things, specifically expanded the allowable transactions that could be executed off the centralized market. The Commission has proposed amendments to its rules concerning trading off the centralized market, including the addition of guidance on contract market block trading rules, in light of further administrative experience with, and consideration of, the implications of the CFMA.

Timetable:

Action	Date	FR Cite
NPRM	07/01/04	69 FR 39880
NPRM Comment Period End	08/30/04	
Second NPRM	10/00/07	
Second NPRM Comment Period End	12/00/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

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RIN: 3038-AC07**3352. EXEMPTION FROM REGISTRATION FOR CERTAIN FOREIGN PERSONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 6d ; 7 USC 6m**CFR Citation:** 17 CFR 3.10(c)**Legal Deadline:** None

Abstract: The Commission is proposing to amend its regulations regarding registration to permit certain foreign firms located outside the U.S. that limit their customers to foreign customers to clear their U.S. contract market business on an omnibus basis through a registered futures commission merchant without having to register as a futures commission merchant pursuant to section 4d of the Commodity Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	04/02/07	72 FR 15637
NPRM Comment Period End	05/02/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

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RIN: 3038-AC26**3353. DEBT SECURITIES CONFORMING AMENDMENTS****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763**CFR Citation:** 17 CFR 41**Legal Deadline:** None

Abstract: On July 13, 2006, the Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") issued joint final rules to permit the trading of futures contracts based on individual debt securities and indexes comprised of individual debt securities. The effective date for the

joint rules is August 14, 2006. The present language of several CFTC rules is not fully consistent with the offer and trading of futures contracts based on debt securities. Therefore the CFTC is proposing to adopt several conforming amendments that clarify the applicability of the rules to futures contracts based on debt.

Timetable:

Action	Date	FR Cite
NPRM	10/00/07	
NPRM Comment Period End	12/00/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

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RIN: 3038-AC31**3354. EXEMPTION FROM FEDERAL SPECULATIVE POSITION LIMITS****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 6a**CFR Citation:** 17 CFR 150**Legal Deadline:** None

Abstract: In recent years, the Commission has received requests for exemption or relief from Federal speculative position limits, as various entities seek to gain commodity price exposure by tracking an index that contains, among other things, futures contracts that are subject to such limits. Commission staff is considering different approaches for providing relief or exemption to commodity-index-related futures positions from Federal speculative position limits.

Timetable:

Action	Date	FR Cite
NPRM	08/00/07	
NPRM Comment Period End	09/00/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

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RIN: 3038-AC36

3355. • REGISTRATION OF FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS, COMMODITY TRADING ADVISORS, COMMODITY POOL OPERATORS AND LEVERAGE TRANSACTION MERCHANTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6f; 7 USC 6n; 7 USC 23

CFR Citation: 17 CFR 3.10

Legal Deadline: None

Abstract: The Commission is proposing to re-institute a procedure that will require registered intermediaries, including futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, and leverage transaction merchants, to review, on an annual basis, the registration information maintained with the National Futures Association. Registrants will be required to complete the update electronically in accordance with procedures to be established by the National Futures Association.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	
NPRM Comment Period End	05/00/07	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038-AC37

3356. • EXTENSION OF TIME FOR COMMODITY POOL OPERATORS TO FILE POOL ANNUAL REPORTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n

CFR Citation: 17 CFR 4.7; 17 CFR 4.22

Legal Deadline: None

Abstract: Registered commodity pool operators must prepare, distribute and file annual reports for each pool that they operate within 90 days of the end of the pool's fiscal year. Under Commission Regulation 4.22(f)(2), operators of pools that invest in other funds may claim an extension of an additional 60 days with respect to the annual report. The Commission is considering amending Regulation 4.22(f)(2) to increase the extension for annual reports of funds that invest in other funds from 60 to 90 days.

Timetable:

Action	Date	FR Cite
NPRM	04/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC38

3357. • TECHNICAL AND CLARIFYING AMENDMENTS TO PART 40 OF THE COMMISSION'S REGULATIONS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: 17 CFR 40

Legal Deadline: None

Abstract: The Commission is proposing several technical and clarifying amendments to part 40 of the Commission's regulations to align the requirements of that part with the Commission's current regulatory practice and interpretations. The proposed amendments intend to accomplish, among other things, the

following: (1) Clarify that registered entity rules, in general, must be implemented pursuant to the process for self-certification or pursuant to a request for Commission approval, (2) clarify that the rules and contracts of dormant registered entities will automatically be deemed dormant; (3) clarify that persons, other than governing board members, may declare emergencies on behalf of a designated contract market or derivatives transaction execution facility; (4) clarify the implementation time limits applicable to newly self-certified products and rules; (5) clarify the approval time limits applicable to certain agricultural rule changes; and (6) codify additional categories of rules that may be implemented without certification or notification because they are routine rules and rule amendments or are otherwise already reported to the Commission.

Timetable:

Action	Date	FR Cite
NPRM	05/00/07	
NPRM Comment Period End	06/00/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC39

3358. • PERIODIC REVISION OF FEDERALLY ESTABLISHED POSITION LIMITS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1 et seq, as amended by PL 106-554, 114 Stat 2763

CFR Citation: 17 CFR 150

Legal Deadline: None

Abstract: The Commission establishes speculative position limits for futures and options contracts based on various agricultural commodities in Commission regulation 150.2. Pursuant to its periodic position limits regulatory framework suitability review, and in

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response to prevailing market conditions, the Commission proposes to update these limits for all single-month and all-months-combined positions. In addition, the Commission proposes certain conforming and technical amendments to part 150 of the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/07	
NPRM Comment Period End	08/00/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

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RIN: 3038-AC40

Commodity Futures Trading Commission (CFTC)

Completed Actions

3359. LIMITATIONS ON WITHDRAWALS OF EQUITY CAPITAL**Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 1.12; 17 CFR 1.17**Completed:**

Reason	Date	FR Cite
Final Action	01/10/07	72 FR 1148
Final Action Effective	03/12/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Thelma Diaz

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RIN: 3038-AC27**3360. CONFLICTS OF INTEREST IN SELF-REGULATION AND SELF-REGULATORY ORGANIZATIONS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR part 38**Completed:**

Reason	Date	FR Cite
Final Action	02/14/07	72 FR 6936

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Rachel F. Berdansky

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RIN: 3038-AC28**3361. ELECTRONIC FILING OF NOTICES OF EXEMPTION OR EXCLUSION UNDER PART 4 OF THE COMMISSION'S REGULATIONS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 4.5 ; 17 CFR 4.7; 17 CFR 4.12 to 4.14**Completed:**

Reason	Date	FR Cite
NPRM	10/13/06	71 FR 60454
Final Action	01/16/07	72 FR 1658
Final Action Effective	02/15/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Eileen R. Chotiner

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RIN: 3038-AC33**3362. INTRODUCING BROKER ELECTRONIC FILING OF ANNUAL REPORTS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 1.10; 17 CFR 1.31**Completed:**

Reason	Date	FR Cite
Final Action	11/22/06	71 FR 67462
Final Action Effective	12/22/06	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Jennifer C.P. Bauer

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RIN: 3038-AC34**3363. ADVERTISING BY COMMODITY POOL OPERATORS, COMMODITY TRADING ADVISORS, AND THE PRINCIPALS THEREOF****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 4.41**Completed:**

Reason	Date	FR Cite
Final Action	02/23/07	72 FR 8106
Final Action Effective	03/26/07	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Barbara S. Gold

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RIN: 3038-AC35

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