

Relevant Links for Doing Trans-Atlantic Business

updated October 1, 2007

Language: The sources cited indicate if the information is not available in English.

Regulators

Question	Answer
Regulatory Authority or Authorities relevant for derivatives business	Name, web-site
[Indicate scope of jurisdiction/activities]	Commodity Futures Trading Commission (CFTC) http://www.cftc.gov The jurisdiction of the CFTC may be found in Section 2(a) of the Commodity Exchange Act (CEA).
Derivatives Instruments subject to regulation Scope: include e.g. • Financial-based; • Equities-based; • Commodity-based (agriculture, metals, energy); • Exotics (e.g., weather, emissions); • Forex-based derivatives; • OTC transactions if admitted to clearing	For each include basic definition of derivatives and type of instrument and link to applicable law, rules • A derivative is defined as a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for fixed rate of return. Derivatives include futures, options, and swaps. For example, futures contracts are derivatives of the physical contract and options on futures are derivatives of futures contracts. • A commodity is defined as a good or article and all services, rights and interests in which contracts for future delivery are presently or in the future dealt in. • Products authorized for trading: • Contracts listed pursuant to exchange certification • Contracts recently approved by the CFTC • Securities Futures Products • Information on securities futures products • Broad-based Security Index Futures are regulated by the CFTC. • Single-security futures and narrow-based index

	futures are jointly regulated by the CFTC and SEC. • CFTC Requirements and Listing Procedures • Foreign Stock Index Futures and Foreign Government Debt Obligations • Agricultural Trade options: permit the purchaser to buy or sell an underlying asset (in our case, an agricultural commodity) at a pre-specified price called the “strike price” prior to or on a given “expiration date.” • Not traded on an exchange; regulated directly by CFTC. • Foreign Instrument Approvals & Exemptions • Forex (foreign exchange) transactions are defined as the over the counter market for transactions trading in foreign currency. • Over the Counter (OTC) transactions between eligible counterparties (as defined in CEA 2(c)(2)(B)(ii)(I)-(VI)) are exempt from the Commission's jurisdiction, except if a counterparty is registered as a futures commission merchant (FCM) or is a certain affiliate of an FCM and fraud or manipulation is alleged. OTC transactions that are reported for clearing are subject to the rules of the clearinghouse.
Regulatory Authority's Relevant Legislation and Rules	Identify, official legislation site; rules general site
	Commodity Exchange Act (7 USC § 1) Commodity Futures Modernization Act CFTC Regulations (17 CFR § 1) CFTC Proposed Rules

Exchanges and Clearing Organizations

Question	Answer
Markets In the right hand column you will find listed separately each regulated market, organized market, regulated exchange, multi-lateral trading facility (MTF) and automated trading system (ATS).	• <u>Chicago Board of Trade</u> • <u>CBOT Rules</u> • <u>CBOE Futures Exchange</u> • <u>CBOE Futures Exchange Rulebook</u> • <u>Chicago Climate Futures Exchange</u> • <u>CCFE Rules</u> • <u>Chicago Mercantile Exchange</u> • <u>CME Rules</u> • <u>HedgeStreet</u> • <u>HedgeStreet Rules</u> • <u>ICE Futures U.S.</u> • <u>ICE Futures U.S. Rules</u> • <u>Kansas City Board of Trade</u> • <u>KBOT Rules</u> • <u>Minneapolis Grain Exchange</u> • <u>MGE Rules</u> • <u>New York Mercantile Exchange</u> • <u>NYMEX Rules</u> • <u>OneChicago</u> • <u>OneChicago Rules</u> • <u>Philadelphia Board of Trade</u> • <u>PBOT Rules</u> • <u>U.S. Futures Exchange (USFE)</u> • <u>USFE Rulebook</u>
Regulated Clearing Organizations	• <u>The Clearing Corporation (CCorp)</u> • <u>CCorp Rules</u> • <u>CME Clearing House</u> • <u>CME Clearing Rules</u> • <u>HedgeStreet</u> • <u>Kansas City Board of Trade Clearing Corporation</u> • <u>KCBT Rulebook</u> • <u>LCH.Clearnet Ltd.</u> • <u>MGE Clearing House</u> • <u>MGE Rulebook</u> (Clearinghouse rules Chapters 20, 21) • <u>ICE Clear US, Inc.</u> • <u>NYMEX Clearing House</u> • <u>NYMEX Clearing House Rules</u> • <u>The Options Clearing Corporation</u> • <u>OCC Rulebook</u> Information on Exempt Markets may be found in <u>CEA § 2(h)(3)</u> and <u>Part 36</u> of CFTC Regulations. • <u>List of all Exempt Commercial Markets</u> • <u>List of all Exempt Boards of Trade</u>

Investment Services

Question	Answer
In the right hand column you will find activities performed or services rendered which are required to be licensed if they are performed in or rendered in your jurisdiction, for instance by the following categories of people.	Provide the legal definition of such a service which is subject to licensing. Provide relevant law website link to this definition.
Brokers/Intermediaries (Futures Commission Merchant)	A futures commission merchant (FCM) is an individual or organization which does both of the following: - Solicits or accepts orders to buy or sell futures contracts or options on futures and - Accepts money or other assets from customers to support such orders. Registration is required. There are no exemptions. See National Futures Association for FCM registration. An introducing broker (IB) is an individual or organization which solicits or accepts orders to buy or sell futures contracts or commodity options but does not accept money or other assets from customers to support such orders. See National Futures Association for IB registration.
Advisors (Commodity Trading Advisor)	A commodity trading advisor (CTA) is an individual or organization which, for compensation or profit, advises others as to the value of or the advisability of buying or selling futures contracts or commodity options. Providing advice indirectly includes exercising trading authority over a customer's account as well as giving advice through written publications or other media. Registration is required unless: - You have provided advice to 15 or fewer persons during the past 12 months and do not generally hold yourself out to the public as a CTA or - You are in one of a number of businesses or professions listed in the Commodity Exchange Act or are registered in another capacity and your advice is solely incidental to your principal business or profession. See National Futures Association for CTA registration.
Asset Managers/Collective Investment Schemes (Commodity Pool Operator)	A commodity pool operator (CPO) is an individual or organization which operates or solicits funds for a commodity pool; that is, an enterprise in which funds contributed by a number of persons are combined for the purpose of trading futures contracts or commodity options, or to invest in another commodity pool. In general, registration is required unless the CPO qualifies for one of the exemptions from registration outlined in CFTC Regulations 4.5 or 4.13. Examples of entities or individuals that may be exempt include the following:

	- Those otherwise regulated, such as a bank, insurance company, or a registered Investment Company, - Those who operate one or more small pool(s) that has received less than \$400,000 in aggregate capital contributions and that have no more than 15 participants in any one pool, - Those whose pools are only open to persons meeting certain sophistication standards and that trade futures within specified limits, or - Those whose pools are only open to persons who demonstrate a certain level of sophistication or net worth. See National Futures Association for CPO registration.
Proprietary Traders/Dealers	Proprietary Trading Group: An organization whose owners, employees and/or contractors trade in the name of accounts owned by the group and exclusively uses the funds of the group for all of their trading activity. Dealer: An individual or firm that acts as a market maker in an instrument such as a security or foreign currency. A Floor Trader is an individual who purchases or sells any commodity futures or options contract on any contract market for such individual's own account.
In the right hand column you find activities performed or services rendered that requires licensing if firm/person is located outside of [MS name] jurisdiction providing services to persons in your jurisdiction. - Brokers - Advisors - Asset Managers/Collective Investment Schemes - Proprietary Traders/Dealers	Define in terms of conduct that results in licensing category, provide relevant law website link to this definition Part 30 of the U.S. Commodity Futures Trading Commission's (CFTC's) regulations establishes the regulatory structure governing the offer and sale of foreign futures and options contracts to U.S. persons by persons acting as futures commission merchants, introducing brokers, commodity pool operators, and commodity trading advisors. (For information on instrument restrictions, see CFTC Foreign Markets, Products, and Intermediaries.) Section 30.5 of these regulations allows a foreign person, who is required under the CEA to register with the CFTC, to apply for exemption from registration by filing the appropriate forms with the National Futures Association. Offer and Sale of Foreign Products to U.S. Customers Section 30.10 of these regulations allows the CFTC to, among other things, exempt a foreign firm acting in the capacity of a futures commission merchant from compliance with certain CFTC rules and regulations. Entities exempt under Part 30.10 may only offer and sell foreign products to U.S. customers. Foreign Government Agencies and SROs that have Received CFTC Orders under CFTC Regulation 30.10

End-Users

Question	Answer
You are looking for authorized firms in the U.S.	Commodity Futures Trading Commission registration and National Futures Association (NFA) membership information and futures-related regulatory and non-regulatory actions contributed by NFA, the CFTC and the U.S. futures exchanges may be found in NFA's BASIC . Searches may be completed by NFA ID number, firm name, individual's name, or pool name. In addition, directories and contact information of firms registered with the CFTC may be obtained from NFA's directories or call NFA's Information Center at 1-800-621-3570.
You are looking for authorized persons in the U.S.	See above.
Disciplinary history [Here you will find – when the jurisdiction in question allows for it – a link to decisions taken as result of enforcement actions by the Competent Authority against a firm or person and which have resulted in a decision in the U.S.]	Disciplinary history may be found in NFA's BASIC (must search database by NFA ID number). The CFTC maintains a list of recent Enforcement Actions , Complaints and Orders. The CFTC maintains a list of Administrative Sanctions in Effect , Reparations Sanctions in Effect , and a Proceedings Bulletin that provides information about the Commission's administrative and injunctive enforcement actions and its statutory disqualification-from-registration proceedings.
Complaints	Who to contact at regulator
	A Division of Enforcement information reporting form may be filled out online. The CFTC has established a toll-free complaint line for the public to report suspicious activity involving commodities. This activity may be reported at 866-FON-CFTC (866-366-2382).