with the alert service bulletin. If any clamp is not aligned properly, prior to further flight, realign the clamp in accordance with the alert service bulletin. If any rubber cushion is damaged, prior to further flight, replace the clamp in accordance with the alert service bulletin.

(d) If any damaged rubber cushion insert is detected during the inspection required by paragraph (a) of this AD, prior to further flight, replace the clamp with a new or serviceable clamp in accordance with McDonnell Douglas Process Engineering Order DPS 1.834–7, Revision CF, dated June 29, 1999.

(e) If any rubber cushion insert is out of alignment, prior to further flight, visually realign the cushion.

**Reporting Requirement**

(f) Within 70 days after the effective date of this AD, submit a report of the results (both positive and negative findings) of the inspection required by paragraph (a) of this AD to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

**Alternative Methods of Compliance**

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

**Note 5:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

**Special Flight Permits**

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Incorporation by Reference**

(i) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC10–24A165, dated April 14, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(j) This amendment becomes effective on September 4, 2000.

Issued in Renton, Washington, on July 19, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–18748 Filed 7–28–00; 8:45 am]

BILLING CODE 4910–13–U

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## COMMODITY FUTURES TRADING COMMISSION

## 17 CFR Parts 1 and 5

**RIN 3038–ZA00**

## Fees for Applications for Contract Market Designation, and Reviews of the Rule Enforcement Programs of Contract Markets and Registered Futures Associations

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Establish a new schedule of fees.

**SUMMARY:** The Commission charges fees to the contract markets and the National Futures Association (''NFA'') to recover the costs incurred by the Commission in the operation of two programs that provide a service to these entities. The fees are charged for the Commission's review of applications for contract designation submitted by the contracts markets and for the Commission's conduct of its program of oversight over self-regulatory (''SRO'') rule enforcement programs. (NFA and the contract markets are collectively referred to herein as the ''SROs''.) The calculation of the new amounts to be charged for the upcoming year is based upon an average of actual program costs incurred in the most recent three full fiscal years, as explained in **SUPPLEMENTARY INFORMATION**.

**EFFECTIVE DATES:** The fee schedule for processing of the contracts submitted by contract markets for designation by the Commission is effective on July 31, 2000 and must be paid at the time of submission to the Commission for processing. The fees for Commission oversight of each SRO rule enforcement program must be paid by each of the named SROs in the amount specified by no later than September 29, 2000.

**FOR FURTHER INFORMATION CONTACT:** Donald L. Tendick, Acting Executive Director, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, 202–418–5160.

**SUPPLEMENTARY INFORMATION:**

### I. General

The Commission re-calculated the fees charged each year with the intention of recovering the costs of operating the two Commission programs.[1] All costs are accounted for by the Commission's Management Accounting Structure Codes (MASC) system which is operated according to a government-wide standard established by the Office of Management and Budget. Both types of fees are set each year based upon direct program costs plus an overhead factor, as explained in sections II., III. and IV. below.

The Commission previously had proposed to eliminate fees for contract market designation applications in connection with the Commission's adoption of Rule 5.3 which allows exchanges to list new contracts by certification (64 FR 66432, November 26, 1999). Since then, the Commission has embarked on a program of regulatory reform and has proposed a new regulatory framework for multilateral transaction execution facilities, which includes, among other things, alternative procedures for listing new products (65 FR 38985, June 22, ''A New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries and Clearing Organizations''). As a result, the Commission at this time is deferring any final determination whether to remove designation fees.

The new fee schedules are set forth below and information is provided on the effective date of the fees and the due date for payment:

A. *Fees charged to contract markets for processing applications for designation of futures and option contracts:*

1. For futures contracts and options on futures contracts which do not meet the multiple contract filing criteria set forth in 2 below:

- A single futures contract or an option on a physical—$6,300;
- A single option on a previously approved futures contract—$1,100;
- A combined submission of a futures contract and an option on the same futures contract—$7,000;

[1] See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

2. Reduced fees for simultaneous submission of certain multiple cash-settled index contracts and multiple contracts on the following major currencies—the Australian dollar; British pound; Euro (and its component Currencies); Japanese yen; Canadian dollar; Swiss franc; New Zealand dollar; Swedish krona; and the Norwegian krone. The Commission's reduced fees for simultaneous submission of multiple, related cash-settled or major-currency contracts is equal to the applicable fee listed above for the first contract plus 10 percent of that fee for each additional contract in the filing. For multiple, simultaneously submitted, major-currency or cash-settled contract filings to be eligible for the reduced fees, the contracts in the filing must meet the following criteria:

a. Each contract must be based on a major currency or be cash-settled based on an index representing measurements of physical properties or financial characteristics which are not traded per se in the cash market, except in regard to the specified currency or the temporal or spatial pricing characteristics of the cash settlement price or the multiplier used to determine the size of each contract;

b. The currency delivery procedures or the cash-settlement procedure must be the same for each contract in the filing;

c. All other terms and conditions of the contracts must be the same in all respects; and

d. The filing must contain a claim for the reduced fee and a representation that terms a.–c. are met. For multiple contract filings containing related contracts, the designation fees are:

• A submission of multiple related futures contracts—$6,300 for the first contract, plus $630 for each additional contract;

• A submission of multiple related options on futures contracts $1,100 for the first contract, plus $110 for each additional contract;

• A combined submission of multiple futures contracts and options on those futures contracts—$7,000 for the first combined futures and option contract, plus $700 for each additional futures and option contract.

B. Fees for the Commission's review of the rule enforcement programs at the registered futures associations and contract markets regulated by the Commission are:

| Entity | Fee amount |
|---|---|
| Chicago Board of Trade | $207,586 |
| Chicago Mercantile Exchange | 283,444 |
| New York Mercantile Exchange/COMEX | 184,499 |
| New York Board of Trade | 98,468 |
| Kansas City Board of Trade | 6,779 |
| Minneapolis Grain Exchange | 3,531 |
| Philadelphia Board of Trade | ................... |
| National Futures Association | 233,222 |
| Total | 1,017,528 |

## II. Overhead Rate

The fees charged by the Commission to the SROs are designed to recover program costs, including direct labor costs and overhead. The overhead rate is calculated by dividing total Commission-wide direct labor program costs into the total amount of the Commission-wide overhead pool. In this connection, direct program labor costs are the salary costs of personnel working in all of the Commission's programs. Overhead costs consist generally of the following Commission wide costs: indirect personnel costs (leave and benefits), rent, communications, contract services, utilities, equipment, and supplies. This formula has resulted in the following overhead rates for the most recent three years (rounded to the nearest whole percent): 91 % for fiscal year 1997, 104% for fiscal year 1998 and 105% for fiscal year 1999. These are the overhead rates applied to the direct labor costs in calculating the costs of reviewing contract designations and oversight of SRO rule enforcement programs, as described below.

## III. Processing Applications for Designation of Contracts

The calculation of the fees for processing applications for designation of contracts has become more refined over the years in response to changes in the types of contracts being designated.

On August 23, 1983, the Commission established a fee for Contract Market Designation (48 FR 38214). The fee was based upon a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period of time. The formula for determining the fee was revised in 1985. At that time most designation applications were for futures contracts, as opposed to option contracts, and no separate fee was set for option contracts.

In 1992, the Commission reviewed its data on the actual costs for reviewing designation applications for both futures and option contracts and determined that the percentage of applications pertaining to options had increased and that the cost of reviewing a futures contract designation application was much higher than the cost of reviewing an application for an option contract. It was also determined that, when designation applications for both a futures contract and an option on that futures contract are submitted simultaneously, the cost for reviewing both together was lower than for reviewing the contracts separately. Therefore, in the interest of recognizing the cost differences to the Commission of the different combinations of contract submission, three separate fees were established—one for futures alone; one for options alone; and one for combined futures and option contract applications (57 FR 1372).

Effective during fiscal year 1999, the Commission further refined its fee structure in order to recognize the unique processing cost characteristics of a class of contracts which are cash-settled based on a index of non-tangible commodities. In this connection the Commission determined to charge a reduced fee for ''related'' simultaneously submitted contracts for which the cash settlement procedure is identical, except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract, and all other terms and conditions of the contracts in the filing are the same. The Commission also is including contracts on major currencies (including contracts based on currency cross rates) as contracts eligible for the reduced multiple contract fees. For this purpose, major currencies are defined as the Australian dollar; British pound; Euro (and its component currencies); Japanese yen; Canadian dollar; Swiss franc; New Zealand dollar; Swedish krona; and Norwegian krone.

Contracts having differentiated spatial features include contracts which are identical in all respects, including the cash settlement mechanism, but which may be based on different geographical areas. These may include contracts on weather-related data or vacancy rates for rental properties, where each individual contract is based on the value—temperature, local vacancy rate, etc.—for a specific city. To be eligible for the multiple contract filing fee, each contract must be cash-settled based on the same underlying data source and derived under identical calculation procedures, such that the integrity of the cash settlement mechanism is not dependent on the individual spatial specifications.[2] Contracts having

[2] Thus, for example, applications containing a number of similar cash-settled contracts based on the government debt of different foreign countries would not be eligible for the reduced fee, since the manipulation potential of each contract would be

Continued

differentiated temporal features include contracts that are the same in all respects except for the time to maturity of the individual underlying instruments. This may include cash-settled interest rate futures contracts within a specific segment of the yield curve, provided that for each contract the cash settlement mechanism and derivation procedure is identical, and the integrity of the cash settlement mechanism is not dependent on the individual temporal specifications. Examples are, short-term interest rate contracts having monthly maturities ranging up to one year.[3]

The Commission stated that a 10-percent marginal fee for additional contracts in a filing is appropriate for those simultaneously submitted applications eligible for the multiple-contract filing fee. Because the eligible, related contracts are based on indexes of non-tangible commodities not traded in the cash market, the Commission's review need not require a separate analysis of the different contracts in a filing related to the liquidity of the underlying cash markets or the reliability or transparency of prices for the individual commodities. Also, because each contract must use an identical cash-settlement procedure and all other material terms and conditions must be identical (except for the differentiated spatial or temporal term or the contract multiplier), the analysis of the cash settlement procedure for one contract would apply in large part to each of the additional contracts. Finally, because all of the contracts in a related group are differentiated from one another only with respect to a spatial or temporal feature that has no bearing upon the characteristics of the cash settlement mechanism, each separate contract would not require a separate analysis to ascertain its compliance with the requirements for designation. Thus, the Commission's analysis of the cash settlement procedure in general and its review of the other material terms and conditions would be equally applicable to all of the related contracts in the filing. Only a limited supplemental analysis is required for each additional contract in such a filing, resulting in a substantially reduced marginal cost for reviewing and processing the additional contracts.

Multiple contract filings of related futures and option contracts on major currencies are eligible for the multiple contract fees for the same reasons that reduced fees are appropriate for multiple, related cash settled contract filings. While currency contracts may not be cash settled, *per se,* issues related to physical delivery contracts do not arise for currencies since, like contracts providing for cash settlement, futures delivery and payment simply involves the exchange of cash (one currency for another). Moreover, the Commission previously has found that major currencies (as defined herein) have nearly inexhaustible deliverable supplies, exhibit extremely deep and liquid markets, are not subject to convertibility or delivery restrictions and are easily arbitraged between cash and futures markets; thus, it has exempted contracts based on them from speculative limits. In view of this, no separate analysis is required of the manipulation potential of each contract based on a major currency in a multiple contract filing. Also, the delivery and payment procedures and all other terms and conditions are identical for currency contracts, as the only difference is the actual currencies being transferred in the delivery and payment process. Accordingly, since only an incremental analysis is needed for each additional contract in a multiple contract filing, lower fees are more in line with actual processing costs.

The Commission's extensive experience in reviewing new contract designation applications indicates that, for simultaneous submission of multiple, related major-currency or cash-settled contracts, a fee for each additional contract equal to 10 percent of the single contract application fee would reflect the Commission's expected review costs for these types of applications. Thus, the Commission's fees for simultaneous submission of these types of related contracts is set to be equal to the prevailing, single contract applicable fee for the first contract plus 10 percent of that fee for each additional contract in the filing. This marginal-cost-based fee structure represents an extension of the policy adopted by the Commission in 1992 when it established reduced fees for option applications and for combined futures and option applications.

Separately, the Commission notes that the fees for futures contract applications also applies to applications for options on physical commodities, and that the reduced option fee applies only to applications for options on existing futures contracts. Because the requirements for designation of an option on a physical commodity are substantially identical to those of futures, the same fee will apply to both types of filings.[4]

The Commission staff compiled the actual costs of processing applications for contract market designation for a futures contract for fiscal years 1997, 1998 and 1999 and found that the average cost over the three-year period was $6,300 per contract. The review of actual costs of processing applications for contract market designation for an option contract for fiscal years 1997, 1998 and 1999 revealed that the average costs over the same three-year period was $1,116 per contract, including overhead applied. Accordingly, the Commission has determined that the fee for applications for contract market designation for a futures contract will be set at $6,300 and the fee for applications for contract market designation as an option contract will be set at $1,100, in accordance with the Commission's regulations (17 CFR Part 5, Appendix B). In addition, by reference to the above cost analysis, the combined fee for contract markets simultaneously submitting designation applications for a futures contract and an option contract on that futures contract and fees for filings containing multiple cash-settled indexes on nontangible commodities have been set on a similar basis, as indicated in the schedule appearing above in the Summary section.

## IV. Conduct of SRO Rule Enforcement Reviews

Under the formula adopted in 1993 (58 FR 42643, August 11, 1993, which appears in 17 CFR Part 1, Appendix B), the Commission calculates the fee to recover the costs of its review of rule enforcement programs, based on a 3-year average of the actual cost of performing reviews at each SRO. The cost of operation of the Commission's program of SRO oversight varies from SRO to SRO, according to the size and complexity of each SRO's program. The 3-year averaging is performed to smooth out some variations in year-to-year costs which can be large. In particular, the costs may vary year-to-year depending upon the timing of the reviews. This is

related to the liquidity of the underlying instruments, and the individual trading practices and governmental oversight in each specific country require separate analyses.

[3] Cash-settled contracts covering various segments of the yield curve would not be eligible for the reduced fee, since the underlying instruments may be priced differently and have different trading characteristics, and the manipulation potential of each contract would be related to the liquidity of the underlying instruments and would, therefore, require separate analyses.

[4] In this regard, under the Commission's Guideline No. 1, which details the information an application for contract market designation must include, all of the requirements for futures contract applications (whether providing for physical delivery or cash settlement) also apply to options on physicals applications, plus several additional requirements that apply uniquely to options. *See,* for example, 63 FR 38537, July 17, 1998.

because the conduct of a review may span two fiscal years and, also, reviews at each SRO are not usually conducted each and every year. An adjustment to actual costs may be made in order to relieve burden upon SROs with a disproportionately large share of program costs. That is, the Commission's formula provides for a reduction in the fee assessed if an SRO has a smaller percentage of U.S. industry contract volume than its percentage of overall Commission oversight program costs, as described below. The adjustment made is to reduce one-half of the costs so that, as a percentage of total Commission SRO oversight program costs, the costs are in line (in percentage terms) with the pro-rata percentage for that SRO of U.S. industry-wide contract volume. Following is a detailed description of the calculation:

The fee required to be paid to the Commission by each contract market is equal to the lesser of: actual costs based upon the three-year historical average of costs for that contract market or: (i) One-half of average costs incurred by the Commission pertaining to each contract market for the most recent three-years, plus (ii) a pro-rata share (based upon average trading volume for the most recent three years) of the aggregate of average annual costs of all the contract markets for the most recent three years. The formula for calculating the second factor mentioned above is: 0.5a + 0.5vt = current fee. In the formula, ''a'' equals the average annual costs, ''v'' equals the percentage of total volume across exchanges over the last three years and ''t'' equals the average annual cost for all exchanges. (The one registered futures association regulated by the Commission, the National Futures Association (NFA), has no contracts traded and, thus, the NFA's fee is based simply on costs for the most recent three fiscal years.)

Following is a summary of data used in the calculations and the resultant fee for each entity:

| | 3-year average actual costs | 3-year average percentage of volume (percent) | 2000 fee amount |
|---|---|---|---|
| Chicago Board of Trade | $207,586 | 44.6820 | $207,586 |
| Chicago Mercantile Exchange | 283,444 | 35.3012 | 283,444 |
| NYMEX/COMEX | 226,295 | 15.8933 | 184,499 |
| New York Board of Trade | 165,269 | 3.5269 | 94,468 |
| Kansas City Board of Trade | 9,989 | 0.3975 | 6,779 |
| Minneapolis Grain Exchange | 5,295 | 0.1967 | 3,531 |
| Philadelphia Board of Trade | 0 | 0.0024 | 0 |
| Sub-total | 897,887 | 100.0000 | 784,306 |
| National Futures Association | 233,222 | N/A | 233,222 |
| Total | 1,131,099 | 100.0000 | $1,017,528 |

Below is an example of how the fee was calculated for one exchange, the Minneapolis Grain Exchange:

(i) Actual 3-year average costs are $5,295;

(ii) Alternative computation is;

(.5)($5,295) + (.5)(.1967%)($897,877) = 3,531

(iii) The fee is the lesser of (i) or (ii) = $3,531.

As noted above, the alternative calculation, which is based upon contracts traded, is not applicable to the NFA because it is not a contract market and, thus, has no contracts traded. The Commission's average annual cost for conducting oversight review of the NFA rule enforcement program during fiscal years 1997 through 1999 was $233,222 (1/3 of $699,666). Therefore, the fee to be paid by the NFA for the current fiscal year is $233,222.

## V. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.,* requires agencies to consider the impact of rules on small businesses. The fees implemented in this release affect contract markets (also referred to as ''exchanges'') and registered futures associations. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* 47 FR 18618 (April 30, 1982). Registered futures associations also are not considered ''small entities'' by the Commission. Therefore, the requirements of the Regulatory Flexibility Act do not apply to contract markets or registered futures associations. Accordingly, the Chairman, on behalf of the Commission, certifies that the fees implemented herein do not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on July 19, 2000, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00–18729 Filed 7–28–00; 8:45 am]

BILLING CODE 6351–01–P

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 241 and 271

**[Release No. 34–43069; IC–24564]**

## Commission Guidance on Mini-Tender Offers and Limited Partnership Tender Offers

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Interpretation.

**SUMMARY:** We are publishing our views regarding the following issues: the disclosure and dissemination of tender offers that result in the bidder holding five percent or less of the outstanding securities of a company; and the disclosure for tender offers for limited partnership units. This interpretive guidance is intended to help bidders, subject companies and others participating in tender offers meet their obligations under the applicable statutes and rules, including the antifraud provisions.

**EFFECTIVE DATE:** July 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dennis O. Garris, Chief, or Nicholas P. Panos, Special Counsel, Office of