



Monday,
November 22, 1999

Part XLIX

**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 which the Commission expects to propose or promulgate over the next year. For this edition of the Commission's regulatory agenda, the Commission's Statement of Regulatory Priorities appears in part II of this issue of the **Federal Register**. At this time, the Commission has no Regulatory Plan entries for the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Ms. Barbara Webster Black, Special

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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:

- (a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:
 - (1) A brief description of the subject area of any rule which 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 concerning the items listed in paragraph (1). 5 U.S.C. 602(a).

The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential 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 October 1999 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on September 8, 1999, by the Commission.

Jean A. Webb,
Secretary to the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identification Number
4227	Insider Trading—Regulation 1.59	3038-AB35

Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4228	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4229	Denomination of Customer Funds and Location of Depositories	3038-AB31
4230	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term “Commodity Pool Operator”	3038-AB34
4231	Definition of a Principal	3038-AB36
4232	Rule 4.7: Exemption From Certain Part 4 Requirements With Respect to Qualified Eligible Participants and Qualified Eligible Clients	3038-AB37
4233	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39
4234	Special Reporting Required of Certain Commodity Pool Operators—Regulations 4.7, 4.12, and 4.27	3038-AB40
4235	Contingent EFP Prohibition	3038-AB41
4236	Registration Exemptions Pertaining to the Offer and Sale of Foreign Futures and Foreign Options Contracts to Customers Located in the United States	3038-AB45
4237	Direct Foreign Order Transmittal	3038-AB46

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 the Commission is considering or will consider in the near future.

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Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4238	Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Related Contract Terms and Conditions	3038-AB42
4239	Trade Options on the Enumerated Agricultural Commodities	3038-AB43
4240	Market Rule Review Procedures	3038-AB44
4241	Use of Electronic Signatures	3038-AB47

Completed Actions

Sequence Number	Title	Regulation Identification Number
4242	Automated Access to Foreign Boards of Trade From Within the United States	3038-AB30
4243	Revision of Federal Speculative Position Limits and Associated Rules	3038-AB32
4244	Economic and Public Interest Requirements for Contract Market Designation	3038-AB33
4245	Alternative Procedures for Non-Domestic Persons; Disclosure	3038-AB38

Commodity Futures Trading Commission (CFTC)

Prerule Stage

4227. INSIDER TRADING—REGULATION 1.59

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 9

CFR Citation: 17 CFR 1.59

Legal Deadline: None

Abstract: The proposed regulatory amendment would clarify the use of the terms self-regulatory employee and governing board or committee member

for the purpose of Regulation 1.59. The proposed amendment also would clarify the scope of the trading prohibition in Regulation 1.59(b)(1)(i).

Timetable:

Action	Date	FR Cite
ANPRM	11/00/99	
ANPRM Comment	12/00/99	
Period End		

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3038-AB35

Commodity Futures Trading Commission (CFTC)

Proposed Rule Stage

4228. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or

other special circumstances affecting the registrant. Issues to be addressed include whether commissions or fees can be charged to customers if their accounts are transferred other than at their request.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment	01/00/00	
Period End		

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 3038-AA77

4229. DENOMINATION OF CUSTOMER FUNDS AND LOCATION OF DEPOSITORIES

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a; 7 USC 6b; 7 USC 6c; 7 USC 6d; 7 USC 6e; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6l

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Proposed Rule Stage

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Commission is proposing rules requesting public comment on how to address the risks relating to holding segregated funds offshore or in foreign currencies.

Timetable:

Action	Date	FR Cite
Concept Release	12/30/97	62 FR 67841
NPRM	11/00/99	
NPRM Comment	01/00/00	
Period End		

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB31

4230. EXCLUSION FOR CERTAIN OTHERWISE REGULATED PERSONS FROM THE DEFINITION OF THE TERM "COMMODITY POOL OPERATOR"

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a(4); 7 USC 6k to 6o; 7 USC 12a

CFR Citation: 17 CFR 4.5

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is considering proposing an amendment to Rule 4.5 by adding a plan defined as a Church plan in section 3(33) of title I of the Employee Retirement Income Security Act of 1974 to the employee benefit plans that the rule currently provides shall not be construed to be commodity pools.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment	01/00/00	
Period End		

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB34

4231. DEFINITION OF A PRINCIPAL

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6m; 7 USC 6n; 7 USC 12a

CFR Citation: 17 CFR 3.1; 17 CFR 4.10

Legal Deadline: None

Abstract: The Commission will undertake a rulemaking to modify the definition of a "principal" for purposes of firm registration and disclosure under part 4 of the Commission's rules. The focus will be upon which officers of a firm should be considered principals for these purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/99	
NPRM Comment	02/00/00	
Period End		

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3038-AB36

4232. RULE 4.7: EXEMPTION FROM CERTAIN PART 4 REQUIREMENTS WITH RESPECT TO QUALIFIED ELIGIBLE PARTICIPANTS AND QUALIFIED ELIGIBLE CLIENTS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 2; 7 USC 6b; 7 USC 6c; 7 USC 6l to 6o; 7 USC 12a; 7 USC 23

CFR Citation: 17 CFR 4.7

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission intends to propose amendments to Rule 4.7 that would

make more persons eligible for treatment as qualified eligible participants or qualified eligible clients under the rule, e.g., principals of the commodity pool operator or commodity trading advisor who have been employed in the financial services industry for a specified number of years.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment	01/00/00	
Period End		

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB37

4233. PERFORMANCE DISCLOSURES FOR COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.25; 17 CFR 4.35

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing amendments to the requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. The Commission's proposed rules address computational and disclosure matters relating to participating in commodity trading advisor programs on a partially-funded basis.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/98	63 FR 33297
ANPRM Comment	09/16/98	
Period End		
NPRM	08/02/99	64 FR 41843

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Action	Date	FR Cite
NPRM Comment Period End	10/01/99	
Final Action	12/00/99	

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

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RIN: 3038-AB39

4234. • SPECIAL REPORTING REQUIRED OF CERTAIN COMMODITY POOL OPERATORS—REGULATIONS 4.7, 4.12, AND 4.27**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 7 USC 61**CFR Citation:** 17 CFR 4.7; 17 CFR 4.12; 17 CFR 4.27 (proposed)**Legal Deadline:** None

Abstract: The proposed regulatory amendments would require large commodity pools or "hedge funds" to file quarterly financial reports and risk information. These data would be published to enable the public and regulatory bodies to assess the potential financial systemic risk posed by such funds.

Timetable:

Action	Date	FR Cite
NPRM	11/00/99	
NPRM Comment Period End	01/00/00	

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

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RIN: 3038-AB40**4235. • CONTINGENT EFP PROHIBITION****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 7 USC 6b; 7 USC 6c; 7 USC 6**CFR Citation:** 17 CFR 1.38a**Legal Deadline:** None

Abstract: The proposed regulatory amendment would clarify the distinctions between transitory and contingent EFPs and would prohibit the execution of contingent EFPs as transactions not allowed under Section 4c of the Commodity Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/00	
NPRM Comment Period End	04/00/00	

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

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RIN: 3038-AB41

4236. • REGISTRATION EXEMPTIONS PERTAINING TO THE OFFER AND SALE OF FOREIGN FUTURES AND FOREIGN OPTIONS CONTRACTS TO CUSTOMERS LOCATED IN THE UNITED STATES**Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 2(a)(1)(A); 7 USC 4(b); 7 USC 4c**CFR Citation:** 17 CFR 30.1; 17 CFR 30.4; 17 CFR 30.10**Legal Deadline:** None

Abstract: The Commission proposes to codify some of the interpretations and positions that its staff has taken regarding registration requirements under Part 30 of the Commission's

rules, which governs, generally, the solicitation and sale of foreign futures and foreign options contracts to customers located in the United States. The Commission proposes to modify Rule 30.4(a) by clarifying that foreign futures and options brokers, including those with U.S. bank branches, are not required to register as futures commission merchants (FCMs) pursuant to Rule 30.4, or seek Rule 30.10 relief, if they fall generally into the following categories: (1) those that carry customer omnibus accounts for U.S. FCMs; (2) those that carry U.S. affiliate accounts which are proprietary to the foreign futures and options broker; and (3) those that carry U.S. accounts which are proprietary to a U.S. FCM. In addition, proposed Rule 30.10(a) will specify representations that must be made by a foreign futures and options broker that has U.S. bank branches in order to obtain a Rule 30.10 comparability exemption or to come within the registration exception of Rule 30.4.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46613
NPRM Comment Period End	10/25/99	
Final Action	02/00/00	

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

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RIN: 3038-AB45

4237. • DIRECT FOREIGN ORDER TRANSMITTAL**Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 2; 7 USC 6(b), 6c; 7 USC 12a**CFR Citation:** 17 CFR 30.12**Legal Deadline:** None

Abstract: Under proposed Rule 30.12, certain unregistered foreign futures and options brokers (FFOBs) would be permitted to accept orders directly from

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certain sophisticated U.S. foreign futures and options customers for execution through the customer's futures commission merchant's (FCM) customer omnibus account. In addition, proposed Rule 30.12 would permit an unregistered FFOB to directly accept and execute these orders and give up the trades to another unregistered FFOB carrying the FCM's customer omnibus account. The proposed rule would require participating FCMs to satisfy minimum financial requirements and comply with certain procedural

safeguards. The permissible means by which foreign orders could be transmitted to an FFOB by the customer are telephone, facsimile, and electronic message.

Timetable:

Action	Date	FR Cite
NPRM	08/26/99	64 FR 46618
NPRM Comment Period End	10/25/99	
Final Action	02/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB46

Commodity Futures Trading Commission (CFTC)

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4238. • REVISED PROCEDURES FOR COMMISSION REVIEW AND APPROVAL OF APPLICATIONS FOR CONTRACT MARKET DESIGNATION AND OF RELATED CONTRACT TERMS AND CONDITIONS

Priority: Other Significant

Legal Authority: 7 USC 6; 7 USC 6c; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 12a

CFR Citation: 17 CFR 5

Legal Deadline: None

Abstract: The Commission is proposing a two-year pilot program to permit the listing of futures and option contracts on U.S. exchanges prior to Commission review and approval. This procedure, together with changes the CFTC recently proposed to its review and approval procedures for existing contract rules will significantly increase U.S. exchanges' flexibility in listing new contracts to respond to perceived competitive threats and in amending existing contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40533
NPRM Comment Period End	08/26/99	
Interim Final Rule	11/00/99	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB42

4239. • TRADE OPTIONS ON THE ENUMERATED AGRICULTURAL COMMODITIES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 7; 7 USC 9; 7 USC 11; 7 USC 12; 7 USC 13a; 7 USC 16a; 7 USC 19; 7 USC 21; 7 USC 23; 5 USC 552; 7 USC 4a; 7 USC 6a to 6p; 7 USC 7a to 7b; 7 USC 8; 7 USC 9a; 7 USC 12a; 7 USC 13a-1; 7 USC 13b; 7 USC 13c; 5 USC 552b

CFR Citation: 17 CFR 3; 17 CFR 32; 17 CFR 33

Legal Deadline: None

Abstract: In June 1998, CFTC rules lifting the ban on agricultural trade options became effective. The Commission is proposing to revise these rules. In particular, the CFTC is proposing to streamline the disclosure, registration, customer notification, and reporting requirements currently imposed on agricultural trade option merchants.

Timetable:

Action	Date	FR Cite
NPRM	08/31/99	64 FR 47452
NPRM Comment Period End	09/30/99	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

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RIN: 3038-AB43

4240. • MARKET RULE REVIEW PROCEDURES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 8; 7 USC 9; 7 USC 12; 7 USC 13a; 7 USC 16; 7 USC 19; 7 USC 21; 7 USC 23; 7 USC 24; 7 USC 2; 7 USC 2a; 7 USC 4; 7 USC 4a; 7 USC 6; 7 USC 6a to 6p; 7 USC 7; 7 USC 7a to 7b; 7 USC 12a; 7 USC 12c; 7 USC 13a-1; 7 USC 16a

CFR Citation: 17 CFR 1

Legal Deadline: None

Abstract: The CFTC is proposing to amend its contract market rule review and approval procedures to allow for additional categories of exchange rule amendments to be approved automatically, upon adoption by the exchange, and to permit such amendments to be submitted to the Commission in a single, weekly, summary filing rather than in individual submissions. For certain other rules, the review time would be

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reduced to three days. The proposed rules also reorganize, in a clearer and more accessible format, the Commission's rules on expedited approval procedures for proposed rule amendments to exchange contract terms and conditions. The proposed rules will necessitate the filing of fewer individual submissions by U.S. exchanges with the Commission and will reduce unnecessary burdens associated with the Commission's review and approval of proposed exchange rules.

Timetable:

Action	Date	FR Cite
NPRM	07/15/99	64 FR 38159
NPRM Comment Period End	08/16/99	
Final Action	11/00/99	
Final Action Effective	01/00/00	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Undetermined

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RIN: 3038-AB44**4241. • USE OF ELECTRONIC SIGNATURES****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 2; 7 USC 6b, 6c; 7 USC 6l, 6o; 7 USC 12a; 7 USC 23**CFR Citation:** 17 CFR 1.3(tt); 17 CFR 1.4**Legal Deadline:** None**Abstract:** The Commission is proposing to amend its regulations to permit futures commission merchants, introducing brokers, commodity pool operators, and commodity trading

advisors to accept electronic signatures in lieu of handwritten signatures where Commission rules require registrants to obtain a document signed by a customer, client, or pool participant.

Timetable:

Action	Date	FR Cite
NPRM	08/30/99	64 FR 47151
NPRM Comment Period End	10/29/99	
Final Action	11/00/99	

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

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RIN: 3038-AB47

Commodity Futures Trading Commission (CFTC)

Completed Actions

4242. AUTOMATED ACCESS TO FOREIGN BOARDS OF TRADE FROM WITHIN THE UNITED STATES**Priority:** Other Significant. Major status under 5 USC 801 is undetermined.**CFR Citation:** 17 CFR 1.71; 17 CFR 30.11**Completed:**

Reason	Date	FR Cite
NPRM Comment Period End	04/23/99	64 FR 14159
Comment Period Extended	04/30/99	64 FR 22588
Withdrawn	06/18/99	64 FR 32829

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

Agency Contact: Lawrence B. Patent
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RIN: 3038-AB30**4243. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES****Priority:** Other Significant**CFR Citation:** 17 CFR 1; 17 CFR 17; 17 CFR 18; 17 CFR 150**Completed:**

Reason	Date	FR Cite
Final Action	05/05/99	64 FR 24038
Final Action Effective	07/06/99	

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

Agency Contact: Paul M. Architzel
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RIN: 3038-AB32**4244. ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION****Priority:** Other Significant**CFR Citation:** 17 CFR 5**Completed:**

Reason	Date	FR Cite
Final Action	06/01/99	64 FR 29217
Final Action Effective	08/02/99	

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

Agency Contact: Paul M. Architzel
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RIN: 3038-AB33**4245. ALTERNATIVE PROCEDURES FOR NON-DOMESTIC PERSONS; DISCLOSURE****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 30.5; 17 CFR 30.6**Completed:**

Reason	Date	FR Cite
Final Action	05/28/99	64 FR 28910
Final Action Effective	06/28/99	

Regulatory Flexibility Analysis Required: No

CFTC

Completed Actions

Government Levels Affected: None

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RIN: 3038-AB38

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