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**Monday,
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Part XLV

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.

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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:

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 2006 regulatory flexibility agenda is set forth below.

Issued in Washington, DC on February 24, 2006, by the Commission.

Jean A. Webb,
Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|--|------------------------------|
| 3652 | 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 |
| 3653 | Interagency Proposal to Consider Alternative Forms of Privacy Notices Under the Gramm-Leach-Bliley Act | 3038-AC04 |
| 3654 | Execution of Off-Centralized Market Transactions: Regulation 1.38 and Guidance on Core Principle 9 | 3038-AC07 |
| 3655 | Eligible Commercial Entities Authorized to Trade on Exempt Commercial Markets | 3038-AC21 |
| 3656 | Exemption From Registration for Certain Foreign Persons | 3038-AC26 |
| 3657 | Limitations on Withdrawals of Equity Capital | 3038-AC27 |

Commodity Futures Trading Commission—Final Rule Stage

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 3658 | Market and Large Trader Reporting | 3038-AC22 |

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 website (<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

| Sequence Number | Title | Regulation Identifier Number |
|-----------------|---|------------------------------|
| 3659 | Alternative Market Risk and Credit Risk Capital Charges and Amendments to Specified Foreign Currency Forward and Inventory Capital Charges for Futures Commission Merchants and Introducing Brokers | 3038-AC05 |
| 3660 | Definition of "Client" of a Commodity Trading Advisor | 3038-AC20 |
| 3661 | Technical and Clarifying Amendments to Rules for Exempt Markets, Derivatives Transaction Execution Facilities, and Designated Contract Markets | 3038-AC23 |

Commodity Futures Trading Commission (CFTC)

Proposed Rule Stage

3652. 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 | 04/00/06 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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Related RIN: Related to 3038-AB78
RIN: 3038-AB75

3653. 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, including 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. Consequently, GLB Act agencies are considering whether to amend the privacy rule to provide for simpler, more useful notices. The GLB Act agencies intend to issue an advance notice of proposed rulemaking to determine whether to propose changes to the privacy rule, and if so, will seek further public comment on specific programs. Six of the eight GLB Act agencies have entered into a memorandum of understanding through which they intend to contract with a consumer testing firm. CFTC is not a party to the MOU. Consumer testing is ongoing.

Timetable:

| Action | Date | FR Cite |
|--------------------------|----------|-------------|
| ANPRM | 12/30/03 | 68 FR 75164 |
| ANPRM Comment Period End | 03/29/04 | |
| NPRM | 04/00/06 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

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RIN: 3038-AC04

**3654. EXECUTION OF
OFF-CENTRALIZED MARKET
TRANSACTIONS: REGULATION 1.38
AND GUIDANCE ON CORE PRINCIPLE
9**

Priority: Substantive, Nonsignificant.
Major status under 5 USC 801 is
undetermined.

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 | 08/00/06 | |
| Second NPRM Comment Period End | 10/00/06 | |

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC07

**3655. ELIGIBLE COMMERCIAL
ENTITIES AUTHORIZED TO TRADE
ON EXEMPT COMMERCIAL MARKETS**

Priority: Substantive, Nonsignificant

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

CFR Citation: 17 CFR 36

Legal Deadline: None

Abstract: The Commission is proposing to codify existing Commission orders applicable to: (1) Commission-registered floor brokers and floor traders on NYMEX; and (2) International Petroleum Exchange floor or electronic brokers and local traders and, pursuant to section 1a(11) of the Commodity Exchange Act, designate by rule those and similarly-situated entities to be, subject to conditions, eligible commercial entities for the purpose of trading on exempt commercial markets.

Timetable:

| Action | Date | FR Cite |
|----------------------------|----------|---------|
| NPRM | 08/00/06 | |
| NPRM Comment Period End | 09/00/06 | |

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC21

**3656. • EXEMPTION FROM
REGISTRATION FOR CERTAIN
FOREIGN PERSONS**

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d and 6m

CFR Citation: 17 CFR 3.10(c)

Legal Deadline: None

Abstract: The Commission is proposing to amend its regulations regarding registration to permit: (1) certain foreign firms otherwise exempt from registration as futures commission merchants pursuant to Commission Regulation 30.10 to advise or introduce to registered futures commission merchants certain U.S. customers for purposes of trading U.S. exchange-traded futures and options without having to register in the appropriate capacity pursuant to sections 4d and 4m, respectively, of the Commodity Exchange Act; and (2) 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 | 04/00/06 | |
| NPRM Comment Period End | 06/00/06 | |

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC26

**3657. • LIMITATIONS ON
WITHDRAWALS OF EQUITY CAPITAL**

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6f

CFR Citation: 17 CFR 1.12; 17 CFR 1.17

Legal Deadline: None

Abstract: The Commission is proposing to amend its regulations to provide that the Commission may, by written order, temporarily prohibit an FCM from carrying out planned equity withdrawal transactions that would reduce excess

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Proposed Rule Stage

adjusted net capital by more than 30 percent. The proposed orders would be based on the Commission's determination that such withdrawals could be detrimental to the financial condition of the FCM or could affect its ability to meet customer obligations. The proposed regulation would be similar to SEC regulation 17 CFR 240.15c3-1(e)(3)(i).

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|---------|
| NPRM | 04/00/06 | |
| NPRM Comment Period End | 06/00/06 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC27

Commodity Futures Trading Commission (CFTC)

Final Rule Stage

3658. MARKET AND LARGE TRADER REPORTING

Priority: Substantive, Nonsignificant

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

CFR Citation: 17 USC 15 to 21

Legal Deadline: None

Abstract: The Commission has proposed to amend the market and large trader reporting rules to establish a new contract reporting level for futures and option contracts based on 3-year U.S. Treasury Notes, clarify the

application of the reporting rules to derivatives transaction execution facilities, and adopt a reporting framework for contracts that are exclusively self-cleared.

Timetable:

| Action | Date | FR Cite |
|-------------------------|----------|-------------|
| NPRM | 12/15/05 | 70 FR 74246 |
| NPRM Comment Period End | 02/13/06 | |
| Final Action | 04/00/06 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC22

Commodity Futures Trading Commission (CFTC)

Completed Actions

3659. ALTERNATIVE MARKET RISK AND CREDIT RISK CAPITAL CHARGES AND AMENDMENTS TO SPECIFIED FOREIGN CURRENCY FORWARD AND INVENTORY CAPITAL CHARGES FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.17

Completed:

| Reason | Date | FR Cite |
|--------------|----------|-------------|
| NPRM | 10/11/05 | 70 FR 58985 |
| Final Action | 02/02/06 | 71 FR 5587 |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AC05

3660. DEFINITION OF "CLIENT" OF A COMMODITY TRADING ADVISOR

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 1.3(bb)

Completed:

| Reason | Date | FR Cite |
|------------------------|----------|------------|
| Final Action | 02/24/06 | 71 FR 9442 |
| Final Action Effective | 03/27/06 | |

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038-AC20

3661. TECHNICAL AND CLARIFYING AMENDMENTS TO RULES FOR EXEMPT MARKETS, DERIVATIVES TRANSACTION EXECUTION FACILITIES, AND DESIGNATED CONTRACT MARKETS

Priority: Substantive, Nonsignificant

CFR Citation: 17 CFR 36 to 38; 17 CFR 40

Completed:

| Reason | Date | FR Cite |
|------------------------|----------|------------|
| Final Action | 01/12/06 | 71 FR 1953 |
| Final Action Effective | 02/13/06 | |

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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