



# Federal Register

---

**Monday,  
October 31, 2005**

---

**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, Assistant Secretary for FOIA Matters, 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.<sup>1</sup> 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 fall 2005 regulatory flexibility agenda is set forth below.

Issued in Washington, DC on August 18, 2005, by the Commission.

**Jean A. Webb,**  
*Secretary of the Commission.*

**Commodity Futures Trading Commission—Proposed Rule Stage**

Sequence Number	Title	Regulation Identifier Number
3779	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
3780	Interagency Proposal To Consider Alternative Forms of Privacy Notices Under the Gramm-Leach-Bliley Act .....	3038-AC04
3781	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
3782	Definition of “Client” of a Commodity Trading Advisor .....	3038-AC20
3783	Eligible Commercial Entities Authorized To Trade on Exempt Commercial Markets .....	3038-AC21
3784	Market and Large Trader Reporting .....	3038-AC22

**Commodity Futures Trading Commission—Final Rule Stage**

Sequence Number	Title	Regulation Identifier Number
3785	Execution of Off-Centralized Market Transactions: Regulation 1.38 and Guidance on Core Principle 9 .....	3038-AC07
3786	Technical and Clarifying Amendments to Rules for Exempt Markets, Derivatives Transaction Execution Facilities, and Designated Contract Markets .....	3038-AC23

<sup>1</sup> 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.

## CFTC

## Commodity Futures Trading Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3787	Investment of Customer Funds and Record of Investments .....	3038-AC15
3788	Guidance on Clearing of Over-The-Counter Options on Exempt Commodities by a Designated Contract Market ....	3038-AC17
3789	Revision of Federal Speculative Limits .....	3038-AC24

## Commodity Futures Trading Commission (CFTC)

## Proposed Rule Stage

**3779. 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

**Agency Contact:** Andrew V. Chapin, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5465  
Fax: 202 418-5536  
Email: achapin@cftc.gov

Thomas M. Leahy Jr., Associate Director for Product Review, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5278  
Fax: 202 418-5527  
Email: tleahy@cftc.gov

**Related RIN:** Related to 3038-AB78

**RIN:** 3038-AB75

**3780. 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	10/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Laura M. Richards, Senior Assistant General Counsel, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5126  
Fax: 202 418-5524  
Email: lrichards@cftc.gov

David Jacobsohn, Counsel, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5161  
Fax: 202 418-5524  
Email: djacobsohn@cftc.gov

**RIN:** 3038-AC04

## CFTC

## Proposed Rule Stage

**3781. 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

**Legal Authority:** 7 USC 6f(b)

**CFR Citation:** 17 CFR 1.17

**Legal Deadline:** None

**Abstract:** The Commission has proposed amendments that would permit qualifying futures commission merchants, that are also securities brokers or dealers registered with the Securities and Exchange Commission, to compute their net capital using alternative market risk and credit risk models that have been approved by the Securities and Exchange Commission. The proposal would also amend the Commission's capital requirements by reducing from 20 percent to six percent the capital charge that futures commission merchants and introducing brokers are required to deduct from the market value of uncovered forward contracts denominated in the following foreign currencies: British pounds, Canadian dollars, Japanese yen, Swiss francs, or the Euro. Uncovered forwards in other non-U.S. currencies would remain subject to the 20 percent capital charge currently set forth in the Commission's regulations.

**Timetable:**

Action	Date	FR Cite
NPRM	10/11/05	70 FR 58985
NPRM Comment Period End	11/10/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Thelma Diaz, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5137  
Fax: 202 418-5536  
Email: tdiaz@cftc.gov

**RIN:** 3038-AC05

**3782. DEFINITION OF "CLIENT" OF A COMMODITY TRADING ADVISOR**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 7 USC 1a(6); 7 USC 12a(5)

**CFR Citation:** 17 CFR 1.3(bb)

**Legal Deadline:** None

**Abstract:** The Commission is proposing to add to its rules a definition of the term "client" of a commodity trading advisor (CTA). This definition is intended to clarify that even those CTAs not required to register under the Commodity Exchange Act are subject to certain requirements such as restrictions on advertising and the antifraud prohibition.

**Timetable:**

Action	Date	FR Cite
NPRM	09/28/05	70 FR 56608
NPRM Comment Period End	11/28/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** R. Stephen Painter Jr., Attorney-Advisor, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5416  
Fax: 202 418-5528  
Email: spainter@cftc.gov

**RIN:** 3038-AC20

**3783. 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; 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	11/00/05	
NPRM Comment Period End	12/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Duane C. Andresen, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581

Phone: 202 418-5492

Fax: 202 418-5527

Email: dandresen@cftc.gov

**RIN:** 3038-AC21

**3784. 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 is proposing 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 traded on an exclusively un-intermediated basis.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/05	
NPRM Comment Period End	01/00/06	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Bruce Fekrat, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581

Phone: 202 418-5578

Fax: 202 418-5527

Email: bfekrat@cftc.gov

**RIN:** 3038-AC22

## Commodity Futures Trading Commission (CFTC)

Final Rule Stage

**3785. 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	
Final Action	03/00/06	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Riva Spear Adriance, Associate Deputy Director, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5494  
Fax: 202 418-5507  
Email: radriance@cftc.gov

Gabrielle A. Sudik, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5171  
Fax: 202 418-5507  
Email: gsudik@cftc.gov

**RIN:** 3038-AC07

**3786. TECHNICAL AND CLARIFYING AMENDMENTS TO RULES FOR EXEMPT MARKETS, DERIVATIVES TRANSACTION EXECUTION FACILITIES, AND DESIGNATED CONTRACT 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 to 38; 17 CFR 40

**Legal Deadline:** None

**Abstract:** The amendments are intended to clarify and codify acceptable practices under the rules for trading facilities adopted pursuant to the Commodity Futures Modernization Act of 2000. The amendments are based on the Commission's experience over the past three and one half years in applying the rules for trading facilities. The amendments also make various technical corrections and conforming amendments to the rules.

**Timetable:**

Action	Date	FR Cite
NPRM	07/11/05	70 FR 39672
NPRM Comment Period End	09/26/05	
Final Action	12/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Donald H. Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581  
Phone: 202 418-5041  
Fax: 202 418-5507  
Email: dheitman@cftc.gov

**RIN:** 3038-AC23

## Commodity Futures Trading Commission (CFTC)

Completed Actions

**3787. INVESTMENT OF CUSTOMER FUNDS AND RECORD OF INVESTMENTS**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 17 CFR 1.25; 17 CFR 1.27

**Completed:**

Reason	Date	FR Cite
Final Action	05/17/05	70 FR 28190
Final Action Effective	06/16/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Phyllis P. Dietz  
Phone: 202 418-5449  
Fax: 202 418-5536

Email: pdietz@cftc.gov

**RIN:** 3038-AC15

**3788. GUIDANCE ON CLEARING OF OVER-THE-COUNTER OPTIONS ON EXEMPT COMMODITIES BY A DESIGNATED CONTRACT MARKET**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** None

**Completed:**

Reason	Date	FR Cite
Withdrawn	10/12/05	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Undetermined

**Agency Contact:** Elizabeth L. Ritter  
Phone: 202 418-5052  
Fax: 202 418-5524  
Email: eritter@cftc.gov

Christine P. Remy  
Phone: 202 418-5134  
Fax: 202 418-5524  
Email: cremy@cftc.gov

**RIN:** 3038-AC17

**3789. REVISION OF FEDERAL SPECULATIVE LIMITS**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 17 CFR 150

**CFTC**

**Completed Actions**

---

**Completed:**

Reason	Date	FR Cite
Final Action	05/11/05	70 FR 24705
Final Action Effective	06/10/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Clarence Sanders

Phone: 202 418-5068

Fax: 202 418-5527

Email: csanders@cftc.gov

**RIN:** 3038-AC24

[FR Doc. 05-17861 Filed 10-28-05; 8:45 am]

**BILLING CODE** 6351-01-S