



Monday
April 26, 1999

Part L

**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. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW.,

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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 April 1999 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on February 17, 1999, by the Commission.

Jean A. Webb,
Secretary of the Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
4052	Insider Trading—Regulation 1.59	3038-AB35

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4053	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4054	Automated Access to Foreign Boards of Trade From Within the United States	3038-AB30
4055	Denomination of Customer Funds and Location of Depositories	3038-AB31
4056	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator" ..	3038-AB34
4057	Definition of a Principal	3038-AB36
4058	Rule 4.7: Exemption From Certain Part 4 Requirements With Respect to Qualified Eligible Participants and Qualified Eligible Clients	3038-AB37
4059	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39

¹The 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 which 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, an advisory which lists rules that the Commission is considering or will consider in the near future.

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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4060	Revision of Federal Speculative Position Limits and Associated Rules	3038-AB32
4061	Economic and Public Interest Requirements for Contract Market Designation	3038-AB33
4062	Alternative Procedures for Non-Domestic Persons; Disclosure	3038-AB38

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4063	Prohibition on Voting by Interested Members	3038-AB03
4064	Requests for Exemptive, No-Action and Interpretative Letters	3038-AB28

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Prerule Stage

**4052. • 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	06/00/99	
ANPRM Comment	08/00/99	
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

**4053. 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	08/00/99	
NPRM Comment	10/00/99	
Period End		

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 3038-AA77

**4054. AUTOMATED ACCESS TO
FOREIGN BOARDS OF TRADE FROM
WITHIN THE UNITED STATES**

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 30

Legal Deadline: None

Abstract: The Commission issued proposed rules concerning automated access to foreign boards of trade from within the U.S. These rules, if adopted, would establish a procedure for a foreign board of trade to petition the Commission for an order to be recognized as a foreign electronic exchange or "RFEE." The Commission's issuance of such an order would permit automated trading systems with access to the foreign board of trade's products

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Proposed Rule Stage

to be placed and used within the U.S. without requiring the foreign board of trade to be designated as a U.S. contract market. The Commission also would add a new rule that would apply both to domestic and foreign firms to provide that customers wishing to trade on a U.S. exchange's automated system or on an RFEE may place orders via automated order routing systems, if such systems provide certain safeguards such as automated checks for customer position and credit limits.

Statement of Need: The Commission received a number of inquiries regarding the ability of a foreign board of trade to place computer terminals in the U.S. for the purpose of facilitating the trading of products available on the boards of trade without being required to be designated as a U.S. contract market. In undertaking a rulemaking in this area, the Commission seeks to implement a regulatory framework that will provide certainty to foreign boards of trade that want to place terminals in the U.S., will not inhibit cross-border trading activities, will be consistent with the Commission's regulatory obligations to maintain the integrity and competitiveness of the U.S. markets, and will provide protection to U.S. customers.

Summary of the Legal Basis: Section 4(a) of the Commodity Exchange Act (Act) states that a commodity futures contract may be traded lawfully in the U.S. if it is traded on or subject to the rules of a board of trade that has been designated as a contract market by the Commission. The concept release requests comments on a potential regulatory framework that would provide a means for a foreign board of trade to petition the Commission to place its computer terminals in the U.S. without subjecting the foreign board of trade to the requirement that it be designated as a contract market under the Act.

Alternatives: Absent the Commission undertaking a rulemaking in this area, foreign boards of trade would be required to be designated as U.S. contract markets prior to placing terminals in the U.S. for the purpose of facilitating access to their products.

Anticipated Costs and Benefits: As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations to ensure that the

benefits of its regulations outweigh the costs.

Risks: The Commission, through its Concept Release, has asked for public comment regarding any risks from the placement and use of foreign board of trade terminals in the U.S. and whether foreign boards of trade should be subject to Commission rules in order to minimize risks.

Timetable:

Action	Date	FR Cite
Concept Release	07/24/98	63 FR 39779
NPRM	03/24/99	64 FR 14159
NPRM Comment Period End	04/23/99	
Final Action	07/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB30

4055. 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

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	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB31

4056. • 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	04/00/99	
NPRM Comment Period End	06/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB34

4057. • 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

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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	07/00/99	
NPRM Comment Period End	09/00/99	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3038-AB36

4058. • 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	05/00/99	
NPRM Comment Period End	07/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB37

4059. • 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 considering amending requirements concerning the presentation of rate of return data by commodity trading advisors and commodity pool operators. Among other issues, the Commission may 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 Period End	08/17/98	
NPRM	05/00/99	

Regulatory Flexibility Analysis

Required: Undetermined

Government Levels Affected: None

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RIN: 3038-AB39

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Final Rule Stage

4060. REVISION OF FEDERAL SPECULATIVE POSITION LIMITS AND ASSOCIATED RULES

Priority: Other Significant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6a; 7 USC 6c; 7 USC 6f; 7 USC 6g; 7 USC 6h; 7 USC 6i; 7 USC 6k; 7 USC 6m; 7 USC 6n; 7 USC 12a; 7 USC 12a(5); 7 USC 19

CFR Citation: 17 CFR 1; 17 CFR 17; 17 CFR 18; 17 CFR 150

Legal Deadline: None

Abstract: The Commission is proposing rules to raise the levels of Commission speculative limits for futures contracts on various agricultural commodities for the deferred contract months, codify a number of broad exemptions from the Commission rule that exchanges set speculative position limits for all contracts not subject to Commission limits, broaden the existing speculative position limit exemption provided under the Commission rule for independent account controllers, and amend the Commission's aggregation policy.

Statement of Need: The Commission recently reviewed its policies and rules governing speculative position limits and found that expansion of the back-month speculative position limits would be appropriate. The Commission also believes it appropriate to codify a number of Commission policies relating to exchange-set speculative position limits and to expand the existing speculative limit exemptions provided under Commission rule for independent account controllers to reflect the trends toward greater complexity in the structure of financial

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services companies and greater professional management of trading funds.

Summary of the Legal Basis: Section 4a(1) of the Commodity Exchange Act provides the Commission with the authority to "fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden."

Alternatives: The Commission has reviewed the alternatives of not revising its speculative limit rules as proposed and believes that those alternatives do not provide for appropriate expansion of the back-month speculative position limits nor appropriate codification of a number of Commission policies relating to speculative position limits.

Anticipated Costs and Benefits: The anticipated benefits arising from the proposed rules would be that the Commission would reflect better the changing composition of the futures markets. The Commission anticipates that the rules would not result in an increase in any costs.

Risks: Speculative limits are an effective means of preventing unreasonable or unwarranted price fluctuations. Periodic review of these limits enables the Commission to assess their effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38525
NPRM Comment Period End	10/19/98	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB32

4061. ECONOMIC AND PUBLIC INTEREST REQUIREMENTS FOR CONTRACT MARKET DESIGNATION

Priority: Other Significant

Legal Authority: 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 revisions to its Guideline on Economic and Public Interest Requirements for Contract Market Designations, 17 CFR part 5, appendix A, Guideline No. 1. Guideline No. 1 details the information that an application for contract markets designation should include to demonstrate that the contract market meets the economic requirements for designation. In furtherance of recent Commission streamlining efforts to reduce the time for Commission review of such applications, the Commission is proposing that Guideline No. 1 be revised to reduce any unnecessary burdens associated with designation applications.

Statement of Need: The Commission recently promulgated fast-track review procedures to reduce the time for Commission review of contract market designation applications. To further streamline efforts, the Commission believes that it is necessary to revise the form and content requirements of Guideline No. 1 to reduce any unnecessary burdens associated with the designation process.

Summary of the Legal Basis: The statutory requirements for contract market designation are found in sections 2(a)(1)(B), 5 and 5a of the Commodity Exchange Act (Act). The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements including the issuance of Guideline No. 1.

Alternatives: The Commission has reviewed the alternatives of not revising Guideline No. 1 as proposed and has determined that without revising Guideline No. 1, the reduction of unnecessary burdens associated with the designation process could not be realized.

Anticipated Costs and Benefits: The anticipated benefits from the proposed revisions to Guideline No. 1 include the codification of Commission contract market designation practices. The Commission also anticipates that the

costs associated with the designation process will be reduced.

Risks: The contract market designation process allows the Commission to evaluate whether the terms and conditions of proposed contracts address risks including market manipulation and dissemination of false information. In this action, the Commission is proposing to further streamline the contract designation process while preserving the regulatory functions of the process.

Timetable:

Action	Date	FR Cite
NPRM	07/17/98	63 FR 38537
NPRM Comment Period End	09/15/98	
Final Action	04/00/99	
Final Action Effective	04/00/99	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB33

4062. • ALTERNATIVE PROCEDURES FOR NON-DOMESTIC PERSONS; DISCLOSURE

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 1a; 7 USC 2; 7 USC 4; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 30.5; 17 CFR 30.6

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing to amend Rules 30.5 and 30.6 governing exemptions from registration and disclosures by certain persons who solicit U.S. foreign futures and option customers. Persons seeking an exemption pursuant to Rule 30.5 would be required to provide certain information in order to obtain an exemption. The disclosure requirements governing commodity pool operators and commodity trading advisors would be amended to more

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closely parallel the disclosures required when soliciting U.S. customers for trading on domestic markets.

Timetable:

Action	Date	FR Cite
NPRM	01/11/99	64 FR 1566
NPRM Comment Period End	03/12/99	
Final Action	07/00/99	

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

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RIN: 3038-AB38

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

4063. PROHIBITION ON VOTING BY INTERESTED MEMBERS**Priority:** Other Significant**CFR Citation:** 17 CFR 1.69**Completed:**

Reason	Date	FR Cite
Final Action	01/04/99	64 FR 16
Final Action Effective	03/05/99	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

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RIN: 3038-AB03**4064. REQUESTS FOR EXEMPTIVE, NO-ACTION AND INTERPRETATIVE LETTERS****Priority:** Info./Admin./Other**CFR Citation:** 17 CFR 140.99**Completed:**

Reason	Date	FR Cite
Final Action	12/10/98	63 FR 68175
Final Action Effective	01/11/99	

Regulatory Flexibility Analysis Required: Yes

Small Entities Affected: Businesses**Government Levels Affected:** None

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RIN: 3038-AB28

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