



Federal Register

**Thursday,
November 30, 2000**

Part XLVIII

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 agenda, the most important and significant regulatory actions are included in the Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Webster Black, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418-5130, bblack@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:

(a) During the months of April and October of each year, 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 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 about 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 2000 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on August 28, 2000 by the Commission.

Jean A. Webb,
Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4398	Denomination of Customer Funds and Location of Depositories	3038-AB31
4399	Segregated Account; Daily Computation and Record	3038-AB52

Commodity Futures Trading Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4400	Performance Disclosures for Commodity Trading Advisors and Commodity Pool Operators	3038-AB39
4401	Public Reporting by Operators of Certain Large Commodity Pools—Regulations 4.7, 4.12, and 4.27	3038-AB40
4402	Market Rule Review Procedures	3038-AB44
4403	Registration Exemptions Pertaining to the Offer and Sale of Foreign Futures and Foreign Options Contracts to Customers Located in the United States	3038-AB45
4404	Revision of Commission's Procedure for the Review of Contract Market Rules	3038-AB50
4405	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB54

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 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.

CFTC

Commodity Futures Trading Commission—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
4406	New Regulatory Framework for Multilateral Transaction Execution Facilities, Intermediaries, and Clearing Organizations (Reg Plan Seq No. 164)	3038-AB55
4407	Rules Relating to Intermediaries of Commodity Interest Transactions (Reg Plan Seq No. 165)	3038-AB56
4408	New Regulatory Framework for Clearing Organizations (Reg Plan Seq No. 166)	3038-AB57
4409	Exemption for Bilateral Transactions (Reg Plan Seq No. 167)	3038-AB58

References in boldface appear in the **Regulatory Plan** in Part II of this issue of the **Federal Register**.

Commodity Futures Trading Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4410	Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"	3038-AB34
4411	Insider Trading—Regulation 1.59	3038-AB35
4412	Definition of a Principal	3038-AB36
4413	Rule 4.7: Exemption From Certain Part 4 Requirements With Respect to Qualified Eligible Participants and Qualified Eligible Clients	3038-AB37
4414	Contingent EFP Prohibition	3038-AB41
4415	Direct Foreign Order Transmittal	3038-AB46
4416	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB49
4417	Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers	3038-AB51
4418	Profile Documents for Commodity Pools	3038-AB60

Commodity Futures Trading Commission (CFTC)

Proposed Rule Stage

4398. 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 to 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	12/00/00	
NPRM Comment Period End	02/00/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB31

4399. • SEGREGATED ACCOUNT; DAILY COMPUTATION AND RECORD

Priority: Substantive, Nonsignificant

Legal Authority: 7 USC 6d

CFR Citation: 17 CFR 1.32

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission is proposing to amend Rule 1.32 to provide that a futures commission merchant (FCM), when computing its segregation requirement, may offset deficits in

customer accounts with readily marketable securities deposited by such customers to margin their futures and option positions.

Timetable:

Action	Date	FR Cite
NPRM	10/00/00	
NPRM Comment Period End	11/00/00	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3038-AB52

Commodity Futures Trading Commission (CFTC)

Final Rule Stage

4400. 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 Period End	09/16/98	
NPRM	08/02/99	64 FR 41843
NPRM Comment Period End	10/01/99	
Final Action	10/00/00	
Final Action Effective	12/00/00	

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

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RIN: 3038-AB39**4401. PUBLIC REPORTING BY OPERATORS OF CERTAIN LARGE COMMODITY POOLS—REGULATIONS 4.7, 4.12, AND 4.27****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 6l**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	04/17/00	65 FR 20395
NPRM Comment Period End	06/16/00	
Final Action	12/00/00	
Final Action Effective	01/00/01	

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

Additional Information: The April 17, 2000 NPRM (65 FR 20395) was published with an erroneous RIN, 3038-AB53.

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Email: tkaczynsky@cftc.gov

RIN: 3038-AB40**4402. 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 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	10/00/00	
Final Action Effective	12/00/00	

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

Undetermined

Agency Contact: Richard A. Shilts, Director, Market Analysis, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
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RIN: 3038-AB44**4403. 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

CFTC

Final Rule Stage

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 that are proprietary to the foreign futures and options broker; and (3) those that carry U.S. accounts that 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	01/00/01	

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

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RIN: 3038-AB45

4404. REVISION OF COMMISSION'S PROCEDURE FOR THE REVIEW OF CONTRACT MARKET RULES**Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 6; 7 USC 6c; 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 8a**CFR Citation:** 17 CFR 1.41(z)**Legal Deadline:** None

Abstract: The CFTC has proposed to revise its procedures for the review of all types of contract market rule changes. Under the proposed new Regulation 1.41(z), a contract market rule could be placed into effect on the

business day after the CFTC had received a submission for the rule that contained, among other things, the text and a brief explanation of the rule and a certification that the rule is not inconsistent with the Commodity Exchange Act or with the CFTC regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/26/99	64 FR 66428
NPRM Comment Period Extended	01/24/00	
NPRM Comment Period End	02/24/00	
Final Action	10/00/00	
Final Action Effective	12/00/00	

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

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RIN: 3038-AB50

4405. • MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS**Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 6p**CFR Citation:** 17 CFR 1.17**Legal Deadline:** None

Abstract: The Commodity Futures Trading Commission is proposing to amend Rule 1.17(c)(5)(xiii), which requires a futures commission merchant (FCM) or an introducing broker (IB), when computing its adjusted net capital, to take a capital charge for certain unsecured receivables due from foreign brokers. Currently, an FCM or IB may exclude from the capital charge unsecured receivables that represent amounts required to be on deposit with a foreign broker to maintain futures and option positions on a foreign board of trade. The proposal would amend the Rule by expanding the amount of the unsecured receivable that may be excluded from the capital charge.

Timetable:

Action	Date	FR Cite
NPRM	08/28/00	65 FR 52051
NPRM Comment Period End	09/27/00	
Final Action	11/00/00	

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

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RIN: 3038-AB54

4406. • NEW REGULATORY FRAMEWORK FOR MULTILATERAL TRANSACTION EXECUTION FACILITIES, INTERMEDIARIES, AND CLEARING ORGANIZATIONS

Regulatory Plan: This entry is Seq. No. 164 in Part II of this issue of the **Federal Register**.

RIN: 3038-AB55

4407. • RULES RELATING TO INTERMEDIARIES OF COMMODITY INTEREST TRANSACTIONS

Regulatory Plan: This entry is Seq. No. 165 in Part II of this issue of the **Federal Register**.

RIN: 3038-AB56

4408. • NEW REGULATORY FRAMEWORK FOR CLEARING ORGANIZATIONS

Regulatory Plan: This entry is Seq. No. 166 in Part II of this issue of the **Federal Register**.

RIN: 3038-AB57

4409. • EXEMPTION FOR BILATERAL TRANSACTIONS

Regulatory Plan: This entry is Seq. No. 167 in Part II of this issue of the **Federal Register**.

RIN: 3038-AB58

Commodity Futures Trading Commission (CFTC)

Completed Actions

4410. EXCLUSION FOR CERTAIN OTHERWISE REGULATED PERSONS FROM THE DEFINITION OF THE TERM "COMMODITY POOL OPERATOR"**Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 4.5**Completed:**

Reason	Date	FR Cite
Final Action	04/25/00	65 FR 24127
Final Action Corrected	05/04/00	65 FR 25980
Final Action Effective	05/25/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Barbara Stern Gold
Phone: 202 418-5450
Email: bgold@cftc.gov**RIN:** 3038-AB34**4411. INSIDER TRADING—REGULATION 1.59****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 1.59**Completed:**

Reason	Date	FR Cite
Final Action	08/04/00	65 FR 47843
Final Action Effective	12/04/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Joshua Marlow
Phone: 202 418-5484
Email: jmarlow@cftc.gov**RIN:** 3038-AB35**4412. DEFINITION OF A PRINCIPAL****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 3.1; 17 CFR 4.10**Completed:**

Reason	Date	FR Cite
Withdrawn	06/22/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Lawrence B. Patent
Phone: 202 418-5439
Email: lpatent@cftc.gov**RIN:** 3038-AB36**4413. RULE 4.7: EXEMPTION FROM CERTAIN PART 4 REQUIREMENTS WITH RESPECT TO QUALIFIED ELIGIBLE PARTICIPANTS AND QUALIFIED ELIGIBLE CLIENTS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 4.7**Completed:**

Reason	Date	FR Cite
Final Action	08/04/00	65 FR 47848
Final Action Effective	08/04/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Helene D. Schroeder
Phone: 202 418-5424
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Major status under 5 USC 801 is undetermined.**CFR Citation:** 17 CFR 1.38a**Completed:**

Reason	Date	FR Cite
Withdrawn	07/21/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Riva Spear Adriance
Phone: 202 418-5494
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Reason	Date	FR Cite
Final Action	08/02/00	65 FR 47275
Final Action Effective	09/01/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Andrew V. Chapin
Phone: 202 418-5465
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Email: achapin@cftc.gov**RIN:** 3038-AB46**4416. MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 1.17**Completed:**

Reason	Date	FR Cite
NPRM	06/02/00	65 FR 35304
Final Action	08/24/00	65 FR 51529
Final Action Effective	09/25/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Thomas J. Smith
Phone: 202 418-5495
Email: tsmith@cftc.gov**RIN:** 3038-AB49**4417. MINIMUM FINANCIAL REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS****Priority:** Substantive, Nonsignificant**CFR Citation:** 17 CFR 1.17**Completed:**

Reason	Date	FR Cite
Final Action	04/21/00	65 FR 21309
Final Action Effective	05/22/00	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Thomas J. Smith
Phone: 202 418-5495
Email: tsmith@cftc.gov**RIN:** 3038-AB51**4418. • PROFILE DOCUMENTS FOR COMMODITY POOLS****Priority:** Substantive, Nonsignificant**Legal Authority:** 7 USC 1a, 2, 4, 6b, 6c, 6l-o, 12a, 23**CFR Citation:** 17 CFR 4.2, 4.21, 4.26, 4.36**Legal Deadline:** None**Abstract:** The Commission proposed amendments to its Part 4 rules to permit commodity pool operators to deliver to prospective participants a summary "profile" document containing only key information about a pool prior to providing them with the pool's disclosure document. The proposed amendments would

CFTC

Completed Actions

accommodate a rule proposed by the National Futures Association regarding use of profile documents and make certain other technical changes.

Timetable:

Action	Date	FR Cite
NPRM	07/27/00	65 FR 46122
NPRM Comment Period End	08/28/00	

Action	Date	FR Cite
Final Action	10/02/00	65 FR 58648
Final Action Effective	11/01/00	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3038-AB60

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