



**U.S. COMMODITY FUTURES TRADING COMMISSION**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5260  
Facsimile: (202) 418-5527

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DIVISION OF  
ECONOMIC ANALYSIS DOCUMENT MEETING OF

OFFICE OF THE SECRETARIAT

11/17/99 November 12, 1999

**MEMORANDUM**

**TO:** The Commission  
**FROM:** The Division of Economic Analysis *pmc/mbd*  
**SUBJECT:** Notice of Proposed Rulemaking Regarding Elimination of Fees for Contract Market Designations.

**RECOMMENDATION:** That the Commission publish the attached Federal Register notice of proposed rulemaking for public comment.

**CONCURRING:** Office of the General Counsel *PRM*  
Division of Trading and Markets *PRM*  
Division of Enforcement *PRM*  
Office of the Executive Director *Ottobradich*

Attached for the Commission's review and action is a Federal Register notice that would seek public comment on a proposed rulemaking to eliminate the existing fees for contract market designation applications. This notice is a companion to a separate Federal Register notice that would implement the final rules on the revised procedures permitting exchanges to list new futures and option contracts for trading without prior Commission approval.

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RECORDS SECTION

COMMODITY FUTURES TRADING COMMISSION

17 CFR PARTS 1, 5 and 31

Fees for Applications for Contract Market Designation

AGENCY: Commodity Futures Trading Commission

ACTION: Proposed rulemaking to eliminate fees for contract market designation applications.

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SUMMARY: The Commission has established fees for certain program services, including applications for contract market designation. The Commission is proposing to eliminate its fees for futures and option contract market designation applications.

DATES: Comments must be received by [insert date 30 days from date of publication in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Paul Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N. W., Washington, D. C. 20581, 202-418-5160.

## BACKGROUND INFORMATION

### I. Computation of Fees

The Commission has established fees for certain activities and functions it performs, including processing applications for contract market designation for futures and option contracts.<sup>1</sup> The fees for contract market designations represent the average of the most recent three-years' actual costs incurred for each of that activity. The Commission first established a fee for contract market designations on August 23, 1983. The fee was based upon a three-year moving average of the actual costs expended and the number of contracts reviewed by the Commission during that period of time.

In 1992, the Commission revised its fee structure by establishing three separate fees – one for futures alone; one for options alone; and one for combined futures and option contract applications. (57 FR 1372, (January 14, 1992)).<sup>2</sup> On June 8, 1999, the Commission further modified its fee structure for a limited class of designation applications submitted simultaneously where each proposed contract in the filing is: i.) cash settled based on an index of non-tangible commodities; ii.) the cash-settlement procedure is the same for all contracts in the filing; and iii.) all other terms and conditions of the contracts are the same in all respects except in regard to a specified temporal or spatial pricing characteristic or the multiplier used to determine the size of each contract. (64 FR 30384, June 8, 1999).<sup>3</sup>

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<sup>1</sup> See Section 237 of the Futures Trading Act of 1982, 7 U.S.C. 16a and 31 U.S.C. 9701. For a broader discussion of the history of Commission fees, see 52 FR 46070 (Dec. 4, 1987).

<sup>2</sup> The combined futures/option designation application fee was set at a level that is less than the aggregate fee for separate futures and option applications to reflect the fact that the cost for review of an option was even lower when submitted simultaneously with the underlying future and to create an incentive for contract markets to submit simultaneously applications for futures and options on that future.

<sup>3</sup> The fees for designation applications currently in effect are as follows:

- Futures contracts alone.....\$6,800
- Option contracts alone.....\$1,200
- Futures contracts with options.....\$7,500

The reduced fees for simultaneous submission of multiple cash-settled contracts are as follows:

## II. Recent Revisions to the Designation Process

In a companion notice published elsewhere in this edition of the *Federal Register*, the Commission is adopting a final rule 5.3 that would permit exchanges to list contracts for trading without Commission approval. This is in response to continued expressions of industry concern that the ability to list new contracts for trading without delay is vital to the exchanges' continued competitiveness.

As explained in the notice of final rulemaking, boards of trade will be permitted to list contracts for trading based only upon their certification that the contract meets the requirements of the Commodity Exchange Act and the Commission's rules thereunder and that they comply with the other provisions of the rule. The exchange certification procedure for listing new contracts is in lieu of the otherwise required application for contract market designation. Under the rule, contracts may be listed for trading indefinitely in reliance upon the exchange's certification.

## III. Proposed Amendments to the Designation Fees

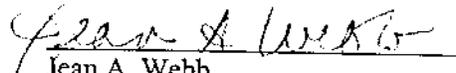
The Commission is proposing to eliminate fees for contract market designation applications. Otherwise there would be an economic disincentive to submit proposed contracts for Commission approval under the existing designation procedures. As greater experience is gained with the use of the exchange certification listing procedures of Rule 5.3, the Commission may revisit this issue.

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- for filings involving multiple cash-settled futures -- \$6,800 for the first contract plus \$680 for each additional contract;
  - for filings involving multiple options on cash-settled futures -- \$1,200 for the first contract plus \$120 for each additional contract; and
  - for filings involving multiple combined cash-settled futures and options on those futures -- \$7,500 for the first futures and option contract plus \$750 for each additional futures and option contract.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 et seq, requires agencies to consider the impact of rules on small businesses. The fees involved in this release affect contract markets (also referred to as "exchanges") and registered futures associations. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq, 47 FR 18618 (April 30, 1982), and the requirements of the Regulatory Flexibility Act therefore do not apply. Accordingly, the Chairman, on behalf of the Commission, certifies that the proposed rule does not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D. C. on November 17, 1999, by the Commission.

  
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Jean A. Webb  
Secretary of the Commission