



Commodity Futures Trading Commission

Office of Public Affairs

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Proposed Rule Regarding Requirements for Processing, Clearing, and Transfer of Customer Positions

The Commodity Futures Trading Commission is proposing rules to supplement previously proposed rules for swap dealers, major swap participants, futures commission merchants, swap execution facilities, designated contract markets, and derivatives clearing organizations, with the objective of facilitating the prompt clearing of swaps and, upon customer request, the timely transfer of customer positions and related funds.

Proposed rules to establish time frames for submission of transactions for clearing

The Commission is proposing rules that would set forth the required time frame for a swap dealer (SD), major swap participant (MSP), futures commission merchant (FCM), swap execution facility (SEF), and designated contract market (DCM) to submit contracts, agreements, or transactions to a derivatives clearing organization (DCO) for clearing.

SD and MSP submission of swaps for clearing (through a clearing member FCM, as appropriate) pursuant to proposed § 23.506:

- Swaps subject to mandatory clearing – Under proposed § 23.506(b)(1), an SD or MSP would have to submit the swap for clearing as soon as technologically practicable following execution, but not later than the close of business on the day of execution.
- Swaps not subject to mandatory clearing – Under proposed § 23.506(b)(2), if cleared, such swaps would have to be submitted for clearing not later than the next business day after execution of the swap or the agreement to clear, if later than execution.

SEFs and DCMs would submit swaps for clearing immediately upon execution.

Proposed rules to establish time frames for processing and clearing transactions

The Commission is proposing a new § 39.12(b)(7) to clarify a DCO's timing for processing and clearing contracts, agreements, and transactions, including swaps.

- Transactions executed on a SEF or DCM – A DCO must accept for clearing, immediately upon execution, all transactions listed for clearing by the DCO.
- Swaps not executed on a SEF or DCM and subject to mandatory clearing – A DCO must accept for clearing, upon submission to the DCO, all swaps that are listed for clearing by the DCO.
- Swaps not executed on a SEF or DCM and not subject to mandatory clearing – A DCO must accept for clearing, no later than the close of business on the day of submission to the DCO, all swaps that are listed for clearing by the DCO.

Coordination among registrants to facilitate prompt and efficient transaction processing

SDs and MSPs. Proposed § 23.506(a)(2) would require SDs and MSPs to coordinate with each DCO to which the SD or MSP, or its clearing member, submits transactions for clearing, to facilitate prompt and efficient swap transaction processing.

SEFs. Proposed § 37.702(b)(2) would require a SEF to coordinate with each DCO to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing (implements SEF Core Principle 7, Financial Integrity of Transactions).

DCMs. Proposed § 38.601(b) would require a DCM to coordinate with each DCO to which it submits transactions for clearing, in the development of rules and procedures to facilitate prompt and efficient transaction processing (implements DCM Core Principle 11, Financial Integrity of Transactions).

DCOs. Proposed § 39.12(b)(7)(i) would require each DCO to coordinate with each SEF and DCM that lists for trading a product that is cleared by the DCO, in developing rules and procedures to facilitate prompt and efficient processing of all contracts, agreements, and transactions submitted to the DCO for clearing (implements DCO Core Principle F, Participant and Product Eligibility).

Supplemental rules to implement DCO Core Principle F

To supplement previously proposed rules, the Commission is:

- re-proposing § 39.12(b)(2) to clarify the role of the DCO in establishing the terms and conditions for swaps that it accepts for clearing;
- proposing a new § 39.12(b)(4) that would prohibit a DCO from requiring that one of the original executing parties to a swap must be a clearing member in order for the transaction to be eligible for clearing; and
- re-proposing § 39.12(b)(3) (renumbered as § 39.12(b)(5)) to clarify a DCO's role and objectives in selecting contract units for clearing that are smaller than the contract units in which trades submitted for clearing were executed.

Prompt transfer of customer positions and related funds upon customer request

The Commission is proposing a new § 39.15(d) to implement DCO Core Principle F (Treatment of Funds), requiring a DCO to have rules providing that, upon the request of a customer and subject to the consent of the receiving clearing member, the DCO will promptly transfer all or a portion of such customer's portfolio of positions and related funds from the carrying clearing member to another clearing member, without requiring the close-out and re-booking of the positions prior to the requested transfer. The requirement that the DCO not require close-out and re-booking of positions eliminates a source of unnecessary delay and market disruption, and conforms with current futures industry practices.