



Commodity Futures Trading Commission

Office of Public Affairs

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Q & A – Protection of Cleared Swaps Customers Before And After Commodity Broker Bankruptcies

What is the goal of the Request for Comment?

Section 724 of the Dodd-Frank Act amends the Commodity Exchange Act (CEA) by inserting a new section 4d(f), concerning the protection of the collateral of the swaps customers of futures commission merchants. The goal of the request for comment is to obtain reliable information the Commission can use to implement the requirements of the statute in a cost-effective manner.

What stakeholders are potentially affected?

Swaps customers, futures commission merchants, and derivatives clearing organizations will be affected by the regulations that the Commission will ultimately propose and promulgate, and the request for comments directs questions to each of those groups.

By when must responses to the request for comments be submitted?

Responses to the request for comments must be submitted within forty-five (45) days of the publication of the proposal in the Federal Register.

What information is the Commission seeking?

The Commission is seeking information concerning the costs and benefits of various models by which the collateral of swaps customers may be protected, both at individual entities and across the industry.

What Models Are Being Considered?

The Commission is considering a range of models, including

- 1) a model requiring individual segregation of each customer's collateral at all levels (at the FCM, DCO and at each custodian),
- 2) a model of individual customer protection, where collateral of multiple customers may be commingled, but the value of the collateral for each customer's positions is treated on an individual basis,
- 3) a model where the collateral of non-defaulting customers may be used in the event of an FCM default, but only after other elements of the clearinghouse's default resources package, including the clearinghouse's own contribution and the clearing member-funded guarantee fund, and
- 4) the current futures model, which treats an FCM's customers on an omnibus basis.

When will rules implementing the requirements of the statute be proposed?

The Commission will consider the comments promptly after the deadline for responses closes, and will expeditiously move to propose rules.