

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 (“Commission”), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418–5964, ckirkpatrick@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

1. A brief description of the subject area of any rule that 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, 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 the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that

it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.¹ The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission’s Fall 2020 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on September 15, 2020, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

COMMODITY FUTURES TRADING COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
407	Regulation Automated Trading	3038–AD52

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

407. Regulation Automated Trading

E.O. 13771 Designation: Independent agency.

¹ The Commission published its definition of a “small entity” for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public’s opportunity to participate in the rulemaking process.

Legal Authority: 7 U.S.C. 1a(23); 7 U.S.C. 6c(a); 7 U.S.C. 7(d); 7 U.S.C. 12(a)(5)

Abstract: On November 7, 2016, the Commodity Futures Trading Commission (“Commission”) approved a supplemental notice of proposed rulemaking for Regulation AT (“Supplemental NPRM”). The Supplemental NPRM modified certain rules proposed in the Commission’s December 2015, notice of proposed rulemaking (NPRM) for Regulation AT. The Supplemental NPRM was published in the **Federal Register** on November 25, 2016, with a 90-day comment period closing on January 24, 2017. The Commission subsequently extended the comment period until May 1, 2017. The NPRM and Supplemental NPRM, through a set of proposed regulations collectively referred to as “Regulation AT,” would have required registration of certain market participants that engage in proprietary algorithmic trading; impose pre-trade risk control, testing, and certification

requirements on market participants, futures commission merchants, and/or designated contract markets; and set forth preservation and access obligations relating to algorithmic trading source code. The NPRM and Supplemental NPRM are withdrawn and superseded by Electronic Trading Risk Principles, 3038–AF04.

Completed:

Reason	Date	FR Cite
Withdrawn	07/15/20	85 FR 42755

Regulatory Flexibility Analysis Required: Yes.

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