Deletions
On 1/21/2011 (76 FR 3879–3880), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification
I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the products and service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O’Day Act (41 U.S.C. 46–48c) in connection with the products and service deleted from the Procurement List.

End of Certification
Accordingly, the following products and service are deleted from the Procurement List:

Products
Floor Care Products
NSN: 7930–01–486–4050
NSN: 7930–01–486–5928
NSN: 7930–01–486–5930
NPA: Lighthouse for the Blind of Houston, Houston, TX.
Contracting Activity: General Services Administration, Fort Worth, TX.

Service
Service Type/Location: Laundry Service, Atlanta VA Medical Center, Decatur, GA.
NPA: GINPI Services, Inc., Jacksonville, FL.
Contracting Activity: Department of Veterans Affairs, VISN 7 Consolidated Contracting, Augusta, GA.

Barry S. Lineback,
Director, Business Operations.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED
Procurement List; Proposed Additions
AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities. Comments Must Be Received on or Before: 4/18/2011.


FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions
If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from a nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification
I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the products to the Government.
2. If approved, the action will result in authorizing small entities to furnish the products to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O’Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification
The following products are proposed for addition to Procurement List for production by the nonprofit agency listed:

Products
NSN: MR 899—Slicer, Pineapple, Stainless
NSN: MR 1135—Set, Spreader, 4Pc
NSN: MR 1136—Mug, Seasonal

NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Military Resale-Defense Commissary Agency, Fort Lee, VA.
Coverage: C–List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Barry S. Lineback,
Director, Business Operations.

COMMODITY FUTURES TRADING COMMISSION
Antidisruptive Practices Authority
AGENCY: Commodity Futures Trading Commission.
ACTION: Proposed Interpretive Order.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is proposing this interpretive order to provide interpretive guidance regarding the three statutory disruptive practices set forth in new section 4c(a)(5) of the Commodity Exchange Act (“CEA”) pursuant to section 747 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Commission requests comment on all aspects of the proposed interpretive order.

DATES: Comments must be received on or before May 17, 2011.

ADDRESSES: Comments, identified by RIN number, may be sent by any of the following methods:

• Agency Web site, via its Comments Online process: http://comments.cftc.gov. Follow the instructions for submitting comments through the Web site.
• Mail: David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
• Hand Delivery/Courier: Same as mail above.
• Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:
Robert Pease, Counsel to the Director of Enforcement, 202–418–5863, rpease@cftc.gov; Steven E. Seitz, Attorney, Office of the General Counsel, 202–418–5615, sseitz@cftc.gov; or Mark D. Higgins, Counsel to the Director of Enforcement, 202–418–5864, mhiggins@cftc.gov, Commodity Futures Trading Commission, Three Lafayette...
with respect to, among others, all registered entities and intermediaries subject to the Commission’s oversight.

Section 747 of the Dodd-Frank Act amends section 4c(a) of the CEA to add a new section entitled “Disruptive Practices.” New CEA section 4c(a)(5) makes it unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that—

(A) Violates bids or offers;
(B) Demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or
(C) Is, of the character of, or is commonly known to the trade as, “spoofing” (bidding or offering with the intent to cancel the bid or offer before execution).

Dodd-Frank Act section 747 also amends section 4c(a) by granting the Commission authority under new CEA section 4c(a)(6) to promulgate such “rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices” enumerated therein “and any other trading practice that is disruptive of fair and equitable trading.”

The Commission is issuing this proposed interpretive order to provide market participants and the public with guidance on the scope of the statutory prohibitions set forth in section 4c(a)(5). The Commission requests comment on all aspects of this proposed interpretive order, as well as comment on the specific provisions and issues highlighted below.

II. Background

On November 2, 2010, the Commission issued an advance notice of proposed rulemaking (“ANPR”) asking for public comment on all aspects of Dodd-Frank Act section 747. When the ANPR was issued, the Commission was considering whether to adopt regulations regarding the disruptive practices set forth in new CEA section 4c(a)(5). After reviewing the ANPR comments, the Commission determined that it was appropriate to address the statutory disruptive practices through a proposed interpretive order.

Accordingly, a Commission document terminating the ANPR is being published elsewhere in the Proposed Rules section of this issue of the Federal Register. Notwithstanding that termination, the Commission considered all of the ANPR commentary in developing this proposed interpretive order.

In the ANPR, commenters were encouraged to address the nineteen specific questions posed by the Commission in the ANPR. The ANPR requested, among other things, comment on section 747(A) (“violating bids and offers”), section 747(B) (“the disorderly execution of transactions around the closing period”), section 747(C) (“spoofing”), the role of executing brokers, and the regulation of algorithmic and automated trading systems. The questions in the ANPR also formed the basis for a December 2, 2010, roundtable held by Commission staff in Washington, DC. The full-day roundtable consisted of three panels that addressed the ANPR questions, the role of exchanges in CFTC-regulated markets, and whether there are other potential disruptive trading practices that the Commission should prohibit. The ANPR set a deadline of January 3, 2011, by which comments had to be submitted. In response to the ANPR, the Commission received 28 comments from interested parties, including industry members, trade associations, consumer groups, exchanges, one member of the U.S. Congress, and other interested members of the public. The Commission has carefully considered all of the ANPR comments, as well as the roundtable discussion, in proposing this interpretive order.

Throughout the roundtable discussion and comment letters, there was widespread support for the Commission’s goal of preventing disruptive trading practices and ensuring fair and equitable markets. Several themes emerged from the roundtable discussion and the comment letters received by the Commission in response to the ANPR.

The ANPR may be accessed through: http://comments.cftc.gov/PublicComments/CommentList.aspx?id=893.


See Appendix III for a list of roundtable participants and discussion panels. A verbatim transcript of the disruptive trading practices that addressed the ANPR questions, the role of exchanges in CFTC-regulated markets, and whether there are other potential disruptive trading practices that the Commission should prohibit. The ANPR set a deadline of January 3, 2011, by which comments had to be submitted. In response to the ANPR, the Commission received 28 comments from interested parties, including industry members, trade associations, consumer groups, exchanges, one member of the U.S. Congress, and other interested members of the public. The Commission has carefully considered all of the ANPR comments, as well as the roundtable discussion, in proposing this interpretive order.

Throughout the roundtable discussion and comment letters, there was widespread support for the Commission’s goal of preventing disruptive trading practices and ensuring fair and equitable markets. Several themes emerged from the roundtable discussion and the comment letters received by the Commission in response to the ANPR.

letters, which are discussed below in the following sections.

a. Market Participants Request Additional Guidance Regarding the Scope and Application of Section 747's Provisions

Throughout the Commission's roundtable, panelists stated that the provisions of section 747 were vague and did not provide market participants with adequate notice of the type of trading, practices, and conduct that is prohibited by section 4c(a)(5). Several comment letters also raised concerns about vagueness and believed that Dodd-Frank Section 747 was susceptible to constitutional challenge. Comment letters requested that the Commission provide additional guidance concerning the conduct and trading practices that constitute violations under the statute. During the roundtable discussion, panelists also requested additional clarity and refinement in the definition of terms such as “the orderly execution of transactions,” “closing period,” and “spoofing.” The comment letters reiterated this concern and expressed the need for the Commission to define these terms and other concepts such as violating bids and offers.

Panelists and commentators also sought clarity on whether scienter is required for each of the enumerated practices of section 4c(a)(5), and if so, specificity as to the degree of intent required. Roundtable panelists and commentators stated that a showing of bad intent should be necessary to distinguish prohibited conduct from legitimate trading activities. Panelists further stressed that any evaluation of trading behavior must consider the historical trading patterns and practices of market participants.

In response to these comments, the Commission is proposing this Interpretive Order to provide additional guidance to market participants and the public on the types of trading, conduct, and practices that will constitute violations of section 4c(a)(5). This proposed interpretive order addresses the concerns expressed by the commenters regarding market uncertainty by clarifying how the Commission will interpret and implement the provisions of section 4c(a)(5). By the terms of the statute, 4c(a)(5) applies to trading, practices or conduct on or subject to the rules of a registered entity: a designated contract market or a swap execution facility ("SEF"). The Commission interprets that section 4c(a)(5) will not apply to block trades or exchanges for related positions ("EFRPs") transacted in accordance with the rules of a designated contract market or SEF or bilaterally negotiated swap transactions. The Commission stresses the important role and unique position of exchanges and self-regulatory organizations to ensure that markets operate in a fair and equitable manner without disruptive trading practices.

The Commission agrees with commentators and panelists that a multi-layered, coordinated approach is required to prevent disruptive trading practices and ensure fair and equitable trading through enforcement of these provisions.

i. Violating Bids and Offers

1. Comments From ANPR and Roundtable

During the roundtable discussion, panelists questioned how the concept of violating bids and offers applies across various trading platforms and markets. Commenters expressed a similar concern and requested that the Commission clarify how the prohibition against violating bids and offers applies to swaps, open outcry pits, infrequently traded over-the-counter products, and electronic trading venues where the best bid and offer are matched automatically by algorithm.

2. Commission Guidance

The Commission interprets section 4c(a)(5)(A) as prohibiting any person from buying a contract at a price that is

---

22 See, e.g., CME Group Rule 432B.2 (“It shall be an offense * * * to engage in conduct or proceedings inconsistent with just and equitable principles of trade.”).

23 See, e.g., FIA at 10 (“FIA strongly believes that a multi-layered enforcement approach, which implements policies and procedures at the firm, exchange and clearing level, will most effectively mitigate the risk of market disruptions.”).

24 See, e.g., Greg Moeck at 173 (“There’s more practical issues to think about in the context of the concepts themselves and how the industry is structured, like violating a bid and an offer.”);

25 See, e.g., ISDA at 2 (“The phrase ‘violating bids and offers’ simply has no meaning in most if not all swaps markets. The pricing and trading of many swaps involves a variety of factors (e.g., size, credit risk) which, taken together, render the concept of ‘violating bids or offers’ as inappropriate.”).

26 See, e.g., CME Group at 4 (generally discussing how the concept of violating bids and offers applies to open outcry trading environments).

27 See, e.g., FIA at 4 (“The Commission should clarify the term ‘violating bids or offers’ does not apply in the over-the-counter markets.”).

28 See, e.g., CME Group at 4 (“Order matching algorithms on electronic platforms preclude bids and offers from being violated.”);

29 See, e.g., Roundtable panelists generally asking how the concept of violating bids and offers applies to open outcry trading environments.

30 See, e.g., FIA at 4 (“It’s really a pattern and practice of activity.”);

31 See, e.g., Adam Nunes at 36 (“The intent to manipulate * * * is critically important.”);

32 See, e.g., CME Group at 4 (generally discussing how the concept of violating bids and offers applies to open outcry trading environments).

33 See, e.g., Adam Nunes at 36 (“The intent to manipulate * * * is critically important.”);

34 See, e.g., FIA at 4 (“It’s really a pattern and practice of activity.”);

35 See, e.g., Mark Fabian at 163 (“It’s really a pattern and practice of activity.”)

---
higher than the lowest available offer price and/or selling a contract at a price that is lower than the highest available bid price. Such conduct, regardless of intent, disrupts the normal forces of supply and demand that are the foundation of fair and equitable trading. This proposed interpretive order is consistent with exchange rules that prohibit the violation of bids and offers. Notably, Congress did not include an intent requirement in section 4c(a)(5)(A) as it did in both sections 4c(a)(5)(B) and (C). Accordingly, the Commission interprets section 4c(a)(5)(A) as a per se offense, that is, the Commission is not required to show that a person violating bids or offers did so with any intent to disrupt fair and equitable trading.

The Commission agrees that section 4c(a)(5)(A) does not apply where a person is unable to violate a bid or offer—i.e. when a person is utilizing an electronic trading system where algorithms automatically match the best bid and offer. Section 4c(a)(5)(A) will operate in any trading environment where a person exercises some control over the selection of the bids or offers against which they transact, including in an automated trading system which operates without pre-determined matching algorithms. The Commission recognizes that at any particular time the bid-ask spread in one trading environment may differ from the bid-ask spread in another trading environment. Accordingly, in the view of the Commission, section 4c(a)(5)(A) does not create any sort of best execution standard across multiple trading platforms and markets; rather, a person’s obligation to not violate bids or offers is confined to the specific trading venue which he or she is utilizing at a particular time. Finally, section 4c(a)(5)(A) does not apply where an individual is “buying the broad”—that is, executing a sequences of trades to buy all available bids or offers on that order book in accordance with the rules of the facility on which the trades were executed.

ii. Orderly Execution of Transactions During the Closing Period

1. Comments From ANPR and Roundtable

Roundtable panelists expressed the view that additional clarity was needed for the definitions incorporated in section 747(B), in particular, terms such as “closing period.” Commenters also requested clarification on the definition of closing period and requested Commission guidance on whether the prohibition on disorderly execution of transactions extends to conduct occurring outside the closing period.

2. Commission Guidance

New CEA section 4c(a)(5)(B) prohibits any trading, practices, or conduct on or subject to the rules of a registered entity that “demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period.” In the view of the Commission, Congress’s inclusion of a scienter requirement means that accidental, or even negligent, trading conduct and practices will not suffice for a claim under section 4c(a)(5)(B); rather, a market participant must at least act recklessly. Accordingly, section 4c(a)(5)(B) will not capture legitimate trading behavior and is not “a trap for those who act in good faith.”

The Commission interprets the closing period to be generally defined as the period in the contract or trade when the daily settlement price is determined under the terms of that trading facility.

While the Commission interprets the prohibition in section 4c(a)(5)(B) to encompass any trading, conduct, or practices occurring inside the closing period that affects the orderly execution of transactions during the closing period, potential disruptive conduct outside that period may nevertheless form the basis for an investigation of potential violations under this section and other sections under the Act. With respect to swaps executed on a SEF, a swap will be subject to the provisions of section 4c(a)(5)(B) if a closing period or daily settlement price circumstances as of the time the person engaged in the relevant trading, practices, or conduct (i.e. the Commission will consider what the person knew, or should have known, at the time he or she was engaging in the conduct at issue). The Commission will use existing concepts of orderliness of markets when assessing whether trades are executed, or orders are submitted, in an orderly fashion in the time periods prior to and during the closing period. In the view of the Commission, an orderly market may be characterized by, among other things, parameters such as a rational relationship between consecutive prices, a strong correlation between price changes and the volume of trades, levels of volatility that do not materially reduce liquidity, accurate relationships between the price of a derivative and the underlying such as a physical commodity or financial instrument, and reasonable spreads between contracts for near months and for remote months. Participants and regulators in the a settlement price for a futures contract, option, or swap (as defined by the CEA).

37 See, e.g., Greg Mocnik at 173 (“It’s easy to define the term ‘closing period’ presumably in a designated contract market. Are you planning on defining that period in a SEFT?”). See, e.g., API at 12 (“Trading practices or conduct outside the closing period are not relevant to determine whether conduct inside the closing period is deemed ‘orderly.’”); HETCO at 7 (“HETCO urges the Commission to refrain from applying the prohibition against trading to an overly broad trading time period.”); CEF at 6 (“The Commission should refrain from looking at trading practices outside of the closing period.”).

38 See, e.g., FIA at 5 (“The Commission should clarify that traditionally accepted types of market manipulation, such as ‘banging the close,’ ‘marking the close’ and pricing window manipulation full under the prohibition of 5(B).”).

39 See, e.g., Hammond v. Smith Barney, Harris Upham & Company, Inc., [1990–1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,617 (CFTC Mar. 1, 1990) (requiring proof that a defendant committed the alleged wrongful acts “intentionally or with reckless disregard for his duties under the Act”); Drexel Burnham Lambert, Inc. v. CFTC, 850 F.2d 742, 748 (DC Cir. 1988) (holding that recklessness is sufficient to satisfy scienter requirement and that a reckless act is one where there is so little care that it is “difficult to believe the [actor] was not aware of what he was doing”) (quoting First Commodity Corp. v. CFTC, 676 F.2d 1, 7 (1st Cir. 1982)).


41 Closing periods may include the time period in which a daily settlement price is determined, the expiration day for a futures contract, and any period of time in which the cash-market transaction prices for a physical commodity are used in establishing

42 Concepts applicable to the securities markets are useful in analyzing commodity markets because of similarities between the two areas. Concerning orderliness of markets, see, e.g., In re NYSE Specialist Securities Litigation, 503 F.3d 89 (2d Cir. 2007) (discussing role of specialists in maintaining orderly market and various circumstances of that role); Last Atlantis Partners, LLC v. AGS Specialist Partners, 533 F.Supp. 2d 828 (N.D. Ill. 2008) (allegation that trading specialists disengaged automated order execution mechanism to discriminate against customers having direct access to markets); Labranche & Co., NYSE AMEX Hearing Board Decisions 09–AMEX–28, 39, and 30 (Oct. 2009) and NYSE Member Education
the commodity and securities markets are already familiar with these assessments of orderliness in connection with issues of market manipulation and risk mitigation. The Commission believes that market participants should assess market conditions and consider how their trading practices and conduct affect the orderly execution of transactions during the closing period.45

iii. Spoofing

1. Comments From ANPR and Roundtable

Roundtable panelists commented that there is no commonly-accepted definition of “spoofing” throughout the industry.46 Some commenters expressed a similar concern and requested additional Commission guidance that any definition of “spoofing” set forth in section 4c(a)(5)(C) would not capture legitimate trading behavior.47 In particular, several comment letters also expressed views on whether partial fills should be exempt from the definition of “spoofing.”48

2. Commission Guidance

The Commission must consider that spoofing was a very undefined term within the SEC’s statutory provisions. The order also provides additional guidance to market participants and the public on the trading, practices and conduct that violate these statutory provisions. The order also addresses comments received by the Commission at the December 2nd roundtable and in response to the Advanced Notice of Proposal.

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Chilton and O’Malley voted in the affirmative; Commissioner Sommers voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the proposed interpretive order regarding disruptive practices on designated contract markets or swap execution facilities. Congress expressly prohibited three trading practices that it deemed were disruptive of fair and equitable trading. Today’s order provides additional guidance to market participants and the public on the trading, practices and conduct that violate these statutory provisions. The order also addresses comments received by the Commission at the December 2nd roundtable and in response to the Advanced Notice of Proposal.51

"spoofing" is, is of the character of, or is commonly known to the trade as, "spoofing" (bidding or offering with the intent to cancel the bid or offer before execution). To violate section 4c(a)(5)(C), a market participant must act with some degree of intent, or scint, to engage in the “spoofing” trading practices prohibited by section 4c(a)(5)(C). In the view of the Commission, a 4c(a)(5)(C) “spoofing” violation requires that a person intend to cancel a bid or offer before execution; therefore, the Commission believes that reckless trading, conduct, or practices will not result in violations of section 4c(a)(5)(C).50 Furthermore, orders, modifications, or cancellations will not be classified as “spoofing” if they were submitted as part of a legitimate, good-faith attempt to consummate a trade. Thus, the legitimate, good-faith cancellation of partially filled orders would not violate section 4c(a)(5)(C). However, a partial fill does not automatically exempt activity from being classified as “spoofing.” When distinguishing between legitimate trading involving partial executions and “spoofing” behavior, the Commission will evaluate the market context, the person’s pattern of trading activity (including fill characteristics), and other relevant facts and circumstances. For example, if a person’s intent when placing a bid or offer was to cancel the entire bid or offer prior to execution, regardless of whether such bid or offer was subsequently filled, that conduct may violate section 4c(a)(5)(C). Accordingly, under this interpretation, section 4c(a)(5)(C) will not capture legitimate trading.

This “spoofing” prohibition covers bid and offer activity on all registered entities, including all regulated futures, options, and swap execution facilities, including all bids and offers in pre-open periods or during other exchange-controlled trading halts. “Spoofing” also includes, but is not limited to: (i) Submitting or cancelling bids or offers to overload the quotation system of a registered entity, (ii) submitting or cancelling bids or offers to delay another person’s execution of trades; and (iii) submitting or cancelling multiple bids or offers to create an appearance of false market depth. However, the “spoofing” provision is not intended to cover non-executable market communications such as requests for quotes and other authorized pre-trade communications.

As with other intent-based violations, the Commission distinguishes between legitimate trading and “spoofing” by evaluating all of the facts and circumstances of each particular case, including a person’s trading practices and patterns. Notably, a section 4c(a)(5)(C) violation does not require a pattern of activity, even a single instance of trading activity can be disruptive of fair and equitable trading.

Issued in Washington, DC, on February 24, 2011 by the Commission.

David A. Stawick,
Secretary of the Commission.

See, e.g., Cargill, Inc. v. Hardin, 452 F.2d 1154, 1170–71 (8th Cir. 1971) (market disruption through "squeeze" of shorts characterized by extraordinary price fluctuations, with little relationship to basic supply and demand factors for wheat; other markets not similarly affected; long employed unusual mechanism to liquidate position).

For example, absent an intentional or reckless disregard for the orderly execution of transactions during the closing period, a person would not be liable under section 4c(a)(5)(B) upon executing an order during the closing period simply because the transactions had a substantial effect on the settlement price.

See, e.g., John J. Lothian at 82 (referring to spoofing as "a very undefined term within the industry").

See, e.g., CME Group at 8 ("The Commission must consider that spoofing does not have a generally understood definition in the futures markets.").

See, e.g., CME Group at 8 ("The statute’s definition of ‘spoofing’ as ‘bidding or offering with the intent to cancel the bid or offer before execution, is too broad and does not differentiate legitimate market conduct from manipulative conduct that should be prohibited. The distinguishing characteristic between ‘spoofing’ that should be covered by paragraph (C) and the legitimate cancellation of other unfilled or partially filled orders is that ‘spoofing’ involves the intent to enter non bona fide orders for the purpose of misleading market participants and exploiting that deception."); HETCO at 7 (‘The Commission should describe, with specificity, what trade practices constitute spoofing, particularly where this is not a concept familiar to the markets for commodities and derivatives.”); ICE at 8 (generally discussing the practice of "spoofing" as defined in paragraph (C) of Section 4c(a)(5)(B) may capture legitimate trading behavior).

See, e.g., AP I at 14 ("The Commission has requested comment on whether a ‘partial fill of an order * * * necessarily exempts that activity from being defined as ‘spoofing. ’ The answer is yes."); HETCO at 8 ("A partial fill of an order or series of orders should not exempt the activity described above from violation of the Act.").

Similar to violations under section 4c(a)(5)(B), accidental or negligent trading, practices, and conduct will not constitute violations of section 4c(a)(5)(C).
Appendix III

December 2, 2010 CFTC Staff Roundtable on Disruptive Trading Practices

I. Panel One: Opportunities and Challenges to Fair and Equitable Trading

i. Ensuring Fair and Equitable Trading at the Close

ii. Exploring “the character of” Spoofing


II. Panel Two: Rules “Reasonably Necessary” To Prohibit Disruptive Trading

a. Panelists: Tom Gira—Financial Industry Regulatory Authority; Chris Heymeyer—National Futures Association; Ike Gibbs—ConocoPhillips; Dean Payton—Chicago Mercantile Exchange; Mark Fabian—IntercontinentalExchange; Joe Mecane—New York Stock Exchange; Greg Moeck—McDermott Will & Emery; Ken Raisler on behalf of Futures Industry Association—Sullivan and Cromwell LLP; Micah Green—Patton Boggs LLP; Tyson Slocum—Public Citizen; Andrew Lo—Massachusetts Institute of Technology.

III. Panel Three: Exchange Perspectives on Disruptive Trading; Potential New Disruptive Trading Practices

a. Panelists: Tom Gira—Financial Industry Regulatory Authority; Chris Heymeyer—National Futures Association; Dean Payton—Chicago Mercantile Exchange; Mark Fabian—IntercontinentalExchange; Joe Mecane—New York Stock Exchange; Andrew Lo—Massachusetts Institute of Technology.

Appendix IV

Parties Submitting Comment Letters in Response to Disruptive Trading Practices

ANPR

A. Flachman
American Petroleum Institute (API)

Argus Media, Inc. (Argus)

Better Markets (BM)

Bix Weir
Chopper Trading, LLC (Chopper Trading)

CMÉ Group, Inc. (CMÉ Group)

Commodity Markets Council (CMC)

David S. Nichols
DeWitt Brown
Edison Electric Institute (EEI)

Emilie Laulan
Futures Industry Association (FIA)

Hess Energy Trading Company, LLC (HETCO)

IntercontinentalExchange, Inc., and ICE Futures U.S., Inc. (collectively, ICE)

International Swaps and Derivatives Association, Inc. (ISDA)

Investment Company Institute (ICI)

Managed Funds Association (MFA)

Minneapolis Grain Exchange, Inc. (MGEX)

Newedge USA, LLC (Newedge USA)

Nicole Provo
Peter J. Carini
Petroleum Marketers Association of America (PMAA)

Rebecca Washington
Securities Industry and Financial Markets Association (SIFMA)

U.S. Senator Carl Levin
West Virginia Oil Marketers & Grocers Association (OMGA)

Working Group of Commercial Energy Firms (CEF)

[FR Doc. 2011–6398 Filed 3–17–11; 8:45 am]

BILLING CODE 6531–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery


ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the U.S. Consumer Product Safety Commission (“CPSC,” “Commission,” or “we”) has submitted a Generic Information Collection Request (Generic ICR): “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery” to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.).

DATES: Comments must be submitted April 18, 2011.

ADDRESSES: Written comments may be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: CPSC Desk Officer, FAX: 202–395–6974, or e-mailed to oira_submission@omb.eop.gov. All comments should be identified by the CPSC Docket No. CPSC [ ] and the title “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.” The written comments should also be submitted to the CPSC, identified by Docket No. CPSC [ ], by any of the following methods: Submit electronic comments in the following way: Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through http://www.regulations.gov.

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to http://www.regulations.gov. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Linda Glatz, Division of Policy and Planning, Office of Information Technology and Technology Services, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 telephone: 301–504–7671 or e-mail: lglatz@cpsc.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 22, 2010 (75 FR 80542), the Office of Management and Budget (OMB) published a notice (“OMB notice”) stating that, as part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, OMB is coordinating the development of a proposed Generic Information Collection Request titled, “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery” for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.).