



# Commodity Futures Trading Commission

## Office of Public Affairs

Three Lafayette Centre

1155 21st Street, NW

Washington, DC 20581

[www.cftc.gov](http://www.cftc.gov)

## Proposed Rule for Derivative Clearing Organization Definitions, Procedures and Core Principles

The Commodity Futures Trading Commission is proposing definitional and procedural changes to Parts 1 and 39, requirements for submitting portfolio margining rules for prior approval, requirements for a Derivatives Clearing Organization's ("DCO") chief compliance officer ("CCO"), and rules to implement DCO Core Principles A (compliance), H (rule enforcement), N (antitrust considerations), and R (legal risk).

### Proposed Definitions

The Commission is proposing to amend the definitions of "clearing member" and "clearing organization" in § 1.3 of its regulations to make the definitions consistent with terminology currently used in the CEA, as amended by the Dodd-Frank Act. It is also proposing to add to § 1.3, definitions for the terms "customer initial margin," "initial margin," "spread margin," "variation margin," and "margin call." In addition, the Commission is proposing to amend § 39.1 to add definitions of the following terms: "back test," "compliance policies and procedures," "key personnel," "stress test," and "systemically important derivatives clearing organization."

### Proposed Procedural Changes

The Commission is proposing to amend § 39.3 to streamline the DCO application process by eliminating the 90-day expedited application review procedures and setting forth a 180-day review period. Over the past nearly 10 years, the Commission has determined that the 90-day expedited application review period is not practicable.

The proposed rules also would clarify the procedures to be followed by a DCO when requesting a transfer of its DCO registration due to a corporate change. The proposed rules set forth the information that must be included in such a request, require a representation by the DCO that the DCO is in compliance with the CEA, and require a representation by the transferee that it will remain in compliance after the transfer.

Finally, under Section 713 of the Dodd-Frank Act, the Commission is proposing procedures for submission of DCO rules to permit portfolio margining of futures and securities in a futures account. Under proposed § 39.4, a DCO seeking approval to provide clearing and settlement services for portfolio margining in a futures account would have to submit its proposed portfolio margining rules for Commission approval under § 40.5. The Commission is consulting with the SEC regarding additional portfolio margining rulemakings.

### Proposed Regulations Implementing Statutory Requirements for CCOs

Section 725(b) of the Dodd-Frank Act requires each DCO to designate a CCO and further specifies the duties of the CCO. Among the CCO's responsibilities are the preparation and submission of an annual compliance report to the Commission. Proposed § 30.10 codifies the statutory requirements for CCOs and specifies additional requirements such as a required annual meeting between the CCO and the board of directors or the senior officer of the DCO. The proposed rules also would require the person designated as CCO to meet minimum ethical requirements, and would establish the procedure for filing the annual report.

## Proposed Regulations Implementing DCO Core Principles

Section 725(c) of the Dodd-Frank Act amends Core Principle A, Compliance, to require a DCO to comply with each core principle set forth in Section 5b(c)(2) of the Commodity Exchange Act (“CEA”) and any requirement that the Commission may impose by rule or regulation pursuant to Section 8a(5) of the CEA. Proposed § 39.10 would implement Core Principle A.

Section 725(c) of the Dodd-Frank Act amends Core Principle H, Rule Enforcement, to require a DCO to maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules and resolution of disputes. The Dodd-Frank Act also requires a DCO to have the authority and ability to discipline, limit, suspend, or terminate the activities of a clearing member due to a violation of any DCO rule. Proposed § 39.17 would codify these requirements.

Section 725(c) of the Dodd-Frank Act amends Core Principle N, Antitrust Considerations, and conforms the standard for DCOs to the standard applied to designated contract markets under Core Principle 19. Proposed § 39.23 would codify Core Principle N.

Section 725(c) of the Dodd-Frank Act establishes a new Core Principle R, Legal Risk, which is consistent with the legal risk standard recommended by the Committee on Payment and Settlement Systems of the central banks of the Group of Ten countries (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO). CPSS-IOSCO concluded that if the legal framework of a clearing organization is underdeveloped, opaque or inconsistent, the resulting legal risk could undermine the clearing organization’s ability to operate effectively and increase the likelihood that market participants may suffer a loss because the clearing organization’s rules, procedures, and contracts that support its activities, property rights, and other interests are not supported by relevant laws and regulations. Proposed § 39.27 would implement Core Principle R, and would require a DCO to address certain identified legal risks.