



# Commodity Futures Trading Commission

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## Final Rule Regarding Removal of References to Credit Ratings from Commission Regulations

The Commodity Futures Trading Commission (Commission or CFTC) has published a final rule in the Federal Register that amends existing Commission regulations by removing certain references to—and requirements of reliance on—credit ratings. The final rule implements provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

### Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, the Dodd-Frank Act requires Federal agencies to:

- Review their regulations that require the use of a credit-worthiness assessment of a security or money market instrument;
- Remove any reference to or reliance on credit ratings in those regulations and substitute an appropriate standard of credit-worthiness;
- Work to develop uniform standards of credit-worthiness; and
- Report to Congress after the completion of the rulemaking process.

### Removal of References to Credit Ratings from Regulations

The Commission completed the required review of its regulations and published in the Federal Register a proposal to amend certain of the Commission's regulations. The Commission invited the public to comment on the proposal, and after considering the comments received, the Commission published a final rule that removes the certain credit ratings references and substitutes them with alternative standards as follows:

**CFTC Regulation 1.49 – *General Regulations Under the Commodity Exchange Act – Denomination of Customer Funds and Location of Depositories, Qualifications for Depositories.*** The Commission has removed the clause in this regulation that previously allowed the placement of customer funds in a foreign depository based on the depository's issuance of highly-rated commercial paper or long term debt instruments. As an alternative, the Commission will rely solely on the standard that customer funds be placed only in a foreign depository that has in excess of \$1 billion of regulatory capital.

**CFTC Regulation 4.24 – *Commodity Pool Operators and Commodity Trading Advisors – General Disclosures Required; Investment Program and Use of Proceeds.*** The Commission has removed the reference to “investment rating” in this regulation and has substituted it with phrase “credit-worthiness.”

The notice published in the Federal Register notes other references to credit ratings that are being removed or amended in other Commission rulemakings:

- CFTC Regulation 1.25 – Investment of Customer Funds

- CFTC Regulation 30.7 - Treatment of Foreign Futures or Foreign Options Secured Amount
- Appendix A to Part 40- Application for Designation of Physical Delivery Futures Contracts and Application for Cash Settled Futures Contracts

In implementing the directives of the Dodd-Frank Act, the Commission has worked to develop uniform standards of credit-worthiness by engaging in consultation with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve, and other regulators. The Commission will continue to work with the federal interagency community towards the goal of developing and maintaining uniform standards of credit-worthiness, to the extent feasible, in the future.