



Commodity Futures Trading Commission

Office of Public Affairs

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Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management

The Commodity Futures Trading Commission (Commission) is finalizing rules concerning regulations regarding the documentation between a customer and a futures commission merchant (FCM) that clears on behalf of the customer, the timing of acceptance or rejection of trades for clearing by derivatives clearing organizations (DCOs) and clearing members, and clearing member risk management for swap dealers (SDs), major swap participants (MSPs), and FCMs that are clearing members.

Customer Clearing Documentation Rules

The regulations prohibit tri-party agreements between customers and SDs, MSPs, FCMs that are clearing members, and DCOs. The regulations prevent agreements that would (a) disclose to an FCM, SD, or MSP the identity of a customer's original executing counterparty; (b) limit the number of counterparties with whom a customer may enter into a trade; (c) restrict the size of the position a customer may take with any individual counterparty, apart from an overall credit limit for all positions held by the customer at the FCM; (d) impair a customer's access to execution of a trade on terms that have a reasonable relationship to the best terms available; or (e) prevent compliance with specified time frames for acceptance of trades into clearing.

Time Frames for Submission and Acceptance for Clearing Rules

The regulations require a clearing member, or the DCO acting on its behalf, to accept or reject each trade submitted for clearing as quickly as would be technologically practicable if fully automated systems were used. This timing standard requires action in a matter of milliseconds or seconds or, at most, a few minutes, not hours or days. However, the rules accommodate trade processing with manual steps provided that the process could operate within the same time frame as automated systems.

The regulations also establish the time frame for an SD, MSP, FCM, swap execution facility, and designated contract market to submit swaps to a DCO for clearing. For submitting swaps required to be cleared, the swap must be submitted for clearing to a DCO as soon as technologically practicable after execution, but no later than the close of business on the day of execution. For swaps that are not required to be cleared, the swap must be submitted for clearing to a DCO not later than the next business day after execution of the swap, or the agreement to clear, if later than execution.

Related regulations require swap execution facilities and designated contract markets to coordinate with DCOs in the development of rules and procedures to facilitate clearing.

Clearing Member Risk Management Rules

The risk management rules in this rulemaking require SDs, MSPs, and FCMs that are clearing members to: (1) establish credit and market risk-based limits based on position size, order size, margin requirements, or similar factors; (2) use automated means to screen orders for compliance with the risk-based limits; (3) monitor for

adherence to the risk-based limits intra-day and overnight; (4) conduct stress tests of all positions in the proprietary account and all positions in any customer account that could pose material risk to the FCM at least once per week; (5) evaluate its ability to meet initial margin requirements at least once per week; (6) evaluate its ability to meet variation margin requirements in cash at least once per week; (7) evaluate its ability to liquidate positions it clears in an orderly manner, and estimate the cost of the liquidation at least once per month; and (8) test all lines of credit at least once per year.