Commodity Futures Trading Commission
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Q & A – Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management

What is the goal of the rulemaking?

The Dodd-Frank Act requires the increased use of central clearing to secure the financial integrity of the markets and the clearing system, to avoid systemic risk, and to protect customer funds. These rules help achieve this goal by fostering open access to clearing by market participants, increasing market transparency, and promoting market efficiency. These rules also help by facilitating customer access to clearing, bolstering risk management through timely processing by addressing the documentation between a customer and an FCM that clears on behalf of the customer, and minimizing the time between submission and acceptance or rejection of trades for clearing by DCOs and clearing members.

How do the rules accomplish this?

The rulemaking prohibits arrangements involving FCMs, SDs, MSPs, or DCOs that would (1) disclose to an FCM, SD, or MSP the identity of a customer's original executing counterparty; (2) limit the number of counterparties with whom a customer may enter into a trade; (3) 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; (4) impair a customer's access to execution of a trade on terms that have a reasonable relationship to the best terms available; or (5) prevent compliance with specified time frames for acceptance of trades into clearing.

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.

Is the Commission requiring automatic trade processing?

No. The rules establish a performance standard; they do not prescribe a particular method of trade processing. The Commission expects that fully automated systems will be in place at some DCOs, FCMs, SDs, and MSPs. Others might have systems with some manual steps. The proposed rules would accommodate trade processing with manual steps provided that the process could operate within the same time frame as automated systems.

Do the proposed risk management procedures allow clearing members to have flexibility in developing procedures that meet their needs?

Yes. The Commission recognizes that an individual firm must have the flexibility to implement specific policies and procedures unique to its circumstances. The regulations only establish the general elements to be included in the design and testing of an SD's, MSP's, or FCM's risk management program.

What time frames for clearing are established in this rulemaking?

The regulations 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, an SD or MSP must submit such swap for clearing to a DCO as soon as technologically practicable after execution of the swap, but no later than the close of business on the day of execution. For swaps that are not required to be cleared, an SD or MSP must submit such swap 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.

For accepting swaps, each SD, MSP, FCM, and DCO must accept or reject each trade submitted for clearing as quickly as would be technologically practicable if fully automated systems were used.