Commodity Futures Trading Commission
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Q & A – Interpretive Guidance and Policy Statement on Disruptive Practices

What is the purpose of the Interpretive Guidance and Policy Statement?

The Interpretive Guidance and Policy Statement provides guidance on section 747 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which prohibits certain disruptive trading, practices, or conduct as set forth in new section 4c(a)(5) of the Commodity Exchange Act (the "CEA"). This interpretive statement will provide market participants and the public with guidance on how the Commission intends to apply the statutory prohibitions set forth in CEA section 4c(a)(5).

What are the prohibitions of section 4c(a)(5)?

CEA section 4c(a)(5) states that it shall be 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, 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).

In accordance with the statutory language of CEA section 4c(a)(5), the Commission interprets CEA section 4c(a)(5) to apply to any trading, practices or conduct on a registered entity such as a DCM or SEF.

What is the reach of section 4c(a)(5)(A)?

The Commission interprets CEA section 4c(a)(5)(A) as operating in any trading environment where a person is not utilizing trading algorithms that automatically match the best price for bids and offers. The Commission interprets CEA section 4(c)(a)(5)(A) as prohibiting a person from buying a contract on a registered entity at a price that is higher than the lowest available price offered for such contract or selling a contract on a registered entity at a price that is lower than the highest available price bid for such contract.

Does section 4c(a)(5)(A) apply to Swap Execution Facilities?

With respect to SEFs, the Commission intends to apply CEA section 4c(a)(5)(A) only when a person is using a SEF's "order book."

What is reckless disregard for the orderly execution of transactions during the closing period?

The Commission interprets the prohibition in CEA section 4c(a)(5)(B) to apply to any trading, conduct or practices occurring within the closing period that demonstrates an intentional or reckless disregard for the orderly execution of transactions during the closing period.

What is spoofing?

A section 4c(a)(5)(C) violation occurs when the trader bids or offers with the intent to cancel a bid or offer before execution. The Commission interprets the CEA section 4c(a)(5)(C) "spoofing" prohibition as covering bid and offer activity in all products traded on all registered entities, including DCMs and SEFs.