Commodity Futures Trading Commission
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Proposed Interpretive Order on Disruptive Practices

The Commodity Futures Trading Commission (CFTC) announced the publication in the Federal Register of a Proposed Interpretive Order concerning disruptive practices under the 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, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, section 747 of the Dodd-Frank Act amended the Commodity Exchange Act to expressly prohibit certain disruptive practices.

- In section 747 of the Dodd-Frank Act, Congress amended the CEA to expressly prohibit certain trading practices that it determined were disruptive of fair and equitable trading. Dodd-Frank section 747 amends section 4c(a) of the CEA to make it 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).

- The Proposed Interpretive Order provides guidance regarding the three statutory disruptive practices set forth in section 4c(a)(5) of the Commodity Exchange Act (CEA) as amended in by Dodd-Frank Act section 747.

- Commenters are encouraged to address all aspects of the Proposed Interpretive Order.

Proposed Interpretive Order

On February 24, 2011, the Commission issued a Proposed Interpretive Order to encourage public comment on how the Commission will interpret and implement the provisions of section 4c(a)(5) relating to disruptive practices.

The comment period closes 60 days from publication in the Federal Register.