



6351-01-P

## COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 5, 11, 16, 17, 18, 19, 20, 21, 48, 140, and 150

RIN 3038–AE42

### Commission Delegated Authority Provisions and Technical Amendments

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (the “Commission” or “CFTC”) is adopting final rules to establish new and amend certain existing delegations of authority to Commission staff. The Commission is also adopting amendments to update statutory authority citations and correct limited typographical and technical errors in certain rules.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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### SUPPLEMENTARY INFORMATION:

#### I. Background

##### A. *Commission Delegations of Authority*

The Commission is adopting final rules to establish new and amend certain existing delegations of authority to Commission staff. Previously, the Commission delegated, to the Director of the Division of Market Oversight (“DMO”), various authorities for implementing certain Commission regulations.<sup>1</sup> Many of these delegated authorities have been carried out by staff in DMO’s Surveillance Branch. However, as a result of the recent Commission organizational restructuring, which moved DMO’s Surveillance Branch to the Division of Enforcement (“DOE”), the Commission has completed a full review of DMO delegated authorities and decided to remove certain delegated authorities from the DMO Director, other division directors, and certain Commission staff. The Commission is delegating such authorities to the Director of DOE or the Director of the Office of Data and Technology (“ODT”). In addition, the Commission is adding new delegations of authority to certain of the part 48 provisions that govern the registration of Foreign Boards of Trade (“FBOT”).

*B. Statutory Authority Citations and Technical Corrections*

For certain regulations, the Commission is revising the statutory authority citations to reflect the most current citation. On July 21, 2010, President Obama signed the Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) into law.<sup>2</sup> Title VII of the Dodd-Frank Act amended provisions of the Commodity Exchange Act (“CEA”)<sup>3</sup> to establish a comprehensive framework for the regulation of swaps and security-based swaps. However, according to the *Federal Register* drafting handbook, it is recommended that the Commission only list the current United States Code (“U.S.C.”)

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<sup>1</sup> 17 CFR 5.20(d), 11.2(a), 16.07, 18.03, 19.00(a)(3), 20.8, 21.05, 140.72(a), 140.73, 140.74, 140.97, 150.3(b), and 150.4(e) (Commission delegations of authority to the DMO Director prior to this final rule).

<sup>2</sup> Pub. L. 111-203, 124 Stat. 1376 (July 21, 2010).

<sup>3</sup> 7 U.S.C. 1 et seq. (2012).

citation when it is available.<sup>4</sup> As such, the Commission need only cite the Dodd-Frank Act as the amending statutory authority for each rule part until such amendments are codified in the U.S.C. Since the Dodd-Frank Act provisions have been codified in the U.S.C., the Commission is revising the citation authority preceding certain Commission regulations to reflect the current U.S.C. citations.

In addition, the Commission is amending certain of its regulations to revise a limited number of typographical and formatting errors, and to delete a duplicate regulation.

## **II. Amended Regulations**

### *A. Part 5*

Part 5 of the Commission's regulations governs off-exchange foreign currency transactions. Section 5.20(d) covers Commission delegated authority to the DMO Director to make special calls for information on controlled accounts from retail foreign exchange dealers, futures commission merchants ("FCMs") and introducing brokers ("IBs"), and to make special calls for information on open contracts in accounts carried or introduced by FCMs, IBs, and foreign brokers. The Commission is amending its delegation of authority in § 5.20(d) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 5 statutory authority citation.

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<sup>4</sup> See National Archives and Records Administration, Office of the Federal Register, Document Drafting Handbook, section 3.12 (Authority citations), 3-26 (May 2017 update, Revision 2, June 7, 2017).

*B. Part 11*

Part 11 of the Commission’s regulations establishes rules relating to investigations. Section 11.2(a) delegates authority to the DOE Director, the Director of the Division of Swap Dealer and Intermediary Oversight (“DSIO”), the Director of the Division of Clearing and Risk (“DCR”), the Director of DMO, the Chief Economist, and members of their staffs acting within the scope of their respective responsibilities, to conduct investigations in particular matters. The Commission has decided to delegate such investigatory authority to the DOE Director and members of Commission staff acting pursuant to the Director’s authority and under the Director’s direction to conduct investigations. The Commission is amending its delegation of authority in § 11.2(a) to remove the Chief Economist and the Directors of DSIO, DCR and DMO and their staff from its list of delegates. The Commission is also updating the part 11 statutory authority citation to reflect the correct numerical ordering of the statutory provisions cited.

*C. Part 16*

Part 16 of the Commission’s regulations governs reports by designated contract markets and swap execution facilities. Section 16.07(a) delegates authority to the DMO Director to determine the form, manner and time of filing reports required in §§ 16.00(b) and 16.01(d). Section 16.07(b) delegates authority to the DMO Director to determine the format, coding structure and electronic data transmission procedures used by reporting markets pursuant to §§ 16.00(b)(1), 16.01(d)(1) and 16.06. The Commission is amending its delegations of authority in § 16.07(a) and (b) to remove the DMO Director from its list of delegates and to delegate such authority to the ODT Director, with the concurrence of the DMO Director, or such other employee or employees as the Directors each may

designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 16 statutory authority citation and updating the part 16 statutory authority citation to reflect the correct numerical ordering of the statutory provisions cited. The Commission is also amending the outline formatting of § 16.07.

*D. Part 17*

Part 17 of the Commission's regulations governs reports by reporting markets, futures commission merchants, clearing members, and foreign brokers. In § 17.03, the Commission is adding a delegation of authority, pursuant to § 17.01(e), to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time, to issue requests for Forms 102 and 71. The Commission is also making typographical corrections to the time formatting in § 17.02, and deleting the Dodd-Frank Act reference from the part 17 statutory authority citation.

*E. Part 18*

Part 18 of the Commission's regulations governs reports by certain traders. Section 18.03 governs Commission delegated authority to the DMO Director to issue special calls for certain reports and information to be furnished by traders, and to request information related to the maintenance of books and records. The Commission is amending its delegation of authority in § 18.03 to remove the DMO Director from its list of delegates for issuing special calls for information pursuant to §§ 18.00 and 18.05, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also amending its delegation of authority in § 18.03 to remove the DMO Director from its list of delegates

for issuing special calls for information pursuant to § 18.04, and to delegate such authority to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is deleting the Dodd-Frank Act reference from the part 18 statutory authority citation.

*F. Part 19*

Part 19 of the Commission's regulations governs reports by persons holding bona fide hedge positions, and by merchants and dealers in cotton. Section 19.00(a)(3) governs Commission delegated authority to the DMO Director to issue special calls for Series '04 reports (cash market positions of large traders in cotton and grains). The Commission is amending its delegation of authority in § 19.00(a)(3) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 19 statutory authority citation.

*G. Part 20*

Part 20 of the Commission's regulations governs large trader reporting for physical commodity swaps. Section 20.8 governs Commission delegated authority to the DMO Director to: issue special calls for certain forms, books and records; determine the form and manner of reporting; and determine compliance schedules. The Commission is amending its delegation of authority in § 20.8 to remove the DMO Director as its delegate for issuing § 20.6(d) special calls for books and records, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may

designate from time to time. The Commission is also amending its § 20.8 delegation of authority to remove the DMO Director as its delegate for issuing § 20.5 requests for 102S and 40S filings, and to delegate such authority to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is amending its § 20.8 delegation of authority to remove the DMO Director as its delegate for determining the form and coding structure of reporting in § 20.7, and will delegate such authority to the ODT Director, with the concurrence of the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is also making typographical corrections to the time formatting in § 20.5, and deleting the Dodd-Frank Act reference from the part 20 statutory authority citation.

*H. Part 21*

Part 21 of the Commission's regulations governs various types of Commission special calls. Section 21.05 particularly governs Commission delegated authority to the DMO Director to issue special calls for information on certain controlled accounts and open interest contracts in certain accounts. The Commission is amending its delegation of authority in § 21.05 to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 21 statutory authority citation.

*I. Part 48*

Part 48 of the Commission's regulations governs the registration of FBOTs. The Commission is amending the part 48 rules to add a new § 48.11 that addresses

delegations of authority to DMO. Section 48.11 will address delegations with respect to the following provisions:

1. Section 48.7 governs FBOT requirements for registration. The Commission is delegating authority, pursuant to § 48.7, for the DMO Director and his designated staff to request additional information and documentation in connection with an application for registration.

2. Section 48.9 governs the revocation of an FBOT's registration. The Commission is delegating authority, pursuant to § 48.9(a)(1) and (c), for the DMO Director and his designated staff to: (i) notify an FBOT that, pursuant to § 48.9(a)(1), the registered FBOT or the clearing organization has failed to satisfy any registration requirements or conditions for registration; and (ii) pursuant to § 48.9(c), request that the FBOT file a written demonstration, containing such supporting data, information, and documents, in such form and manner and within such timeframe as the Commission may specify, that the foreign board of trade or clearing organization is in compliance with the registration requirements and/or conditions for registration.

3. Section 48.10 requires that FBOTs that wish to make additional contracts available to trade by members or participants located in the United States with direct access to the FBOT's trade-matching system must submit to the Commission a written request before offering the additional contracts in the U.S. The FBOT can offer the additional contracts for trading 10 business days after the Commission receives the FBOT's written request unless the Commission notifies the FBOT that additional time is needed to complete its review of policy or other issues pertinent to the additional contracts. The Commission is delegating authority, under § 48.10, for the DMO Director

and his designated staff to, within the 10-day review period, notify an FBOT whether additional time is needed to complete its review of policy or other issues pertinent to the additional contracts, or that the contract can be made available for trading by direct access.

*J. Part 140*

Part 140 of the Commission's regulations governs organization, functions and procedures of the Commission. The Commission is making the following amendments to the part 140 regulations.

1. Section 140.72, pertaining to delegation of authority to disclose confidential information to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.

Currently, § 140.72 delegates authority directly to the various Commission Division directors and certain identified senior staff positions to disclose confidential information. The Commission is amending its delegation of authority in § 140.72(a) to delegate authority to Division directors and their designated staff members.

2. Section 140.73, pertaining to delegation of authority to disclose information to United States, states, and foreign government agencies and foreign futures authorities.

Currently, § 140.73 delegates authority directly to the various Commission Division directors and certain identified senior staff positions to disclose confidential information. The Commission is amending its delegation of authority in § 140.72(a) to delegate authority to Division directors and their designated staff members.

3. Section 140.74, pertaining to delegation of authority to issue special calls for series 03 reports and Form 40.

The Commission is amending § 140.74 to remove the delegation of authority to the DMO Director, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time, for issuing special calls for series 03 reports. The Commission is also amending § 140.74 to delete a duplicate rule provision regarding authority to issue special calls for Form 40.

4. Section 140.97, pertaining to delegation of authority regarding requests for classification of positions as bona fide hedging.

The Commission is amending § 140.97 to remove the delegation of authority to the DMO Director, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time.

*K. Part 150*

Part 150 of the Commission's regulations governs limits on positions. Sections 150.3(b) and 150.4(e) govern Commission delegated authority to the DMO Director to issue calls for information related to claims of exemptions from positions limits, certain position, trading and business relationship information, and to determine the form, coding structure and transmission procedures for submitting data. The Commission is amending its special call delegation of authority in §§ 150.3(b) and 150.4(e) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also amending its form and manner delegation of authority in § 150.4(e) to remove the DMO Director from its list of delegates and to delegate such authority to the ODT Director, with the concurrence of the DOE Director, or such other employee or

employees as the Directors each may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 150 statutory authority citation.

### **III. Administrative Compliance**

#### *A. Administrative Procedure Act*

The Administrative Procedure Act (“APA”)<sup>5</sup> generally requires a Federal agency to publish notice of a proposed rulemaking in the *Federal Register* and to allow opportunity for public comment before promulgating a final rule.<sup>6</sup> This requirement does not apply, however, to “rules of agency organization, procedure, or practice.”<sup>7</sup> This final rule makes conforming amendments to various Commission regulations to reflect the recent organizational restructuring at the Commission, including corresponding updates to Commission delegations of authority to staff, which changes fit squarely into the category of “rules of agency organization, procedure, or practice.”<sup>8</sup> This final rule also corrects typographical errors and outdated statutory references, which have no impact on substantive rights or obligations under the CEA and are entirely ministerial and procedural in nature. Therefore, this rulemaking is excepted from the public rulemaking provisions of the APA.<sup>9</sup> Conforming amendments to certain delegations of authority to reflect organizational changes, updating of relevant statutory authority and other technical corrections, will not cause any party to undertake new or additional efforts to comply with the regulations as revised. This final rule shall become effective upon publication in the *Federal Register*.

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<sup>5</sup> 5 U.S.C. 551 et seq.

<sup>6</sup> 5 U.S.C. 553.

<sup>7</sup> 5 U.S.C. 553(b)(A). Notice or hearing is not required in these circumstances by the Commodity Exchange Act, 7 U.S.C. 1 et seq.

<sup>8</sup> Id.

<sup>9</sup> 5 U.S.C. 553(b).

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires the Commission to consider whether the regulations it adopts will have a significant economic impact on a substantial number of small entities.<sup>10</sup> The Commission is obligated to conduct a regulatory flexibility analysis for any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of the APA.<sup>11</sup> However, this rulemaking is excepted from the public rulemaking provisions of the APA.<sup>12</sup> Accordingly, the Commission is not obligated to conduct a regulatory flexibility analysis for this rulemaking.

*C. Paperwork Reduction Act*

The Commission may not conduct or sponsor, and a respondent is not required to respond to, a collection of information contained in a rulemaking unless the information collection displays a currently valid control number issued by the Office of Management and Budget (“OMB”) pursuant to the Paperwork Reduction Act.<sup>13</sup> This rulemaking contains no collection of information that obligates the Commission to obtain a control number from OMB.

*D. Cost-Benefit Considerations*

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.<sup>14</sup> Section 15(a) further specifies that the costs and benefits shall be evaluated in

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<sup>10</sup> See 5 U.S.C. 601 et seq.

<sup>11</sup> 5 U.S.C. 601(2).

<sup>12</sup> 5 U.S.C. 553(b)(A) (“rules of agency organization, procedure, or practice”); 5 U.S.C. 553(b)(B) (“agency for good cause finds . . . that notice and public procedure thereon are . . . unnecessary . . .”).

<sup>13</sup> See 44 U.S.C. 3501 et seq.

<sup>14</sup> 7 U.S.C. 19(a).

light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

The Commission is amending its delegations of authority in §§ 5.20(d), 11.2(a), 16.07, 18.03, 19.00(a)(3), 20.8, 21.05, 140.72(a), 140.73, 140.74, 140.97, 150.3(b) and 150.4(c), and in part 48. The Commission is also amending certain statutory citations in, and making limited technical and typographical corrections to parts 5, 11, 16, 18, 19, 20, 21, 140, and 150. For assessing whether and to what extent costs or benefits are likely to flow from the amendments, the Commission is using the CEA and related regulations that currently instruct market participants as to which delegated authorities may ask for and receive requested information. The proposed amendments do not change the status quo.

## 2. Costs

There are no costs to the industry or the public associated with the amendments to certain Commission delegations of authority, regulation statutory citations, or typographical errors in the regulations.

## 3. Benefits

The Commission believes that market participants and the public will benefit from these ministerial rule amendments since the updated delegations of authority will reflect the Commission's "mission to identify and prosecute violations of law and regulation" and "foster increased efficiencies through knowledge sharing and cross training under unified leadership; thus benefitting the Commission's surveillance mission

and enforcement responsibilities.”<sup>15</sup> The amendments will also benefit market participants and the public by eliminating outdated statutory authority references in the regulation text and making limited technical and typographical corrections.

#### 4. Section 15(a) Factors

*Protection of market participants and the public.* The Commission believes that correcting minor technical and typographical errors in certain parts of its rules and updating certain delegations of authority to accurately reflect recent organizational changes advances its mission to protect market participants and the public.

*Efficiency, competitiveness, and financial integrity of futures markets.* The Commission believes that the amendments will not materially affect the efficiency, competitiveness, and financial integrity of futures markets because the rule changes are ministerial and do not affect the operations of markets.

*Price discovery.* The Commission believes that the amendments will not materially affect the price discovery process because the rule changes are ministerial and do not affect the operations of markets.

*Sound risk management practices.* The Commission believes that the amendments will not materially affect sound risk management practices because the rule changes are ministerial and do not affect how market participants conduct risk management.

*Other public interest considerations.* The Commission has not identified any other public interest consideration.

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<sup>15</sup> See Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL, *CFTC: A New Direction Forward* (March 15, 2017) available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20>.

## **List of Subjects**

### **17 CFR Part 5**

Commodity futures, consumer protection, foreign currencies, off-exchange transactions, reporting and recordkeeping requirements, securities, trade practices.

### **17 CFR Part 11**

Administrative practice and procedure, investigations.

### **17 CFR Part 16**

Contract markets, reporting and recordkeeping requirements, swap execution facilities.

### **17 CFR Part 17**

Brokers, clearing members, foreign brokers, futures commission merchants, reporting and recordkeeping requirements, reporting markets.

### **17 CFR Part 18**

Reporting and recordkeeping requirements, traders.

### **17 CFR Part 19**

Bona fide hedge positions, cotton, grains, merchants and dealers, reporting and recordkeeping requirements.

### **17 CFR Part 20**

Administrative practice and procedure, large traders, physical commodity swaps, reporting and recordkeeping requirements.

### **17 CFR Part 21**

Brokers, reporting and recordkeeping requirements, special calls.

**17 CFR Part 48**

Foreign boards of trade, registration requirements, reporting and recordkeeping requirements.

**17 CFR Part 140**

Authority delegations (government agencies), conflicts of interest, organization and functions (government agencies).

**17 CFR Part 150**

Cotton, grains, position limits.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as set forth below:

**PART 5—OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS**

1. The authority citation for part 5 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, and 23.

2. In § 5.20, revise paragraph (d) to read as follows:

**§ 5.20 Special calls for account and transaction information.**

\* \* \* \* \*

*(d) Delegation of authority to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Enforcement.* The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Enforcement, or to the respective Director's designees, the authority set forth in this section to make special calls for information on controlled accounts from retail foreign exchange dealers, futures commission merchants and from introducing brokers, and to

make special calls for information on open contracts in accounts carried or introduced by futures commission merchants, introducing brokers, and foreign brokers. Either Director may submit to the Commission for its consideration any matter that has been delegated pursuant to this section. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section to the Directors.

## **PART 11—RULES RELATING TO INVESTIGATIONS**

3. The authority citation for part 11 is revised to read as follows:

Authority: 7 U.S.C. 4a(j), 9, 12, 12a(5) and 15.

4. In § 11.2, revise paragraph (a) to read as follows:

### **§ 11.2 Authority to conduct investigations.**

(a) The Director of the Division of Enforcement and members of the Commission staff acting pursuant to his authority and under his direction may conduct such investigations as he deems appropriate to determine whether any persons have violated, are violating, or are about to violate the provisions of the Commodity Exchange Act, as amended, or the rules, regulations or orders adopted by the Commission pursuant to that Act, or, in accordance with the provisions of section 12(f) of the Act, whether any persons have violated, are violating or are about to violate the laws, rules or regulations relating to futures or options matters administered or enforced by a foreign futures authority, or whether an applicant for registration or designation meets the requisite statutory criteria. For this purpose, the Director may obtain evidence through voluntary statements and submissions, through exercise of inspection powers over boards of trade, reporting traders, and persons required by law to register with the Commission, or when

authorized by order of the Commission, through the issuance of subpoenas. The Director shall report to the Commission the results of his investigations and recommend to the Commission such enforcement action as he deems appropriate.

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**PART 16—REPORTS BY CONTRACT MARKETS AND SWAP EXECUTION FACILITIES**

5. The authority citation for part 16 is revised to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6g, 6i, 7, and 7b-3.

6. Revise § 16.07 to read as follows:

**§ 16.07 Delegation of authority to the Director of the Office of Data and Technology and to the Director of the Division of Market Oversight.**

(a) The Commission hereby delegates, until the Commission orders otherwise, the authority set forth in paragraphs (b) and (c) of this section to the Director of the Office of Data and Technology, with the concurrence of the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time. The Commission hereby delegates, until the Commission orders otherwise, the authority set forth in paragraph (d) of this section to the Director of the Division of Market Oversight, to be exercised by such Director or by such other employee or employees of such Director as may be designated from time to time by the Director. The Directors may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph.

(b) Pursuant to §§ 16.00(b) and 16.01(d), as applicable, the authority to, with the concurrence of the Director of the Division of Market Oversight or the Director's delegate, determine whether reporting markets must submit data in hard copy, and the time that such data may be submitted where the Director determines that a reporting market is unable to meet the requirements set forth in the regulations.

(c) Pursuant to §§ 16.00(b)(1), 16.01(d)(1), and 16.06, the authority to, with the concurrence of the Director of the Division Market Oversight or the Director's delegate, approve the format, coding structure and electronic data transmission procedures used by reporting markets.

(d) Pursuant to § 16.02, the authority to determine the specific content of any daily trade and supporting data report, request that such reports be accompanied by data that identifies or facilitates the identification of each trader for each transaction or order included in a submitted trade and supporting data report, and establish the time for the submission of and the manner and format of such reports.

**PART 17—REPORTS BY REPORTING MARKETS, FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS**

7. The authority citation for part 17 is revised to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6d, 6f, 6g, 6i, 6t, 7, 7a, and 12a.

8. In § 17.02, revise paragraphs (b)(2)(i) and (ii) and (c)(2)(i) and (ii) to read as follows:

**§ 17.02 Form, manner and time of filing reports.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) The applicable reporting party shall submit a completed Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the special account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (b)(3) and (4) of this section. Such form shall include all required information, including the names of the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on the form, *provided that*, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (b)(2)(ii) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

(ii) With respect to the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on Form 102, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. on the third business day following the date on which the special account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (b)(3) and (4) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) The clearing member shall submit a completed Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the volume threshold account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (c)(3) and (4) of this section. Such form shall include all required information, including the names of the owner(s) and controller(s) of each volume threshold account reported on the form that is not an omnibus account, *provided that*, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (c)(2)(ii) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

(ii) With respect to the owner(s) and controller(s) of each volume threshold account reported on Form 102 that is not an omnibus account, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. on the third business day following the date on which the volume threshold account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (c)(3) and (4) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

\* \* \* \* \*

9. In § 17.03, revise paragraphs (e), (f), and (g) and add paragraph (h) to read as follows:

**§ 17.03 Delegation of authority to the Director of the Office of Data and Technology or the Director of the Division of Market Oversight.**

\* \* \* \* \*

(e) Pursuant to § 17.01(c), the authority shall be designated to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, to make special calls on Form 71 for omnibus volume threshold account originators and omnibus reportable sub-account originators information as set forth in § 17.01(c).

(f) Pursuant to § 17.01(e), the authority shall be designated to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, to request information required to be filed by futures commission merchants, clearing members, foreign brokers, and reporting markets as set forth in § 17.01.

(g) Pursuant to § 17.02(b)(4), the authority shall be designated to the Director of the Division of Market Oversight to determine the date on which each futures commission merchant, clearing member, or foreign broker shall update or otherwise resubmit every Form 102 that it has submitted to the Commission for each of its special accounts.

(h) Pursuant to § 17.02(c)(4), the authority shall be designated to the Director of the Division of Market Oversight to determine the date on which each clearing member shall update or otherwise resubmit every Form 102 that it has submitted to the Commission for each of its volume threshold accounts.

## **PART 18—REPORTS BY TRADERS**

10. The authority citation for part 18 is revised to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 6t, 12a, and 19.

11. Revise § 18.03 to read as follows:

### **§ 18.03 Delegation of authority.**

(a) The Commission hereby delegates, until the Commission orders otherwise, the authority to make special calls on traders for information as set forth in §§ 18.00 and 18.05 to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time.

(b) The Commission hereby delegates, until the Commission orders otherwise, the authority to make special calls for information as set forth in § 18.04 to the Director of the Office of Data and Technology to be exercised by the Director, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time.

(c) The Directors of the Division of Enforcement and Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(d) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

**PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE  
POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY  
MERCHANTS AND DEALERS IN COTTON**

12. The authority citation for part 19 is revised to read as follows:

Authority: 7 U.S.C. 6g(a), 6i, and 12a(5).

13. In § 19.00, revise paragraph (a)(3) to read as follows:

**§ 19.00 General provisions.**

(a) \* \* \*

(3) All persons holding or controlling positions for future delivery that are reportable pursuant to § 15.00(p)(1) of this chapter who have received a special call for series '04 reports from the Commission or its designee. Filings in response to a special call shall be made within one business day of receipt of the special call unless otherwise specified in the call. For the purposes of this paragraph, the Commission hereby delegates to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, authority to issue calls for series '04 reports.

\* \* \* \* \*

**PART 20—LARGE TRADER REPORTING FOR PHYSICAL COMMODITY  
SWAPS**

14. The authority citation for part 20 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6c, 6f, 6g, 6t, 12a, 19.

15. In § 20.5, revise paragraphs (a)(4) and (b) to read as follows:

**§ 20.5 Series S filings.**

(a) \* \* \*

(4) *Change updates.* If any change causes the information filed by a clearing member or swap dealer on a Form 102 for a consolidated account to no longer be accurate, then such clearing member or swap dealer shall file an updated Form 102 with the Commission no later than 9 a.m. on the business day after such change occurs, or on such other date as directed by special call of the Commission, *provided that*, a clearing member or swap dealer may stop providing change updates for a Form 102 that it has submitted to the Commission for any consolidated account upon notifying the Commission or its designee that the account in question is no longer reportable as a consolidated account and has not been reportable as a consolidated account for the past six months. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

\* \* \* \* \*

(b) *40S filing.* Every person subject to books or records requirement under § 20.6 shall after a special call upon such person by the Commission file with the Commission a 40S filing at such time and place as directed in the call. A 40S filing shall consist of the submission of a Form 40, which shall be completed by such person as if any references to futures or option contracts were references to paired swaps or swaptions as defined in § 20.1.

16. Revise § 20.8 to read as follows:

**§ 20.8 Delegation of authority.**

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority in § 20.6(d) for issuing a special call.

(b) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority in § 20.10 for determining the described compliance schedules.

(c) The Commission hereby delegates, until it orders otherwise, to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, the authority:

- (1) In § 20.5(a)(3) for issuing a special call for a 102S filing; and
- (2) In § 20.5(b) for issuing a special call for a 40S filing.

(d) The Commission hereby delegates, until it orders otherwise, to the Director of the Office of Data and Technology, with the concurrence of the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, the authority, in § 20.7, for providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(e) The Directors of the Division of Enforcement, Division of Market Oversight, and the Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(f) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

#### **PART 21—SPECIAL CALLS**

17. The authority citation for part 21 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 12a, 19 and 21.

18. Revise § 21.05 to read as follows:

##### **§ 21.05 Delegation of authority.**

The Commission hereby delegates, until the Commission orders otherwise, the special call authority set forth in §§ 21.01 and 21.02 to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time. The Director of the Division of Enforcement may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section.

#### **PART 48—REGISTRATION OF FOREIGN BOARDS OF TRADE**

19. The authority citation for part 48 continues to read as follows:

Authority: 7 U.S.C. 5, 6 and 12a, unless otherwise noted.

20. Add § 48.11 to read as follows:

##### **§ 48.11 Delegation of authority.**

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight, or such other employee or employees as the Director may designate from time to time, the authority:

(1) In § 48.7, to request additional information and documentation in connection with an application for registration;

(2) In § 48.9(a)(1), to notify a registered foreign board of trade that it or the clearing organization has failed to satisfy any registration requirements or conditions for registration;

(3) In § 48.9(c), to request that a registered foreign board of trade file with the Commission a written demonstration, containing such supporting data, information, and documents, in such form and manner and within such timeframe as the Commission may specify, that the foreign board of trade or clearing organization is in compliance with the registration requirements and/or conditions for registration; and

(4) In § 48.10, to notify a foreign board of trade whether additional time is needed for staff to complete its review of policy or other issues pertinent to the additional contracts, or that the contract can be made available for trading by direct access.

(b) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this section.

(c) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

## **PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION**

21. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2(a)(12), 12a, 13(c), 13(d), 13(e), and 16(b).

22. In § 140.72, revise paragraph (a) to read as follows:

**§ 140.72 Delegation of authority to disclose confidential information to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.**

(a) Pursuant to the authority granted under sections 2(a)(11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Accountant, the General Counsel, the Director of the Division of Market Oversight, the Director of the Division of Enforcement, the Chief Economist of the Office of the Chief Economist, the Director of the Office of International Affairs, or such other employee or employees as the General Counsel, Directors, Chief Accountant or Chief Economist each may designate from time to time, the authority to disclose to an official of any registered entity, swap execution facility, swap data repository, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to, the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act.

\* \* \* \* \*

23. In § 140.73, revise paragraph (a) introductory text to read as follows:

**§ 140.73 Delegation of authority to disclose information to United States, States, and foreign government agencies and foreign futures authorities.**

(a) Pursuant to sections 2(a)(11), 8a(5) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the General Counsel, the Director of the Division of Enforcement, the Director of the Division of Market Oversight, the Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Economist of the Office of the Chief Economist, the Director of the Office of International Affairs, or such other employee or employees as the General Counsel, Chief Economist or Directors listed in this section each may designate from time to time the authority to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request, to:

\* \* \* \* \*

24. Revise § 140.74 to read as follows:

**§ 140.74 Delegation of authority to issue special calls for Series 03 Reports.**

(a) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority to issue special calls for series 03 reports under § 18.00 of this chapter.

(b) The Director of the Division of Enforcement may submit any matter which has been delegated to the Director under this section to the Commission for its consideration.

(c) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Enforcement under paragraph (a) of this section.

25. Revise § 140.97 to read as follows:

**§ 140.97 Delegation of authority regarding requests for classification of positions as bona fide hedging.**

(a) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, all functions reserved to the Commission in §§ 1.47 and 1.48 of this chapter.

(b) The Director of the Division of Enforcement may submit any matter which has been delegated to the Director under paragraph (a) of this section to the Commission for its consideration.

(c) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Enforcement under paragraph (a) of this section.

**PART 150—LIMITS ON POSITIONS**

26. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5).

27. In § 150.3, revise paragraph (b) to read as follows:

**§ 150.3 Exemptions.**

\* \* \* \* \*

(b) *Call for information.* Upon call by the Commission or the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, any person claiming an exemption from speculative position limits under this section must provide to the Commission or the Division of Enforcement such information as specified in the call relating to the positions owned or controlled by that person; trading done pursuant to the claimed exemption; the futures, options or cash market positions which support the claim of exemption; and the relevant business relationships supporting a claim of exemption.

28. In § 150.4, revise paragraph (e) to read as follows:

**§ 150.4 Aggregation of positions.**

\* \* \* \* \*

(e) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority:

(i) In paragraph (b)(8)(iv) of this section to call for additional information from a person claiming the exemption in paragraph (b)(8) of this section.

(ii) In paragraph (c)(3) of this section to call for additional information from a person claiming an aggregation exemption under this section.

(2) The Commission hereby delegates, until it orders otherwise, to the Director of the Office of Data and Technology, with the concurrence of the Director of the Division of Enforcement, or such other employee or employees as the Directors each may designate from time to time, the authority in paragraph (d) of this section to provide

instructions or determine the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(3) The Directors of the Division of Enforcement and the Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(4) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

Issued in Washington, DC, on June 20, 2017, by the Commission.

Christopher J. Kirkpatrick,

*Secretary of the Commission.*

NOTE: The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Commission Delegated Authority Provisions and Technical  
Amendments – Commission Voting Summary**

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

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