



## **COMMODITY FUTURES TRADING COMMISSION**

### **17 CFR Part 38**

### **RIN 3038-AE64**

## **Commission Delegated Authority Provisions for Designated Contract Markets' System Safeguards Requirements**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) is adopting final rules to establish a new delegation of authority to Commission staff under the Commission’s system safeguards rules to notify each designated contract market (“DCM”) of its percentage of the total annual trading volume among all DCMs regulated by the Commission for purposes of whether it is a covered DCM under the system safeguards rules.

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

**FOR FURTHER INFORMATION CONTACT:** Rachel Berdansky, Deputy Director, 202-418-5429 or [rberdansky@cftc.gov](mailto:rberdansky@cftc.gov); David Steinberg, Associate Director, 202-418-5102 or [dsteinberg@cftc.gov](mailto:dsteinberg@cftc.gov); David Taylor, Associate Director, 202-418-5488 or [dtaylor@cftc.gov](mailto:dtaylor@cftc.gov), Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW, Washington, DC 20581.

### **SUPPLEMENTARY INFORMATION:**

#### **I. Delegation of Authority—Commission Regulation § 38.1051**

Section 38.1051 of the Commission’s regulations, 17 CFR 38.1051, governs the system safeguards requirements for DCMs. Pursuant to § 38.1051(n), DCMs are required to provide the Commission with their annual total trading volume by January 31 each calendar year. Section 38.1051(n)(2) also requires the Commission to provide each DCM with their percentage of the combined annual total trading volume among all DCMs regulated by the Commission by February 28 each calendar year. This annual Commission notification informs each DCM whether it is a “covered DCM” as that term is defined in § 38.1051(h)(1). A covered DCM is a DCM whose annual trading volume in a given year is five percent or more of the combined annual trading volume of all DCMs regulated by the Commission. Covered DCMs are required to comply with enhanced requirements with respect to the frequency of cybersecurity testing and the use of independent contractors. The Commission is amending § 38.1051 by adding paragraph (n)(3) to delegate authority to the Director of the Division of Market Oversight and designated staff to notify DCMs of their annual trading volume percentage.

## **II. Effective Date**

As the revisions to the Commission’s regulations in this rulemaking will not cause any party to undertake efforts to comply with the regulations as revised, the Commission has determined to make this rulemaking effective upon publication in the *Federal Register*.<sup>1</sup>

## **III. 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

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<sup>1</sup> 5 U.S.C. 553(d).

collection displays a currently valid control number issued by the Office of Management and Budget (“OMB”) pursuant to the Paperwork Reduction Act.<sup>2</sup> This rulemaking contains no collection of information for which the Commission is obligated to obtain a control number from OMB.

**List of Subjects in 17 CFR Part 38**

Commodity futures, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 38 as follows:

**PART 38—DESIGNATED CONTRACT MARKETS**

1. The authority citation for part 38 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6c, 6d, 6e, 6f, 6g, 6i, 6j, 6k, 6l, 6m, 6n, 7, 7a-2, 7b, 7b-1, 7b-3, 8, 9, 15, and 21, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376.

2. In § 38.1051, add paragraph (n)(3) to read as follows:

**§ 38.1051 General requirements.**

\* \* \* \* \*

(n) \* \* \*

(3) *Delegation of authority.* 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 to provide each designated contract market with its percentage of the total annual trading volume of all designated contract markets regulated by the Commission, as set forth in paragraph (n)(2) of this section. The Director of the Division of Market Oversight may submit to the

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<sup>2</sup> 44 U.S.C. 3501 *et seq.*

Commission for its consideration any matter that has been delegated pursuant to this section. Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

Issued in Washington, DC, on September 26, 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 for Designated Contract Markets' System Safeguards Requirements – Commission Voting Summary**

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

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