

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission (“Commission”), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418–5964, ckirkpatrick@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that

it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.¹ The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission’s Fall 2017 regulatory flexibility agenda is included in the *Unified Agenda of Federal Regulatory and Deregulatory Actions*. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on October 2, 2017, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

COMMODITY FUTURES TRADING COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
389	Indemnification Rulemaking	3038–AE44

COMMODITY FUTURES TRADING COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
390	Regulation Automated Trading	3038–AD52

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Final Rule Stage

389. Indemnification Rulemaking

E.O. 13771 Designation: Independent agency.

Legal Authority: 7 U.S.C. 12a and 24a

Abstract: The FAST Act repealed CEA 21(d)(2), added to the CEA by Dodd-Frank 728, which provided that domestic and foreign regulators that are otherwise eligible to, and that do, request data from an SDR (collectively, Regulators) agree to indemnify the SDR and the CFTC for expenses resulting from litigation relating to the

information provided. When considered in light of the CFTC’s current regulations addressing Regulators’ access to SDR data, the removal of the indemnification requirement presents a number of issues, primarily related to the scope of Regulators’ access to SDR data, and maintaining the confidentiality of such data consistent with CEA 8. The Commission addressed these issues in a notice of proposed rulemaking (NPRM) that revises the current approach to Regulators’ access to SDRs’ swap data and sets forth more information regarding the confidentiality agreement that is required by CEA 21(d).

Timetable:

has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the

Action	Date	FR Cite
NPRM	01/25/17	82 FR 8369
NPRM Comment Period End.	03/27/17	
Final Rule	12/00/17	
Final Action Effective.	01/00/18	

Regulatory Flexibility Analysis Required: Yes.

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Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public’s opportunity to participate in the rulemaking process.

¹ The Commission published its definition of a “small entity” for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission

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RIN: 3038-AE44

**COMMODITY FUTURES TRADING
 COMMISSION (CFTC)**

Long-Term Actions

390. Regulation Automated Trading

E.O. 13771 Designation: Independent
 agency.

Legal Authority: 7 U.S.C. 1a(23), 7
 U.S.C. 6c(a); 7 U.S.C. 7(d); and 7 U.S.C.
 12(a)(5)

Abstract: On November 7, 2016, the
 Commodity Futures Trading
 Commission (“Commission”) approved
 a supplemental notice of proposed
 rulemaking for Regulation AT
 (“Supplemental NPRM”). The
 Supplemental NPRM modifies certain

rules proposed in the Commission’s
 December 2015 notice of proposed
 rulemaking for Regulation AT. The
 Supplemental NPRM was published in
 the **Federal Register** on November 25,
 2016, with a 90-day comment period
 closing on January 24, 2017. The
 Commission subsequently extended the
 comment period until May 1, 2017.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/13	78 FR 56542
ANPRM Comment Period End.	12/11/13	
ANPRM Comment Period Ex- tended.	01/24/14	79 FR 4104
ANPRM Comment Period Ex- tended End.	02/14/14	
NPRM	12/17/15	80 FR 78824
NPRM Comment Period End.	03/16/16	
NPRM Comment Period Re- opened.	06/10/16	81 FR 36484
NPRM Comment Period Re- opened End.	06/24/16	
Supplemental NPRM.	11/25/16	81 FR 85334
Supplemental NPRM Com- ment Period End.	01/24/17	

Action	Date	FR Cite
Supplemental NPRM Com- ment Period Ex- tended.	01/26/17	82 FR 8502
Supplemental NPRM Com- ment Period Ex- tended End.	05/01/17	
Final Rule	12/00/18	

Regulatory Flexibility Analysis

Required: Yes.

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