

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 95-02-18, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

**Note:** This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of

compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Mr. David L. Ostrodka, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946-4129; facsimile: (316) 946-4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from

the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201-0085. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 95-02-18, Amendment 39-9136.

#### Appendix to Docket No. 2001-CE-04-AD

The following is the compliance schedules for the inspections required in this AD. These are duplicated from AD 95-02-18, Amendment 39-9136:

1. For all affected airplanes having engine truss P/N 129-910032-79 installed, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Models	Area specified in figure 1 of beech SB No. 2255, Rev. VI	Initial inspection	Repetitive inspections
1900 and 1900C .....	A .....	Upon accumulating 1,400 hours TIS*.	every 100 hours TIS
1900 and 1900C .....	B and C .....	Upon accumulating 3,200 hours TIS*.	every 100 hours TIS
1900D .....	A .....	Upon accumulating 3,200 hours TIS*.	every 450 hours TIS
1900D .....	B and C .....	Upon accumulating 3,200 hours TIS*.	every 3,000 hours TIS

\*or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95-02-18), whichever occurs later.

2. For all Models 1900 and 1900C airplanes having engine truss P/N 118-9100-25-37, P/N 118-910025-121, P/N 114-910025-1 or P/N 118-910025-1, initially and repetitively inspect the engine truss for cracks at the weld joints in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) 2255, Revision VI, dated August 1994, at the times specified in the following chart:

Area specified in figure 1 of beech SB N. 2255, Rev. VI	Initial inspection	Repetitive inspections
A .....	Upon accumulating 1,400 hours TIS* .....	every 100 hours TIS
B .....	Upon accumulating 1,400 hours TIS* .....	every 600 hours TIS
C .....	Upon accumulating 1,400 hours TIS* .....	every 3,000 hours TIS

\*or within the next 100 hours TIS after March 25, 1995 (the effective date of AD 95-02-18), whichever occurs later.

Issued in Kansas City, Missouri, on July 3, 2001.

**Dorenda D. Baker,**

*Acting Manager, Small Airplane Directorate,  
Aircraft Certification Service.*

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#### COMMODITY FUTURES TRADING COMMISSION

##### 17 CFR Part 41

**RIN 3038-AB83**

#### Proposed Regulation To Restrict Dual Trading in Security Futures Products

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed regulation.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is proposing Regulation 41.27 that would restrict dual trading by floor brokers in security futures products. Under the proposed regulation, the dual trading restriction would affect floor brokers

that trade security futures products through open outcry on the trading floor of a designated contract market ("DCM") or registered derivatives transaction execution facility ("DTF"). The regulation would provide for certain exceptions to the restriction, including provisions for the correction of errors, customer consent, spread transactions, market emergencies, and unique or special characteristics of an agreement, contract, or transaction, or of the DCM or DTF.

**DATES:** Comments must be received by August 10, 2001.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC

20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418-5521 or, by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "Restriction of Dual Trading in Security Futures Products by Floor Brokers."

#### FOR FURTHER INFORMATION CONTACT:

Alan L. Seifert, Deputy Director, Division of Trading and Markets, Rachel Berdansky, Special Counsel, or Amy Fiordalisi, Attorney, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5260. E-mail: [Aseifert@cftc.gov](mailto:Aseifert@cftc.gov), [Rberdansky@cftc.gov](mailto:Rberdansky@cftc.gov), [Afiordalisi@cftc.gov](mailto:Afiordalisi@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 15, 2000, Congress approved the Commodity Futures Modernization Act of 2000 ("CFMA"), which was signed by the President and became effective on December 21, 2000. Among other things, the CFMA, which substantially amended the Commodity Exchange Act ("Act"), establishes two categories of markets subject to Commission regulatory oversight, DCMs and DTFs.<sup>1</sup> In addition, Title II of the CFMA repeals the longstanding ban on single stock futures and directs the Commission and the Securities and Exchange Commission ("SEC") to implement a joint regulatory framework for security futures products.

Section 251(c) of the CFMA amends Section 4j of the Act to require that the Commission issue regulations to restrict dual trading in security futures products on DCMs and DTFs. Section 4j(a), as amended, also provides the Commission with the discretion to permit exceptions to a dual trading restriction that are necessary to ensure fairness and orderly trading in security futures product markets.<sup>2</sup> Section 2(a)(D)(i) of the Act, as amended, sets forth listing standards for security futures products traded on a DCM or DTF. Section 2(a)(D)(i)(VI)

requires that security futures products be subject to the dual trading restriction of Section 4j of the Act or Section 11(a) of the Securities Exchange Act of 1934 ("1934 Act") and the regulations promulgated thereunder, respectively.<sup>3</sup>

##### II. Discussion of Proposed Regulation 41.27

###### A. "Customer"

Proposed Regulation 41.27 would restrict dual trading of security futures products in accordance with the statutory mandate of Section 4j(a), as amended by Section 251(c) of the CFMA. Proposed Regulation 41.27(a)(4) would define "customer" to mean an account owner for which a trade is executed other than an account in which a floor broker's ownership interest or share of trading profits is ten percent or more; an account for which a floor broker has discretion; an account controlled by a person with whom a floor broker has a relationship through membership in a broker association; a house account for a floor broker's clearing member; or an account for another member present on the floor of a DCM or DTF or an account controlled by such other member.<sup>4</sup> The Commission requests comment as to whether the accounts of all clearing members and the accounts of members not present on the floor of a DCM or DTF should be considered non-

customer accounts and included within proposed Regulation 41.27(a)(4). In this regard, commenters should consider whether clearing members other than the floor broker's own clearing member and members not present on the floor of a DCM or DTF are in a better position to protect themselves against potential abuse of their orders by floor brokers than other customers.<sup>5</sup>

###### B. "Dual Trading"

Proposed Regulation 41.27(a)(6) would define "dual trading" as the "execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes, directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account" of a non-customer.<sup>6</sup> For this purpose, non-customer accounts would include those categories of accounts set forth in proposed Regulation 41.27(a)(4)(i)-(v).

The Commission's proposed dual trading definition refers to a floor broker executing "directly or indirectly" a transaction for a non-customer account. The reference to "indirectly" executing a transaction is intended to prevent a floor broker from executing a customer order and during the same trading session initiating and passing an order for a non-customer account identified in proposed Regulation 41.27(a)(4)(i)-(v) to another broker for execution.

Under the plain language of Section 4j of the Act, the dual trading restriction would not apply to a DCM or DTF that trades security futures products solely

<sup>3</sup> With certain enumerated exceptions, Section 11(a)(1) of the 1934 Act and SEC Rule 11a-1 make it unlawful for any member of a national securities exchange to effect any transaction for his or her own account, the account of an associated person, or an account with respect to which it or an associated person has discretion. Section 5f of the Act, as amended by Section 252(a) of the CFMA, provides that any board of trade that is registered with the SEC as a national securities exchange or a national securities association, or is an alternative trading system, shall be considered a DCM in security futures products, provided that certain enumerated requirements are satisfied, upon filing a notice with the Commission. Section 5f(b)(1)(B), however, specifically exempts such notice-registered entities from Section 4j of the Act. Similarly, Section 6(g) of the 1934 Act, as amended by Section 202(a) of the CFMA, provides that any board of trade that has been designated as a contract market by the Commission or has registered with the Commission as a DTF, may register with the SEC as a national securities exchange by filing notice with the SEC, solely for the purposes of trading security futures products, provided that certain enumerated requirements are satisfied. DCMs and DTFs that notice register with the SEC for the purpose of trading security futures products are exempt from Section 11(a)(1) of the 1934 Act.

<sup>4</sup> Under proposed Regulation 41.27(a)(2), the term "member" would have the meaning set forth in Section 1a(24) of the Act. Section 1a(24) defines "member" to mean "an individual, association, partnership, corporation, or trust \* \* \* owning or holding membership in, or admitted to membership representation on, [a designated contract market] or derivatives transaction execution facility, or having trading privileges on [a designated contract market] or derivatives transaction execution facility."

<sup>5</sup> In order to enforce a dual trading restriction, DCMs and DTFs must be able to identify the source of each trade. Specifically, DCMs and DTFs must be able to determine whether a trade is for a customer. The Commission's proposed rulemaking "A New Regulatory Framework for Trading Facilities, Intermediaries and Clearing Organizations," 66 FR 14262 (March 9, 2001), did not reserve Commission Regulation 1.35 with respect to DCMs or DTFs. Thus, exchanges would no longer be required to identify account types using customer type indicator ("CTI") codes. Use of CTI codes, however, would be an effective way for DCMs or DTFs to monitor compliance with a dual trading restriction.

<sup>6</sup> As noted above, prior to the CFMA, the Act referred to contract markets as Commission-approved products traded on a board of trade. The CFMA changes the use of the term "contract market" to mean a board of trade, rather than a product traded on a board of trade. The statutory language of Section 4j(b) of the Act, in contrast to the language of Section 4j(a), inadvertently uses the term contract market as it was used prior to the CFMA. This results in an anomaly, which, if read literally, changes the definition of dual trading in a manner that would restrict activity never considered to be dual trading by the Congress or the Commission.

<sup>1</sup> Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000). Prior to its recent amendment, the Act referred to "designated contract markets" as Commission-approved products traded on a board of trade. The Act, as amended, however, uses the term "designated contract market" to refer to the approved or licensed market on which futures contracts and commodity options are traded. Proposed Regulation 41.27 refers to DCMs in this sense.

<sup>2</sup> Section 4j of the Act, as amended, is different in scope than its predecessor and the Commission Regulation promulgated thereunder, Commission Regulation 155.5, which restricted dual trading in any contract market that exceeded certain volume thresholds unless an exchange requested, and the Commission granted, a dual trading exemption. As part of this rulemaking, the Commission also is proposing to remove Commission Regulation 155.5.

through a system that electronically matches bids and offers entered into the system.<sup>7</sup> Specifically, the dual trading definition found in Section 4j(b) refers to “floor brokers” who “execute” customer orders. Traditionally, floor brokers execute customer orders on the trading floor whereas various registrants as well as unregistered individuals enter orders into electronic trading systems that then match orders pursuant to a predetermined algorithm. In this connection, the definition of “floor broker” found in Section 1a(16) of the Act contemplates a person “in or surrounding \* \* \* any pit, ring, or post \* \* \*” on the floor of an exchange and not through a system that electronically matches bids and offers.<sup>8</sup>

This application of the dual trading restriction takes into account that floor brokers who execute customer orders through open outcry have more control over those orders than customer orders entered into a system that electronically matches bids and offers. Specifically, a floor broker holding a customer order for trading through open outcry not only controls when the bid or offer is exposed to the market, but also controls the price of execution and whom the order is executed against. A broker holding a customer order for entry into a system that electronically matches bids and offers only can control when an order is entered into the system. An algorithm determines at what price and against whom the order is executed.<sup>9</sup>

<sup>7</sup> In this connection, on February 24, 2000, the SEC approved the application of the International Securities Exchange LLC (“ISE”), a fully electronic options market, for registration as a national securities exchange. As part of the approval process, the SEC approved an ISE rule that permits an order for a member’s personal account to be matched against a customer order entered by that member provided that: (1) The customer order is first exposed to the market for 30 seconds; (2) the member has been bidding or offering for at least 30 seconds prior to receiving a customer order that is executable against such bid or offer; or (3) the member utilized the facility mechanism described in ISE’s block trading rule. The ISE’s rules do not otherwise limit the ability of a member to trade for his or her personal account and for customers. See Exchange Act Release No. 34-42455 (February 24, 2000), 65 FR 11388 (March 2, 2000).

<sup>8</sup> Section 1a(16) of the Act defines a floor broker as “as any person who, in or surrounding any pit, ring, post, or other place provided by a contract market or derivatives transaction execution facility for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility.”

<sup>9</sup> Notably, the Commission has repeatedly made clear that persons who are employed by registrants and handle non-discretionary orders on electronic trading systems need not be registered. Further, discretionary orders on such systems can be handled by registrants other than a floor broker, such as the associated persons of a futures commission merchant. See the Commission’s rules

The Commission recognizes that a DCM or DTF may permit the simultaneous trading of security futures products through open outcry on a trading floor and the entry of bids and offers on a system that electronically matches bids and offers pursuant to a predetermined algorithm for the same product, “side-by-side trading.” Under such circumstances, proposed Regulation 41.27 only would be implicated if a floor broker executes a customer order through open outcry on a trading floor during a trading session. Thus, a floor broker would be permitted to enter a bid or offer for a particular security futures product for customer accounts on an electronic trading system and trade the same product for non-customer accounts through open outcry during the same trading session. In contrast, a floor broker would be prohibited during the same trading session from executing a customer order for a particular security futures product through open outcry and entering a bid or offer for the same product for a non-customer account listed in 41.27(a)(4)(i)–(v) on an electronic trading system.<sup>10</sup>

#### *C. Rules Implementing Dual Trading Prohibition*

Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a DCM or DTF must adopt a rule prohibiting dual trading. Under proposed Regulation 41.27(c)(1), a DCM must submit such a rule to the Commission in accordance with proposed Regulation 40.6, along with a written certification that the rule complies with the Act and the regulations promulgated thereunder, or must obtain Commission approval of such a rule pursuant to proposed Regulation 40.5. Under proposed Regulation 41.27(c)(2), a DTF must notify the Commission in accordance with proposed Regulation 37.7(b) that it has adopted a rule prohibiting dual trading or obtain Commission approval of such a rule pursuant to proposed Regulation 37.7(c).

for the registration of floor traders, 58 FR 19575, 19576 (April 15, 1993).

<sup>10</sup> The Chicago Mercantile Exchange lists several contracts that trade side-by-side through open outcry and on the electronic GLOBEX<sub>2</sub> trading system that differ only with respect to contract size. For example, the e-mini S&P 500 futures contract that trades on GLOBEX<sub>2</sub> is one-fifth the size of the S&P 500 futures contract that trades simultaneously through open outcry. If a DCM or DTF determines to trade side-by-side a particular security futures product that differs only with respect to contract size, the Commission would consider the two contracts to be the same contract for purposes of applying the dual trading restriction.

#### *D. Specific Permitted Exceptions to the Dual Trading Prohibition*

In proposed Regulation 41.27(d), the Commission implements the directive of Section 4j(a)(2)(A) and (B) of the Act to permit certain exceptions to the dual trading prohibition. Proposed Regulation 41.27(d)(1)–(4) provides exceptions for the correction of errors resulting from the execution of a customer order, to permit a customer to designate in writing a floor broker to dual trade while executing orders for the customer’s account, to permit a broker who unsuccessfully attempts to leg into a spread transaction to take the executed leg into his or her personal account and to offset such position, and to address market conditions that result in a temporary emergency. Prior to permitting such exceptions to a dual trading prohibition, a DCM or DTF would have to adopt a rule permitting the specific exceptions and submit the rule to the Commission or obtain Commission approval pursuant to the rule submission procedures of proposed Regulation 41.27(e)(1) or (2). These procedures are identical to the procedures under proposed Regulation 41.27(c)(1) and (2) for a DCM or DTF to submit a rule prohibiting dual trading.

#### *E. Unique or Special Characteristics of an Agreement, Contract, or Transaction, or of the DCM or DTF*

Pursuant to Section 4j(a)(2)(C) of the Act, proposed Regulation 41.27(f) would allow DCMs and DTFs to permit an exception to the dual trading prohibition to address an agreement, contract, or transaction that presents a unique or special characteristic, or to address a unique or special characteristic of the specific DCM or DTF. Any rule of either a DCM or a DTF permitting such an exception would be required to be submitted to the Commission for prior approval pursuant to the procedures set forth in proposed Regulation 40.5. Such a submission also should include an affirmative demonstration of why an exception is warranted.

A DCM or DTF rule permitting a dual trading exception based on a unique or special characteristic of an agreement, contract, or transaction, or of the DCM or DTF would require prior Commission approval because standards cannot be established in advance to articulate what would constitute a unique or special characteristic deserving of a dual trading exception. Thus, a DCM could not certify as required by proposed Regulation 40.6 that its rule complies with the Act and the regulations promulgated thereunder. Similarly,

although a DTF is not required to provide a rule certification under the rule submission procedures of proposed Regulation 37.7(b), it is nevertheless required to comply with the Act and the Commission's regulations. Therefore, the Commission must evaluate each situation on its own merits to determine whether the DCM or DTF has demonstrated satisfactorily a unique or special characteristic of an individual agreement, contract, or transaction, or of the DCM or DTF warranting a dual trading exception.

### III. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. The Commission's understanding is that Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to consider the costs and benefits of its action in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations.

Section 4j(a) of the Act, as amended by the CFMA, directs the Commission to "issue regulations to prohibit the privilege of dual trading in security futures products on each contract market and registered derivatives transaction execution facility." Section 4j(a) also provides the Commission with discretion to provide for limited exceptions to the dual trading prohibition that are necessary to "ensure fairness and orderly trading in security futures product markets." Proposed Regulation 41.27(c) would require DCMs and DTFs that list security futures products for trading through open outcry on a trading floor to implement and enforce rules prohibiting dual trading. In addition, DCMs and DTFs that elect to permit dual trading subject to any of the exceptions set forth in proposed Regulation 41.27(d) or (f) would be required to enact and enforce rules regarding the particular exceptions.

Proposed Regulation 41.27 would protect market participants and the general public while minimizing the impact on security futures product markets. Specifically, the dual trading restriction would not affect DCMs or DTFs that trade security futures

products only through trading systems that electronically match bids and offers. As explained above, this is consistent with the plain language of Section 4j of the Act, and takes into account that floor brokers who execute customer orders through open outcry have more control over those orders than customer orders entered into a system that electronically matches bids and offers.

Compliance with proposed Regulation 41.27 would impose costs on DCMs and DTFs with respect to enacting and enforcing rules restricting dual trading of security futures products traded through open outcry on a trading floor. The costs of enacting and enforcing rules associated with proposed Regulation 41.27 are either balanced or outweighed by the increased protection of market participants and the public. The Commission's exercise of its discretion in implementing the Congressional directive to restrict dual trading, as set forth in Section 4j of the Act, would not increase costs related to efficiency, competitiveness, and financial integrity of financial markets; price discovery; or sound risk management practices. After considering these factors, the Commission has determined to propose Regulation 41.27. Commenters are invited to submit any data that they might have quantifying the costs and benefits of the proposed regulation with their comments.

### IV. Related Matters

#### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating regulations, to consider the impact of those regulations on small entities. The regulation adopted herein would affect DCMs, DTFs, and floor brokers. The Commission previously has established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.<sup>11</sup> In its previous determinations, the Commission has concluded that contract markets are not small entities for the purpose of the RFA.<sup>12</sup> The Commission has recently proposed that DTFs, for reasons similar to those applicable to contract markets, are not small entities for purposes of the RFA.<sup>13</sup> Certain floor brokers would be affected by proposed Regulation 41.27. Although, the Commission believes that

proposed Regulation 41.27 would not have a significant economic impact on a substantial number of small entities, the Commission invites comments on this issue.

#### B. Paperwork Reduction Act of 1995

This proposed Rulemaking contains information collection requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Commission has submitted a copy of this section to the Office of Management and Budget (OMB) for its review in accordance with 44 U.S.C. 3507 (d) and 5 CFR 1320.11, and has requested a new number for this collection. Collection of Information: Part 41 Relating to Security Indexes and Security Futures Products, OMB Control Number 3038-XXXX.

Proposed Regulation 41.27 contains some reporting requirements. Pursuant to proposed Regulation 41.27(c)(1), prior to listing a security futures product for trading through open outcry, a DCM would be required to submit to the Commission a rule prohibiting dual trading, together with a written certification that the rule complies with the Act, or obtain Commission approval of such a rule. Pursuant to proposed Regulation 41.27(c)(2), prior to listing a security futures product for trading through open outcry, a DTF would be required to notify the Commission that it had adopted a rule prohibiting dual trading or obtain Commission approval of such rule. DCMs and DTFs would have to comply with the same respective procedures prior to adopting a rule permitting any of the dual trading exceptions set forth in proposed Regulation 41.27(d)(1)-(4). Under proposed Regulation 41.27(f), a DCM or DTF seeking to permit a dual trading exception based on a unique or special characteristic of an agreement, contract or transaction, or of the DCM or DTF, would be required to obtain Commission approval of any such rule. With respect to recordkeeping requirements, proposed Regulation 41.27(d)(3) would permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer, to take the executed leg into his or her personal account, and to offset such position, provided that a record is prepared and maintained to demonstrate that the customer order was for a spread transaction.

The estimated burden of proposed Regulation 41.27 was calculated as follows:

Estimated number of respondents: 2,446.

Total annual responses: 14,229.

<sup>11</sup> See 47 FR 18618-21 (Apr. 30, 1982).

<sup>12</sup> See 47 FR 18618 at 18619 (discussing contract markets).

<sup>13</sup> See 66 FR 14261, 14268 (Mar. 9, 2001).

Estimated average hours per response: .07.

Annual reporting burden: 993 hours.

The Commission has submitted the proposed collection of information to OMB for approval. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503; Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed Regulation 41.27.

Copies of the information collection submission to OMB are available from the Commission Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418-5160.

#### List of Subjects in 17 CFR Part 41

Security indexes and security futures products.

Accordingly, for the reasons discussed in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR as follows:

### PART 41—SECURITY FUTURES PRODUCTS

1. The authority citation for Part 41 reads as follows:

**Authority:** Pub. L. 106-554, 114 Stat. 2763, §§ 251 and 252.

2. Section 41.27 is be added as follows:

#### § 41.27 Prohibition of dual trading in security futures products by floor brokers.

(a) *Definitions.* For purposes of this section:

(1) *Trading session* means hours during which a designated contract market or registered derivatives transaction execution facility is scheduled to trade continuously during a trading day, as set forth in its rules, including any related post settlement trading session. A designated contract market or registered derivatives transaction execution facility may have more than one trading session during a trading day.

(2) *Member* shall have the meaning set forth in Section 1a(24) of the Act.

(3) *Broker association* includes two or more designated contract market or registered derivatives transaction execution facility members with floor trading privileges of whom at least one is acting as a floor broker who:

(i) Engage in floor brokerage activity on behalf of the same employer;

(ii) Have an employer and employee relationship which relates to floor brokerage activity;

(iii) Share profits and losses associated with their brokerage or trading activity; or

(iv) Regularly share a deck of orders.

(4) *Customer* means an account owner for which a trade is executed other than:

(i) An account in which a floor broker's ownership interest or share of trading profits is ten percent or more;

(ii) An account for which a floor broker has discretion;

(iii) An account controlled by a person with whom a floor broker has a relationship through membership in a broker association;

(iv) A house account of the floor broker's clearing member; or

(v) An account for another member present on the floor of a designated contract market or registered derivatives transaction execution facility or an account controlled by such other member.

(5) *Security futures product* shall have the meaning set forth in Section 1a(32) of the Act.

(6) *Dual trading* means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker

executes directly or indirectly, either through open outcry or through a trading system that electronically matches bids and offers, a transaction for the same security futures product on the same designated contract market or registered derivatives transaction execution facility for an account described in paragraph (a)(4)(i)-(v) of this section.

(b) *Dual Trading Prohibition.* No floor broker shall engage in dual trading in a security futures product on a designated contract market or registered derivatives transaction execution facility, except as otherwise provided under paragraphs (d) and (f) of this section.

(c) *Rules Prohibiting Dual Trading.*—  
(1) *Designated contract markets.* Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a designated contract market:

(i) Must submit to the Commission in accordance with Commission Regulation 40.6, a rule prohibiting dual trading, together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 40.5.

(2) *Registered derivatives transaction execution facilities.* Prior to listing a security futures product for trading on a trading floor where bids and offers are executed through open outcry, a registered derivative transaction execution facility:

(i) Must notify the Commission in accordance with Commission Regulation 37.7(b) that it has adopted a rule prohibiting dual trading; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 37.7(c).

(d) *Specific Permitted Exceptions.* Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or a registered derivatives transaction execution facility pursuant to one or more of the following specific exceptions:

(1) *Correction of errors.* To offset trading errors resulting from the execution of customer orders, provided, that the floor broker must liquidate the position in his or her personal error account resulting from that error through open outcry or through a trading system that electronically matches bids and offers as soon as practicable, but, except as provided herein, not later than the close of business on the business day following

the discovery of error. In the event that a floor broker is unable to offset the error trade because the daily price fluctuation limit is reached, a trading halt is imposed by the designated contract market or registered derivatives transaction execution facility, or an emergency is declared pursuant to the rules of the designated contract market or registered derivatives transaction execution facility, the floor broker must liquidate the position in his or her personal error account resulting from that error as soon as practicable thereafter.

(2) *Customer consent.* To permit a customer to designate in writing not less than once annually a specifically identified floor broker to dual trade while executing orders for such customer's account. An account controller acting pursuant to a power of attorney may designate a dual trading broker on behalf of its customer, provided, that the customer explicitly grants in writing to the individual account controller the authority to select a dual trading broker.

(3) *Spread transactions.* To permit a broker who unsuccessfully attempts to leg into a spread transaction for a customer to take the executed leg into his or her personal account and to offset such position, provided, that a record is prepared and maintained to demonstrate that the customer order was for a spread.

(4) *Market emergencies.* To address emergency market conditions resulting in a temporary emergency action as determined by a designated contract market or registered derivatives transaction execution facility.

(e) *Rules Permitting Specific Exceptions.*—(1) *Designated contract markets.* Prior to permitting dual trading under any of the exceptions provided in paragraph (d)(1)–(4), a designated contract market:

(i) Must submit to the Commission in accordance with Commission Regulation 40.6, a rule permitting the exception(s), together with a written certification that the rule complies with the Act and the regulations thereunder, including this section; or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 40.5.

(2) *Registered derivatives transaction execution facilities.* Prior to permitting dual trading under any of the exceptions provided in paragraph (d)(1)–(4), a registered derivatives transaction execution facility:

(i) Must notify the Commission in accordance with Commission Regulation 37.7(b) that it has adopted a rule permitting the exception(s); or

(ii) Must obtain Commission approval of such rule pursuant to Commission Regulation 37.7(c).

(f) *Unique or Special Characteristics of Agreements, Contracts, or Transactions, or of Designated Contract Markets or Registered Derivatives Transaction Execution Facilities.*

Notwithstanding the applicability of a dual trading prohibition under paragraph (b) of this section, dual trading may be permitted on a designated contract market or registered derivatives transaction execution facility to address unique or special characteristics of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility as provided herein. Any rule of a designated contract market or registered derivatives transaction execution facility that would permit dual trading when it would otherwise be prohibited, based on a unique or special characteristic of agreements, contracts, or transactions, or of the designated contract market or registered derivatives transaction execution facility must be submitted to the Commission for approval under the procedures set forth in Commission Regulation 40.5. The rule submission must include a detailed demonstration of why an exception is warranted.

## PART 155—TRADING STANDARDS

3. Section 155.5 is proposed to be removed and reserved.

Issued in Washington, DC on July 5, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–17171 Filed 7–10–01; 8:45 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 164; 46 CFR Parts 25 and 27

[USCG–2000–6931]

RIN 2115–AF53

### Fire-Suppression Systems and Voyage Planning for Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking; Notice of meeting and reopening of comment period.

SUMMARY: The Coast Guard will hold a public meeting to let members of the public present oral comments on

proposed rules for improving the safety of towing vessels. A supplemental notice of proposed rulemaking (SNPRM) published on November 8, 2000, would require the installation of fixed fire-extinguishing systems in towing vessels' engine rooms, and it would require owners or operators, and masters, to ensure that voyage plans are complete before their towing vessels commence trips with any barges in tow. These rules would reduce the number of uncontrolled fires in engine rooms, and other fire-related or operational mishaps on towing vessels; they would thereby save lives, diminish property damage, and reduce the associated threats to the environment and maritime commerce.

**DATES:** The Coast Guard will hold this public meeting on August 15, 2001, from 1 p.m. to 5 p.m., except that the meeting may close early if all business is finished. Other comments must reach the Docket Management Facility on or before September 15, 2001.

**ADDRESSES:** The Coast Guard will hold this public meeting at the Radisson Hotel, 1001 3rd Avenue, Huntington, West Virginia. The telephone number is 304–525–1001.

You may submit your comments directly to the Docket Management Facility. To make sure that your comments and related material are not entered more than once in the docket [USCG–2000–6931], please submit them by only one of the following means:

(1) By mail to the Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Facility maintains the public docket for this notice. Comments, and documents as indicated in this notice, will become part of this docket and will be available for inspection or copying at room PL–401, on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, call Randall Eberly, P. E., Project Manager, Lifesaving and Fire Safety Division of