

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-44691]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending its rules to delegate authority to the Director of the Division of Market Regulation ("Director") to publish notices of proposed rule changes filed pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Exchange Act") relating to security futures products and to abrogate such proposed rule changes and require that they be refiled in accordance with section 19(b)(1) of the Exchange Act. This delegation of authority will facilitate the timely implementation of Rule 19b-7 and Form 19b-7 under the Exchange Act.

EFFECTIVE DATE: August 20, 2001.

FOR FURTHER INFORMATION CONTACT:

Cyndi Nguyen, Attorney, at (202) 942-4163, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1001.

SUPPLEMENTARY INFORMATION:

The Commission is adopting an amendment to Rule 30-3 of its Rules of Organization and Program Management governing Delegations of Authority to the Director.¹ The Commission is adding paragraph (a)(75) to Rule 30-3² to authorize the Director to publish notices of proposed rule changes filed by self-regulatory organizations relating to security futures products pursuant to section 19(b)(7)(A) of the Exchange Act.³ In addition, the Commission is adding new paragraph (a)(76) to Rule 30-3⁴ to authorize the Director to abrogate such proposed rule changes pursuant to section 19(b)(7)(C) of the Exchange Act⁵ and require that they be refiled in accordance with section 19(b)(1) of the Exchange Act.⁶

To implement the Commodity Futures Modernization Act of 2000 ("CFMA"), the Commission today is adopting, in a

separate release,⁷ Rule 19b-7,⁸ Form 19b-7,⁹ and conforming amendments to Rule 19b-4¹⁰ and Form 19b-4¹¹ to accommodate certain proposed rule changes submitted by national securities exchanges registered pursuant to section 6(g) of the Exchange Act ("Security Futures Product Exchanges")¹² and national securities associations registered pursuant to section 15A(k) of the Exchange Act ("Limited Purpose National Securities Associations").¹³ Rule 19b-7 establishes the procedures for Security Futures Product Exchanges and Limited Purpose National Securities Associations when filing proposed rule changes that relate to certain matters, including higher margin levels, fraud or manipulation, recordkeeping, reporting, listing standards, or decimal pricing for security futures products, sales practices for security futures products for persons who effect transactions in security futures products, or rules effectuating such exchanges' and associations' obligations to enforce the securities laws. Pursuant to section 19(b)(7)(A) of the Exchange Act,¹⁴ the Commission must promptly notice such proposed rule changes. Accordingly, the Commission is now adding new paragraph (a)(75) to Rule 30-3 to authorize the Director to publish notices of proposed rule changes relating to security futures products filed pursuant to section 19(b)(7)(A) of the Exchange Act.

The CFMA also added section 19(b)(7)(C) to the Exchange Act,¹⁵ which grants to the Commission, after consultation with the Commodity Futures Trading Commission, the authority to summarily abrogate a proposed rule change that has taken effect pursuant to section 19(b)(7)(B) of the Exchange Act¹⁶ if it appears to the Commission that such rule change unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of

investors.¹⁷ In the event that this occurs, Security Futures Product Exchanges and Limited Purpose National Securities Associations would be required, pursuant to sections 6(g)(4)(B)(iii)¹⁸ and 15A(k)(3)(C)¹⁹ of the Exchange Act, respectively, to refile the proposed rule change pursuant to the requirements of section 19(b)(1) of the Exchange Act.²⁰ Accordingly, the Commission is adding new paragraph (a)(76) to Rule 30-3 to authorize the Director to abrogate a proposed rule change relating to security futures products and require that it be refiled in accordance with section 19(b)(1) of the Exchange Act.

These delegations of authority to the Director are intended to conserve Commission resources by permitting Division of Market Regulation staff to publish notices of proposed rule changes filed by Security Futures Product Exchanges and Limited Purpose National Securities Associations relating to security futures products and to abrogate such proposed rule changes and require that they be refiled in accordance with section 19(b)(1) of the Exchange Act. The Commission anticipates that the delegation of authority will facilitate the timely implementation of Rule 19b-7 and amendments to Rule 19b-4. Nevertheless, the staff may submit matters to the Commission for consideration as it deems appropriate.

The Commission finds, in accordance with section 553(b)(3)(A) of the Administrative Procedure Act,²¹ that these amendments relate solely to agency organization, procedure, or practice, and do not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication of the amendment prior to its effective date are unnecessary.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies).

¹⁷ The Commission notes that it currently exercises similar abrogation authority pursuant to Section 19(b)(3)(C) of the Exchange Act, 15 U.S.C. 78s(b)(3)(C), with respect to proposed rule changes filed by the existing self-regulatory organizations that are immediately effective upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act, 15 U.S.C. 78s(b)(3)(A).

¹⁸ 15 U.S.C. 78f(g)(4)(B)(iii).

¹⁹ 15 U.S.C. 78o-3(k)(3)(C).

²⁰ 15 U.S.C. 78s(b)(1). Pursuant to Section 19(b)(7)(C) of the Exchange Act, 15 U.S.C. 78s(b)(7)(C), a self-regulatory organization cannot enforce a rule that has been abrogated by the Commission, unless the self-regulatory organization refiles the proposed rule change under Section 19(b)(1) of the Exchange Act, 15 U.S.C. 78s(b)(1), and it is approved by the Commission.

²¹ 5 U.S.C. 553(b)(3)(A).

¹ 17 CFR 200.30-3.

² 17 CFR 200.30-3(a)(75).

³ 15 U.S.C. 78s(b)(7)(A).

⁴ 17 CFR 200.30-3(a)(76).

⁵ 15 U.S.C. 78s(b)(7)(C).

⁶ 15 U.S.C. 78s(b)(1).

⁷ See Securities Exchange Act Release No. 44692 (August 13, 2001). The Commission also is adopting Rule 6a-4, Form 1-N, and amendments to Rules 6a-2 and 6a-3 under the Exchange Act and Rule 202.3 of the Commission's procedural rules.

⁸ 17 CFR 240.19b-7.

⁹ 17 CFR 249.822.

¹⁰ 17 CFR 240.19b-4.

¹¹ 17 CFR 249.819.

¹² 15 U.S.C. 78f(g).

¹³ 15 U.S.C. 78o-3(k).

¹⁴ 15 U.S.C. 78s(b)(7)(A).

¹⁵ 15 U.S.C. 78s(b)(7)(C).

¹⁶ 15 U.S.C. 78s(b)(7)(B). Pursuant to this Section, Commission action to abrogate a rule change will not affect the validity or force of the rule change during the period it was in effect.

Text of Amendment

In accordance with the preamble, the Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**Subpart A—Organization and Program Management**

1. The authority citation for Part 200, subpart A, continues to read, in part, as follows:

Authority: 15 U.S.C. 77s, 78d-1, 78d-2, 78w, 78l(d), 78mm, 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

* * * * *

2. Section 200.30-3 is amended by adding paragraphs (a)(75) and (a)(76) to read as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(75) Pursuant to Section 19(b)(7)(A) of the Act, 15 U.S.C. 78s(b)(7)(A), to publish notices of proposed rule changes filed by self-regulatory organizations relating to security futures products.

(76) Pursuant to Section 19(b)(7)(C) of the Act, 15 U.S.C. 78s(b)(7)(C), to abrogate a change in the rules of a self-regulatory organization relating to security futures products and require that it be refiled in accordance with Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1).

* * * * *

By the Commission.

Dated: August 13, 2001.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION**17 CFR Parts 202, 240, and 249**

[Release No. 34-44692; File No. S7-10-01]

RIN 3235-AI20

Registration of National Securities Exchanges Pursuant to Section 6(g) of the Securities Exchange Act of 1934 and Proposed Rule Changes of Certain National Securities Exchanges and Limited Purpose National Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; request for comments.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting Rule 6a-4 under the Securities Exchange Act of 1934 ("Exchange Act") and registration Form 1-N prescribing the requirements for designated contract markets and derivative transaction execution facilities to register as national securities exchanges pursuant to section 6(g)(1) of the Exchange Act to trade security futures products. The Commission also is adopting conforming amendments to Rules 6a-2 and 6a-3 under the Exchange Act and Rule 202.3 of the Commission's procedural rules. In addition, the Commission is adopting Rule 19b-7, Form 19b-7, and amendments to Rule 19b-4 and Form 19b-4 to accommodate proposed rule changes submitted by national securities exchanges registered pursuant to section 6(g) of the Exchange Act and limited purpose national securities associations registered pursuant to section 15A(k) of the Exchange Act. These rules and forms, and amendments to existing rules and forms, are necessary to implement the Commodity Futures Modernization Act of 2000 ("CFMA"). In addition, the Commission is requesting public comment on whether the Commission should adopt changes to Rule 19b-7 and Form 19b-7 if the Commission were to adopt proposed Rule 19b-6 and proposed Form 19b-6.

DATES: *Effective Date:* August 20, 2001.

Comments Due: September 4, 2001.

ADDRESSES: All comments concerning whether the Commission should adopt changes to Rule 19b-7 and Form 19b-7 if the Commission were to adopt proposed Rule 19b-6 and proposed Form 19b-6, discussed below, should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7-03-01; this file number should be included on the subject line if e-mail is used. Comment letters will be available for inspection and copying in the Commission's Public Reference Room at the same address. Electronically submitted comment letters will be posted on the Commission's Internet web site (<http://www.sec.gov>). Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submissions. Submit only information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

Deborah Flynn, Assistant Director, at (202) 942-0075; Kelly Riley, Special Counsel, at (202) 942-0752; Michael Gaw, Special Counsel, at (202) 942-0158; and Cyndi Nguyen, Attorney, at (202) 942-4163, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1001.

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