

Commodity Futures Trading Commission

§ 40.3

(9) Delivery standards and procedures, including fees related to delivery or the delivery process, alternatives to delivery and applicable penalties or sanctions for failure to perform;

(10) If cash settled; all provisions related to the definition, composition, calculation and revision of the cash settlement price or index; and

(11) Payment or collection of commodity option premiums or margins.

[71 FR 1967, Jan. 12, 2006, as amended at 73 FR 8604, Feb. 14, 2008; 74 FR 12202, Mar. 23, 2009]

§ 40.2 Listing and accepting products for trading or clearing by certification.

(a) Unless permitted otherwise by § 37.7 of this chapter, a designated contract market or a registered derivatives transaction execution facility must comply with the submission requirements of this section prior to listing a product for trading that has not been approved under § 40.3 of this chapter or that remains dormant subsequent to being submitted under this section or approved under § 40.3 of this chapter. A registered derivatives clearing organization must comply with the submission requirements of this section prior to accepting for clearing a product that is not traded on a designated contract market, derivatives transaction execution facility or derivatives clearing organization and has not been approved for clearing under § 40.5 of this chapter or that remains dormant subsequent to being submitted under this section or approved under § 40.5 of this chapter. A submission shall comply with the following conditions:

(1) The designated contract market or derivatives transaction execution facility has filed its submission electronically in a format specified by the Secretary of the Commission with the Secretary of the Commission at submissions@cftc.gov, the relevant branch chief at the regional office having local jurisdiction over the registered entity, and, for filings submitted by a designated contract market or registered derivatives transaction execution facility, the Division

of Market Oversight at DMOSubmissions@cftc.gov;

(2) The Commission has received the submission at its headquarters by the open of business on the business day preceding the product's listing or acceptance for clearing; and

(3) The submission includes:

(i) A copy of the submission cover sheet in accordance with the instructions in appendix D to this part;

(ii) A copy of the product's rules, including all rules related to its terms and conditions, or the rules establishing the terms and conditions of the listed product that make it acceptable for clearing;

(iii) The intended listing date; and

(iv) A certification by the designated contract market or derivatives transaction execution facility that the product to be listed complies with the Act and regulations thereunder.

(v) A request for confidential treatment as permitted under the procedures of 40.8.

(b) A registered entity shall provide, if requested by Commission staff, additional evidence, information or data relating to whether any contract meets, initially or on a continuing basis, any of the requirements of the Act or Commission rules or policies thereunder which may be beneficial to the Commission in conducting a due diligence assessment of the product and the entity's compliance with these requirements.

(c) *Stay.* The Commission may stay the listing of a contract pursuant to paragraph (a) of this section during the pendency of Commission proceedings for filing a false certification or to alter or amend the contract terms and conditions pursuant to Section 8a(7) of the Act. The decision to stay the listing of a contract in such circumstances shall not be delegable to any employee of the Commission.

[71 FR 1968, Jan. 12, 2006, as amended at 73 FR 8605, Feb. 14, 2008; 74 FR 12202, Mar. 23, 2009; 74 FR 17394, Apr. 15, 2009]

§ 40.3 Voluntary submission of new products for Commission review and approval.

(a) *Request for approval.* Pursuant to Section 5c(c) of the Act and §§ 37.7 and