§ 37.401 General requirements.

A swap execution facility shall:

(a) Collect and evaluate data on its market participants’ market activity on an ongoing basis in order to detect and prevent manipulation, price distortions, and, where possible, disruptions of the physical-delivery or cash-settlement process;

(b) Monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

§ 37.402 Additional requirements for physical-delivery swaps.

For physical-delivery swaps, the swap execution facility shall demonstrate that it:

(a) Monitors a swap’s terms and conditions as they relate to the underlying commodity market; and

(b) Monitors the availability of the supply of the commodity specified by the delivery requirements of the swap.

§ 37.403 Additional requirements for cash-settled swaps.

(a) For cash-settled swaps, the swap execution facility shall demonstrate that it monitors the pricing of the reference price used to determine cash flows or settlement;

(b) For cash-settled swaps listed on the swap execution facility where the reference price is formulated and computed by the swap execution facility, the swap execution facility shall demonstrate that it monitors the continued appropriateness of its methodology for deriving that price; and

(c) For cash-settled swaps listed on the swap execution facility where the reference price relies on a third-party index or instrument, including an index or instrument traded on another venue, the swap execution facility shall demonstrate that it monitors the continued appropriateness of the index or instrument.

§ 37.404 Ability to obtain information.

(a) A swap execution facility shall demonstrate that it has access to sufficient information to assess whether trading in swaps listed on its market, in the index or instrument used as a reference price, or in the underlying commodity for its listed swaps is being used to affect prices on its market;

(b) A swap execution facility shall have rules that require its market participants to keep records of their trading, including records of their activity in the index or instrument used as a reference price, the underlying commodity, and related derivatives markets, and make such records available, upon request, to the swap execution facility or, if applicable, to its regulatory service provider, and the Commission.

§ 37.405 Risk controls for trading.

The swap execution facility shall establish and maintain risk control mechanisms to prevent and reduce the potential risk of market disruptions, including, but not limited to, market restrictions that pause or halt trading under market conditions prescribed by the swap execution facility.

§ 37.406 Trade reconstruction.

The swap execution facility shall have the ability to comprehensively and accurately reconstruct all trading on its facility. All audit-trail data and
reconstructions shall be made available to the Commission in a form, manner, and time that is acceptable to the Commission.

§ 37.407 Regulatory service provider.

A swap execution facility shall comply with the regulations in this subpart through a dedicated regulatory department or by contracting with a regulatory service provider pursuant to § 37.204.

§ 37.408 Additional sources for compliance.

A swap execution facility may refer to the guidance and/or acceptable practices in Appendix B of this part to demonstrate to the Commission compliance with the requirements of § 37.400.

Subpart F—Ability to Obtain Information

§ 37.500 Core Principle 5—Ability to obtain information.

The swap execution facility shall:

(a) Establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in section 5h of the Act;

(b) Provide the information to the Commission on request; and

(c) Have the capacity to carry out such international information-sharing agreements as the Commission may require.

§ 37.501 Establish and enforce rules.

A swap execution facility shall establish and enforce rules that will allow the swap execution facility to have the ability and authority to obtain sufficient information to allow it to fully perform its operational, risk management, governance, and regulatory functions and any requirements under this part, including the capacity to carry out international information-sharing agreements as the Commission may require.

§ 37.502 Collection of information.

A swap execution facility shall have rules that allow it to collect information on a routine basis, allow for the collection of non-routine data from its market participants, and allow for its examination of books and records kept by the market participants on its facility.

§ 37.503 Provide information to the Commission.

A swap execution facility shall provide information in its possession to the Commission upon request, in a form and manner that the Commission approves.

§ 37.504 Information-sharing agreements.

A swap execution facility shall share information with other regulatory organizations, data repositories, and third-party data reporting services as required by the Commission or as otherwise necessary and appropriate to fulfill its self-regulatory and reporting responsibilities. Appropriate information-sharing agreements can be established with such entities or the Commission can act in conjunction with the swap execution facility to carry out such information sharing.

Subpart G—Position Limits or Accountability

§ 37.600 Core Principle 6—Position limits or accountability.

(a) In general. To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.

(b) Position limits. For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a) of the Act, the swap execution facility shall:

(1) Set its position limitation at a level no higher than the Commission limitation; and

(2) Monitor positions established on or through the swap execution facility for compliance with the limit set by the Commission and the limit, if any, set by the swap execution facility.