

United States: CFTC Proposes New Rules for Derivatives Clearing Organizations

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On July 27, 2022, the Commodity Futures Trading Commission (“CFTC”) [proposed](#) a series of amendments to the Commodity Exchange Act (the “Exchange Act”) designed to enhance its governance standards for Derivatives Clearing Organizations (“DCOs”).

The Exchange Act currently requires DCOs to establish governance arrangements that are transparent, fulfill public interest requirements, and permit the consideration of the views of owners and participants. The CFTC intends to further these interests with its proposed rules, which require DCOs to:

- Establish, consult with, and respond to the concerns of one or more risk management committees (“RMCs”) comprised of clearing members that provide expert opinions on key risk management issues;
- Develop and maintain written policies and procedures to ensure (i) that DCOs consult with RMCs, (ii) that RMCs include representatives from clearing members and customers of clearing members, (iii) that RMC members are empowered to provide independent, expert opinions on matters presented to RMCs for consideration, and (iv) that RMC membership is rotated regularly;
- Establish and enforce fitness standards for RMC members;
- Establish one or more risk advisory working groups (“RWGs”) from which to seek risk-based input at least quarterly from a broad array of market participants; and
- Establish and maintain policies and procedures regarding the formation and role of each RWG.

Although the CFTC expects RMC membership to be more intensive and time-consuming than RWG membership, it hopes that both RMCs and RWGs will be pivotal in promoting the safety and

efficiency of DCOs and fostering the stability of the broader financial markets.

The CFTC has requested public comment on its proposed rules. The deadline to submit comments is 60 days after the CFTC's proposing release is published in the Federal Register.

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