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B-323618

July 3, 2012

The Honorable Debbie Stabenow  
Chairwoman  
The Honorable Pat Roberts  
Ranking Member  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable Frank D. Lucas  
Chairman  
The Honorable Collin C. Peterson  
Ranking Member  
Committee on Agriculture  
House of Representatives

Subject: *Commodity Futures Trading Commission: Core Principles and Other Requirements for Designated Contract Markets*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Commodity Futures Trading Commission (Commission), entitled “Core Principles and Other Requirements for Designated Contract Markets” (RIN: 3038-AD09). We received the rule on June 19, 2012. It was published in the *Federal Register* as a final rule on June 19, 2012. 77 Fed. Reg. 36,612.

The final rule applies to the designation and operation of contract markets, and implements the Dodd-Frank Act's new statutory framework that, among other things, amends section 5 of the Commodity Exchange Act (“CEA”) concerning designation and operation of contract markets, and adds a new CEA section 2(h)(8) to mandate the listing, trading, and execution of certain swaps on designated contract markets.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: David A. Stawick  
Secretary, Commodity Futures  
Trading Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
COMMODITY FUTURES TRADING COMMISSION  
ENTITLED  
"CORE PRINCIPLES AND OTHER REQUIREMENTS FOR  
DESIGNATED CONTRACT MARKETS"  
(RIN: 3038-AD09)

(i) Cost-benefit analysis

The Commission performed a cost-benefit analysis as required by section 15(a) of the Commodity Exchange Act, which requires the Commission to “consider the costs and benefits” of its actions in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Commission organized this analysis by looking individually at each of the core principles that was included in the final rule. The Commission determined that in most instances, quantification of costs was not reasonably feasible because costs depend on the size and structure of designated contract markets (DCMs), which vary markedly, or because quantification required information or data in the possession of the DCMs to which the Commission does not have access, and which was not provided in response to the notice of proposed rulemaking. The Commission stated that to the extent that the regulations adopted in the final rule will result in additional costs, those costs will be realized by DCMs in order to protect market participants and the public.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Chairman, on behalf of the Commission, certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Commission published a notice of proposed rulemaking in the *Federal Register* on December 22, 2010. 75 Fed. Reg. 80,572. The proposed rule included a 60-day comment period, and the Commission reopened the public comment period on two occasions for an additional 30 days each time. The Commission responded to comments in the final rule. 77 Fed. Reg. 36,612.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements that have been submitted to the Office of Management and Budget (OMB) for approval. The Commission stated that it expects that with respect to all but financial resources compliance, a 10 percent estimated increase from the previously approved collection would result in an additional 30 hours per respondent and 540 hours annually for all respondents for designation and compliance. The Commission stated that it expects with regards to Core Principle 21, each of the 18 anticipated respondents may expend up to 10 hours quarterly for filings required under the final rule, totaling 40 hours annually for each respondent and 720 hours across all respondents. The Commission stated that this will result in each respondent expending up to an additional \$3,640 annually and an aggregated total of \$65,520 across all respondents.

Statutory authorization for the rule

The final rule is authorized by section 5 of the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.