

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1205

[Doc. # AMS-CN-09-0015; CN-09-002]

#### Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports (2009 Amendments)

##### Correction

In rule document E9-16031 beginning on page 32400 in the issue of Wednesday, July 8, 2009, make the following correction:

##### **§1205.510 [Corrected]**

On page 32403, in §1205.510(3)(ii), in the table titled IMPORT ASSESSMENT TABLE, the third column heading, "Cents/pkg." should read "Cents/kg.", throughout the table.

[FR Doc. Z9-16031 Filed 8-5-09; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 7

#### Contract Market Rules Altered or Supplemented by the Commission

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rulemaking.

**SUMMARY:** Regulation 7.201 of the Commodity Futures Trading Commission ("Commission") alters and supplements Chicago Board of Trade ("CBOT") Rule 620.01(B) by requiring members of the CBOT to submit to arbitration of any customer claim or grievance initiated by the customer according to the arbitration rules and regulations of the CBOT. On November 25, 2007, following the merger of Chicago Mercantile Exchange ("CME")

Holdings, Inc. with CBOT Holdings, Inc., CBOT Rule 620.01(B) was superseded by new CBOT Rule 600.D. Like Regulation 7.201, new Rule 600.D specifically requires exchange members to submit to customer-initiated arbitrations. Accordingly, on petition of The CME Group Inc., CBOT's parent company, Regulation 7.201 is being repealed by the Commission as no longer necessary.

**DATES:** *Effective Date:* Effective August 6, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Donald Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5041, e-mail [dheitman@cftc.gov](mailto:dheitman@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 8a(7) of the Commodity Exchange Act ("Act"), 7 U.S.C. 12a(7), provides in relevant part that the Commission is authorized to "alter or supplement the rules of a registered entity insofar as necessary or appropriate \* \* \* for the protection of traders or to insure fair dealing in commodities traded for future delivery on such registered entity." In 1981, pursuant to section 5a(11) of the Act and Part 180 of the Commission's regulations, each contract market was required to "provide a fair and equitable procedure through arbitration or otherwise \* \* \* for the settlement of customers' claims and grievances against any member or employee thereof."<sup>1</sup>

In November of 1981, the Commission published a final rule that disapproved proposed CBOT Rule 620.01(B), dealing with arbitration, and altered and supplemented CBOT's rule by implementing in its place Commission

Regulation 7.201.<sup>2</sup> CBOT Rule 620.01(B), as interpreted by CBOT, would have restricted the ability of customers to arbitrate claims against CBOT members and their employees under CBOT's arbitration rules and regulations. The CBOT had argued that the Act did not compel its members to participate in customer-initiated arbitration proceedings and, during the period of 1980-81, CBOT members had denied five customers the right to arbitrate their disputes with members because those members refused to participate in the CBOT's arbitration procedures.

The Commission regulation, adopted pursuant to its section 8a(7) authority, altered and supplemented CBOT Rule 620.01(B) to implement a Commission-drafted version of Rule 620.01(B). The Commission-imposed rule assured that CBOT members would submit to arbitration proceedings initiated by customers under CBOT rules and regulations. Regulation 7.201 has remained in place ever since.

On July 12, 2007, CBOT Holdings, Inc. merged with CME Holdings, Inc. to form The CME Group, Inc. On November 25, 2007, as part of the harmonization of the rules of the CBOT with those of the CME, the CBOT deleted Rule 620.01(B) from its rulebook and adopted new Rule 600.D governing permissive arbitrations. New CBOT Rule 600.D, which is identical to CME Rule 600.D, provides in relevant part that a CBOT member is, "\* \* \* required to arbitrate \* \* \* claims of a customer against a member that relate to or arise out of any transaction on or subject to the rules of the Exchange."

On June 8, 2009, The CME Group, Inc., CBOT's parent company, submitted a petition pursuant to Commission Regulation 13.2 for the repeal of Regulation 7.201.<sup>3</sup> Given that new CBOT Rule 600.D has, since November 25, 2007, compelled members to submit to arbitration claims initiated by customers, that Rule 600.D fully

<sup>1</sup> Section 5a(11) of the Act, 7 U.S.C. 7a (1981). *See also* 17 CFR 180.2 (1981) (implementing section 5a(11) through the establishment of minimum requirements). Subsequently, section 5a(11) and Part 180 were superseded by amended provisions. However, boards of trade are still required to "establish and enforce rules regarding and provide facilities for alternative dispute resolution as appropriate for market participants and any market intermediaries." Section 5(d)(13) of the Act, 7 U.S.C. 7(d)(13) (2009). *See also* 17 CFR Part 38, Appendix B, Core Principle 13 (application guidance and acceptable practices related to section 5(d)(13)).

<sup>2</sup> 46 FR 57457 (November 24, 1981) (adopting Commission Regulation 7.201). *See also* 49 FR 10659 (March 24, 1984) (subsequent amendment).

<sup>3</sup> Copies of the petition are available on written request from David Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, by telephone request at (202) 418-5100, or by e-mail request to [secretary@cftc.gov](mailto:secretary@cftc.gov). Reference should be made to "CME Group petition to repeal Regulation 7.201."

conforms to the Commission's interpretation of section 5a(11) of the Act at the time Regulation 7.201 was adopted, and to the Commission's interpretation of CBOT's obligations under successor section 5(d)(13) of the Act, and that Regulation 7.201 refers to a CBOT rule that is no longer in the CBOT rulebook, the Commission has determined to grant the CME Group's petition and hereby repeals Regulation 7.201.

## II. Related Matters

### A. No Notice Required Under 5 U.S.C. 553

The Administrative Procedure Act ("APA") requires rulemakings to be commenced with a general notice of public rulemaking, published in the **Federal Register**,<sup>4</sup> except, among other things, "when the agency for good cause finds \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."<sup>5</sup>

The repeal of Commission Regulation 7.201 will not cause new regulatory requirements to be effected, because new CBOT Rule 600.D imposes the same requirements on CBOT members that Commission Regulation 7.201 was adopted to impose. Therefore, the Commission finds for good cause that the notice and public procedure are unnecessary before finalizing the repeal of Commission Regulation 7.201.

### B. Regulatory Flexibility Act

The Commission is required to prepare and make available for public comment a regulatory flexibility analysis describing the impact of a rule on small entities when the Commission is required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking.<sup>6</sup> The Commission has found according to the provisions of 5 U.S.C. 553 that a notice of proposed rulemaking is unnecessary for the repeal of Regulation 7.201. Therefore, the Commission is not required to prepare and make available a regulatory flexibility analysis, and the head of the agency alternatively is not making a certification as to the economic impact of the rule on a substantial number of small entities.<sup>7</sup>

<sup>4</sup> 5 U.S.C. 553(b).

<sup>5</sup> 5 U.S.C. 553. See also Commission Regulations 13.3 through 13.5, 17 CFR 13.3–13.5 (notice of proposed rulemaking and public participation in the rulemaking process required unless the Commission finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest).

<sup>6</sup> 5 U.S.C. 603 and 604.

<sup>7</sup> See 5 U.S.C. 605 (certification by the head of an agency permitted as an alternative to the regulatory

### C. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The repeal of Regulation 7.201 is not associated with a collection of information. Accordingly, the Paperwork Reduction Act does not apply.

### D. Cost Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before promulgating a new regulation or order under the Act. Since this action repeals rather than promulgates a regulation, by its terms, § 15(a) does not apply. In any event, the repeal of Commission Regulation 7.201 will not cause new regulatory requirements to be effected, as new CBOT Rule 600.D imposes the same requirements on CBOT members that Commission Regulation 7.201 was adopted to impose. Thus, the repeal of Regulation 7.201 is cost/benefit neutral.

### List of Subjects in 17 CFR Part 7

Arbitration, Commodity exchanges, Commodity futures.

■ In consideration of the foregoing, and pursuant to the authority in the Commodity Exchange Act and, in particular, sections 5 and 8a of the Act, the Commission hereby amends Title 17, part 7, of the Code of Federal Regulations as follows:

### PART 7—CONTRACT MARKET RULES ALTERED OR SUPPLEMENTED BY THE COMMISSION

■ 1. The authority citation for part 7 is revised to read as follows:

**Authority:** 7 U.S.C. 7(a) and 12a(7).

#### § 7.201 [Removed and reserved]

■ 2. Section 7.201 is removed and reserved.

Issued in Washington, DC, on July 31, 2009.

By the Commission.

**David Stawick,**

*Secretary of the Commission.*

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flexibility analyses required at 5 U.S.C. 603 and 604).

## DEPARTMENT OF STATE

### 22 CFR Part 123

[Public Notice: 6646]

### Amendment to the International Traffic in Arms Regulations: Temporary Export Exemption for Body Armor

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to add an exemption for the temporary export of body armor for exclusive personal use to destinations not subject to restrictions under the ITAR § 126.1 and to Afghanistan and Iraq under specified conditions.

**DATES:** *Effective Date:* This rule is effective August 6, 2009.

**ADDRESSES:** Interested parties may submit comments at any time by any of the following methods:

- *E-mail:*

*DDTCResponseTeam@state.gov* with an appropriate subject line.

- *Mail:* Department of State,

Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, Section 123.17, SA–1, 12th Floor, Washington, DC 20522–0112.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at <http://regulations.gov/index.cfm>.

**FOR FURTHER INFORMATION CONTACT:** Director Charles B. Shotwell, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov*. ATTN: Regulatory Change, Section 123.17.

**SUPPLEMENTARY INFORMATION:** U.S. individuals are traveling to hazardous areas in foreign countries where they need to wear body armor for personal safety. Consequently, the Department of State is amending the International Traffic in Arms Regulations (ITAR) to add an exemption for the temporary export of body armor covered by 22 CFR 121.1, Category X(a)(1). The exemption is available for destinations not subject to restrictions under ITAR § 126.1 and to Afghanistan and Iraq under specified conditions. In order to use the exemption, the protective equipment must be for the individual's exclusive use and must be returned to the United States. The individual may not re-export the protective equipment to a foreign person or otherwise transfer ownership. The protective equipment may not be exported to any country where the