

and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *Provided further*, That such money may be invested in obligations of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the United States, such investments to be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

(b) It shall be unlawful for any person, including but not limited to any clearing agency of a contract market or derivatives transaction execution facility and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section,^{4d-1} to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

(c) CONFLICTS OF INTEREST.—The Commission shall require that futures commission merchants and introducing brokers implement conflict-of-interest systems and procedures that—

(1) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in trading or clearing activities might potentially bias the judgment or supervision of the persons; and

(2) address such other issues as the Commission determines to be appropriate.

(d) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—Each futures commission merchant shall designate an individual to serve as its Chief Compliance Officer and perform such duties and responsibilities as shall be set forth in regulations to be adopted by the Commission or rules to be adopted by a futures association registered under section 17.

(e) Consistent with this Act, the Commission, in consultation with the Securities and Exchange Commission, shall issue such rules, regulations, or orders as are necessary to avoid duplicative or conflicting regulations applicable to any futures commission merchant registered with the Commission pursuant to section 4f(a) (except paragraph (2) thereof), that is also registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act (except paragraph (1) thereof), involving the application of—

(1) section 8, section 15(c)(3), and section 17 of the Securities Exchange Act of 1934 and the rules and regulations thereunder related to the treatment of customer funds, securities, or property, maintenance of books and records, financial reporting or other financial responsibility rules (as defined in section 3(a)(40) of the Securities Exchange Act of 1934), involving security futures products; and

(2) similar provisions of this Act and the rules and regulations thereunder involving security futures products.

(f) SWAPS.—

^{4d-1} So in original. Probably should be "subsection (a)(2)".

- (3) DISCLOSURE OF GENERAL INFORMATION.—The swap dealer or major swap participant shall disclose to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, information concerning—
- (A) terms and conditions of its swaps;
 - (B) swap trading operations, mechanisms, and practices;
 - (C) financial integrity protections relating to swaps; and
 - (D) other information relevant to its trading in swaps.
- (4) ABILITY TO OBTAIN INFORMATION.—The swap dealer or major swap participant shall—
- (A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and
 - (B) provide the information to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, on request.
- (5) CONFLICTS OF INTEREST.—The swap dealer and major swap participant shall implement conflict-of-interest systems and procedures that—
- (A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity or swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and
 - (B) address such other issues as the Commission determines to be appropriate.
- (6) ANTI-TRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a swap dealer or major swap participant shall not—
- (A) adopt any process or take any action that results in any unreasonable restraint of trade; or
 - (B) impose any material anticompetitive burden on trading or clearing.
- (7) RULES.—The Commission shall prescribe rules under this subsection governing duties of swap dealers and major swap participants.
- (k) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—
- (1) IN GENERAL.—Each swap dealer and major swap participant shall designate an individual to serve as a chief compliance officer.
 - (2) DUTIES.—The chief compliance officer shall—
 - (A) report directly to the board or to the senior officer of the swap dealer or major swap participant;
 - (B) review the compliance of the swap dealer or major swap participant with respect to the swap dealer and major swap participant requirements described in this section;

ing organization that is exempt from registration under this Act if the swap is required to be cleared.

(B) OPEN ACCESS.—The rules of a derivatives clearing organization described in subparagraph (A) shall—

(i) prescribe that all swaps (but not contracts of sale of a commodity for future delivery or options on such contracts) submitted to the derivatives clearing organization with the same terms and conditions are economically equivalent within the derivatives clearing organization and may be offset with each other within the derivatives clearing organization; and

(ii) provide for non-discriminatory clearing of a swap (but not a contract of sale of a commodity for future delivery or option on such contract) executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility.

(2) COMMISSION REVIEW.—

(A) COMMISSION-INITIATED REVIEW.—

(i) The Commission on an ongoing basis shall review each swap, or any group, category, type, or class of swaps to make a determination as to whether the swap or group, category, type, or class of swaps should be required to be cleared.

(ii) The Commission shall provide at least a 30-day public comment period regarding any determination made under clause (i).

(B) SWAP SUBMISSIONS.—

(i) A derivatives clearing organization shall submit to the Commission each swap, or any group, category, type, or class of swaps that it plans to accept for clearing, and provide notice to its members (in a manner to be determined by the Commission) of the submission.

(ii) Any swap or group, category, type, or class of swaps listed for clearing by a derivative clearing organization as of the date of enactment of this subsection shall be considered submitted to the Commission.

(iii) The Commission shall—

(I) make available to the public submissions received under clauses (i) and (ii);

(II) review each submission made under clauses (i) and (ii), and determine whether the swap, or group, category, type, or class of swaps described in the submission is required to be cleared; and

(III) provide at least a 30-day public comment period regarding its determination as to whether the clearing requirement under paragraph (1)(A) shall apply to the submission.

(C) DEADLINE.—The Commission shall make its determination under subparagraph (B)(iii) not later than 90 days after receiving a submission made under subparagraphs (B)(i) and (B)(ii), unless the submitting derivatives clearing organization agrees to an extension for the time limitation established under this subparagraph.

(D) DETERMINATION.—