

SPEECHES & TESTIMONY

Statement of Commissioner Dan M. Berkovitz Regarding Final Rule Amending Part 39: Derivatives Clearing Organization General Provisions and Core Principles

December 18, 2019

I support the final rule to amend part 39 of the Commission's regulations for derivatives clearing organizations ("DCOs"). Part 39 codifies eighteen core principles and related regulations with which a DCO must comply to obtain and maintain its registration status. Part 39 also provides additional standards for systemically important DCOs ("SIDCOs").

Clearing of futures, options on futures, and swaps at Commission-registered DCOs is a key pillar supporting responsible derivatives risk management. The G-20 leaders recognized the benefits of central clearing when they adopted central clearing of swaps as a key global response to the 2008 financial crisis. In the United States, Congress enacted a swaps clearing mandate in section 2(h)(1) of the Commodity Exchange Act and established SIDCOs as a higher regulatory tier for large DCOs as determined by the Financial Stability Oversight Council. Maintaining strong DCOs through effective risk management and regulation is critical to the safety of derivatives markets and to preventing another financial crisis.

The final rule for part 39 is an example of how the Commission can make tailored amendments to improve the clarity of its regulations and codify staff guidance and relief that has accumulated over time. The final rule updates the regulations, without undermining the overall effectiveness and protective intent of the rules.

In one area of note, the final rule does not codify the proposal to require DCOs to have a default committee with member participation and to convene the committee in the event of a substantial or complex default. The Commission received an array of comments on the proposal reflecting strongly held views both for and against the proposed changes. The preamble to the final rule notes the Commission's desire to provide the market with additional time to consider this issue, with the goal of attaining a consensus of stakeholders. I look forward to continued engagement in this area.