



On September 23, 2015, the CFTC unanimously approved a [supplemental notice of proposed rulemaking](#) (supplement) to modify its [November 2013 proposal](#) for aggregating positions under the Commission's position limits regime. The supplement revises how the Commission will address situations when aggregation is required on the basis of ownership in another entity. All other aspects of the November 2013 proposal remain the same.

In the November 2013 proposal, the Commission proposed different methods for relief from aggregation requirements based on percentage ownership or equity interest in another entity.

- Below 10%
 - Exempted from the aggregation requirement.
- 10% - 50%
 - Exempted from the aggregation requirement if the person and the owned entity:
 1. Do not have knowledge of the trading decisions of the other;
 2. Trade pursuant to separately developed and independent trading systems;
 3. Implement and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other;
 4. Do not share employees that control the trading decisions of either;
 5. Do not have risk management systems that permit the sharing of trades or trading strategy; and
 6. Files notice (effective upon submission) with the Commission, which includes:
 - A description of the relevant circumstances that warrant disaggregation; and
 - A statement of a senior officer of the entity certifying that the conditions set forth in the applicable aggregation exemption provision have been met.
- Greater than 50%
 - The person may apply to the Commission for relief from aggregation on a case-by-case basis by demonstrating:
 1. The owned entity is not required to be, and is not, consolidated on the financial statement of the person;
 2. The person does not control the trading of the owned entity, and has procedures in place that are reasonably effective to prevent coordinated trading in spite of majority ownership;
 3. Each representative of the person on the owned entity's board attests that he or she does not control trading of the owned entity; and
 4. The person certifies that either all of the owned entity's positions qualify as *bona fide* hedging transactions or the owned entity's positions that do not qualify do not exceed 20% of any position limit currently in effect and the person agrees to comply with other Commission requirements.
 - The proposed relief would not be automatic, but available only upon a Commission determination that relief should be granted.

Under the supplement, owners of a greater than 50% interest would follow the same procedure that applies for owners of an interest between 10% - 50% in the November 2013 proposal, and be able to disaggregate the owned entity's positions upon filing a notice with the Commission stating that specified standards have been met.

Note: upon filing notice for an exemption, the Commission will be able to subsequently call for additional information, and to amend, terminate or otherwise modify the person's aggregation exemption for failure to comply with the provisions of [rule 150.4\(b\)\(2\)](#), and the person will be obligated to amend the notice filing in the event of a material change to the circumstances described in the filing.