"Appropriate Person"

... as defined in the Commodity Exchange Act, Section 4(c)(3)(A) – (J).

"Eligible Contract Participant"

... as defined in:
1. the CEA at Section 1a(18)(A) and
2. 17 CFR 1.3(m)

A "person who actively participates in the generation, transmission, or distribution of electric energy"

... as defined in the CFTC's Final Order, 77 FR 30596, at ¶5(g).

"APPROPRIATE PERSON"

Section 4(c)(3)(A) – (J) of the Commodity Exchange Act states:

(c) Public interest exemptions

(I) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated or registered as a contract market or derivatives transaction execution facility for transactions for future delivery in any commodity under section 7 of this title) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) of this section (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a) of this section, or from any other provision of this chapter (except subparagraphs (C)(ii) and (D) of section 2(a)(1) of this title, except that—

(A) unless the Commission is expressly authorized by any provision described in this subparagraph to grant exemptions, with respect to amendments made by subtitle A of the Wall Street Transparency and Accountability Act of 2010—

(i) with respect to—

(I) paragraphs (2), (3), (4), (5), and (7), paragraph (18)(A)(vii)(III), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section 1a of this title, and sections 2(a)(13), 2(c)(1)(D), 5a(a), 6a(b), 6d(e), 6d(d), 6r, 6s, 7a-1(a), 7a-1(b), 7(d), 7(g), 7(h), [FN2]7a-1(c), 7a-1(i), 12e, [FN3] and 24a of this title; and

(II) section 206(e)[FN4] of the Gramm-Leach-Bliley Act (Public Law 106-102; 15 U.S.C. 78e note); and
(ii) in sections 721(c) and 742 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and

(B) the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) of this title [FN5] if the Commissions determine that the exemption would be consistent with the public interest.

(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) of this section unless the Commission determines that—

(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this chapter; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory duties under this chapter.

(3) For purposes of this subsection, the term “appropriate person” shall be limited to the following persons or classes thereof:

(A) A bank or trust company (acting in an individual or fiduciary capacity).

(B) A savings association.

(C) An insurance company.

(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(E) A commodity pool formed or operated by a person subject to regulation under this chapter.

(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.
(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 [15 U.S.C.A. 80b-1 et seq.], or a commodity trading advisor subject to regulation under this chapter.

(H) Any governmental entity (including the United States, any state, [FN6] or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.

(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this chapter acting on its own behalf or on behalf of another appropriate person.

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(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

"ELIGIBLE CONTRACT PARTICIPANT"
Section 1a(18)(A) of the CEA states:

(18) Eligible contract participant

The term “eligible contract participant” means--

(A) acting for its own account--

(i) a financial institution;

(ii) an insurance company that is regulated by a State, or that is regulated by a foreign government and is subject to comparable regulation as determined by the Commission, including a regulated subsidiary or affiliate of such an insurance company;

(iii) an investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of whether each investor in the investment company or the foreign person is itself an eligible contract participant);

(iv) a commodity pool that--

(I) has total assets exceeding $5,000,000; and

(II) is formed and operated by a person subject to regulation under this chapter or a foreign person performing a similar role or function subject as such to foreign regulation (regardless of whether
each investor in the commodity pool or the foreign person is itself an eligible contract participant;

provided, however, that for purposes of section 2(c)(2)(B)(vi) of this title and section 2(c)(2)(C)(vii) of this title, the term "eligible contract participant" shall not include a commodity pool in which any participant is not otherwise an eligible contract participant;

(v) a corporation, partnership, proprietorship, organization, trust, or other entity--

(I) that has total assets exceeding $10,000,000;

(II) the obligations of which under an agreement, contract, or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by an entity described in subclause (I), in clause (i), (ii), (iii), (iv), or (vii), or in subparagraph (C); or

(III) that--

(aa) has a net worth exceeding $1,000,000; and

(bb) enters into an agreement, contract, or transaction in connection with the conduct of the entity's business or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity's business;

(vi) an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), a governmental employee benefit plan, or a foreign person performing a similar role or function subject as such to foreign regulation--

(I) that has total assets exceeding $5,000,000; or

(II) the investment decisions of which are made by--

(aa) an investment adviser or commodity trading advisor subject to regulation under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or this chapter;

(bb) a foreign person performing a similar role or function subject as such to foreign regulation;

(cc) a financial institution; or

(dd) an insurance company described in clause (ii), or a regulated subsidiary or affiliate of such an insurance company;

(vii)(I) a governmental entity (including the United States, a State, or a foreign government) or political subdivision of a governmental entity;

(II) a multinational or supranational government entity; or

(III) an instrumentality, agency, or department of an entity described in subclause (I) or (II);

except that such term does not include an entity, instrumentality, agency, or department referred to in subclause (I) or (III) of this clause unless (aa) the entity, instrumentality, agency, or department is a person described in clause (i), (ii), or (iii) of paragraph (17)(A); (bb) the entity, instrumentality, agency, or department owns and invests on a discretionary basis $50,000,000 or more in investments; or (cc) the agreement, contract, or transaction is offered by, and entered into with, an entity that is listed in any of subclauses (I) through (VI) of section 2(c)(2)(B)(ii) of this title;
(viii)(I) a broker or dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or a foreign person performing a similar role or function subject as such to foreign regulation, except that, if the broker or dealer or foreign person is a natural person or proprietorship, the broker or dealer or foreign person shall not be considered to be an eligible contract participant unless the broker or dealer or foreign person also meets the requirements of clause (v) or (xi);

(II) an associated person of a registered broker or dealer concerning the financial or securities activities of which the registered person makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(b), 78q(h));

(III) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i)));

(ix) a futures commission merchant subject to regulation under this chapter or a foreign person performing a similar role or function subject as such to foreign regulation, except that, if the futures commission merchant or foreign person is a natural person or proprietorship, the futures commission merchant or foreign person shall not be considered to be an eligible contract participant unless the futures commission merchant or foreign person also meets the requirements of clause (v) or (xi);

(x) a floor broker or floor trader subject to regulation under this chapter in connection with any transaction that takes place on or through the facilities of a registered entity (other than an electronic trading facility with respect to a significant price discovery contract) or an exempt board of trade, or any affiliate thereof, on which such person regularly trades; or

(xi) an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of--

(I) $10,000,000; or

(II) $5,000,000 and who enters into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual;

(B)(i) a person described in clause (i), (ii), (iv), (v), (viii), (ix), or (x) of subparagraph (A) or in subparagraph (C), acting as broker or performing an equivalent agency function on behalf of another person described in subparagraph (A) or (C); or

(ii) an investment adviser subject to regulation under the Investment Advisers Act of 1940 [15 U.S.C.A. § 80b-1 et seq.], a commodity trading advisor subject to regulation under this chapter, a foreign person performing a similar role or function subject as such to foreign regulation, or a person described in clause (i), (ii), (iv), (v), (viii), (ix), or (x) of subparagraph (A) or in subparagraph (C), in any such case acting as investment manager or fiduciary (but excluding a person acting as broker or performing an equivalent agency function) for another person described in subparagraph (A) or (C) and who is authorized by such person to commit such person to the transaction; or

(C) any other person that the Commission determines to be eligible in light of the financial or other qualifications of the person.

7 U.S.C.A. § 1a
(m) Eligible contract participant. This term has the meaning set forth in Section 1a(18) of the Act, except that:

(1) A major swap participant, as defined in Section 1a(33) of the Act and paragraph (hhh) of this section, is an eligible contract participant;

(2) A swap dealer, as defined in Section 1a(49) of the Act and paragraph (ggg) of this section, is an eligible contract participant;

(3) A major security-based swap participant, as defined in Section 3(a)(67) of the Securities Exchange Act of 1934 and § 240.3a67–1 of this title, is an eligible contract participant;

(4) A security-based swap dealer, as defined in Section 3(a)(71) of the Securities Exchange Act of 1934 and § 240.3a71–1 of this title, is an eligible contract participant;

(5)(i) A transaction-level commodity pool with one or more direct participants that is not an eligible contract participant under either Section 1a(18)(A)(iv) or Section 1a(18)(A)(v) of the Act for purposes of entering into transactions described in Sections 2(c)(2)(B)(vi) and 2(c)(2)(C)(vii) of the Act; and

(ii) In determining whether a commodity pool that is a direct participant in a transaction-level commodity pool is an eligible contract participant for purposes of paragraph (m)(5)(i) of this section, the participants in the commodity pool that is a direct participant in the transaction-level commodity pool shall not be considered unless the transaction-level commodity pool, any commodity pool holding a direct or indirect interest in such transaction-level commodity pool, or any commodity pool in which such transaction-level commodity pool holds a direct or indirect interest, has been structured to evade subtitle A of Title VII of the Dodd–Frank Wall Street Reform and Consumer Protection Act by permitting persons that are not eligible contract participants to participate in agreements, contracts, or transactions described in Section 2(c)(2)(B)(i) or Section 2(c)(2)(C)(i) of the Act;

(6) A commodity pool that does not have total assets exceeding $5,000,000 or that is not operated by a person described in subclause (A)(iv)(II) of Section 1a(18) of the Act is not an eligible contract participant pursuant to clause (A)(v) of such Section;

(7)(i) For purposes of a swap (but not a security-based swap, security-based swap agreement or mixed swap) used to hedge or mitigate commercial risk, an entity may, in determining its net worth for purposes of Section 1a(18)(A)(v)(III) of the Act, include the net worth of any owner of such entity, provided that all the owners of such entity are eligible contract participants;

(ii)(A) For purposes of identifying the owners of an entity under paragraph (m)(7)(i) of this section, any person holding a direct ownership interest in such entity shall be considered to be an owner of such entity; provided, however, that any shell company shall be disregarded, and the owners of such shell company shall be considered to be the owners of any entity owned by such shell company;

(B) For purposes of paragraph (m)(7)(ii)(A) of this section, the term shell company means any entity that limits its holdings to direct or indirect interests in entities that are relying on this paragraph (m)(7); and

(C) In determining whether an owner of an entity is an eligible contract participant for purposes of paragraph (m)(7)(i) of this section, an individual may be considered to be a proprietorship eligible contract participant only if the individual--

(1) Has an active role in operating a business other than an entity;
(2) Directly owns all of the assets of the business;

(3) Directly is responsible for all of the liabilities of the business; and

(4) Acquires its interest in the entity seeking to qualify as an eligible contract participant under paragraph (m)(7)(i) of this section in connection with the operation of the individual's proprietorship or to manage the risk associated with an asset or liability owned or incurred or reasonably likely to be owned or incurred by the individual in the operation of the individual's proprietorship; and

(iii) For purposes of paragraph (m)(7)(i) of this section, a swap is used to hedge or mitigate commercial risk if the swap complies with the conditions in paragraph (kkk) of this section; and

(8) Notwithstanding Section 1a(18)(A)(iv) of the Act and paragraph (m)(5) of this section, a commodity pool that enters into an agreement, contract, or transaction described in Section 2(c)(2)(B)(i) or Section 2(c)(2)(C)(i)(I) of the Act is an eligible contract participant with respect to such agreement, contract, or transaction, regardless of whether each participant in such commodity pool is an eligible contract participant, if all of the following conditions are satisfied:

(i) The commodity pool is not formed for the purpose of evading regulation under Section 2(c)(2)(B) or Section 2(c)(2)(C) of the Act or related Commission rules, regulations or orders;

(ii) The commodity pool has total assets exceeding $10,000,000; and

(iii) The commodity pool is formed and operated by a registered commodity pool operator or by a commodity pool operator who is exempt from registration as such pursuant to § 4.13(a)(3) of this chapter.