

## Venues for the Trading of Exempt Commodities under the Commodity Exchange Act (CEA)

DCM (CEA Section 5)	Commercial DTEF (CEA Section 5a)	Exempt Commercial Market (ECM) (CEA Sections 2(h)(3)-(5))	OTC – Not on a Trading Facility (CEA Sections 2(h)(1)-(2))
<u>Commodities</u> : No limitations	<u>Commodities</u> : Any non-agricultural commodity (e.g., financial, energy, metals, etc.)	<u>Commodities</u> : Exempt commodities (e.g., energy, metals, chemicals, emission allowances etc.)	<u>Commodities</u> : Exempt commodities (e.g., energy, metals, chemicals, emission allowances etc.)
<u>Method of Trading</u> : Trading can take place on an electronic trading facility or by open outcry	<u>Method of Trading</u> : Trading can take place on an electronic trading facility or by open outcry	<u>Method of Trading</u> : Electronic multilateral trading (i.e., many-to-many platforms)	<u>Method of Trading</u> : Non-multilateral trading (e.g., dealer markets; individually-negotiated, bilateral transactions)
<u>Number of Entities</u> : Twelve DCMs are currently operating; NYMEX is the largest listing energy products	<u>Number of Entities</u> : None have applied	<u>Number of entities</u> : 19 have filed notice (12 offer or plan to offer energy contracts, with Intercontinental Exchange easily the largest)	<u>Number of Entities</u> : Unknown (very difficult to identify the universe of traders, especially given the limitless number of bilateral transactions)
<u>Notice Requirement</u> : Must apply to and receive prior approval from CFTC; must satisfy various non-prescriptive designation criteria (8) and core principles (18)	<u>Notice Requirement</u> : Must apply to and receive prior approval from CFTC; must satisfy various non-prescriptive registration criteria (4) and core principles (9)	<u>Notice Requirement</u> : Yes; simple notice containing contact information and description of operations	<u>Notice Requirement</u> : None; exemption is self-executing
<u>Participants</u> : No limitations	<u>Participants</u> : Eligible Commercial Entities (ECEs) – subset of Eligible Contract Participants (ECPs); excludes individuals, but includes funds	<u>Participants</u> : ECEs only – subset of ECPs; excludes individuals but includes funds	<u>Participants</u> : Eligible Contract Participants (i.e., institutions, funds, and wealthy, sophisticated individuals)
<u>Intermediation</u> : Permitted	<u>Intermediation</u> : None; limited to ECEs trading for their own accounts	<u>Intermediation</u> : None; principal-to-principal trading only	<u>Intermediation</u> : Limited; only if done through another ECP

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<p><u>Types of Transactions:</u> Futures and options (Note: DCMs are restricted from listing products outside CFTC jurisdiction (<i>e.g.</i>, CME cash butter market))</p>	<p><u>Types of Transactions:</u> Futures and options</p>	<p><u>Types of transactions:</u> Derivatives, including swaps, futures and options (Note: ECMs often also trade products outside CFTC jurisdiction, including spot and forward contracts)</p>	<p><u>Types of Transactions:</u> Derivatives, including swaps, futures and options</p>
<p><u>Standardized Products?:</u> Yes</p>	<p><u>Standardized Products?:</u> Yes</p>	<p><u>Standardized Products?:</u> Yes Terms set by the entity.</p>	<p><u>Standardized Products?:</u> Usually yes, when executed on a dealer market. Usually no, when executed bilaterally.</p>
<p><u>Cleared?:</u> Transactions must be cleared through a DCO approved by the CFTC</p>	<p><u>Cleared?:</u> Clearing is not mandatory; if clearing is offered, it must be through a DCO</p>	<p><u>Cleared?:</u> Clearing not mandatory; if offered, it must be through an SEC-registered clearing agency, an acceptable foreign clearing agency or a DCO (many ICE transactions are cleared at LCH; other ECMs offer clearing at NYMEX Clearport or The Clearing Corp.)</p>	<p><u>Cleared?:</u> Can be if a standardized contract; many traders choose to clear trades at NYMEX or LCH</p>
<p><u>Estimated Volume:</u> For 2006 – futures: 2,043,897,218 contracts; options: 501,549,640 contracts</p>	<p><u>Estimated Volume:</u> No DTEFs are currently registered</p>	<p><u>Estimated Volume:</u> ECMs are not required to submit overall volume data</p>	<p><u>Estimated Volume:</u> Probably unknowable</p>
<p><u>Transaction Prohibitions:</u> Subject to all provisions of the CEA</p>	<p><u>Transaction Prohibitions:</u> Subject to major CEA provisions (<i>e.g.</i>, anti-manipulation), but generally more limited requirements than DCM transactions (<i>e.g.</i>, more permissive with respect to non-competitive trading)</p>	<p><u>Transaction Prohibitions:</u> Only anti-manipulation and antifraud</p>	<p><u>Transaction Prohibitions:</u> Only anti-manipulation and antifraud (but antifraud rules do not apply to transactions between ECEs)</p>

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<p><u>Self-regulatory responsibilities:</u> Yes, significant self-regulatory responsibilities; must comply on an ongoing basis with the eight designation criteria and eighteen core principles. Must have compliance and surveillance programs.</p>	<p><u>Self-regulatory responsibilities:</u> Yes, various self-regulatory responsibilities; must comply on an ongoing basis with four registration criteria and nine core principles. Generally, less comprehensive than DCMs (<i>e.g.</i>, only publicize data regarding price discovery contracts, less rigorous governance standards). Must have compliance and surveillance programs.</p>	<p><u>Self-Regulatory Responsibilities:</u> Minimal and they include nothing that goes to the integrity of trading. Responsibilities include: a reporting requirement for contracts over a minimum volume threshold; ensuring compliance with exemption conditions; and dissemination of contract activity information for “price discovery” contracts.</p>	<p><u>Self-Regulatory Responsibilities:</u> None</p>
<p><u>Responsibilities to CFTC:</u> Comply with designation criteria and core principles</p>	<p><u>Responsibilities to CFTC:</u> Comply with registration criteria and core principles</p>	<p><u>Responsibilities to CFTC:</u> Provide notice of operation and weekly transaction data for high-volume contracts; report manipulation and fraud complaints; maintain and providing access to records of activity</p>	<p><u>Responsibilities to CFTC:</u> None</p>
<p><u>CFTC Oversight Authority:</u> Unlimited, including continuous and ongoing market surveillance and trade practice programs, ability to intervene in markets (<i>e.g.</i>, force reduction/liquidation of positions, alter/supplement DCM rules). CFTC receives large trader reports transaction data and assesses DCMs’ compliance programs via <i>rule enforcement reviews</i>.</p>	<p><u>CFTC Oversight Authority:</u> Unlimited, but Commission may use its discretion to scale its market surveillance and trade practice programs based on circumstances of the particular DTEF. CFTC receives large trader reports transaction data and assesses DTEFs’ compliance programs via <i>rule enforcement reviews</i>.</p>	<p><u>CFTC Oversight Authority:</u> Limited (special calls); § 8a(9) emergency authority does not apply</p>	<p><u>CFTC Oversight Authority:</u> None</p>