prices are obtained may be relevant in certain cases. This requirement does not change existing requirements under sections 4b and 4o of the Act. The Commission particularly notes that the primary relief accorded to customers trading only in section 4(c) contract market transactions is the waiver of the acknowledgment requirement otherwise applicable to non-section 4(c) customers. This relief should materially facilitate access to such transactions, particularly for offshore customers and securities customers who are unaccustomed to acknowledging disclosures. For business or internal control purposes, of course, firms would be free to retain the acknowledgment procedure.

With respect to ERISA concerns, the Commission notes that section 36.7 does not relieve an FCM or IB from any other disclosure obligation it may have under applicable law. Thus, to the extent ERISA requirements pertain to a particular customer, the Commission's rules should not inhibit an FCM or IB from making appropriate disclosures to a pension plan fiduciary. Moreover, in contrast to privately created trading vehicles or instruments, whose specialized characteristics can be meaningfully disclosed only by their creators, information on the mechanics of trading of section 4(c) contract market transactions will be readily available from the listing exchange.

2. Limited Registrations

The Commission proposed section 36.6 to allow special temporary license, registration or principal listing procedures to be available to a person associated with an FCM or IB who limits his or her activities under the Act to section 4(c) contract market transactions. Proposed section 36.6 would require the person to certify that he or she is licensed or otherwise authorized to do business and in good standing with another federal financial regulatory authority or a foreign financial regulatory authority with which the Commission has comparability arrangements under the Part 30 rules, and is not subject to a statutory disqualification from registration under section 8a(2) of the Act. The Commission indicated that a contract market and NFA could develop procedures applicable to these persons that would not require submission of fingerprints and could provide for proficiency testing requirements other than those generally applicable to registrants under the Act.71

Several commenters addressed the registration issue. The NFA, which has been delegated a substantial portion of registration functions by the Commission, although commending the Commission's desire to streamline the proficiency testing and fingerprint requirements for persons who limit activities to section 4(c) contract market transactions and recognizing the need for flexibility, expressed the concern that different registration procedures ultimately could be time-consuming, confusing, and administratively cumbersome. The FIA agreed, noting, in addition, that it would be difficult for the industry to develop compliance procedures. The CME reasoned further, that although such special procedures may be useful in the longrun, initially they would be costly to develop and would apply to only a small subset of the industry.

The FIA stated that it was unclear whether the CFTC was conferring on the NFA the ability to waive proficiency testing completely for the individuals involved in the sale of section 4(c)products or merely to establish different tests for different people selling the same product. In its view, requiring registration and full testing for certain individuals involved in selling futures and exempt futures products, yet requiring little or no testing for others, raised issues of fairness and fair competition. The SEC expressed concern that securities training for registered representatives of securities broker-dealers may not be sufficient for purposes of participating in section 4(c)contract market transactions, and stated that the registration requirements should be designed to assure that those licensed have sufficient training to participate in such transactions.

The CBT stated that the Commission should permit the same unregistered sales force as is permitted to vend OTC swaps under Part 35 to market section 4(c) contract market transactions. Alternatively, the CBT urged the Commission to grant limited registration to individuals who intend to sell section 4(c) contract market transactions upon a showing that the individual or his or her employer is in good standing with another federal financial regulatory authority, without requiring Commission registration for the sponsoring employer.

The CBT further commented that proposed section 36.6 should be expanded, in any event, because it applies only to associated persons ("APs") of an FCM or IB. Employees of non-FCMs or non-IBs, such as securities broker-dealers or banks, would have to be sponsored by entities other than their employers. The CBT stated that this would unduly restrict the potential number of limited registrants able to market section 4(c) contract market transactions and suggested, as a remedy, the creation of a "limited" IB registration category for securities broker-dealers or banks in good standing under their respective federal regulatory schemes.⁷²

The Commission disagrees with various commenters' recommendation to delete registration requirements for section 4(c) contract market transactions sales persons. Registration is a key element in an effective regulatory and enforcement program. In addition, the Commission believes that fitness checks and a proficiency testing, training or experience requirement are necessary.

However, the Commission has determined to adopt the CBT's alternative suggestion for a "limited" IB registration category. Rule 36.6 will allow entities to qualify for limited IB status if they are in good standing with a federal financial regulator or a foreign financial regulator. Banks and securities broker-dealers would be eligible for this special treatment. Insurance companies would not be eligible under Rule 36.6 because of the large number of state insurance regulators and the diverse nature of the applicable regulations. However, the Commission may be willing to entertain proposals developed by contract markets and NFA to permit flexible procedures for insurance company participation in section 4(c)contract market transactions.

As the Commission envisions the process, an entity would provide the NFA with basic identifying information about the firm and its principals and pay the appropriate processing fee. The applicant would also certify that (1) it is in good standing with its other regulator, (2) its principals have filed their fingerprints with the other regulator, (3) neither it nor its principals are subject to statutory disqualification from registration under section 8a(2) of the Act, (4) it will restrict its activities under the Act to section 4(c) contract market transactions, and (5) it will be liable for all acts, omissions and failures, and responsible for the diligent supervision, of its APs, employees and agents in connection with its activities as a limited IB involving section 4(c) contract market transactions.73

^{71 59} FR 54139, 54149.

⁷² Under this approach, a securities broker-dealer, for example, could qualify as a ''limited IB'' to sponsor its own employees for limited AP registration status under Part 36. The securities broker-dealer would have direct supervisory responsibility over its APs.

 $^{^{\}rm 73}$ Registration, of course, could continue to be denied, conditioned, suspended, restricted or