

(f) All documents submitted pursuant to this section shall be filed with the National Futures Association.

(g) Notwithstanding the provisions of § 3.12(a), if a new registration is granted under this section, any person who is registered, or who has submitted an application for registration, as an associated person of the registrant on or prior to the date of any event described in paragraph (a) of this section, shall be deemed to be registered, or to have submitted an application for registration, as an associated person of such new registrant.

(h) Except as otherwise provided in this section, within twenty days after any natural person becomes a principal of an applicant for registration subsequent to the filing of a Form 7-R in accordance with the requirements set forth in § 3.10(a) of this part, the applicant for registration must file a Form 8-R with the National Futures Association. The Form 8-R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided for that purpose by the National Futures Association, unless such principal is a director who qualifies for the exemption from the fingerprint requirement pursuant to § 3.21(c) of this part. This filing need not be made for any such principal who has a current Form 8-R on file with the National Futures Association or the Commission: *Provided*, That within twenty days the applicant for registration must notify the National Futures Association of the name of such added principal on Form 3-R.

(i)(1) Any person adversely affected by the operation of this section may file a petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that it should be exempted from the requirements of this section and why such an exemption would not be contrary to the public interest and the purposes of this section. The petition will be granted or denied by the Commission on the basis of the papers filed. The Commission may grant such a petition if it finds that the exemption is not contrary to the public interest and the purposes of

this section. The petition may be granted subject to such terms and conditions as the Commission may find appropriate.

(2)(i) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or the Director's designee the authority to grant or deny petitions filed pursuant to paragraph (i) of this section.

(ii) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to the Director pursuant to paragraph (i)(2)(i) of this section.

[49 FR 8218, Mar. 5, 1984, as amended at 49 FR 39533, Oct. 9, 1984; 53 FR 8433, Mar. 15, 1988; 54 FR 19559, May 8, 1989; 57 FR 23149, June 2, 1992]

§ 3.33 Withdrawal from registration.

(a) A futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker or floor trader may request that its registration be withdrawn in accordance with the requirements of this section if:

(1) The registrant has ceased, or has not commenced, engaging in activities requiring registration in such capacity;

(2) The registrant is exempt from registration in such capacity; or

(3) The registrant is excluded from the persons or any class of persons required to be registered in such capacity: *Provided*, That the National Futures Association or the Commission, as appropriate, may consider separately each capacity for which withdrawal is requested in acting upon such a request.

(b) A request for withdrawal from registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant must be made on Form 7-W, and a request for withdrawal from registration as a floor broker or floor trader must be made on Form 8-W, completed and filed with National Futures Association in accordance with the instructions thereto. The request for withdrawal must be made by the sole proprietor if the registrant is a

sole proprietorship, by a general partner if a partnership, or by the president or chief executive officer if a corporation, and must specify:

(1) The name of the registrant for which withdrawal is being requested;

(2) The registration capacities for which withdrawal is being requested;

(3) The name and relationship to the registrant of the individual making the request and, in the case of a corporation, a certified copy of a resolution of the board of directors authorizing such individual to make the withdrawal request;

(4) The name, address, and telephone number of the person who will have custody of the books and records of the registrant; the address where such books and records will be located; and a statement that such person is authorized to make them available in accordance with the requirements of § 1.31 of this chapter;

(5) The applicable basis under paragraph (a) of this section for requesting withdrawal for each capacity for which withdrawal is requested.

(6) If withdrawal is requested under paragraph (a)(2) or (a)(3) of this section, then, with respect to each capacity for which withdrawal is requested, the section of the Act, regulations, or other authority permitting the exemption or exclusion, and the circumstances which entitle the registrant to claim such exemption or exclusion.

(7) If a basis for withdrawal from registration under paragraph (a)(1) of this section is that the registrant has ceased engaging in activities requiring registration, then, with respect to each capacity for which the registrant has ceased such activities:

(i) That all customer or option customer agreements, if any, have been terminated;

(ii) That all customer or option customer positions, if any, have been transferred on behalf of customers or option customers or closed;

(iii) That all customer or option customer cash balances, securities, or other property, if any, have been transferred on behalf of customers or option customers or returned, and that there are no obligations to customers or option customers outstanding;

(iv) In the case of a commodity pool operator, that all interests in, and assets of, any commodity pool have been redeemed, distributed, or transferred, on behalf of the participants therein, and that there are no obligations to such participants outstanding;

(v) In the case of a leverage transaction merchant: (A) Either that all leverage customer agreements, if any, and all leverage contracts have been terminated, and that all leverage customer cash balances, securities or other property, if any, have been returned, or (B) alternatively, that pursuant to Commission approval, the leverage contract obligations of the leverage transaction merchant have been assumed by another leverage transaction merchant and all leverage customer cash balances, securities or other property, if any, have been transferred to such leverage transaction merchant on behalf of leverage customers or returned, and that there are no obligations to leverage customers outstanding;

(vi) The nature and extent of any pending customer, option customer, leverage customer, or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer, leverage customer, or commodity pool participant claims against the registrant; and

(vii) In the case of a futures commission merchant which is a party to a guarantee agreement, that all such agreements have been or will be terminated in accordance with the provisions of § 1.10(j) of this chapter not more than thirty days after the filing of the request for withdrawal from registration.

(c)(1) Where a futures commission merchant or an introducing broker which is not operating pursuant to a guarantee agreement is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a Form 1-FR-FCM or a Form 1-FR-

IB, respectively, which contains the information specified in §1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request: *Provided, however*, That if such registrant is also registered with the Securities and Exchange Commission as a securities broker or dealer, it may file a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (in accordance with §1.10(h) of this chapter), in lieu of Form 1-FR-FCM or Form 1-FR-IB. Any financial report submitted pursuant to this paragraph (c)(1) must contain the information specified in §1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

(2) Where a leverage transaction merchant is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 2-FR which contains the information specified in §31.13(f) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

(d) A request for withdrawal from registration must be in writing and must contain a signed oath or affirmation that, to the best of the knowledge and belief of the signatory, the information contained in the request is accurate and complete.

(e) A request for withdrawal from registration as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant on Form 7-W, and a request for withdrawal from registration as a floor broker or floor trader on Form 8-W, must be sent to the National Futures Association, Registration Office, 200 West Madison Street, Chicago, Illinois 60606 and a copy of such request must be sent by the National Futures Association within three business days of the receipt of such withdrawal request to the Commodity Futures Trading Commission, Division of Trading and Markets, Registration Unit, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, any

floor broker or floor trader requesting withdrawal from registration must file a copy of his Form 8-W with each contract market that has granted him trading privileges. Within three business days of any determination by the National Futures Association under §3.10(d) to treat the failure by a registrant to file an annual Form 7-R as a request for withdrawal, the National Futures Association shall send the Commission notice of that determination.

(f) Except as otherwise provided in §3.10(d), a request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

(1) The Commission or the National Futures Association has instituted a proceeding to suspend or revoke such registration;

(2) The Commission or the National Futures Association imposes, or gives notice by mail which notice shall be complete upon mailing, that it intends to impose terms or conditions upon such withdrawal from registration;

(3) The Commission or the National Futures Association notifies the registrant by mail, which notice shall be complete upon mailing, or the registrant otherwise is notified that it is the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

(4) The Commission or the National Futures Association requests from the registrant further information pertaining to its request for withdrawal from registration; or

(5) The Commission or National Futures Association determines that it would be contrary to the requirements of the Act, or of any rule, regulation or order thereunder, or to the public interest to permit such withdrawal from registration.

(g) Withdrawal from registration in one capacity does not constitute withdrawal from registration in any other capacity.

(h) Withdrawal from registration does not constitute a release from liability for any violation of the Act or of any rule, regulation, or order thereunder.

(Approved by the Office of Management and Budget under control number 3038-0008)

[46 FR 48917, Oct. 5, 1981, as amended at 46 FR 63035, Dec. 30, 1981. Redesignated at 46 FR 48918, Oct. 5, 1981, and amended at 47 FR 27551, June 25, 1982; 47 FR 57010, Dec. 22, 1982; 48 FR 35298, Aug. 3, 1983; 49 FR 5526, Feb. 13, 1984; 49 FR 39534, Oct. 9, 1984; 53 FR 8434, Mar. 15, 1988; 54 FR 41078, Oct. 5, 1989; 57 FR 23150, June 2, 1992; 58 FR 19592, Apr. 15, 1993; 60 FR 49334, Sept. 25, 1995; 62 FR 4642, Jan. 31, 1997]

EFFECTIVE DATE NOTE: At 62 FR 4642, Jan. 31, 1997, §3.33 was amended by revising paragraph (c)(1), effective June 30, 1997. For the convenience of the user, the superseded text is set forth as follows:

§ 3.33 Withdrawal from registration.

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(c)(1) Where a futures commission merchant or an introducing broker which is not operating pursuant to a guarantee agreement is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 1-FR which contains the information specified in §1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request: *Provided, however*, That if such registrant is also registered with the Securities and Exchange Commission as a securities broker or dealer, it may file a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, part II or part IIA (in accordance with §1.10(h) of this chapter), in lieu of form 1-FR: *And, provided further*, That if such introducing broker is also a country elevator, it may file a copy of a financial report prepared by a grain commission firm (in accordance with §1.10(i) of this chapter), in lieu of form 1-FR. Any financial report submitted pursuant to this paragraph (c)(1) must contain the information specified in §1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

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§3.34 Mandatory ethics training for registrants.

(a) Any individual registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, associated person, floor broker or floor trader under the Act must attend ethics training to ensure that he understands his responsibilities to the public under the Act, including responsibilities to observe just and equitable principles of trade, rules or regulations of the Commission, rules of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable federal or state law, rule or regulation.

(b) The training required by this section must:

(1) Include a description of the requirements of the Act and rules promulgated thereunder concerning treatment of customer orders and handling of customer business;

(2) Cover the subject matter referred to in paragraph (a) of this section, as it pertains to the registration category in which the person is registered or seeking registration; and

(3) The training required by this section must be provided by or pursuant to a program of training (including videotape or electronic presentation) sponsored by:

(i) A self-regulatory organization;

(ii) [Reserved]

(iii) A person included on a list maintained by a registered futures association who has presented satisfactory evidence to the registered futures association that any individuals, on behalf of such person, who present ethics training, prepare an ethics training videotape or electronic presentation, or who supervise the foregoing, have taken and passed the proficiency testing requirements for an ethics training provider, as established by rules of a registered futures association that have been approved by the Commission, and possess a minimum of three years of relevant experience for an ethics training provider, as established by rules of a registered futures association that have been approved by the Commission, and who certifies that: