

Similarly, the Commission interprets paragraph (M) to authorize the Commission to refuse to register, register conditionally or otherwise affect the registration of any person if such person has consented, in connection with an agreement of settlement with a contract market, a registered futures association, or any other self-regulatory organization, to comply with an undertaking to withdraw all forms of existing or pending registration and/or not to apply for registration with the National Futures Association or the Commission in any capacity. Such person's effort to violate his or her prior undertaking to withdraw from and/or not to apply for registration shall be considered to constitute "other good cause" under paragraph (M). The Commission believes that allowing such a person to be registered would be inappropriate and inconsistent with the intention of parties to the prior settlement agreement. The failure to withdraw or the attempt to register in the face of such an undertaking would indicate the lack of fair and honest dealing which the Commission believes constitutes "other good cause" for denying, revoking or conditioning registration under the Act. The Commission also believes that allowing registration in such a situation would be inconsistent with both Section 8a(2)(A), which authorizes the Commission to refuse to register, to register conditionally, or to revoke, suspend or place restrictions upon the registration of any person if such person's prior registration has been suspended (and the period of such suspension has not expired) or has been revoked, and Section 8a(3)(J), which authorizes the Commission to refuse to register or to register conditionally any person if he or she is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization.

Good cause to affect a person's registration also exists: (1) If the operations of such person disrupt or would tend to disrupt orderly market conditions, or cause or would tend to cause sudden or unreasonable fluctuations or unwarranted changes in the price of commodities or contracts for future delivery of commodities or commodity options; (2) if such person has used or is using in its name a term such as "board of trade", "clearing corporation" or "exchange" in a misleading context, or uses any terms in its representations to the public which may indicate that the person is a contract market or a member of a contract market when such is not the case, or has used or is using a misleading name which would tend to suggest to the public that the person is affiliated with another person when that is not the case or that the person is engaged in a commodity-related business when the person is not in fact substantially so engaged, or has failed

to disclose to the public an agency relationship with another person when such failure could mislead the public; (3) if such person is subject to an outstanding order denying, suspending or revoking the license of such person by a licensing authority, such as a state real estate or insurance commission; and (4) if such person has failed to answer the inquiries or requests for further information concerning an application for registration filed with the Commission.

This listing, of course, is not exclusive. In general, the Commission interprets paragraph (M) to authorize the Commission to affect the registration of any person if, as a result of any act or pattern of conduct attributable to such person, although never the subject of formal action or proceeding before either a court or governmental agency, such person's potential disregard of or inability to comply with the requirements of the Act or the rules, regulations or order thereunder, or such person's moral turpitude, or lack of honesty or financial responsibility is demonstrated to the Commission.

Any inability to deal fairly with the public and consistent with just and equitable principles of trade may render an applicant or registrant unfit for registration, given the high ethical standards which must prevail in the industry.

[49 FR 8224, Mar. 5, 1984, as amended at 58 FR 19597, Apr. 15, 1993; 59 FR 5315, Feb. 4, 1994; 61 FR 58628, Nov. 18, 1996]

## PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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AUTHORITY: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

SOURCE: 46 FR 26013, May 8, 1981, unless otherwise noted.

## Subpart A—General Provisions, Definitions and Exemptions

### § 4.1 Requirements as to form.

(a) Each document distributed pursuant to this part 4 must be:

- (1) Clear and legible;
- (2) Paginated; and
- (3) Fastened in a secure manner.

(b) Information that is required to be “prominently” disclosed under this part 4 must be displayed in capital letters and in boldface type.

(c) Where a document is distributed through an electronic medium:

- (1) The requirements of paragraphs (a) of this section shall mean that required information must be presented in a format that is readily communicated to the recipient. For purposes

of this paragraph (c), information is readily communicated to the recipient if it is accessible to the ordinary user by means of commonly available hardware and software and if the electronically delivered document is organized in substantially the same manner as would be required for a paper document with respect to the order of presentation and the relative prominence of information. Where a table of contents is required, the electronic document must either include page numbers in the text or employ a substantially equivalent cross-reference or indexing method or tool;

(2) The requirements of paragraph (b) of this section shall mean that such information must be presented in capital letters and boldface type or, as warranted in the context, another manner reasonably calculated to draw the recipient’s attention to the information and accord it greater prominence than the surrounding text; and

(3) A complete paper version of the document that complies with the applicable provisions of this part 4 must be provided to the recipient upon request.

(d) If graphic, image or audio material is included in a document delivered to a prospective or existing client or pool participant, and such material cannot be reproduced in an electronic filing, a fair and accurate narrative description, tabular representation or transcript of the omitted material must be included in the filed version of the document. Inclusion of such material in a Disclosure Document shall be subject to the requirements of § 4.24(v) in the case of pool Disclosure Documents, and § 4.34(n) in the case of commodity trading advisor Disclosure Documents.

(Approved by the Office of Management and Budget under control number 3038-0005)

[46 FR 26013, May 8, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 62 FR 39115, July 22, 1997]

### § 4.2 Requirements as to filing.

(a) All material filed with the Commission under this part 4 must be filed with the Commission at its Washington, DC office (Att: Special Counsel, Front Office Audit Unit, Division of Trading and Markets, C.F.T.C., Three Lafayette Centre, 1155 21st Street, NW.,