

Commodity Futures Trading Commission

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or unencumbered securities from its own inventory, of the type set forth in §1.25, as it may deem necessary to ensure any and all commodity or option customers' accounts from becoming undersegregated at any time. The books and records of a futures commission merchant shall at all times accurately reflect its interest in the segregated funds. A futures commission merchant may draw upon such segregated funds to its own order, to the extent of its actual interest therein, including the withdrawal of securities held in segregated safekeeping accounts held by a bank, trust company, contract market clearing organization or other futures commission merchant. Such withdrawal shall not result in the funds of one commodity and/or option customer being used to purchase, margin or carry the trades, contracts or commodity options, or extend the credit of any other commodity customer, option customer or other person.

[62 FR 42400, Aug. 7, 1997]

§ 1.24 Segregated funds; exclusions therefrom.

Money held in a segregated account by a futures commission merchant shall not include: (a) Money invested in obligations or stocks of any clearing organization or in memberships in or obligations of any contract market; or (b) money held by any clearing organization which it may use for any purpose other than to purchase, margin, guarantee, secure, transfer, adjust, or settle the contracts, trades, or commodity options of the commodity or option customers of such futures commission merchant.

[46 FR 54519, Nov. 3, 1981]

§ 1.25 Investment of customer funds.

No futures commission merchant and no clearing organization shall invest customer funds, except in obligations of the United States, in general obligations of any State or of any political subdivision thereof, or in obligations fully guaranteed as to principal and interest by the United States. This shall not prohibit a futures commission merchant from directly depositing unencumbered securities, of the type specified in this section, which it owns

for its own account, into a segregated safekeeping account or from transferring any such securities from a segregated account to its own account, up to the extent of its residual financial interest in customers' segregated funds; *provided, however*, that such investments, transfers of securities, and disposition of proceeds from the sale or maturity of such securities are recorded in the record of investments, required to be maintained by §1.27. All such securities may be segregated in safekeeping only with a bank, trust company, clearing organization of a contract market, or other registered futures commission merchant. Furthermore, for purposes of §§1.25, 1.26, 1.27, 1.28, and 1.29, investments permitted by §1.25 that are owned by the futures commission merchant and deposited into such a segregated account shall be considered customer funds until such investments are withdrawn from segregation.

[62 FR 42400, Aug. 7, 1997]

§ 1.26 Deposit of obligations purchased with customer funds.

(a) Each futures commission merchant who invests customer funds in obligations described in §1.25 shall separately account for such obligations and segregate such obligations as belonging to such commodity or option customers. Such obligations when deposited with a bank, trust company, clearing organization or another futures commission merchant, shall be deposited under an account name which clearly shows that they belong to commodity or option customers and are segregated as required by the Act and these regulations. Each futures commission merchant upon opening such an account shall obtain and retain in its files an acknowledgment from such bank, trust company, clearing organization or other futures commission merchant that it was informed that the obligations belong to commodity or option customers and are being held in accordance with the provisions of the Act and these regulations. Such acknowledgment shall be retained in accordance with §1.31. Such bank, trust company, clearing organization or other futures commission merchant

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shall allow inspection of such obligations at any reasonable time by representatives of the Commission.

(b) Each clearing organization which invests money belonging or accruing to commodity or option customers of its clearing members in obligations described in §1.25 shall separately account for such obligations and segregate such obligations as belonging to such commodity or option customers. Such obligations, when deposited with a bank or trust company, shall be deposited under an account name which will clearly show that they belong to commodity or option customers and are segregated as required by the Act and these regulations. Each clearing organization upon opening such an account shall obtain and retain in its files an acknowledgment from such bank or trust company that it was informed that the obligations belong to commodity or option customers of clearing members and are being held in accordance with the provisions of the Act and these regulations. Such acknowledgment shall be retained in accordance with §1.31. Such bank or trust company shall allow inspection of such obligations at any reasonable time by representatives of the Commission.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0024)

[46 FR 54519, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981]

§ 1.27 Record of investments.

(a) Each futures commission merchant which invests customer funds, and each clearing organization which invests customer funds of its clearing members' customers or option customers, shall keep a record showing the following:

- (1) The date on which such investments were made;
- (2) The name of the person through whom such investments were made;
- (3) The amount of money so invested;
- (4) A description of the obligations in which such investments were made, including the CUSIP numbers;
- (5) The identity of the depositories or other places where such obligations are segregated;
- (6) The date on which such investments were liquidated or otherwise dis-

posed of and the amount of money received of such disposition, if any; and

(7) The name of the person to or through whom such investments were disposed of.

(b) Each clearing organization which receives documents from its clearing members representing investment of customer funds shall keep a record showing separately for each clearing member the following:

- (1) The date on which such documents were received from the clearing member;
- (2) A description of such documents, including the CUSIP numbers; and
- (3) The date on which such documents were returned to the clearing member or the details of disposition by other means.

(c) Such records shall be retained in accordance with §1.31. No such investments shall be made except in obligations described in §1.25.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0024)

[46 FR 54520, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 62 FR 42401, Aug. 7, 1997]

§ 1.28 Appraisal of obligations purchased with customer funds.

Futures commission merchants who invest customer funds in obligations described in §1.25 of this part shall include such obligations in segregated account records and reports at values which at no time exceed current market value, determined as of the close of the market on the date for which such computation is made.

[58 FR 10953, Feb. 23, 1993]

§ 1.29 Increment or interest resulting from investment of customer funds.

The investment of customer funds in obligations described in §1.25 shall not prevent the futures commission merchant or clearing organization so investing such funds from receiving and retaining as its own any increment or interest resulting therefrom.

[46 FR 54520, Nov. 3, 1981]