

§ 4.15

under this § 4.14(a)(8) and that it will comply with the criteria of this section.

(C) The notice shall be effective upon filing; *Provided, however,* That an exemption claimed hereunder shall cease to be effective upon any change which would render the representations made pursuant to paragraph (a)(8)(iii)(B) of this section inaccurate or the continuation of such representations false or misleading.

(iv) In the event a person who has filed a notice of exemption under this paragraph (a)(8) subsequently becomes registered as a commodity trading advisory, the person must file a supplemental notice of that fact.

(v) Any notice required to be filed hereunder must be:

(A) In writing;

(B) Signed by a duly authorized representative; and

(C) Filed, along with a copy, with the Commission at the address specified in § 4.2.

(D) A copy also must be filed with the National Futures Association at its headquarters office (ATTN: Director of Compliance, Compliance Department); or

(9) It does not engage in any of the following activities:

(i) Directing client accounts; or

(ii) Providing commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients.

(b) For purposes of this section, "cash market transactions" shall not include transactions involving contracts for the purchase or sale of a commodity for future delivery or transactions subject to Commission regulation under section 4c or 19 of the Act.

(c) If a person exempt from registration under the Act as a commodity trading advisor under paragraph (a) of this section registers as a commodity trading advisor, that person must comply with this part 4 as if such person

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were not exempt from registration as a commodity trading advisor.

(Secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982); 5 U.S.C. 552 and 552b)

[46 FR 26013, May 8, 1981; 46 FR 26761, May 15, 1981; 48 FR 35298, Aug. 3, 1983; 49 FR 5526, Feb. 13, 1984; 52 FR 41985, Nov 2, 1987; 52 FR 43827, Nov 16, 1987; 65 FR 12943, Mar. 10, 2000]

§ 4.15 Continued applicability of anti-fraud section.

The provisions of section 4o of the Act shall apply to any person even though such person is exempt from registration under this part 4, and it shall continue to be unlawful for any such person to violate section 4o of the Act.

[50 FR 15884, Apr. 23, 1985]

§ 4.16 Prohibited representations.

It shall be unlawful for any commodity pool operator, commodity trading advisor, principal thereof or person who solicits therefor to represent or imply in any manner whatsoever that such commodity pool operator or commodity trading advisor has been sponsored, recommended or approved, or that its abilities or qualifications have in any respect been passed upon, by the Commission, the Federal government or any agency thereof.

Subpart B—Commodity Pool Operators

§ 4.20 Prohibited activities.

(a)(1) Except as provided in paragraph (a)(2) of this section, a commodity pool operator must operate its pool as an entity cognizable as a legal entity separate from that of the pool operator.

(2) The Commission may exempt a corporation from the requirements of paragraph (a)(1) of this section if;

(i) The corporation represents in writing to the Commission that each participant in its pool will be issued stock or other evidences of ownership in the corporation for all funds, securities or other property that the participant contributes for the purchase of an ownership interest in the pool;