

§ 1.11

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a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(k) *Filing option available to an introducing broker.* (1) Any introducing broker or applicant for registration as an introducing broker which is not operating or intending to operate pursuant to a guarantee agreement may comply with the requirements of this section by filing (in accordance with paragraphs (a), (b) and (c) of this section) a Form 1-FR-IB in lieu of a Form 1-FR-FCM.

(2) If an introducing broker or applicant therefor avails itself of the filing option available under paragraph (k)(1) of this section, the report required to be filed in accordance with § 1.16(c)(5) of this part must be filed as of the date of the Form 1-FR-IB being filed, and such an introducing broker or applicant therefor must maintain its financial records and make its monthly formal computation of its adjusted net capital, as required by § 1.18 of this part, in a manner consistent with Form 1-FR-IB.

(The information collection requirements contained in § 1.10 were approved by the Office of Management and Budget under control number 3038-0024; in paragraphs (a) and (b) under control number 3038-0023; and in paragraph (f) under control number 3038-0003.)

[43 FR 39967, Sept. 8, 1978, as amended at 45 FR 80491, Dec. 5, 1980; 46 FR 63035, Dec. 30, 1981; 48 FR 35280, Aug. 3, 1983; 49 FR 39524, Oct. 9, 1984; 53 FR 4611, Feb. 17, 1988; 53 FR 7179, Mar. 7, 1988; 57 FR 23143, June 2, 1992; 58 FR 10953, Feb. 23, 1993; 58 FR 12988, Mar. 8, 1993; 58 FR 19589, Apr. 15, 1993; 59 FR 5525, Feb. 7, 1994; 62 FR 4639, Jan. 31, 1997; 62 FR 10444, Mar. 7, 1997; 62 FR 33007, June 18, 1997; 66 FR 53516, Oct. 23, 2001; 69 FR 41425, July 9, 2004; 69 FR 49795, Aug. 12, 2004; 69 FR 55949, Sept. 17, 2004]

§ 1.11 [Reserved]

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

(a) Each person registered as a futures commission merchant or who files an application for registration as a futures commission merchant, and

each person registered as an introducing broker or who files an application for registration as an introducing broker (except for an introducing broker or applicant for registration as an introducing broker operating pursuant to, or who has filed concurrently with its application for registration, a guarantee agreement and who is not also a securities broker or dealer), who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 1.17 or by the capital rule of any self-regulatory organization to which such person is subject, if any, must:

(1) Give telephonic notice, to be confirmed in writing by facsimile notice, as set forth in paragraph (i) of this section that the applicant's or registrant's adjusted net capital is less than required by § 1.17 or by other capital rule, identifying the applicable capital rule. The notice must be given immediately after the applicant or registrant knows or should know that its adjusted net capital is less than required by any of the aforesaid rules to which the applicant or registrant is subject; and

(2) If the person is a futures commission merchant or applicant therefor, within 24 hours after giving such notice file a statement of financial condition, a statement of the computation of the minimum capital requirements pursuant to § 1.17 (computed in accordance with the applicable capital rule), the statements of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter, all as of the date such applicant's or registrant's adjusted net capital is less than the minimum required; or

(3) If the person is an introducing broker or applicant therefor, within 24 hours after giving such notice file a statement of financial condition and a statement of the computation of the minimum capital requirements pursuant to § 1.17 (computed in accordance with the applicable capital rule) all as