

PART 21—SPECIAL CALLS

Sec.

21.00 Preparation and transmission of information upon special call.

21.01 Special calls for information on controlled accounts from futures commission merchants and introducing brokers.

21.02 Special calls for information on open contracts in accounts carried or introduced by futures commission merchants, members of reporting markets, introducing brokers, and foreign brokers.

21.03 Selected special calls—duties of foreign brokers, domestic and foreign traders, futures commission merchants, introducing brokers, and reporting markets.

21.04 Delegation of authority to the Director of the Division of Market Oversight.

AUTHORITY: 7 U.S.C. 1a, 2, 2a, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 12a, 19 and 21; 5 U.S.C. 552 and 552(b), unless otherwise noted.

SOURCE: 41 FR 3210, Jan. 21, 1976, unless otherwise noted.

§ 21.00 Preparation and transmission of information upon special call.

All information required upon special call shall be prepared in such form and manner and in accordance with such instructions, and shall be transmitted at such time and to such office of the Commission, as may be specified in the call.

§ 21.01 Special calls for information on controlled accounts from futures commission merchants and introducing brokers.

Upon call by the Commission, each futures commission merchant and introducing broker shall file with the Commission the names and addresses of all persons who, by power of attorney or otherwise, exercise trading control over any customer's account in commodity futures or commodity options on any reporting market.

(Approved by the Office of Management and Budget under control number 3038-0009)

[71 FR 37821, July 3, 2006]

§ 21.02 Special calls for information on open contracts in accounts carried or introduced by futures commission merchants, members of reporting markets, introducing brokers, and foreign brokers.

Upon special call by the Commission for information relating to futures or

option positions held or introduced on the dates specified in the call, each futures commission merchant, member of a reporting market, introducing broker, or foreign broker, and, in addition, for option information, each reporting market, shall furnish to the Commission the following information concerning accounts of traders owning or controlling such futures or option positions, except for accounts carried on a fully disclosed basis by another futures commission merchant, as may be specified in the call:

(a) The name, address, and telephone number of the person for whom each account is carried;

(b) The principal business or occupation of the person for whom each account is introduced or carried, as specified in the call;

(c) The type of each such account;

(d) The name, address and principal business or occupation of any person who controls the trading of each account;

(e) The name and address of any person having a financial interest of ten percent or more in each account;

(f) The number of open futures and/or option positions introduced or carried in each account, as specified in the call;

(g) The total number of futures contracts exchanged for commodities or for derivatives positions;

(h) The total number of futures contracts against which delivery notices have been issued or received; and

(i) As applicable, the following identifying information:

(1) Whether a trader who holds commodity options is classified as a commercial or as a noncommercial for each commodity option;

(2) Whether the open commodity futures contracts are classified as speculative, spreading (straddling), or hedging; and

(3) Whether any of the accounts in question are omnibus accounts and, if

so, whether the originator of the omnibus account is another futures commission merchant or foreign broker.

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[46 FR 63036, Dec. 30, 1981, and 47 FR 57016, Dec. 22, 1982, as amended at 48 FR 35301, Aug. 3, 1983; 49 FR 1339, Jan. 11, 1984; 51 FR 4720, Feb. 7, 1986; 71 FR 37821, July 3, 2006; 72 FR 50211, Aug. 31, 2007]

§21.03 Selected special calls—duties of foreign brokers, domestic and foreign traders, futures commission merchants, introducing brokers, and reporting markets.

(a) For purposes of this section, the term “accounts of a futures commission merchant or foreign broker” means all open contracts and transactions in futures and options on the records of the futures commission merchant or foreign broker; the term “beneficial interest” means having or sharing in any rights, obligations or financial interest in any futures or options account; the term “customer” means any futures commission merchant, introducing broker, foreign broker, or trader for whom a futures commission merchant makes or causes to be made a futures or options contract. Paragraphs (e), (g) and (h) of this section shall not apply to any futures commission merchant or customer whose books and records are open at all times to inspection in the United States by any representative of the Commission.

(b) It shall be unlawful for a futures commission merchant to open a futures or options account or to effect transactions in futures or options contracts for an existing account, or for an introducing broker to introduce such an account, for any customer for whom the futures commission merchant or introducing broker is required to provide the explanation provided for in §15.05(c) of this chapter until the futures commission merchant or introducing broker has explained fully to the customer, in any manner the futures commission merchant or introducing broker deems appropriate, the provisions of this section.

(c) Upon a determination by the Commission that information concerning accounts may be relevant in-

formation in enabling the Commission to determine whether the threat of a market manipulation, corner, squeeze, or other market disorder exists on any reporting market, the Commission may issue a call for information from a futures commission merchant or customer pursuant to the provisions of this section.

(d) In the event the call is issued to a foreign broker or foreign trader, its agent, designated pursuant to §15.05 of this chapter, shall, if directed, promptly transmit calls made by the Commission pursuant to this section by electronic mail or a similarly expeditious means of communication.

(e) The futures commission merchant, introducing broker, or customer to whom the special call is issued must provide to the Commission the information specified below for the commodity, reporting market and delivery months or option expiration dates named in the call. Such information shall be filed at the place and within the time specified by the Commission.

(1) For each account of a futures commission merchant, introducing broker, or foreign broker, including those accounts in the name of the futures commission merchant or foreign broker, on the dates specified in the call issued pursuant to this section, a futures commission merchant, introducing broker, or foreign broker shall provide the Commission with the following information:

(i) The name and address of the person in whose name the account is carried or introduced and, if the person is not an individual, the name of the individual to contact regarding the account;

(ii) The total open futures and options contracts in the account;

(iii) The number of futures contracts against which delivery notices have been issued or received and the number against which exchanges of futures for cash have been transacted during the period of time specified in the call;

(iv) Whether the account is carried for and in the name of another futures commission merchant or foreign broker; and

(v) For the accounts which are not carried for and in the name of another

§ 21.03

17 CFR Ch. I (4-1-08 Edition)

futures commission merchant, introducing broker, or foreign broker, the name and address of any other person who controls the trading of the account, and the name and address of any person who has a ten percent or more beneficial interest in the account.

(2) Each trader shall provide the Commission with the following information:

(i) The total open futures and options contracts owned or controlled on the dates specified in the call;

(ii) The name and address of any person having a ten percent or more beneficial interest in the open futures or options contracts reported pursuant to this paragraph;

(iii) The name and address of any other person who controls the trading of the open futures or options contracts reported pursuant to this paragraph; and

(iv) The cash commodity transaction and position information required to be maintained pursuant to § 18.05 of this chapter as specified in the call which relates to futures or options positions of the trader in the United States.

(f) If the Commission has reason to believe that a futures commission merchant or customer has not responded as required to a call made pursuant to this section, the Commission in writing may inform the reporting market specified in the call and that reporting market shall prohibit the execution of, and no futures commission merchant, introducing broker, or foreign broker shall accept an order for, trades on the reporting market and in the months or expiration dates specified in the call for or on behalf of the futures commission merchant or customer named in the call, unless such trades offset existing open contracts of such futures commission merchant or customer.

(g) Any futures commission merchant or customer named in a special call that believes he or she is or may be adversely affected or aggrieved by action taken by the Commission under paragraph (f) shall have the opportunity for a prompt hearing after the Commission acts. That person may immediately present in writing to the Commission for its consideration any comments or arguments concerning the Commission's action and may

present for Commission consideration any documentary or other evidence that person deems appropriate. Upon request, the Commission may, in its discretion, determine that an oral hearing be conducted to permit the further presentation of information and views concerning any matters by any or all such persons. The oral hearing may be held before the Commission or any person designated by the Commission, which person shall cause all evidence to be reduced to writing and forthwith transmit the same and a recommended decision to the Commission. The Commission's directive under paragraph (f) of this section shall remain in effect unless and until modified or withdrawn by the Commission.

(h) If, during the course of or after the Commission acts pursuant to paragraph (f), the Commission determines that it is appropriate to undertake a proceeding pursuant to section 6(c) of the Commodity Exchange Act, 7 U.S.C. 9 and 15, the Commission shall issue a complaint in accordance with the requirements of section 6(c), and, upon further determination by the Commission that the conditions described in § 21.03(c) still exist, a hearing pursuant to section 6(c) of the Act shall commence no later than five business days after service of the complaint. In the event the futures commission merchant or customer served with the complaint under section 6(c) has, prior to the commencement of the section 6(c) hearing, sought a hearing pursuant to paragraph (g) above and the Commission has determined to accord him such a hearing, the two hearings shall be conducted simultaneously. Nothing in this section shall preclude the Commission from taking other appropriate action under the Commodity Exchange Act or the Commission's Rules, including action under section 6(c) of the Act, regardless of whether the conditions described in § 21.03(c) still exist, and no ruling issued in the course of a hearing pursuant to paragraph (g) or this paragraph shall constitute an estoppel

Commodity Futures Trading Commission

§ 30.1

against the Commission in any other action.

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[46 FR 63036, Dec. 30, 1981, and 47 FR 45001, Oct. 13, 1982, as amended at 48 FR 35301, Aug. 3, 1983; 59 FR 5702, Feb. 8, 1994; 71 FR 37821, July 3, 2006]

§ 21.04 Delegation of authority to the Director of the Division of Market Oversight.

The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Market Oversight, or to the Director's delegates, the authority set forth in section 21.01 of this Part to make special calls for information on controlled accounts from futures commission merchants and from introducing brokers and the authority set forth in section 21.02 of this Part to make special calls for information on open contracts in accounts carried or introduced by futures commission merchants, members of contract markets, introducing brokers, and foreign brokers. The Director may submit to the Commission for its consideration any matter that has been delegated pursuant to this section. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section to the Director.

[72 FR 50211, Aug. 31, 2007]

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

Sec.

- 30.1 Definitions.
- 30.2 Applicability of the Act and rules.
- 30.3 Prohibited transactions.
- 30.4 Registration required.
- 30.5 Alternative procedures for non-domestic persons.
- 30.6 Disclosure.
- 30.7 Treatment of foreign futures or foreign options secured amount.
- 30.8 Quarterly reporting requirements.
- 30.9 Fraudulent transactions prohibited.
- 30.10 Petitions for exemption.
- 30.11 Applicability of state law.
- 30.12 Direct foreign order transmittal.

APPENDIX A TO PART 30—INTERPRETATIVE STATEMENT WITH RESPECT TO THE COMMISSION'S EXEMPTIVE AUTHORITY UNDER § 30.10 OF ITS RULES

APPENDIX B TO PART 30—INTERPRETATIVE STATEMENT WITH RESPECT TO THE SECURED AMOUNT REQUIREMENT SET FORTH IN § 30.7

APPENDIX C TO PART 30—FOREIGN PETITIONERS GRANTED RELIEF FROM THE APPLICATION OF CERTAIN OF THE PART 30 RULES PURSUANT TO § 30.10

APPENDIX D TO PART 30—INFORMATION THAT A FOREIGN BOARD OF TRADE SHOULD SUBMIT WHEN SEEKING NO-ACTION RELIEF TO OFFER AND SELL, TO PERSONS LOCATED IN THE UNITED STATES, A FUTURES CONTRACT ON A FOREIGN NON-NARROW-BASED SECURITY INDEX TRADED ON THAT FOREIGN BOARD OF TRADE

AUTHORITY: 7 U.S.C. 1a, 2, 6, 6c, and 12a, unless otherwise noted.

SOURCE: 52 FR 28998, Aug. 5, 1987, unless otherwise noted.

§ 30.1 Definitions.

For the purposes of this part:

(a) *Foreign futures* means any contract for the purchase or sale of any commodity for future delivery made, or to be made, on or subject to the rules of any foreign board of trade.

(b) *Foreign option* means any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty" or "decline guaranty", made or to be made on or subject to the rules of any foreign board of trade.

(c) *Foreign futures or foreign options customer* means any person located in the United States, its territories or possessions who trades in foreign futures or foreign options: *Provided*, That an owner or holder of a proprietary account as defined in paragraph (y) of § 1.3 of this chapter shall not be deemed to be a foreign futures or foreign options customer within the meaning of §§ 30.6 and 30.7 of this part.

(d) *Foreign futures and options customer omnibus account* is defined as an account in which the transactions of one or more foreign futures and foreign options customers are combined and carried in the name of the originating futures commission merchant rather than in the name of each individual foreign futures or foreign options customer.

(e) *Foreign futures and options broker* (FFOB) is defined as a non-U.S. person that is a member of a foreign board of