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monthly statement and confirmation required by this section.

(f) *Introduced accounts.* Each statement provided pursuant to the provisions of this section must, if applicable, show that the account for which the futures commission merchant is providing the statement was introduced by an introducing broker and the names of the futures commission merchant and introducing broker.

(g) *Electronic transmission of statements.* (1) The statements required by this section, and by § 1.46, may be furnished to any customer by means of electronic media if the customer so consents, *Provided, however*, that a futures commission merchant must, prior to the transmission of any statement by means of electronic media, disclose the electronic medium or source through which statements will be delivered, the duration, whether indefinite or not, of the period during which consent will be effective, any charges for such service, the information that will be delivered by such means, and that consent to electronic delivery may be revoked at any time.

(2) In the case of a customer who does not qualify as an “institutional customer” as defined in § 1.3(g), a futures commission merchant must obtain the customer’s signed consent acknowledging disclosure of the information set forth in paragraph (g)(1) of this section prior to the transmission of any statement by means of electronic media.

(3) Any statement required to be furnished to a person other than a customer in accordance with paragraph (d) of this section may be furnished by electronic media.

(4) A futures commission merchant who furnishes statements to any customer by means of electronic media must retain a daily confirmation statement for such customer as of the end of the trading session, reflecting all transactions made during that session

for the customer, in accordance with § 1.31.

(Approved by the Office of Management and Budget under control numbers 3038–0007 and 3038–0024; the information collection requirements in paragraph (c) were approved under control number 3038–0005)

[46 FR 54520, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 47 FR 57008, Dec. 22, 1982; 48 FR 1185, Jan. 11, 1983; 48 FR 35289, Aug. 3, 1983; 52 FR 28997, Aug. 5, 1987; 66 FR 53517, Oct. 23, 2001]

§ 1.34 Monthly record, “point balance”.

(a) Each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a statement commonly known as a “point balance,” which accrues or brings to the official closing price, or settlement price fixed by the clearing organization, all open contracts of customers as of the last business day of each month or of any regular monthly date selected: *Provided, however*, That a futures commission merchant who carries part or all of customers’ open contracts with other futures commission merchants on an “instruct basis” will be deemed to have met the requirements of this section as to open contracts so carried if a monthly statement is prepared which shows that the prices and amounts of such contracts long and short in the customers’ accounts are in balance with those in the carrying futures commission merchants’ accounts, and such statements are retained in accordance with the requirements of § 1.31.

(b) Each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a listing in which all open commodity option positions carried for option customers are marked to the market. Such listing shall be prepared as of the last business day of each month, or as of any regular monthly date selected, and shall be by put or by call, by underlying contract for future delivery (by delivery month) or underlying

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physical (by option expiration date), and by strike price.

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§ 1.35 Records of cash commodity, futures, and option transactions.

(a) *Futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of contract markets.* Each futures commission merchant, retail foreign exchange dealer, introducing broker, and member of a contract market shall keep full, complete, and systematic records, together with all pertinent data and memoranda, of all transactions relating to its business of dealing in commodity futures, retail forex transactions, commodity options, and cash commodities (including currencies). Each futures commission merchant, retail foreign exchange dealer, introducing broker, and member of a contract market shall retain the required records, data, and memoranda in accordance with the requirements of § 1.31, and produce them for inspection and furnish true and correct information and reports as to the contents or the meaning thereof, when and as requested by an authorized representative of the Commission or the United States Department of Justice. Included among such records shall be all orders (filled, unfilled, or canceled), trading cards, signature cards, street books, journals, ledgers, canceled checks, copies of confirmations, copies of statements of purchase and sale, and all other records, data and memoranda, which have been prepared in the course of its business of dealing in commodity futures, retail forex transactions, commodity options, and cash commodities. Among such records each member of a contract market must retain and produce for inspection are all documents on which trade information is originally recorded, whether or not such documents must be prepared pursuant to the rules or regulations of either the Commission or the contract market. For purposes of this section, such documents are referred to as "original source documents."

(a-1) *Futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of contract markets: Recording of customers' and option customers' orders.* (1) Each futures commission merchant, each retail foreign exchange dealer and each introducing broker receiving a customer's, retail forex customer's or option customer's order, as applicable, shall immediately upon receipt thereof prepare a written record of the order including the account identification, except as provided in paragraph (a-1)(5) of this section, and order number, and shall record thereon, by timestamp or other timing device, the date and time, to the nearest minute, the order is received, and in addition, for option customers' orders, the time, to the nearest minute, the order is transmitted for execution.

(2)(i) Each member of a contract market who on the floor of such contract market receives a customer's or option customer's order which is not in the form of a written record including the account identification, order number, and the date and time, to the nearest minute, the order was transmitted or received on the floor of such contract market, shall immediately upon receipt thereof prepare a written record of the order in nonerasable ink, including the account identification, except as provided in paragraph (a-1)(5) of this section or appendix C to this part, and order number and shall record thereon, by timestamp or other timing device, the date and time, to the nearest minute, the order is received.

(ii) Except as provided in paragraph (a-1)(3) of this section:

(A) Each contract market member who on the floor of such contract market receives an order from another member present on the floor which is not in the form of a written record shall, immediately upon receipt of such order, prepare a written record of the order or obtain from the member who placed the order a written record of the order, in non-erasable ink including the account identification and order number and shall record thereon, by time-stamp or other timing device, the date and time, to the nearest minute, the order is received; or