

§ 1.18

the conduct and management of a commercial enterprise.

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[43 FR 39972, Sept. 8, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.17, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.

(a) No person shall be registered as a futures commission merchant or as an introducing broker under the Act unless, commencing on the date his application for such registration is filed, he prepares and keeps current ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 1-FR-FCM or Form 1-FR-IB, respectively, or, if such person is registered with the Securities and Exchange Commission as a securities broker or dealer and he files (in accordance with § 1.10(h)) a copy of his Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE (FOCUS report) in lieu of Form 1-FR-FCM or Form 1-FR-IB, the account classification subdivisions specified on such FOCUS report, or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(b)(1) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. Such computations must be completed and made available for inspection by any

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representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 17 business days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

(2) An applicant or registrant that has filed a monthly Form 1-FR or Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE (FOCUS report) in accordance with the requirements of § 1.10(b) will be deemed to have satisfied the requirements of paragraph (b)(1) of this section for such month.

(c) The provisions of this section do not apply to an introducing broker which is operating pursuant to a guarantee agreement, nor do such provisions apply to an applicant for registration as an introducing broker who files concurrently with such application a guarantee agreement, provided such introducing broker or applicant therefor is not also a securities broker or dealer.

[48 FR 35288, Aug. 3, 1983, as amended at 49 FR 39530, Oct. 9, 1984; 62 FR 4641, Jan. 31, 1997; 69 FR 49800, Aug. 12, 2004; 71 FR 5594, Feb. 2, 2006]

PROHIBITED TRADING IN COMMODITY OPTIONS

§ 1.19 Prohibited trading in certain “puts” and “calls”.

No futures commission merchant or introducing broker may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except:

(a) Commodity options traded on or subject to the rules of a contract market in accordance with the requirements of part 33 of this chapter;

(b) Commodity options traded on or subject to the rules of a foreign board of trade in accordance with the requirements of part 30 of this chapter; or

(c) For futures commission merchants, any option permitted under § 32.4 of this chapter, *provided however,*

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that a capital treatment for such options is referenced in §1.17(c)(5)(vi).

[52 FR 28997, Aug. 5, 1987, as amended at 58 FR 68520, Dec. 28, 1993]

CUSTOMERS' MONEY, SECURITIES, AND PROPERTY

§ 1.20 Futures customer funds to be segregated and separately accounted for.

(a) All futures customer funds shall be separately accounted for and segregated as belonging to futures customers. Such futures customer funds when deposited with any bank, trust company, derivatives clearing organization or another futures commission merchant shall be deposited under an account name which clearly identifies them as such and shows that they are segregated as required by sections 4d(a) and 4d(b) of the Act and this part. Each registrant shall obtain and retain in its files for the period provided in §1.31 a written acknowledgment from such bank, trust company, derivatives clearing organization, or futures commission merchant, that it was informed that the futures customer funds deposited therein are those of futures customers and are being held in accordance with the provisions of the Act and this part: *Provided, however*, that an acknowledgment need not be obtained from a derivatives clearing organization that has adopted and submitted to the Commission rules that provide for the segregation as futures customer funds, in accordance with all relevant provisions of the Act and the rules and orders promulgated thereunder, of all funds held on behalf of futures customers. Under no circumstances shall any portion of futures customer funds be obligated to a derivatives clearing organization, any member of a contract market, a futures commission merchant, or any depository except to purchase, margin, guarantee, secure, transfer, adjust or settle trades, contracts or commodity option transactions of futures customers. No person, including any derivatives clearing organization or any depository, that has received futures customer funds for deposit in a segregated account, as provided in this section, may hold, dispose of, or use any such funds as belonging

to any person other than the futures customers of the futures commission merchant which deposited such funds.

(b) All futures customer funds received by a derivatives clearing organization from a member of the derivatives clearing organization to purchase, margin, guarantee, secure or settle the trades, contracts or commodity options of the clearing member's futures customers and all money accruing to such futures customers as the result of trades, contracts or commodity options so carried shall be separately accounted for and segregated as belonging to such futures customers, and a derivatives clearing organization shall not hold, use or dispose of such futures customer funds except as belonging to such futures customers. Such futures customer funds when deposited in a bank or trust company shall be deposited under an account name which clearly shows that they are the futures customer funds of the futures customers of clearing members, segregated as required by sections 4d(a) and 4d(b) of the Act and these regulations. The derivatives clearing organization shall obtain and retain in its files for the period provided by §1.31 an acknowledgment from such bank or trust company that it was informed that the futures customer funds deposited therein are those of futures customers of its clearing members and are being held in accordance with the provisions of the Act and these regulations.

(c) Each futures commission merchant shall treat and deal with the futures customer funds of a futures customer as belonging to such futures customer. All futures customer funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a futures commission merchant or of any other person, or be used to secure or guarantee the trades, contracts or commodity options, or to secure or extend the credit, of any person other than the one for whom the same are held: *Provided, however*, That futures customer funds treated as belonging to the futures customers of a futures commission merchant may for convenience be commingled and deposited in the same account or accounts with any bank or trust