

§ 22.4

§ 22.4 Futures Commission Merchants and derivatives clearing organizations: Permitted Depositories.

In order for a depository to be a Permitted Depository:

(a) The depository must (subject to § 22.9) be one of the following types of entities:

(1) A bank located in the United States;

(2) A trust company located in the United States;

(3) A Collecting Futures Commission Merchant registered with the Commission (but only with respect to a Depositing Futures Commission Merchant providing Cleared Swaps Customer Collateral); or

(4) A derivatives clearing organization registered with the Commission; and

(b) The futures commission merchant or the derivatives clearing organization must hold a written acknowledgment letter from the depository as required by § 22.5 of this part.

§ 22.5 Futures commission merchants and derivatives clearing organizations: Written acknowledgement.

(a) Before depositing Cleared Swaps Customer Collateral, the futures commission merchant or derivatives clearing organization shall obtain and retain in its files a separate written acknowledgement letter from each depository in accordance with §§ 1.20 and 1.26 of this chapter, with all references to “Futures Customer Funds” modified to apply to Cleared Swaps Customer Collateral, and with all references to section 4d(a) or 4d(b) of the Act and the regulations thereunder modified to apply to section 4d(f) of the Act and the regulations thereunder.

(b) The futures commission merchant or derivatives clearing organization shall adhere to all requirements specified in §§ 1.20 and 1.26 of this chapter regarding retaining, permitting access to, filing, or amending the written acknowledgement letter, in all cases as if the Cleared Swaps Customer Collateral comprised Futures Customer Funds subject to segregation pursuant to section 4d(a) or 4d(b) of the Act and the regulations thereunder.

(c) Notwithstanding paragraph (a) of this section, an acknowledgement let-

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ter need not be obtained from a derivatives clearing organization that has made effective, pursuant to section 5c(c) of the Act and the regulations thereunder, rules that provide for the segregation of Cleared Swaps Customer Collateral, in accordance with all relevant provisions of the Act and the regulations thereunder.

[77 FR 6371, Feb. 7, 2012, as amended at 77 FR 66334, Nov. 2, 2012]

§ 22.6 Futures commission merchants and derivatives clearing organizations: Naming of Cleared Swaps Customer Accounts.

The name of each Cleared Swaps Customer Account that a futures commission merchant or a derivatives clearing organization maintains with a Permitted Depository shall:

(a) Clearly identify the account as a “Cleared Swaps Customer Account” and

(b) Clearly indicate that the collateral therein is “Cleared Swaps Customer Collateral” subject to segregation in accordance with the Act and this part.

§ 22.7 Permitted depositories: Treatment of Cleared Swaps Customer Collateral.

A Permitted Depository shall treat all funds in a Cleared Swaps Customer Account as Cleared Swaps Customer Collateral. A Permitted Depository shall not hold, dispose of, or use any such Cleared Swaps Customer Collateral as belonging to any person other than:

(a) The Cleared Swaps Customers of the futures commission merchant maintaining such Cleared Swaps Customer Account or;

(b) The Cleared Swaps Customers of the futures commission merchants for which the derivatives clearing organization maintains such Cleared Swaps Customer Account.

§ 22.8 Situs of Cleared Swaps Customer Accounts.

The situs of each of the following shall be located in the United States:

(a) Each FCM Physical Location or DCO Physical Location;