

Commodity Futures Trading Commission

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AUTHORITY: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 6a, 6b, 6b-1, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 6s, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

SOURCE: 45 FR 80491, Dec. 5, 1980, unless otherwise noted.

Subpart A—Registration

§ 3.1 Definitions.

(a) *Principal*. Principal means, with respect to an entity that is an applicant for registration, a registrant or a person required to be registered under the Act or the regulations in this part:

(1) If the entity is organized as a sole proprietorship, the proprietor and chief compliance officer; if a partnership, any general partner and chief compliance officer; if a corporation, any director, the president, chief executive officer, chief operating officer, chief financial officer, chief compliance officer, and any person in charge of a principal business unit, division or function subject to regulation by the Commission; if a limited liability company or limited liability partnership, any director, the president, chief executive officer, chief operating officer, chief financial officer, chief compliance officer, the manager, managing member or those members vested with the management authority for the entity, and any person in charge of a principal business unit, division or function subject to regulation by the Commission; and, in addition, any person occupying

a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the entity's activities that are subject to regulation by the Commission;

(2)(i) Any individual who directly or indirectly, through agreement, holding company, nominee, trust or otherwise, is either the owner of ten percent or more of the outstanding shares of any class of equity securities, other than non-voting securities, is entitled to vote or has the power to sell or direct the sale of ten percent or more of the outstanding shares of any class of equity securities, other than non-voting securities, is entitled to receive ten percent or more of the profits of the entity, or has the power to exercise a controlling influence over the entity's activities that are subject to regulation by the Commission; or

(ii) Any person other than an individual that is the direct owner of ten percent or more of the outstanding shares of any class of equity securities, other than non-voting securities; or

(3) Any person that has contributed ten percent or more of the capital of the entity, provided, however, that if such capital contribution consists of subordinated debt contributed by either:

(i) An unaffiliated bank insured by the Federal Deposit Insurance Corporation,

(ii) An unaffiliated "foreign bank," as defined in 12 CFR 211.21(n) that currently operates an "office of a foreign bank," as defined in 12 CFR 211.21(t), which is licensed under 12 CFR 211.24(a),

(iii) Such unaffiliated office of a foreign bank that is licensed, or

(iv) An insurance company subject to regulation by any State, such bank, foreign bank, office of a foreign bank, or insurance company will not be deemed to be a principal for purposes of this section, provided such debt is not guaranteed by another party not listed as a principal.

(4) Any individual who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose

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or effect of divesting such person of direct or indirect ownership of an equity security of the entity, other than a non-voting security, or preventing the vesting of such ownership, or of avoiding making a contribution of ten percent or more of the capital of the entity, as part of a plan or scheme to evade being deemed a principal of the entity, shall be deemed to be a principal of the entity.

(b) *Current.* As used in this subpart, a Form 8-R is current if, subsequent to the filing of that form and continuously thereafter, the registrant or principal has been either registered or affiliated with a registrant as a principal.

(c) *Sponsor.* Sponsor means the futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant which makes the certification required by §3.12 of this part for the registration of an associated person of such sponsor.

(d)–(e) [Reserved]

(f) *Section 4s Implementing Regulation.* Section 4s Implementing Regulation means a regulation the Commission issues pursuant to section 4s(e), 4s(f), 4s(g), 4s(h), 4s(i), 4s(j), 4s(k) or 4s(l) of the Act.

(g) *Swap Definitional Regulation.* Swap Definitional Regulation means a regulation the Commission issues to further define the term “swap dealer,” “major swap participant” or “swap” in section 1a(49), 1a(33) or 1a(47) of the Act, respectively, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(h) *Swaps activities.* Swaps activities means, with respect to a registrant, such registrant’s activities related to swaps and any product used to hedge such swaps, including, but not limited to, futures, options, other swaps or security-based swaps, debt or equity securities, foreign currency, physical commodities, and other derivatives.

(i) *Board of directors.* Board of directors means the board of directors,

board of governors, or equivalent governing body of a registrant.

[49 FR 5521, Feb. 13, 1984, and 49 FR 8217, Mar. 5, 1984, as amended at 49 FR 39530, Oct. 9, 1984; 57 FR 23144, June 2, 1992; 66 FR 53518, Oct. 23, 2001; 72 FR 63979, Nov. 14, 2007; 75 FR 55424, Sept. 10, 2010; 77 FR 2626, Jan. 19, 2012; 77 FR 3590, Jan. 25, 2012; 77 FR 20200, Apr. 3, 2012; 77 FR 51903, Aug. 28, 2012]

§3.2 Registration processing by the National Futures Association; notification and duration of registration.

(a) Except as otherwise provided in any rule, regulation or order of the Commission, the registration functions of the Commission set forth in subpart A, subpart B and subpart C of this part shall be performed by the National Futures Association, in accordance with such rules, consistent with the provisions of the Act and this part, applicable to registrations granted under the Act that the National Futures Association may adopt and are approved by the Commission pursuant to section 17(j) of the Act.

(b) Notwithstanding any other provision of this part, the original of any registration form, any schedule or supplement thereto, any fingerprint card or other document required by this part to be filed with both the Commission and the National Futures Association, may be filed with either the Commission or the National Futures Association if:

(1) A legible, accurate, and complete photocopy of that form, schedule, supplement, fingerprint card, or other document is filed simultaneously with the National Futures Association or the Commission, respectively, and

(2) Such photocopy contains an original signature and date in each place where such signature and date is required on the original form, schedule, supplement, fingerprint card, or other document.

(c) The National Futures Association shall notify the registrant, or the sponsor in the case of an applicant for registration as an associated person, and each designated contract market and swap execution facility that has granted the applicant trading privileges in the case of an applicant for registration as a floor broker or floor trader, if