

§ 20.6

17 CFR Ch. I (4–1–14 Edition)

dealer may stop providing refresh updates for a Form 102 that it has submitted to the Commission for any consolidated account upon notifying the Commission or its designee that the account in question is no longer reportable as a consolidated account and has not been reportable as a consolidated account for the past six months.

(b) *40S filing.* Every person subject to books or records under § 20.6 shall after a special call upon such person by the Commission file with the Commission a 40S filing at such time and place as directed in the call. A 40S filing shall consist of the submission of a Form 40, which shall be completed by such person as if any references to futures or option contracts were references to paired swaps or swaptions as defined in § 20.1.

[76 FR 43862, July 22, 2011, as amended at 78 FR 69265, Nov. 18, 2013]

§ 20.6 Maintenance of books and records.

(a) Every clearing organization shall keep all records of transactions in paired swaps or swaptions, and methods used to convert paired swaps or swaptions into futures equivalents, in accordance with the requirements of § 1.31 of this chapter.

(b) Every reporting entity shall keep all records of transactions in paired swaps or swaptions, and methods used to convert paired swaps or swaptions into futures equivalents, in accordance with the requirements of § 1.31 of this chapter.

(c) Every person with equal to or greater than 50 gross all-months-combined futures equivalent positions in paired swaps or swaptions on the same commodity shall:

(1) Keep books and records showing all records for transactions resulting in such positions, which may be kept and reproduced for Commission inspection in the record retention format that such person has developed in the normal course of its business operations; and

(2) Keep books and records showing transactions in the cash commodity underlying such positions or its products and byproducts, and all commercial activities that are hedged or which have risks that are mitigated by such

positions, which may be kept in accordance with the recordkeeping schedule and reproduced for Commission inspection in the record retention format that such person has developed in the normal course of its business operations.

(d) All books and records required to be kept by paragraphs (a) through (c) of this section shall be furnished upon request to the Commission along with any pertinent information concerning such positions, transactions, or activities.

§ 20.7 Form and manner of reporting and submitting information or filings.

Unless otherwise instructed by the Commission, a clearing organization or reporting entity shall submit data records and any other information required under this part to the Commission as follows:

(a) Using the format, coding structure, and electronic data transmission procedures approved in writing by the Commission;

(b) For clearing organizations, not later than 9:00 a.m. eastern time on the next business day following the reporting day or at such other time as instructed by the Commission; and

(c) For clearing members and swap dealers, not later than 12:00 p.m. eastern time on the second (T+2) business day following the reporting day or at such other time as instructed by the Commission.

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

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority:

(1) In § 20.5(a)(3) for issuing a special call for a 102S filing;

(2) In § 20.5(b) for issuing a special call for a 40S filing;

(3) In § 20.6(d) for issuing a special call;

(4) In § 20.7 for providing instructions or determining the format, coding

structure, and electronic data transmission procedures for submitting data records and any other information required under this part; and

(5) In §20.10 for determining the described compliance schedules.

(b) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this section.

(c) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

§20.9 Sunset provision.

(a) Except as otherwise provided in paragraph (b) of this section, the sections of this part shall become ineffective and unenforceable upon a Commission finding that, through the issuance of an order, operating swap data repositories are processing positional data and that such processing will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.

(b) The Commission may determine, in its discretion, to maintain the effectiveness and enforceability of any section of this part, or any requirement therein, in an order issued under paragraph (a) of this section, upon finding that such sections, or requirements therein, provide the Commission with positional data or data elements that materially improves the accuracy and surveillance utility of the positional data processed by swap data repositories.

§20.10 Compliance schedule.

(a) Clearinghouses, clearing members and persons with books and records obligations shall comply with the requirements of this part upon the effective date of this part.

(b) Swap dealers that are not clearing members shall comply with the requirements of this part upon the effective date of final regulations further defining the term swap dealer.

(c) The Commission may permit, for a period not to exceed six calendar months following the effective date specified in paragraph (a) of this section, the submission of reports pursuant to §§20.3 and 20.4 that differ in con-

tent, or are submitted in a form and manner which is other than prescribed by the provisions of this part, provided that the submitter is making a good faith attempt to comply with all of the provisions of this part.

(d) Unless determined otherwise by the Commission, paired swap and swaption position and market reports submitted under parts 15 through 19, or 21 of this chapter, or any order of the Commission, shall continue to be submitted under those parts or orders until swap dealers are required to comply with §20.4.

(e) The Commission may extend the compliance date established in paragraph (b) of this section by an additional six calendar months based on resource limitations or lack of experience in reporting transactions to the Commission for a swap dealer that is not an affiliate of a bank holding company and:

(1) Is not registered with the Commission as a futures commission merchant and is not an affiliate of a futures commission merchant;

(2) Is not registered with the Securities and Exchange Commission as a broker or dealer and is not an affiliate of a broker or dealer; and

(3) Is not supervised by any Federal prudential regulator.

§20.11 Diversified commodity indices.

For the purpose of reporting in futures equivalents, paired swaps and swaptions using commodity reference prices that are commonly known diversified indices with publicly available weightings may be reported as if such indices underlie a single futures contract with monthly expirations for each calendar month and year.

APPENDIX A TO PART 20—GUIDELINES ON FUTURES EQUIVALENCY

The following examples illustrate how swaps should be converted into futures equivalents. In general the total notional quantity for each swap should be apportioned to referent futures months based on the fraction of days remaining in the life of the swap during each referent futures month to the total duration of the swap, measured in days. The terms used in the examples are to be understood in a manner that is consistent with industry practice.