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broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer types. The customer type indicator shall show, with respect to each person executing the trade, whether such person:

- (i) Was trading for his or her own account, or an account for which he or she has discretion;
- (ii) Was trading for his or her clearing member's house account;
- (iii) Was trading for another member present on the exchange floor, or an account controlled by such other member; or
- (iv) Was trading for any other type of customer.

(2) The record required by this paragraph (g) shall also show, by appropriate and uniform symbols, any transaction which is made non-competitively in accordance with the provisions of subpart J of part 38 of this chapter, and trades cleared on dates other than the date of execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (g) shall be maintained in a format and coding structure approved by the Commission—

- (i) In hard copy or on microfilm as specified in § 1.31, and
- (ii) For 60 days in computer-readable form on compatible magnetic tapes or discs.

[77 FR 66324, Nov. 2, 2012, as amended at 77 FR 75541, Dec. 21, 2012]

§ 1.36 Record of securities and property received from customers.

(a) Each futures commission merchant and each retail foreign exchange dealer shall maintain, as provided in § 1.31, a record of all securities and property received from customers or retail forex customers in lieu of money to margin, purchase, guarantee, or secure the commodity interests of such customers or retail forex customers. Such record shall show separately for each customer or retail forex customer: A description of the securities or property received; the name and address of such customer or retail forex customer; the dates when the securities or property were received; the identity of the

depositories or other places where such securities or property are segregated or held; the dates of deposits and withdrawals from such depositories; and the dates of return of such securities or property to such customer or retail forex customer, or other disposition thereof, together with the facts and circumstances of such other disposition. In the event any futures commission merchant deposits with a derivatives clearing organization, directly or with a bank or trust company acting as custodian for such derivatives clearing organization, securities and/or property which belong to a particular customer, such futures commission merchant shall obtain written acknowledgment from such derivatives clearing organization that it was informed that such securities or property belong to customers of the futures commission merchant making the deposit. Such acknowledgment shall be retained as provided in § 1.31.

(b) Each derivatives clearing organization which receives from members securities or property belonging to particular customers of such members in lieu of money to margin, purchase, guarantee, or secure the commodity interests of such customers, or receives notice that any such securities or property have been received by a bank or trust company acting as custodian for such derivatives clearing organization, shall maintain, as provided in § 1.31, a record which will show separately for each member, the dates when such securities or property were received, the identity of the depositories or other places where such securities or property are segregated, the dates such securities or property were returned to the member, or otherwise disposed of, together with the facts and circumstances of such other disposition including the authorization therefor.

[77 FR 66328, Nov. 2, 2012]

§ 1.37 Customer's name, address, and occupation recorded; record of guarantor or controller of account.

(a) Each futures commission merchant, retail foreign exchange dealer, introducing broker, and member of a contract market shall keep a record in permanent form which shall show for

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each commodity interest account carried or introduced by it the true name and address of the person for whom such account is carried or introduced and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. For each such commodity option account, the records kept by such futures commission merchant, introducing broker, and member of a contract market must also show the name of the person who has solicited and is responsible for each customer's account or assign account numbers in such a manner to identify that person.

(b) As of the close of the market each day, each futures commission merchant which carries an account for another futures commission merchant, foreign broker (as defined in § 15.00 of this chapter), member of a contract market, or other person, on an omnibus basis shall maintain a daily record for each such omnibus account of the total open long contracts and the total open short contracts in each future and in each swap and, for commodity option transactions, the total open put options purchased, the total open put options granted, the total open call options purchased, and the total open call options granted for each commodity option expiration date.

(c) Each designated contract market and swap execution facility shall keep a record in permanent form, which shall show the true name, address, and principal occupation or business of any foreign trader executing transactions on the facility or exchange. In addition, upon request, a designated contract market or swap execution facility shall provide to the Commission information regarding the name of any person guaranteeing such transactions or exercising any control over the trading of such foreign trader.

(d) Paragraph (c) of this section shall not apply to a designated contract market or swap execution facility on which transactions in futures, swaps or options (other than swaps) contracts of foreign traders are executed through, or the resulting transactions are maintained in, accounts carried by a registered futures commission merchant

or introduced by a registered introducing broker subject to the provisions of paragraph (a) of this section.

[77 FR 66328, Nov. 2, 2012]

§ 1.38 Execution of transactions.

(a) *Competitive execution required; exceptions.* All purchases and sales of any commodity for future delivery, and of any commodity option, on or subject to the rules of a contract market shall be executed openly and competitively by open outcry or posting of bids and offers or by other equally open and competitive methods, in the trading pit or ring or similar place provided by the contract market, during the regular hours prescribed by the contract market for trading in such commodity or commodity option: *Provided, however,* That this requirement shall not apply to transactions which are executed non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission, specifically providing for the non-competitive execution of such transactions.

(b) *Noncompetitive trades; exchange of futures, etc.; requirements.* Every person handling, executing, clearing, or carrying trades, transactions or positions which are not competitively executed, including transfer trades or office trades, or trades involving the exchange of futures for cash commodities or the exchange of futures in connection with cash commodity transactions, shall identify and mark by appropriate symbol or designation all such transactions or contracts and all orders, records, and memoranda pertaining thereto.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0022)

[46 FR 54523, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981]

§ 1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

(a) *Conditions and requirements.* A member of a contract market or a swap execution facility who shall have at the same time both buying and selling orders of different principals for the