

§ 1.34

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providing the statement was introduced by an introducing broker and the names of the futures commission merchant and introducing broker.

(g) *Electronic transmission of statements.* (1) The statements required by this section, and by § 1.46, may be furnished to any customer by means of electronic media if the customer so consents, *Provided, however,* that a futures commission merchant must, prior to the transmission of any statement by means of electronic media, disclose the electronic medium or source through which statements will be delivered, the duration, whether indefinite or not, of the period during which consent will be effective, any charges for such service, the information that will be delivered by such means, and that consent to electronic delivery may be revoked at any time.

(2) In the case of a customer who does not qualify as an “institutional customer” as defined in § 1.3(g), a futures commission merchant must obtain the customer’s signed consent acknowledging disclosure of the information set forth in paragraph (g)(1) of this section prior to the transmission of any statement by means of electronic media.

(3) Any statement required to be furnished to a person other than a customer in accordance with paragraph (d) of this section may be furnished by electronic media.

(4) A futures commission merchant who furnishes statements to any customer by means of electronic media must retain a daily confirmation statement for such customer as of the end of the trading session, reflecting all transactions made during that session for the customer, in accordance with § 1.31.

(Approved by the Office of Management and Budget under control numbers 3038–0007 and 3038–0024; the information collection requirements in paragraph (c) were approved under control number 3038–0005)

[46 FR 54520, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 47 FR 57008, Dec. 22, 1982; 48 FR 1185, Jan. 11, 1983; 48 FR 35289, Aug. 3, 1983; 52 FR 28997, Aug. 5, 1987; 66 FR 53517, Oct. 23, 2001; 77 FR 66323, Nov. 2, 2012]

§ 1.34 Monthly record, “point balance”.

(a) With respect to commodity futures transactions, each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a statement commonly known as a “point balance,” which accrues or brings to the official closing price, or settlement price fixed by the clearing organization, all open contracts of customers as of the last business day of each month or of any regular monthly date selected: *Provided, however,* That a futures commission merchant who carries part or all of customers’ open contracts with other futures commission merchants on an “instruct basis” will be deemed to have met the requirements of this section as to open contracts so carried if a monthly statement is prepared which shows that the prices and amounts of such contracts long and short in the customers’ accounts are in balance with those in the carrying futures commission merchants’ accounts, and such statements are retained in accordance with the requirements of § 1.31.

(b) With respect to commodity option transactions, each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a listing in which all open commodity option positions carried for customers are marked to the market. Such listing shall be prepared as of the last business day of each month, or as of any regular monthly date selected, and shall be by put or by call, by underlying contract for future delivery (by delivery month) or underlying commodity (by option expiration date), and by strike price.

[77 FR 66324, Nov. 2, 2012]

§ 1.35 Records of commodity interest and related cash or forward transactions.

(a) *Futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of designated contract markets or swap execution facilities*—(1) *Futures commission merchants, retail foreign exchange dealers, and certain introducing brokers.* Each futures commission merchant, retail foreign exchange dealer, and introducing