



Commodity Futures Trading Commission

Office of Public Affairs

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Final Rules Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations

The Commodity Futures Trading Commission (Commission) is adopting final rules to enhance customer protection. This rulemaking is adopted pursuant to Section 4d and 4(b) of the Commodity Exchange Act (CEA) among other provisions.

Final FCM Risk Management Program Rules

The final rules require FCMs to adopt robust risk management programs taking into account risks to which the FCM is reasonably subject, including risks relating to operations, capital, and customer fund segregation. These risk management programs must adopt written policies and procedures reasonably designed to, among other things, ensure that customer funds are separately accounted for and segregated or secured as belonging to customers as required by the Act and Commission regulations.

Enhanced Record Keeping and Disclosure Rules

The final rules require prompt notifications to the Commission upon the occurrence of certain reportable FCM solvency and material events. In addition, all notices must be filed with the Commission in an electronic format.

The final rules also made several changes to the Form 1-FR-FCM Schedules including the Statement of Financial Condition, Segregation, Cleared Swaps Segregations and Secured Amount Schedules, to provide greater transparency to the FCM's financial condition and compliance with Commission financial requirements, including adding disclosure of the FCM's targeted residual interest in each segregation schedule.

Under the final rules, FCMs also are required to provide more disclosures upfront to customers. These disclosures include, among other things, specific disclosures regarding the FCMs' business, operations and the general risks involved when engaging an FCM.

The Treatment of Customer Segregated Funds and Foreign Futures or Foreign Options Secured Amounts

For Futures Accounts and Part 30 secured accounts, the final rules require an FCM to maintain residual interest in its customer accounts that is at least equal to its customers' aggregate undermargined amounts for the prior trade date by the point in time specified in the rule. For Cleared Swaps Customer Accounts, the final rules do not alter the current residual interest requirement for Cleared Swaps, although, where applicable, they do amend certain language for consistency with other Commission regulations.

Reorientation of Regulatory Framework for Self-Regulatory Organizations, the Joint Audit Committee, and Accountants

The final rules require Self-Regulatory Organizations to conduct their examinations of FCM in conformance with relevant auditing standards promulgated by the PCAOB. Self-Regulatory Organizations and the Joint Audit Committee must also take into account several other considerations when designing and implementing their supervisory examination programs, including use of substantive and controls based testing. Among other things, these organizations must now engage an ‘examinations expert’ to review the substance and application of their supervisory programs at least once every three years.

The final rules also require that certified public accountants of FCMs must be registered with the PCAOB, have undergone an inspection by the PCAOB, and to conduct their audits using auditing standards promulgated by the PCAOB. In addition, the governing body of each FCM must ensure that the certified public accountant engaged is duly qualified to perform an audit of the FCM.

Inclusion of Standard Depository Acknowledgment Letters

The final rule amends Regulations 1.20, 1.26 and 30.6 to require the use of standard template letters, which are set out in appendices to each of the regulations. Among other things, the final rule requires that depositories provide the Commission with direct, read-only electronic access to transaction and account balance information for accounts containing customer funds.