

DIVISION OF MARKET OVERSIGHT ADVISORY

Obligation of Futures Commission Merchants, Clearing Members and Foreign Brokers to Report Omnibus Account Information in a Timely Manner as Required by Commission Regulation 17.04(a)

I. Introduction and Background

The Division of Market Oversight of the Commodity Futures Trading Commission (“Commission”) issues this advisory to remind market participants of their ongoing legal obligation to comply with Regulation 17.04(a), which requires any futures commission merchant, clearing member or foreign broker that has established an omnibus account (“originating firm”) to report information about such omnibus account in sufficient time to allow the futures commission merchant, clearing member or foreign broker with whom the omnibus account is established (“clearing firm”) to submit timely reports to the Commission.

Timely reporting is critical to the proper functioning of the Commission's market surveillance program. The Commission relies on timely reports submitted to the Commission by clearing firms pursuant to Part 17 of the Commission's regulations. In order to submit timely reports to the Commission, clearing firms need information about omnibus accounts to be reported to them by originating firms in a timely manner.

II. Commission Regulation 17.04(a) Requirements

Regulation 17.04(a) requires any originating firm that establishes an omnibus account with a clearing firm to report to the clearing firm certain information regarding the omnibus account “in sufficient time to enable the [clearing firm] with whom the omnibus account is

established to comply with the regulations of this part and the reporting requirements established by the reporting markets.”¹

The failure to report information about omnibus accounts in a timely manner as required by Regulation 17.04(a) constitutes a violation of Regulation 17.04, which is actionable under the Commodity Exchange Act (“CEA”) and Commission regulations.²

This advisory reiterates existing legal requirements and shall not be relied upon by any person to seek to excuse past violations. In addition, this advisory in no way affects the obligation of clearing firms to submit reports to the Commission under Regulation 17.00(a) by the time specified in Regulation 17.02(a), which is 9:00 a.m. on the business day following that to which the information in the report pertains.

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Issued in Washington, D.C. on May 22, 2013, by the Division of Market Oversight.

**RICHARD A. SHILTS
ACTING DIRECTOR**

¹ 17 C.F.R. § 17.04(a).

² *See, e.g.*, sections 6(c)(10) and 6c of the CEA (7 U.S.C. 15, 13a-1) regarding sanctions for violations of the CEA and Commission regulations, and CEA section 9(a)(5) (7 U.S.C. 13(a)(5)) regarding criminal penalties for willful violations of Commission regulations.