

§3.11

17 CFR Ch. I (4-1-01 Edition)

§1.3(y) of this chapter, is not required to register as a futures commission merchant: *Provided*, that such a person remains subject to all other provisions of the Act and of the rules, regulations and orders thereunder.

(d) *Annual filing.* Any person registered as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant in accordance with paragraph (a) of this section must file with the National Futures Association a Form 7-R, completed in accordance with the instructions thereto, annually on a date specified by the National Futures Association. The failure to file the Form 7-R within thirty days following such date shall be deemed to be a request for withdrawal from registration. On at least thirty days written notice, and following such action, if any, deemed to be necessary by the Commission or the National Futures Association, the National Futures Association may grant the request for withdrawal from registration.

(Approved by the Office of Management and Budget under control number 3038-0023)

[45 FR 80491, Dec. 5, 1980, as amended at 47 FR 27551, June 25, 1982; 49 FR 5522, Feb. 13, 1984; 49 FR 39530, Oct. 9, 1984; 57 FR 23144, June 2, 1992]

§3.11 Registration of floor brokers and floor traders.

(a) *Application for registration.* (1) Application for registration as a floor broker or floor trader must be on Form 8-R, completed and filed with the National Futures Association in accordance with the instructions thereto. Each Form 8-R filed in accordance with paragraph (a) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided for that purpose by the National Futures Association, except that a fingerprint card need not be filed by any applicant who has a current Form 8-R on file with the Commission or the National Futures Association.

(2) An applicant for registration as a floor broker or floor trader will not be registered or issued a temporary license as a floor broker or floor trader unless the applicant has been granted trading privileges by a board of trade

designated as a contract market by the Commission. A temporary license issued to an applicant for registration as a floor broker who has not been registered as a floor broker within the preceding sixty days will permit such applicant to act in the capacity of a floor trader only.

(3) When the Commission or the National Futures Association determines that an applicant for registration as a floor broker or floor trader is not disqualified from such registration or temporary license, the National Futures Association will provide notification in writing to the applicant and to any contract market that has granted the applicant trading privileges that the applicant's registration or temporary license as a floor broker or floor trader is granted.

(b) *Duration of registration.* A person registered as a floor broker or floor trader in accordance with paragraphs (a) or (c) of this section, and whose registration has neither been revoked nor withdrawn, will continue to be so registered unless such person's trading privileges on all contract markets have ceased: *Provided, That* if a floor broker or floor trader whose trading privileges on all contract markets have ceased for reasons unrelated to any Commission action or any contract market disciplinary proceeding and whose registration is not revoked, suspended or withdrawn is granted trading privileges as a floor broker or floor trader, respectively, by any contract market where he held such privileges within the preceding sixty days, such registration as a floor broker or floor trader, respectively, shall be deemed to continue and no new Form 8-R or Form 3-R need be filed solely on the basis of the resumption of trading privileges. A floor broker or floor trader is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration or of all such trading privileges. In accordance with §3.31(d), each contract market that has granted trading privileges to a person who is registered, or has applied for registration, as a floor broker or floor trader, must notify the

Commodity Futures Trading Commission

§3.11

National Futures Association within sixty days after such person's trading privileges on such contract market have ceased.

(c) *Special registration for certain persons operating at a new contract market.*

(1)(i) *Floor broker.* Any person whose registration as a floor broker has terminated within the preceding sixty days and who is granted trading privileges by any contract market that has made the certification required under §3.40(c) will be granted a temporary license to act in the capacity of a floor broker upon mailing to the National Futures Association of a Form 8-R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor broker on a fingerprint card provided by the National Futures Association for that purpose and, if applicable, a Supplemental Sponsor Certification Statement signed by the new supervising floor broker (who must meet the requirements set forth in §3.60(b)(2)(i)(A) and (C)) that contains conditions identical to those agreed to by the previous supervising floor broker, provided that such person includes written certifications stating that:

(A) The person's registration as a floor broker is not suspended or revoked; and

(B) There is no pending adjudicatory proceeding against the person under sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act or §§3.55 or 3.60 and, within the preceding 12 months, the Commission has not permitted the withdrawal of an application for registration in any capacity after initiating the procedures provided in §3.51.

(ii) *Floor trader.* Any person whose registration as a floor trader has terminated within the preceding sixty days and who is granted trading privileges by any contract market that has made the certification required under §3.40(c) will be granted a temporary license to act in the capacity of a floor trader upon mailing to the National Futures Association of a Form 8-R completed and filed in accordance with the instructions thereto, accompanied by the fingerprints of the floor trader on a fingerprint card provided by the National Futures Association for that purpose and, if applicable, a Supplemental Sponsor Certification Statement signed by the new supervising

registrant, principal or contract market (who must meet the requirements set forth in §3.60(b)(2)(i) (A) and (C)) that contains conditions identical to those agreed to by the previous supervising registrant, principal or contract market, provided that such person includes written certifications stating that:

(A) The person's registration as a floor trader is not suspended or revoked; and

(B) There is no pending adjudicatory proceeding against the person under sections 6(c) 6(d), 6c, 6d, 8a or 9 of the Act or §§3.55 or 3.60 and, within the preceding 12 months, the Commission has not permitted the withdrawal of an application for registration in any capacity after initiating the procedures provided in §3.51.

(C) If such person is seeking registration as a floor broker, the person will be granted a temporary license to act in the capacity of floor trader only if the person's prior registration was not subject to conditions or restrictions.

(D) A temporary license received in accordance with paragraph (c)(1) of this section will be subject to the provisions of §§3.41, 3.42 and 3.43.

(2) *Transfer of registration category where there is no break in continuity of trading privileges.* (i) Any person registered as a floor broker who continuously maintains trading privileges at any contract market that has made the certification required under §3.40 will be registered as, and in the capacity of, a floor trader upon mailing to the National Futures Association of a Form 3-R completed and filed in accordance with the instructions thereto indicating the intention to change registration category, accompanied by evidence of the granting of trading privileges at the new contract market, if applicable. Any person changing registration categories in accordance with this paragraph shall remain subject to any conditions or restrictions applicable to the previous registration.

(ii) Any person registered as a floor trader whose registration is not subject to conditions or restrictions and who continuously maintains trading privileges at any contract market that has

§3.12

17 CFR Ch. I (4-1-01 Edition)

made the certification required under §3.40 will be registered as, and in the capacity of, a floor broker upon mailing to the National Futures Association of a Form 3-R completed and filed in accordance with the instructions thereto indicating the intention to change registration category, accompanied by evidence of the granting of trading privileges at the new contract market, if applicable.

(d) *Review of floor broker or floor trader registration information.* Every three years, the National Futures Association shall provide each floor broker and floor trader with a printout of information contained in the National Futures Association's registration database regarding such registrant. This printout shall be promptly reviewed by the floor broker or floor trader. If the information contained therein is correct, the floor broker or floor trader need not take any further action. If the information contained therein is incorrect, the floor broker or floor trader must indicate what changes are necessary and return the printout promptly to the National Futures Association with appropriate changes. The failure of a registrant to return the printout will be deemed to constitute recertification of the registration information contained therein: *Provided, however,* That the failure to return the printout promptly to the National Futures Association with appropriate changes, if necessary, shall be deemed a violation of this rule under the Act.

[58 FR 19591, Apr. 15, 1993, as amended at 64 FR 1727, Jan. 12, 1999]

§3.12 Registration of associated persons of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

(a) *Registration required.* It shall be unlawful for any person to be associated with a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant as an associated person unless that person shall have registered under the Act as an associated person of that sponsoring futures commission merchant, introducing broker, commodity trading

advisor, commodity pool operator or leverage transaction merchant in accordance with the procedures in paragraphs (c), (d), (f), (i), or (j) of this section or is exempt from such registration pursuant to paragraph (h) of this section.

(b) *Duration of registration.* A person registered in accordance with paragraphs (c), (d), (f), (i), or (j) of this section and whose registration has not been revoked will continue to be so registered until the revocation or withdrawal of the registration of each of the registrant's sponsors, or until the cessation of the association of the registrant with each of his sponsors. Such person will be prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of his or his sponsor's registration. In accordance with §3.31(c) of this part, each of the registrant's sponsors must file a notice with the National Futures Association on Form 8-T or on a Uniform Termination Notice for Securities Industry Registration reporting the termination of the association of the associated person within twenty days thereafter.

(c) *Application for registration.* Except as otherwise provided in paragraphs (d), (f), (i), and (j) of this section, application for registration as an associated person in any capacity must be on Form 8-R, completed and filed in accordance with the instructions thereto.

(1) No person will be registered as an associated person in accordance with this paragraph (c) unless an officer, if the sponsor is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such sponsor has signed and dated a certification in writing, stating that:

(i) It is the intention of the sponsor to hire or otherwise employ the applicant as an associated person and that it will do so within thirty days after the receipt of the notification provided in accordance with paragraph (c)(4) of this section and that the applicant will not be permitted to engage in any activity requiring registration as an associated person until the applicant is