

Commodity Futures Trading Commission

§ 4.7

with any criteria applicable to commodity futures or commodity options trading established by any regulator to which such person or qualifying entity is subject.

(3) The notice of eligibility must be filed with the Commission prior to the date upon which such person intends to operate the qualifying entity pursuant to the exclusion provided by this section.

(4) The notice of eligibility shall be effective upon filing.

(d)(1) Each person who has claimed exclusion hereunder must, in the event that any of the information contained or representations made in the notice of eligibility becomes inaccurate or incomplete, file a supplemental notice with the Commission to that effect which, if applicable, includes such amendments as may be necessary to render the notice of eligibility accurate and complete.

(2) The supplemental notice required by paragraph (d)(1) of this section shall be filed within fifteen business days after the occurrence of such event.

(e) An exclusion claimed hereunder shall cease to be effective upon any change which would render:

(1) A person as to whom such exclusion has been claimed ineligible under paragraph (a) of this section;

(2) The entity for which such exclusion has been claimed ineligible under paragraph (b) of this section; or

(3) Either the representations made pursuant to paragraph (c)(2) of this section inaccurate or the continuation of such representations false or misleading.

(f) Any notice required to be filed hereunder must be:

(1) In writing;

(2) Signed by a duly authorized representative of a person specified in paragraph (a) of this section;

(3) Filed with the Commission at the address specified in § 4.2; and

(4) Filed with the National Futures Association at its headquarters office (Attn: Director of Compliance, Compliance Department).

[50 FR 15882, Apr. 23, 1985; 50 FR 18859, May 3, 1985, as amended at 58 FR 6374, Jan. 28, 1993; 58 FR 43793, Aug. 18, 1993; 65 FR 24128, Apr. 25, 2000; 65 FR 25980, May 4, 2000]

§ 4.6 Exclusion for certain otherwise regulated persons from the definition of the term “commodity trading advisor.”

(a) Subject to compliance with the provisions of this section, the following persons, and any principal or employee thereof, shall be excluded from the definition of the term “commodity trading advisor:”

(1) An insurance company subject to regulation by any State, or any wholly-owned subsidiary or employee thereof; *Provided, however,* That its commodity interest advisory activities are solely incidental to the conduct of the insurance business of the insurance company as such; and

(2) A person who is excluded from the definition of the term “commodity pool operator” by § 4.5; *Provided, however,* That:

(i) Its commodity interest advisory activities are solely incidental to its operation of those trading vehicles for which § 4.5 provides relief; and

(ii) Where necessary, prior to providing any commodity interest trading advice to any such trading vehicle the person files a notice of eligibility as specified in § 4.5 to claim the relief available under that section.

(b) Any person who has claimed an exclusion under this § 4.6 must submit to such special calls as the Commission may make to require the person to demonstrate compliance with the provisions of paragraph (a) of this section.

(c) An exclusion claimed under this § 4.6 shall cease to be effective upon any change which would render the person claiming the exclusion ineligible under paragraph (a) of this section.

[52 FR 41984, Nov. 2, 1987]

§ 4.7 Exemption from certain part 4 requirements for commodity pool operators with respect to offerings to qualified eligible persons and for commodity trading advisors with respect to advising qualified eligible persons.

This section is organized as follows: Paragraph (a) contains definitions for the purposes of § 4.7; paragraph (b) contains the relief available to commodity pool operators under § 4.7; paragraph (c) contains the relief available to commodity trading advisors under § 4.7;