

### Subpart B—Reports Required To Be Made

#### § 103.15 Determination by the Secretary.

The Secretary hereby determines that the reports required by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

[37 FR 6912, Apr. 5, 1972. Redesignated at 61 FR 4331, Feb. 5, 1996 and further redesignated at 65 FR 13692, Mar. 14, 2000]

#### § 103.17 Reports by futures commission merchants and introducing brokers in commodities of suspicious transactions.

(a) *General*—(1) Every futures commission merchant (“FCM”) and introducing broker in commodities (“IB-C”) within the United States shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. An FCM or IB-C may also file with FinCEN a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section. Filing a report of a suspicious transaction does not relieve an FCM or IB-C from the responsibility of complying with any other reporting requirements imposed by the Commodity Futures Trading Commission (“CFTC”) or any registered futures association or registered entity as those terms are defined in the Commodity Exchange Act (“CEA”), 7 U.S.C. 21 and 7 U.S.C. 1a(29).

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through an FCM or IB-C, it involves or aggregates funds or other assets of at least \$5,000, and the FCM or IB-C knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan

to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act (“BSA”), Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the FCM or IB-C knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the FCM or IB-C to facilitate criminal activity.

(3) The obligation to identify and properly and timely to report a suspicious transaction rests with each FCM and IB-C involved in the transaction, provided that no more than one report is required to be filed by any of the FCMs or IB-Cs involved in a particular transaction, so long as the report filed contains all relevant facts.

(b) *Filing procedures*—(1) *What to file*. A suspicious transaction shall be reported by completing a Suspicious Activity Report—Securities and Futures Industry (“SAR-SF”), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file*. The SAR-SF shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR-SF.

(3) *When to file*. A SAR-SF shall be filed no later than 30 calendar days after the date of the initial detection by the reporting FCM or IB-C of facts that may constitute a basis for filing a SAR-SF under this section. If no suspect is identified on the date of such initial detection, an FCM or IB-C may delay filing a SAR-SF for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In