

Commodity Futures Trading Commission

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automated means for the recordation of trades which can eliminate the opportunity for improper alteration or fabrication of trading records, may petition the Commission for an exemption from Regulations 1.35(a-1) (2) and (4), (d), (j) or (k), as appropriate.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0022)

[41 FR 3194, Jan. 21, 1976, as amended by 46 FR 54521, Nov. 3, 1981; 46 FR 55925, Nov. 13, 1981; 46 FR 63035, Dec. 30, 1981; 47 FR 57008, Dec. 22, 1982; 48 FR 35389, Aug. 3, 1983; 51 FR 2691, Jan. 21, 1986; 54 FR 33881, Aug. 17, 1989; 55 FR 8137, Mar. 7, 1990; 58 FR 27465, May 10, 1993; 58 FR 31166, June 1, 1993; 58 FR 40348, July 28, 1993; 59 FR 5525, Feb. 7, 1994; 61 FR 43001, Aug. 20, 1996; 63 FR 45709, Aug. 27, 1998; 63 FR 49955, Sept. 18, 1998; 68 FR 34794, June 11, 2003]

§ 1.36 Record of securities and property received from customers and option customers.

(a) Each futures commission merchant shall maintain, as provided in § 1.31, a record of all securities and property received from customers or option customers in lieu of money to margin, purchase, guarantee, or secure the commodity or commodity option transactions of such customers or option customers. Such record shall show separately for each customer or option customer: a description of the securities or property received; the name and address of such customer or option customer; the dates when the securities or property were received; the identity of the depositories or other places where such securities or property are segregated; the dates of deposits and withdrawals from such depositories; and the dates of return of such securities or property to such customer or option customer, or other disposition thereof, together with the facts and circumstances of such other disposition. In the event any futures commission merchant deposits with the clearing organization of a contract market, directly or with a bank or trust company acting as custodian for such clearing organization, securities and/or property which belong to a particular customer or option customer, such futures commission merchant shall obtain written acknowledgment from such clearing organization that it was in-

formed that such securities or property belong to customers or option customers of the futures commission merchant making the deposit. Such acknowledgment shall be retained as provided in § 1.31.

(b) Each clearing organization of a contract market which receives from members securities or property belonging to particular customers or option customers of such members in lieu of money to margin, purchase, guarantee, or secure the commodity or commodity option transactions of such customers or option customers, or receives notice that any such securities or property have been received by a bank or trust company acting as custodian for such clearing organization, shall maintain, as provided in § 1.31, a record which will show separately for each member, the dates when such securities or property were received, the identity of the depositories or other places where such securities or property are segregated, the dates such securities or property were returned to the member, or otherwise disposed of, together with the facts and circumstances of such other disposition including the authorization therefor.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0024)

[46 FR 54522, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 48 FR 8435, Mar. 1, 1983]

§ 1.37 Customer's or option customer's name, address, and occupation recorded; record of guarantor or controller of account.

(a)(1) Each futures commission merchant, introducing broker, and member of a contract market shall keep a record in permanent form which shall show for each commodity futures or option account carried or introduced by it the true name and address of the person for whom such account is carried or introduced and the principal occupation or business of such person as well as the name of any other person guaranteeing such account or exercising any trading control with respect to such account. For each such commodity option account, the records kept by such futures commission merchant, introducing broker, and member

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of a contract market must also show the name of the person who has solicited and is responsible for each option customer's account or assign account numbers in such a manner to identify that person.

(2) Each futures commission merchant who receives a customer's election not to have the customer's funds separately accounted for and segregated, in accordance with § 1.68, shall keep a record in permanent form that indicates such customer's election. The record of such a customer election may be indicated on the record required by paragraph (a)(1) of this section.

(b) As of the close of the market each day, each futures commission merchant which carries an account for another futures commission merchant, foreign broker (as defined in § 15.00 of this chapter), member of a contract market, or other person, on an omnibus basis shall maintain a daily record for each such omnibus account of the total open long contracts and the total open short contracts in each future and, for commodity option transactions, the total open put options purchased, the total open put options granted, the total open call options purchased, and the total open call options granted for each commodity option expiration date.

(c) Each designated contract market shall keep a record in permanent form, which shall show the true name, address, and principal occupation or business of any foreign trader executing transactions on the facility or exchange. In addition, upon request, a designated contract market shall provide to the Commission information regarding the name of any person guaranteeing such transactions or exercising any control over the trading of such foreign trader.

(d) Paragraph (c) of this section shall not apply to a designated contract market on which transactions in futures or option contracts of foreign traders are executed through, or the resulting transactions are maintained in, accounts carried by a registered futures commission merchant or introduced by a registered introducing

broker subject to the provisions of paragraph (a) of this section.

(The information collection requirements contained in § 1.37 were approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0024; and in paragraph (b) under control number 3038-0009)

[46 FR 54523, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 48 FR 35289, Aug. 3, 1983; 58 FR 28501, May 14, 1993; 66 FR 20744, Apr. 25, 2001; 66 FR 42269, Aug. 10, 2001]

§ 1.38 Execution of transactions.

(a) *Competitive execution required; exceptions.* All purchases and sales of any commodity for future delivery, and of any commodity option, on or subject to the rules of a contract market shall be executed openly and competitively by open outcry or posting of bids and offers or by other equally open and competitive methods, in the trading pit or ring or similar place provided by the contract market, during the regular hours prescribed by the contract market for trading in such commodity or commodity option: *Provided, however,* That this requirement shall not apply to transactions which are executed non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission, specifically providing for the non-competitive execution of such transactions.

(b) *Noncompetitive trades; exchange of futures, etc.; requirements.* Every person handling, executing, clearing, or carrying trades, transactions or positions which are not competitively executed, including transfer trades or office trades, or trades involving the exchange of futures for cash commodities or the exchange of futures in connection with cash commodity transactions, shall identify and mark by appropriate symbol or designation all such transactions or contracts and all orders, records, and memoranda pertaining thereto.

(Approved by the Office of Management and Budget under control numbers 3038-0007 and 3038-0022)

[46 FR 54523, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981]