

§ 1.4

transaction execution facility, separately accounted for and segregated by the futures commission merchant pursuant to section 4d of the Act and §§ 1.20–1.30, 1.32 and 1.36. A customer is an opt-out customer solely with respect to agreements, contracts or transactions, and the money, securities or property received by a futures commission merchant to margin, guarantee or secure such agreements, contracts or transactions, made on or subject to the rules of any derivatives transaction execution facility that has adopted rules permitting a customer to elect to be an opt-out customer and with respect to which the customer has made such an election. For all other purposes under the Act and the rules thereunder, except where otherwise provided, an opt-out customer shall be a customer as defined in § 1.3(k).

(vv) *Futures account.* This term means an account that is maintained in accordance with the segregation requirements of section 4d of the Commodity Exchange Act and the rules thereunder.

(ww) *Securities account.* This term means an account that is maintained in accordance with the requirements of section 15(c)(3) of the Securities Exchange Act of 1934 and Rule 15c3-3 thereunder.

[41 FR 3194, Jan. 21, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.3, see the List of CFR Sections Affected, which appears in the Finding Aids sections of the printed volume and on GPO Access.

§ 1.4 Use of electronic signatures.

For purposes of complying with any provision in the Commodity Exchange Act or the rules or regulations in this Chapter I that requires a document to be signed by a customer of a futures commission merchant or introducing broker, a pool participant or a client of a commodity trading advisor, an electronic signature executed by the customer, participant or client will be sufficient, if the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor elects generally to accept electronic signatures; *Provided, however,* That the electronic signature must comply with applicable Federal laws

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and other Commission rules; And, *Provided further,* That the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor must adopt and utilize reasonable safeguards regarding the use of electronic signatures, including at a minimum safeguards employed to prevent alteration of the electronic record with which the electronic signature is associated, after such record has been electronically signed.

[65 FR 12469, Mar. 9, 2000, as amended at 71 FR 9445, Feb. 24, 2006]

MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

(a) *Application for registration.* (1) Except as otherwise provided, a futures commission merchant or an applicant for registration as a futures commission merchant, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-FCM, and any reference in this part to Form 1-FR with respect to a futures commission merchant or applicant therefor shall be deemed to be a reference to Form 1-FR-FCM. Except as otherwise provided, an introducing broker or an applicant for registration as an introducing broker, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-IB, and any reference in this part to Form 1-FR with respect to an introducing broker or applicant therefor shall be deemed to be a reference to Form 1-FR-IB.

(2) (i) (A) Except as provided in paragraphs (a)(3) and (h) of this section, each person who files an application for registration as a futures commission merchant and who is not so registered at the time of such filing, must, concurrently with the filing of such application, file either:

(1) A Form 1-FR-FCM certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed; or

(2) A Form 1-FR-FCM as of a date not more than 17 business days prior to the date on which such report is filed and