

§ 18.04

17 CFR Ch. I (4-1-06 Edition)

§§ 18.00, 18.04 and 18.05 to the Director of the Division of Market Oversight to be exercised by the Director or by such other employee or employees of the Director as may be designated from time to time by the Director. The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph.

[62 FR 6114, Feb. 11, 1997, as amended at 67 FR 62352, Oct. 7, 2002]

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable futures and option position shall after a special call upon such trader by the Commission or its designee file with the Commission a "Statement of Reporting Trader" on the Form 40 at such time and place as directed in the call. All traders shall complete part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

(a) Information to be furnished by all traders in part A of the Form 40 shall include:

(1) Name and address of reporting trader.

(2) Principal business and occupation of the reporting trader and, in addition, whether transactions are made for, on behalf of, or in association with, a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged, or for personal use.

(3) Type of trader.

(4) Registration status with the Commission, if any.

(5) The name and address of each person whose option or futures trading is controlled by the reporting trader. Provided that if the reporting trader is a customer trading program, or the commodity trading advisor thereof, that is a managed or guided account program

in which ten or more persons participate, the information furnished may be limited to the name of any commodity pool which participates in the program and the name and address of the CPO.

(6) The name, address and business phone of each person who controls the trading of the reporting trader.

(7) The names and locations of all futures commission merchants, introducing brokers, and foreign brokers through whom accounts owned or controlled by the reporting trader are carried or introduced at the time of filing a Form 40, if such accounts are carried through more than one futures commission merchant or foreign broker or carried through more than one office of the same futures commission merchant or foreign broker, or introduced by more than one introducing broker clearing accounts through the same futures commission merchant, and the name of the reporting trader's account executive at each firm or office of the firm.

(8) The names and locations (city and state) of persons who guarantee the futures or option trading accounts of the reporting trader or who have a financial interest of 10 percent or more in the reporting trader or the accounts of the reporting trader.

(9) The following information concerning other option or futures trading accounts which the reporting trader guarantees or other futures or option traders or accounts in which the reporting trader has a financial interest of 10 percent or more:

(i) The names of traders for whom the reporting trader guarantees accounts or in which the reporting trader has a financial interest;

(ii) The names of the accounts that the reporting trader guarantees or in which the reporting trader has a financial interest; and

(iii) The names and locations of the brokerage firms at which the accounts are carried.

(10) Information concerning ownership or control by a foreign government, agent of a foreign government entity specially acknowledged by a statute or regulation of a foreign jurisdiction or entity financed by a foreign government either through ownership

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of capital assets or provision of operating expenses.

(1) Signature of the trader and date of signing the report. If the reporting trader is an organization, the signature must be that of a partner, officer or trustee authorized to sign on behalf of that organization.

(b) Information to be furnished in part B of the Form 40 shall include:

(1) Business telephone number of the reporting trader.

(2) Employer and job title if the reporting trader is an individual.

(3) The following information if a trader makes transactions or holds positions in a futures or option contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:

(i) Commercial activity associated with use of the option or futures market (*e.g.*, production, merchandising or processing of a cash commodity, asset/liability risk management by depository institutions, security portfolio risk management, etc.)

(ii) Physical commodities underlying use of the futures or option markets.

(iii) Futures or option markets used.

(4) The name, address, and type of any organization in which the reporting trader participates in the management if such organization holds another futures or option trading account.

(5) If the reporting trader is a partnership or joint tenant, the name and address of each partner (excluding limited partners in commodity pools) or joint tenant and the name of the partner or joint tenant who ordinarily places orders.

(c) Information to be furnished in part C of the Form 40 shall include:

(1) Whether or not the reporting trader is organized under the laws of any state (including the District of Columbia) or territory or possession of the United States or under the laws of any foreign jurisdiction. Reporting traders organized outside the jurisdiction of

the United States must indicate the country of origin.

(2) The names of parent firms and whether or not they are organized under the laws of any state (including the District of Columbia) or territory of possession of the United States and the location of each headquarter's office.

(3) Names and locations of all subsidiary firms that trade in commodity futures or options and whether or not the subsidiary firms are organized under the law of any state (including the District of Columbia) or territory or possession of the United States.

(4) Name, address, and business telephone number of person(s) actually controlling the trading and, if different persons are responsible for different commodities or options, the commodities or options for which each controller has responsibility.

(5) Name, office address and business telephone number of person or persons to contact regarding trading.

(6) The following information if a trader makes transactions or holds positions in a futures or option contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:

(i) Commercial activity associated with use of the option or futures market (*e.g.*, production, merchandising or processing of a cash commodity, asset/liability risk management by depository institutions, security portfolio risk management, etc.)

(ii) Physical commodities underlying use of the futures or option markets.

(iii) Futures or option markets used.

(Approved by the Office of Management and Budget under control number 3038-0009)

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