

§ 32.4

17 CFR Ch. I (4-1-07 Edition)

(c) A person required to register as a futures commission merchant or as an associated person in accordance with this section which furnishes the services specified in that portion of section 1a of the Act defining the term "commodity trading advisor" shall not be included in the term commodity trading advisor if:

(1) At the time such services are furnished, such person is registered as a futures commission merchant, as a floor broker or as an associated person under the Act, and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked; and

(2) The furnishing of such services is solely incidental to the conduct of such person's activities relating to commodity option transactions.

(d) A person registered as a futures commission merchant under the Act, who is required to register as such by virtue of this section, need not register as such in order to comply with this section, but shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this section.

(e) A person registered as an associated person or as a floor broker under the Act, who is required to register as an associated person by virtue of this section, need not register as such in order to comply with this section, but the futures commission merchant employing such person shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this section.

(7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975))

[41 FR 51814, Nov. 24, 1976, as amended at 42 FR 61831, Dec. 6 1977; 59 FR 5703, Feb. 8, 1994]

§ 32.4 Exemptions.

(a) Except for the provisions of §§ 32.2, 32.8 and 32.9, which shall in any event apply to all commodity option transactions, the provisions of this part shall not apply to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or

commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or by-products thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such.

(b) The Commission may, by order, upon written request or upon its own motion, exempt any other person, either unconditionally or on a temporary or other conditional basis, from any provisions of this part, other than §§ 32.2, 32.8 and 32.9, if it finds, in its discretion, that it would not be contrary to the public interest to grant such exemption.

§ 32.5 Disclosure.

(a) Except as provided in paragraph (b) of this section, prior to the entry into a commodity option transaction, each option customer or prospective option customer shall be furnished a summary disclosure statement by the person soliciting or accepting the order therefor. The disclosure statement shall contain the following:

(1) A brief description of the commodity option transactions being offered including:

(i) The duration of the commodity options being offered and the total quantity and quality of the commodities which may be purchased or sold upon exercise of the options being offered or which underlie the contracts of sale for future delivery which may be purchased or sold upon exercise of such commodity options;

(ii) A listing of the elements comprising the purchase price to be charged, including the premium, mark-ups on the premium, costs, fees and other charges, as well as the method by which the premium is established;

(iii) The services to be provided for the separate elements comprising the purchase price; and

(iv) The method by which the striking price is established;

(2) A description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the