

Commodity Futures Trading Commission

§ 4.33

Where a Disclosure Document is delivered to a prospective client by electronic means, in lieu of a manually signed and dated acknowledgment the trading advisor may establish receipt by electronic means that use a unique identifier to confirm the identity of the recipient of such Disclosure Document. *Provided, however,* That the requirement of § 4.33(a)(2) to retain the acknowledgment specified in this paragraph (b) applies equally to such substitute evidence of receipt, which must be retained either in hard copy form or in another form approved by the Commission.

[60 FR 38189, July 25, 1995, as amended at 62 FR 39115, July 22, 1997; 68 FR 47235, Aug. 8, 2003; 68 FR 59114, Oct. 14, 2003]

§ 4.32 Trading on a Registered Derivatives Transaction Execution Facility for Non-Institutional Customers.

(a) A registered commodity trading advisor may enter trades on or subject to the rules of a registered derivatives transaction execution facility on behalf of a client who does not qualify as an "institutional customer" as defined in § 1.3(g) of this chapter, provided that the trading advisor:

(1) Directs the client's commodity interest account;

(2) Directs accounts containing total assets of not less than \$25,000,000 at the time the trade is entered; and

(3) Discloses to the client that the trading advisor may enter trades on or subject to the rules of a registered derivatives transaction execution facility on the client's behalf.

(b) The commodity interest account of a client described in paragraph (a) of this section must be carried by a registered futures commission merchant.

[66 FR 53522, Oct. 23, 2001]

§ 4.33 Recordkeeping.

Each commodity trading advisor registered or required to be registered under the Act must make and keep the following books and records in an accurate, current and orderly manner at its main business office and in accordance with § 1.31. If the commodity trading advisor's main business office is located outside the United States, its territories or possessions, then upon the request of a Commission represent-

ative the trading advisor must provide such books and records as requested at the place designated by the representative in the United States, its territories or possessions within 72 hours after receipt of the request.

(a) Concerning the clients and subscribers of the commodity trading advisor:

(1) The name and address of each client and each subscriber.

(2) The acknowledgement specified in § 4.31(b).

(3) All powers of attorney and other documents, or copies thereof, authorizing the commodity trading advisor to direct the commodity interest account of a client or subscriber.

(4) All other written agreements, or copies thereof, entered into by the commodity trading advisor with any client or subscriber.

(5) A list or other record of all commodity interest accounts of clients directed by the commodity trading advisor and of all transactions effected therefor.

(6) Copies of each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement received from a futures commission merchant.

(7) The original or a copy of each report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice (including the texts of standardized oral presentations and of radio, television, seminar or similar mass media presentations) distributed or caused to be distributed by the commodity trading advisor to any existing or prospective client or subscriber, showing the first date of distribution if not otherwise shown on the document.

(b) Concerning the commodity trading advisor:

(1) An itemized daily record of each commodity interest transaction of the commodity trading advisor, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account and the introducing broker, if any, whether the