

APPENDIX B: RULETEXT

PART 15—REPORTS—GENERAL PROVISIONS

§ 15.00 Definitions of terms used in parts 15 to 19, and 21 of this chapter.

As used in parts 15 to 19, and 21 of this chapter:

(a) *Cash or Spot*, when used in connection with any commodity, means the actual commodity as distinguished from a futures or options contract in such commodity.

(b) *Clearing member* means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a designated contract market, registered derivatives transaction execution facility, or registered entity under section 1a(29) of the Act.

(c) *Clearing organization* means the person or organization which acts as a medium for clearing transactions in commodities for future delivery or commodity option transactions, or for effecting settlements of contracts for future delivery or commodity option transactions, for and between members of any designated contract market, registered derivatives transaction execution facility or registered entity under section 1a(29) of the Act.

(d) *Compatible data processing media* means data processing media approved by the Commission or its designee.

(e) *Customer* means “customer” (as defined in §1.3 of this chapter) and “options customer” (as defined in §1.3 of this chapter).

(f) *Customer trading program* means any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, an introducing broker, a commodity trading advisor, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice or otherwise, directly or indirectly controls trading done and positions held by any other person. The term includes, but is not limited to, arrangements where a program participant enters into an expressed or implied agreement not obtained from other customers and makes a minimum deposit in excess of that required of other customers for the purpose of receiving specific advice or recommendations which are not made available to other customers. The term includes any program which is of the character of, or is commonly known to the trade as, a managed account, guided account, discretionary account, commodity pool or partnership account.

(g) *Discretionary account* means a commodity futures or commodity option trading account for which buying or selling orders can be placed or originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

(h) *Exclusively self-cleared contract* means a cleared contract for which no persons, other than a reporting market and its clearing organization, are permitted to accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade.

(i) *Foreign clearing member* means a “clearing member” (as defined by paragraph (b) of this section) who resides or is domiciled outside of the United States, its territories or possessions.

(j) *Foreign trader* means any trader (as defined in paragraph (s) of this section) who resides or is domiciled outside of the United States, its territories or possessions.

(k) *Futures, futures contract, future delivery or contract for future delivery*, means any contract for the purchase or sale of any commodity for future delivery that is executed on or subject to the rules of a reporting market, including all agreements, contracts and transactions that are treated by a clearing organization as fungible with such contracts.

(l) *Guided account program* means any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of a commodity or a particular commodity option that is advised or recommended to the participant in the program.

(m) *Managed account program* means a customer trading program which includes two or more discretionary accounts traded pursuant to a common plan, advice or recommendations.

APPENDIX B: RULETEXT

(n) *Open contracts* means “open contracts” (as defined in §1.3 of this chapter) and commodity option positions held by any person on or subject to the rules of a board of trade ~~designated as a contract market under section 5 of the Act~~ which have not expired, been exercised, or offset.

(o) *Option, options, option contract, or options contract*, unless specifically provided otherwise, means any contract for the purchase or sale of a commodity option that is executed on or subject to the rules of a reporting market, including all agreements, contracts and transactions that are treated by a clearing organization as fungible with such contracts.

(p) *Reportable position* means:

(1) For reports specified in parts 17, 18 and §19.00(a)(2) and (a)(3) of this chapter any open contract position that at the close of the market on any business day equals or exceeds the quantity specified in §15.03 of this part in either:

(i) Any one futures of any commodity on any one reporting market, excluding futures contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a reporting market; or

(ii) Long or short put or call options that exercise into the same future of any commodity, or other long or short put or call commodity options that have identical expirations and exercise into the same commodity, on any one reporting market.

(2) For the purposes of reports specified in §19.00(a)(1) of this chapter, any combined futures and futures-equivalent option open contract position as defined in part 150 of this chapter in any one month or in all months combined, either net long or net short in any commodity on any one reporting market, excluding futures positions against which notices of delivery have been stopped by a trader or issued by the clearing organization of a reporting market, which at the close of the market on the last business day of the week exceeds the net quantity limit in spot, single or in all-months fixed in §150.2 of this chapter for the particular commodity and reporting market.

(q) *Reporting market* means a designated contract market or a registered entity under section 1a(40) of the Act.

(r) *Special account* means any commodity futures or option account in which there is a reportable position.

(s) *Trader* means a person who, for his own account or for an account which he controls, makes transactions in commodity futures or options, or has such transactions made.

(t) *Control* means to actually direct, by power of attorney or otherwise, the trading of ~~accounts that comprise a special account or a consolidated account~~. A special account ~~or a consolidated account~~ may have more than one controller.

(u) *Reportable trading volume* means contract trading volume that meets or exceeds the level specified in §15.04.

(v) *Omnibus account* means any trading account that one futures commission merchant, clearing member or foreign broker carries for another and in which the transactions of multiple individual accounts are combined. The identities of the holders of the individual accounts are not generally known or disclosed to the carrying firm.

(w) *Omnibus account originator* means any futures commission merchant, clearing member or foreign broker that executes trades for one or more customers via one or more accounts that are part of an omnibus account carried by another futures commission merchant, clearing member or foreign broker.

(x) *Volume threshold account* means any trading account that carries reportable trading volume on or subject to the rules of a ~~reporting market that is a~~ board of trade designated as a contract market under section 5 ~~of the Act or a swap execution facility registered under section 5h~~ of the Act.

(y) *Omnibus volume threshold account* means any trading account that, on an omnibus basis, carries reportable trading volume on or subject to the rules of a ~~reporting market that is a~~ board of trade designated as a contract market under section 5 ~~of the Act or a swap execution facility registered under section 5h~~ of the Act.

~~(z) Omnibus reportable sub-account means any trading sub-account of an omnibus volume threshold account, which sub-account executes reportable trading volume on an omnibus basis. Omnibus reportable sub-account also~~

APPENDIX B: RULETEXT

~~means any trading account that is itself an omnibus account, executes reportable trading volume, and is a sub-account of another omnibus reportable sub-account.~~

~~(aa) — *Reportable sub-account* means any trading sub-account of an omnibus volume threshold account or omnibus reportable sub-account, which sub-account executes reportable trading volume.~~

~~(bb) — *Trading account controller* means, for reports specified in §17.01(a) of this chapter, a natural person who by power of attorney or otherwise actually directs the trading of a trading account. A trading account may have more than one controller.~~

~~(bb) *Trading account owner* means the person identified as the holder of the account in the books and records of a clearing member.~~

~~(cc) *Volume threshold account controller-owner* means a natural the person who by power of attorney or otherwise actually directs the trading of a volume threshold account. A volume threshold account may have more than one controller.~~ identified as the holder of the account in a clearing member's books and records.

~~(dd) — *Reportable sub-account controller* means a natural person who by power of attorney or otherwise actually directs the trading of a reportable sub-account. A reportable sub-account may have more than one controller.~~

§ 15.04 Reportable trading volume level.

The volume quantity for the purpose of reports filed under parts 17 and 18 of this chapter is trading volume of 250 or more contracts, during a single trading day, on a ~~single reporting market that is a~~ board of trade designated as a contract market under section 5 of the Act ~~or a swap execution facility registered under section 5h of the Act~~, in all instruments that such ~~reporting market~~ board of trade designates with the same product identifier (including purchases and sales, and inclusive of all expiration months).

APPENDIX B: RULETEXT

PART 17—REPORTS BY REPORTING MARKETS, FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS

§17.01 Identification of special accounts, volume threshold accounts, and omnibus accounts.

(a) *Identification of special accounts.* When a special account is reported for the first time, the futures commission merchant, clearing member, or foreign broker shall identify the special account to the Commission on Form 102, in accordance with the form instructions and as specified in §17.02(b).

(b) *Identification of volume threshold accounts.* Each clearing member shall identify and report its volume threshold accounts to the Commission on Form 102, in accordance with the form instructions and as specified in §17.02(c).

~~(c) *Identification of omnibus accounts and sub-accounts.* Each originator of an omnibus volume threshold account identified in Form 102 or an omnibus reportable sub-account identified in Form 71 shall, after a special call upon such originator by the Commission or its designee, file with the Commission an “Identification of Omnibus Accounts and Sub-Accounts” on Form 71, to be completed in accordance with the instructions thereto, at such time and place as directed in the call.~~

~~(cd) *Exclusively self-cleared contracts.* Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts shall meet the requirements of paragraphs (a) and (b) of this section, as they apply to trading in such contracts by all clearing members, on behalf of all clearing members.~~

~~(ed) *Special call provision.* Upon a call by the Commission or its designee, the reports required to be filed by futures commission merchants, clearing members, foreign brokers, and reporting markets under paragraphs (a) through (d) of this section shall be submitted **within 24 hours of the Commission or its designee's request promptly** in accordance with the instructions accompanying the request.~~

§ 17.02 Form, manner and time of filing reports.

Unless otherwise instructed by the Commission or its designee, the reports required to be filed by reporting markets, futures commission merchants, clearing members, and foreign brokers under §§17.00 and 17.01 shall be filed as specified in paragraphs (a) through (c) of this section.

(a) *Section 17.00(a) reports.* Reports filed under §17.00(a) shall be submitted through electronic data transmission procedures approved in writing by the Commission or its designee not later than 9 a.m. on the business day following that to which the information pertains. Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.¹

(b) *Section 17.01(a) reports.* For data submitted pursuant to §17.01(a) on Form 102:

(1) *Form of submission.* Form 102 must be submitted to the Commission in the form and manner provided on www.cftc.gov.

(2) *Time of submission.* For each account that becomes reportable as a special account, the futures commission merchant, clearing member, or foreign broker, as appropriate, shall submit a Form 102 to the Commission, in accordance with the instructions thereto, and in the manner specified by the Commission or its designee. Such form shall be submitted in accordance with the instructions and schedule set forth in paragraphs (b)(2)(i) ~~and (ii)~~ of this section:

(i) The applicable reporting party shall submit ~~a completed special account controller and omnibus originator contact information for the special account on a~~ Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the special account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraph (b)(3) ~~and (4)~~ of this section. **The applicable reporting party shall submit a**

¹ Per section II.B of the Petition, the Commission should clarify in the preamble to the proposed rules that reporting entities can reasonably rely on information provided by customers/counterparties and that the Commission will not commence an enforcement action if a reporting entity has no reason to believe that the information provided was incorrect.

APPENDIX B: RULETEXT

completed Form 102 to the Commission no later than 9 a.m. on the third business day following the date on which the special account becomes reportable (including the correction of data previously reported, if applicable), or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraph (b)(3) of this section. ~~Such form shall include all required information, including the names of the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on the form, provided that, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (b)(2)(ii) of this section.~~ Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.

~~(ii) With respect to the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on Form 102, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. on the third business day following the date on which the special account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (b)(3) and (4) of this section. Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.~~

(3) *Change updates.* If any change causes the information filed by a futures commission merchant, clearing member, or foreign broker on a Form 102 for a special account to no longer be accurate, then such futures commission merchant, clearing member, or foreign broker shall file an updated Form 102 with the Commission ~~in accordance with the instructions and schedule set forth in paragraphs (b)(2)(i) and (ii) of this section~~ no later than 9 a.m. on the business day following the date on which the futures commission merchant, clearing member, or foreign broker was made aware of the change, or on such other date as directed by special call of the Commission, provided that, a futures commission merchant, clearing member, or foreign broker may stop providing change updates for a Form 102 that it has submitted to the Commission for any special account upon notifying the Commission or its designee that the account in question is no longer reportable as a special account and that has not been reportable as a special account for the past six months.²

~~(4) Refresh updates. For Special Accounts—Starting on a date specified by the Commission or its designee and at the end of each annual increment thereafter (or such other date specified by the Commission or its designee that is equal to or greater than six months), each futures commission merchant, clearing member, or foreign broker shall resubmit every Form 102 that it has submitted to the Commission for each of its special accounts, provided that, a futures commission merchant, clearing member, or foreign broker may stop providing refresh updates for a Form 102 that it has submitted to the Commission for any special account upon notifying the Commission or its designee that the account in question is no longer reportable as a special account and has not been reportable as a special account for the past six months.~~

(c) *Section 17.01(b) reports.* For data submitted pursuant to §17.01(b) on Form 102:

(1) *Form of submission.* Form 102 must be submitted to the Commission in the form and manner provided on www.cftc.gov.

(2) *Time of submission.* For each account that becomes reportable as a volume threshold account, the clearing member shall submit a Form 102 to the Commission, in accordance with the instructions thereto, and in the manner specified by the Commission or its designee. Such form shall be submitted in accordance with the instructions and schedule set forth in paragraph (c)(2)(i) ~~and (ii)~~ of this section:

(i) The clearing member shall submit ~~a completed~~ the initial contact information for the volume threshold account owner or omnibus account originator on Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the volume threshold account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically

² The Commission should clarify in the preamble to any proposal to modify the OCR Rule that the Commission will not commence an enforcement action against a reporting entity for failure to report a change update if the customer/counterparty did not notify the reporting entity of the applicable change.

APPENDIX B: RULETEXT

required thereafter by paragraphs (c)(3) ~~and (4)~~ of this section. ~~Such form shall include all required information, including the names of the owner(s) and controller(s) of each volume threshold account reported on the form that is not an omnibus account, provided that, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (c)(2)(ii) of this section. Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.~~

~~(ii) With respect to the owner(s) and controller(s) of each volume threshold account reported on Form 102 that is not an omnibus account, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. The clearing member shall submit a completed Form 102 to the Commission no later than 9 a.m. on the third business day following the date on which the volume threshold account becomes reportable, (including the correction of data previously reported, if applicable), or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (c)(3) ~~and (4)~~ of this section. Unless otherwise specified by the Commission or its designee, the stated time is eastern time for information concerning markets located in that time zone, and central time for information concerning all other markets.~~

(3) *Change updates.* If any change causes the information filed by a clearing member on a Form 102 for a volume threshold account to no longer be accurate, then such clearing member shall file an updated Form 102 with the Commission ~~in accordance with the instructions and schedule set forth in paragraphs (c)(2)(i) and (ii) of this section~~ no later than 9 a.m. on the third business day following the date on which the clearing member was made aware of the change, or on such other date as directed by special call of the Commission, provided that, a clearing member may stop providing Form 102 change updates for a volume threshold account ~~upon notifying the Commission or its designee that the volume threshold account that~~ executed no trades in any product in the past six months on the reporting market at which the volume threshold account reached the reportable trading volume level.³

~~(4) Refresh updates. For Volume Threshold Accounts—Starting on a date specified by the Commission or its designee and at the end of each annual increment thereafter (or such other date specified by the Commission or its designee that is equal to or greater than six months), each clearing member shall resubmit every Form 102 that it has submitted to the Commission for each of its volume threshold accounts, provided that, a clearing member may stop providing refresh updates for a Form 102 that it has submitted to the Commission for any volume threshold account upon notifying the Commission or its designee that the volume threshold account executed no trades in any product in the past six months on the reporting market at which the volume threshold account reached the reportable trading volume level.~~

³ Per section IV.B of the Petition, the Commission should clarify in the preamble to any proposal to modify the OCR Rule that the Commission will not commence an enforcement action against a reporting entity for failure to report a change update if the customer/counterparty did not notify the reporting entity of the applicable change.

APPENDIX B: RULETEXT

PART 18 – REPORTS BY TRADERS

§18.04 Statement of reporting trader.

(a) Every trader who owns, 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, to be completed in accordance with the instructions thereto, at such time and place as directed in the call.

(b) Every ~~volume threshold account controller, person who owns, holds, or controls a volume threshold account, reportable sub-account controller, and person who owns a reportable sub-account~~ shall after a special call upon such person by the Commission or its designee file with the Commission a “Statement of Reporting Trader” on the Form 40, to be completed in accordance with the instructions thereto, at such time and place as directed in the call.

(c) Every person who owns, holds, or controls a futures-equivalent position in “paired swaps” that equals or exceeds the levels described in Part 15.03 of this Chapter shall after a special call upon such person by the Commission or its designee file with the Commission a “Statement of Reporting Trader” on the Form 40S, to be completed in accordance with the instructions thereto, at such time and place as directed in the call.

(d) For purposes of paragraph (c), “paired swaps” shall include a swap that is:

(1) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of any commodity futures contract listed paragraph (e);

(2) Directly or indirectly linked, including being partially or fully settled on, or priced at a differential to, the price of the same commodity for delivery at the same location or locations as the futures contracts listed in paragraph (e)

(e) Covered futures contracts:

Covered Futures Contracts
Chicago Board of Trade (“CBOT”) Corn.
CBOT Ethanol.
CBOT Oats.
CBOT Rough Rice.
CBOT Soybean Meal.
CBOT Soybean Oil.
CBOT Soybeans.
CBOT Wheat.
Chicago Mercantile Exchange (“CME”) Butter.
CME Cheese.
CME Dry Whey.
CME Feeder Cattle.
CME Hardwood Pulp.
CME Lean Hogs.
CME Live Cattle.
CME Milk Class III.
CME Non Fat Dry Milk.

APPENDIX B: RULETEXT

CME Random Length Lumber.
CME Softwood Pulp.
COMEX (“CMX”) Copper Grade #1.
CMX Gold.
CMX Silver.
ICE Futures U.S. (“ICUS”) Cocoa.
ICUS Coffee C.
ICUS Cotton No. 2.
ICUS Frozen Concentrated Orange Juice.
ICUS Sugar No. 11.
ICUS Sugar No. 16.
Kansas City Board of Trade (“KCBT”) Wheat.
Minneapolis Grain Exchange (“MGEX”) Wheat.
NYSELiffe (“NYL”) Gold, 100 Troy Oz.
NYL Silver, 5000 Troy Oz.
New York Mercantile Exchange (“NYMEX”) Cocoa.
NYMEX Brent Financial.
NYMEX Central Appalachian Coal.
NYMEX Coffee.
NYMEX Cotton.
NYMEX Crude Oil, Light Sweet.
NYMEX Gasoline Blendstock (RBOB).
NYMEX Hot Rolled Coil Steel.
NYMEX Natural Gas.
NYMEX No. 2 Heating Oil, New York Harbor.
NYMEX Palladium.
NYMEX Platinum.
NYMEX Sugar No. 11.
NYMEX Uranium.

APPENDIX B: RULETEXT

§ 18.05 Maintenance of books and records.

~~(a) Every volume threshold account controller; person who owns a volume threshold account; reportable sub-account controller; person who owns a reportable sub-account; and trader who owns, holds, or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions in the commodity or swap:~~

~~(1) On all reporting markets;~~

~~(2) Executed over the counter or pursuant to part 35 of this chapter; and~~

~~(3) On foreign boards of trade.~~

~~(b) Every such volume threshold account controller; person who owns a volume threshold account; reportable sub-account controller; person who owns a reportable sub-account; and trader who owns, holds, or controls a reportable futures or option position shall also keep books and records showing all details concerning all positions and transactions in the cash commodity or swap, its products and byproducts, and all commercial activities that it hedges in the futures, option, or swap contract in which it is reportable.~~

~~(c) Every volume threshold account controller; person who owns a volume threshold account; reportable sub-account controller; person who owns a reportable sub-account; and trader who owns, holds, or controls a reportable futures or option position shall upon request furnish to the Commission any pertinent information concerning such positions, transactions, or activities in a form acceptable to the Commission.~~

(a) Every person who owns, holds, or controls a reportable futures position (or options on futures positions) shall keep books and records that are maintained in the course of their regularly conducted business activity concerning:

(1) Futures positions on any designated contract market based upon the same commodity as the reportable futures position; and

(2) Futures positions on any foreign board of trade registered pursuant to Part 48 based upon the same commodity as the reportable futures position.

(b) Every person who owns, holds, or controls a reportable futures position (or options on futures positions), a futures-equivalent position in paired swaps that equals or exceeds the levels described in Part 15.03 of this Chapter, or owns a volume threshold account, shall keep books and records that are maintained in the course of their regularly conducted business activity concerning:

(1) transactions in the cash commodity, its products and byproducts, that the person hedges with the reportable futures position, paired swaps, or volume threshold account; and

(2) all other commercial activities that the person hedges with the reportable futures position, paired swaps, or volume threshold account.

(c) Every person required to retain records pursuant to paragraphs (a) and (b) shall upon request furnish to the Commission any records required to be maintained hereunder concerning such positions, transactions, or activities in a form acceptable to the Commission.

APPENDIX B: RULETEXT

~~§ 18.06 [Reserved]~~

§ 18.06 Legal Entity Identifier for Reportable Futures Position or Volume Threshold Account

(a) Every non-natural person that owns, holds, or controls a reportable futures position (or options on futures positions) or volume threshold account shall obtain a legal entity identifier that conforms with Part 45.6 of this Chapter.