

Commodity Futures Trading Commission

§ 15.00

§ 14.8 Lack of requisite qualifications, character and integrity.

In addition to those matters specifically referred to in §§14.4 through 14.7, the Commission may, after notice and opportunity for hearing in the matter, deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found by the Commission by a preponderance of the evidence:

(a) Not to possess the requisite qualifications to represent others; or

(b) To be lacking in character or integrity; or

(c) To have engaged in unethical or improper professional conduct either in the course of any adjudicatory, investigative or rulemaking or other proceeding before the Commission or otherwise. With respect to the professional conduct of persons licensed to practice as accountants, “unethical or improper professional conduct” means:

(1) Intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional principles or standards; or

(2) Either of the following two types of negligent conduct:

(i) A single instance of highly unreasonable conduct that results in a violation of applicable professional principles or standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted.

(ii) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional principles or standards, which indicate a lack of competence to practice before the Commission.

[41 FR 28472, July 12, 1976, as amended at 80 FR 32857, June 10, 2015]

§ 14.9 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the Commission who has been the subject of a conviction, suspension, disbarment, revocation, injunction or finding of the kind described in §§14.5 through 14.7, unless based on action instituted by the Commission, shall promptly file a copy of the relevant order, judgment or decree with the Secretariat of the Commission at Three

Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, together with any related opinion or statement of the agency or tribunal involved. Any person who has been the subject of administrative or judicial action of the kind described in §§14.5 through 14.7 and who has not filed a copy of the order, judgment or decree within thirty days after its entry shall for that reason alone be disqualified from appearing or practicing before the Commission until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way affect the operations of any other provision of this part.

[41 FR 28472, July 12, 1976, as amended at 60 FR 49335, Sept. 25, 1995]

§ 14.10 Reinstatement.

Any person who is disqualified from appearing or practicing before the Commission under any of the provisions of this part may at any time file an application of reinstatement and the applicant may, in the Commission’s discretion, be afforded a hearing on the application. However, denial of the privilege of appearing or practicing before the Commission shall continue unless and until the applicant has been reinstated by order of the Commission.

PART 15—REPORTS—GENERAL PROVISIONS

Sec.

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

15.01 Persons required to report.

15.02 Reporting forms.

15.03 Reporting levels.

15.04 Reportable trading volume level.

15.05 Designation of agent for foreign persons.

15.06 Delegations.

AUTHORITY: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

§ 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.

(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

Commodity Futures Trading Commission

§ 15.00

rules of a board of trade 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 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 means any trading account that is itself an omnibus account, executes reportable trading volume, and is a sub-

§ 15.01

17 CFR Ch. I (4–1–18 Edition)

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.

(cc) *Volume threshold account controller* means a natural 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.

(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.

[74 FR 12188, Mar. 23, 2009, as amended at 76 FR 43862, July 22, 2011; 77 FR 66332, Nov. 2, 2012; 78 FR 69230, Nov. 18, 2013; 83 FR 7996, Feb. 23, 2018]

§ 15.01 Persons required to report.

Pursuant to the provisions of the Act, the following persons shall file reports with the Commission with respect to such commodities, on such forms, at such time, and in accordance with such directions as are hereinafter set forth:

(a) Reporting markets—as specified in parts 16, 17, and 21 of this chapter.

(b) Futures commission merchants, clearing members, foreign brokers, introducing brokers, and traders—as specified in parts 17 and 21 of this chapter.

(c) As specified in part 18 of this chapter:

(1) Traders who own, hold, or control reportable positions;

(2) Volume threshold account controllers;

(3) Persons who own volume threshold accounts;

(4) Reportable sub-account controllers; and

(5) Persons who own reportable sub-accounts.

(d) Persons, as specified in part 19 of this chapter, either:

(1) Who hold or control futures and option positions that exceed the amounts set forth in §150.2 of this chapter for the commodities enumerated in that section, any part of which constitutes bona fide hedging positions (as defined in §1.3 of this chapter); or

(2) Who are merchants or dealers of cotton holding or controlling positions for future delivery in cotton that equal or exceed the amount set forth in §15.03.

(Approved by the Office of Management and Budget under control numbers 3038–0007 and 3038–0009)

[41 FR 3206, Jan. 21, 1976, as amended at 41 FR 48112, Nov. 2, 1976; 43 FR 45827, Oct. 4, 1978; 46 FR 59964, Dec. 8, 1981; 46 FR 63036, Dec. 30, 1981; 47 FR 57013, Dec. 22, 1982; 56 FR 14194, Apr. 8, 1991; 62 FR 6113, Feb. 11, 1997; 62 FR 13301, Mar. 20, 1997; 71 FR 37817, July 3, 2006; 74 FR 12189, Mar. 23, 2009; 78 FR 69230, Nov. 18, 2013; 83 FR 7996, Feb. 23, 2018]

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission or via the Internet (<http://www.cftc.gov>). Forms to be used for the filing of reports follow, and persons required to file these forms may be determined by referring to the rule listed in the column opposite the form number.

Form No.	Title	Rule
40	Statement of Reporting Trader	18.04
101	Positions of Special Accounts	17.00
102	Identification of Special Accounts, Volume Threshold Accounts, and Consolidated Accounts	17.01
204	Cash Positions of Grain Traders (including Oilseeds and Products)	19.00
304	Cash Positions of Cotton Traders	19.00
71	Identification of Omnibus Accounts and Sub-accounts	17.01