

Rome, NY as published in the **Federal Register** on November 25, 2002 (67 FR 70533–70534), (**Federal Register** Document) is corrected as follows:

#### PART 71—[CORRECTED]

Airspace, Incorporation by reference, Navigation (air).

#### Delay of Effective Date

The effective date on Airspace Docket No. 02–AEA–13 is hereby delayed from March 20, 2003 to May 15, 2003

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Jamaica, New York on February 21, 2003.

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*Acting Manager, Air Traffic Division, Eastern Region.*

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**BILLING CODE 4910–13–M**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 4

#### Commodity Pool Operators

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission (the “Commission” or “CFTC”) has adopted amendments to part 4 of its rules, which governs Commodity Pool Operators (“CPOs”) and Commodity Trading Advisors (“CTAs”). These amendments make clear that certain Disclosure Documents need only be filed with the National Futures Association (“NFA”) and need not also be filed with the Commission. The Commission, in a separate Notice and Order published elsewhere in the **Federal Register**, has authorized NFA to receive and review these documents.

**EFFECTIVE DATE:** March 17, 2003.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 1997, the Commission authorized NFA to review Disclosure Documents

that CPOs are required to file, pursuant to Commission rule 4.26(d), with regard to those Disclosure Documents filed for “privately offered” pools.<sup>1</sup> In December 2002, the Commission amended part 4 of its rules, including rule 4.26(d), to make clear that, as a result of the Commission order issued in 1997, as well as a Commission order issued in December 2002 that authorized NFA to receive and review various documents required to be filed with the Commission,<sup>2</sup> it was no longer necessary for the Commission to receive copies of these documents.<sup>3</sup> Accordingly, the Commission amended the subject rules to make clear that the required documents need only be filed with NFA and need not also be filed with the Commission.<sup>4</sup> As the Commission would continue to receive and review Disclosure Documents for publicly-offered pools, rule 4.26(d) was amended by adding paragraph (d)(3) to make clear that Disclosure Documents for publicly-offered pools, as well as any subsequent amendments to such Disclosure Documents, must be filed with the Commission.<sup>5</sup>

##### II. Rule Amendments

In a separate notice published elsewhere today in the **Federal Register**, the Commission is authorizing NFA to receive and review Disclosure Documents required to be filed by CPOs, pursuant to Commission rule 4.26(d), with regard to publicly-offered commodity pools. Accordingly, as the Commission noted regarding Disclosure Documents filed by CPOs with regard to privately offered pools, it is not necessary for the Commission to impose upon the persons filing these documents the burden and cost of having to file the documents with both NFA and the Commission. The Commission is, therefore, amending rule 4.26(d) to make clear that the required documents need only be filed with NFA and need not also be filed with the Commission.

<sup>1</sup> See 62 FR 52088 (Oct. 6, 1997). Pursuant to Commission rule 4.24(d)(3)(i), “privately offered” commodity pools are those offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*). As discussed herein, “publicly-offered” commodity pools are pools not offered pursuant to section 4(2) of the Securities Act of 1933 or pursuant to Regulation D.

<sup>2</sup> See 67 FR 77470 (Dec. 18, 2002).

<sup>3</sup> See 67 FR 77409 (Dec. 18, 2002).

<sup>4</sup> See 67 FR at 77410–11. The Commission rules amended were: (1) 4.5; (2) 4.7; (3) 4.12; (4) 4.13; (5) 4.14; (6) 4.22; (7) 4.26; and (8) 4.36.

<sup>5</sup> See 67 FR at 77411.

##### III. Related Matters

###### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”) <sup>6</sup> imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The rule amendment does not require a new collection of information on the part of any entities subject to the proposed rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that this rule amendment will not impose any new reporting or recordkeeping requirements.

###### B. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to “consider the costs and benefits” of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The amendment herein is intended to minimize the filing burdens imposed upon CPOs by making clear that the subject documents need only be filed with NFA and not also the Commission. The Commission is considering the costs and benefits of this rule in light of the specific provisions of section 15(a) of the Act:

1. *Protection of market participants and the public.* While the amendment is expected to lessen the filing burdens imposed upon CPOs, it does not reduce the type of information and documents that must be provided to customers of CPOs. Moreover, these documents will

<sup>6</sup> 44 U.S.C. 3501 *et seq.*