

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 proposed rulemaking consists of several proposed amendments to regulations pertaining to the minimum financial and related reporting requirements for FCMs and IBs.⁴⁰ The Commission is considering the costs and benefits of these various proposed rules in light of the specific provisions of section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* The proposed amendments to reporting requirements provide the benefit of aiding the Commission and DSROs to monitor the financial condition of futures intermediaries and to protect the customers of those firms and the markets. The Commission anticipates that the costs of compliance with the proposed reporting requirements would be minimized by proposed amendments to streamline filing requirements. In addition, the proposed rules would “grandfather” in existing satisfactory subordination agreements, meaning that FCMs or IBs would incur no costs to comply with proposed amendments to Rule 1.17, unless such agreements would be amended or renewed for other reasons.

2. *Efficiency and competition.* As stated above, the Commission anticipates that the proposed amendments will benefit efficiency by eliminating duplicate filings and otherwise streamlining reporting requirements for FCMs and IBs. The proposed amendments should have no effect, from the standpoint of imposing costs or creating benefits, on competition in the futures and options markets.

3. *Financial integrity of futures markets and price discovery.* The proposed amendments contribute to the benefit of ensuring that FCMs and IBs can meet their financial obligations to customers and other market participants, thus contributing to the financial integrity of the futures and options markets as a whole. The

proposed amendments should have no effect, from the standpoint of imposing costs or creating benefits, on the price discovery function of such markets.

4. *Sound risk management practices.* The proposed capital standards seek to reflect appropriately the level of risk that different activities and obligations of FCMs and IBs may pose to their financial condition. The proposed amendments may therefore contribute to the sound risk management practices of futures intermediaries.

5. *Other public interest considerations.* The Commission also believes that the proposed rules are beneficial in that they harmonize Commission and SEC rules with respect to time frames for reporting conditions that may be potentially adverse to the financial condition of the FCM or IB.

After considering these factors, the Commission has determined to propose the amendments discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposal with their comment letters.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Reporting and recordkeeping requirements.

For the reasons presented above, 17 CFR Part 1 is proposed to be amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. No. 106–554, 114 Stat. 2763 (2000).

2. Section 1.10 is proposed to be amended by:

a. Adding the word “monthly” before the words “financial reports” and removing the parenthetical phrase in paragraph (b)(1)(ii);

b. Removing the last sentence of paragraph (e)(1); and

c. Removing paragraph (f)(2) and d. Revising paragraphs (b)(1)(i), (b)(2)(i), (c), (d)(4), (e)(2), and (f)(1) to read as follows:

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

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(b) *Filing of financial reports.* (1)(i) Except as provided in paragraphs (b)(3) and (h) of this section, each person registered as a futures commission merchant must file a Form 1–FR–FCM as of the close of business each month. Each Form 1–FR–FCM must be filed no later than 17 business days after the date for which the report is made.

* * * * *

(2)(i) Except as provided in paragraphs (b)(3) and (h) of this section, and except for an introducing broker operating pursuant to a guarantee agreement which is not also a securities broker or dealer, each person registered as an introducing broker must file a Form 1–FR–IB semiannually as of the middle and the close of each fiscal year unless the introducing broker elects, pursuant to paragraph (e)(1) of this section, to file a Form 1–FR–IB semiannually as of the middle and the close of each calendar year. Each Form 1–FR–IB must be filed no later than 17 business days after the date for which the report is made.

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(c) *Where to file reports.* (1) A report filed by an introducing broker pursuant to paragraph (b)(2)(i) of this section need be filed only with, and will be considered filed when received by, the National Futures Association. Other reports provided for in this section will be considered filed when received by the regional office of the Commission with jurisdiction over the state in which the registrant’s principal place of business is located (except that a registrant under the jurisdiction of the Commission’s Western Regional Office must file such reports with the Southwestern Regional Office) and by the designated self-regulatory organization, if any; and reports required to be filed by this section by an applicant for registration will be considered filed when received by the National Futures Association and by the regional office of the Commission with jurisdiction over the state in which the applicant’s principal place of business is located (except that an applicant under the jurisdiction of the Commission’s Western Regional Office must file such reports with the Southwestern Regional Office).

(2) Any report filed pursuant to paragraph (b)(1), (b)(2), or (b)(4) of this section or § 1.12(a) which need not be certified in accordance with § 1.16 may be submitted to the Commission in electronic form using a Commission-assigned Personal Identification Number, and otherwise in accordance with instructions issued by the Commission, if the futures commission

⁴⁰ Section 4f(b) of the Act prohibits persons from becoming registered as FCMs or IBs if they do not meet the minimum financial requirements set forth in either the Commission’s regulations or in such Commission-approved requirements as may be established by the contract markets and derivatives transaction execution facilities of which the FCM or IB is a member.