

of this section within twenty-four (24) hours of such event.

(c) If an applicant or registrant at any time fails to make or keep current the books and records required by these regulations, such applicant or registrant must, on the same day such event occurs, provide facsimile notice of such fact, specifying the books and records which have not been made or which are not current, and within forty-eight (48) hours after giving such notice file a written report stating what steps have been and are being taken to correct the situation.

(d) Whenever any applicant or registrant discovers or is notified by an independent public accountant, pursuant to § 1.16(e)(2) of this chapter, of the existence of any material inadequacy, as specified in § 1.16(d)(2) of this chapter, such applicant or registrant must give facsimile notice of such material inadequacy within twenty-four (24) hours, and within forty-eight (48) hours after giving such notice file a written report stating what steps have been and are being taken to correct the material inadequacy.

4. Section 1.16 is proposed to be amended by:

- a. Revising paragraph (f)(1), and
- b. Removing paragraph (f)(2) and redesignating paragraph (f)(3) as paragraph (f)(2), as follows:

§ 1.16. Qualifications and reports of accountants.

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(f) *Extension of time for filing audited reports.* (1) In the event a registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in § 1.10 without substantial undue hardship, it may request approval for an extension of time, as follows:

(i) A registrant may file with its designated self-regulatory organization an application for extension of time, a copy of which the registrant must file with the Commission. The application shall be approved or denied in writing by the designated self-regulatory organization. The registrant must file immediately with the Commission a copy of any notice it receives from the designated self-regulatory organization to approve or deny the registrant's request for extension of time. A written notice of approval shall become effective upon the filing by the registrant of a copy with the Commission, and a written notice of denial shall be effective as of the date of the notice.

(ii) A registrant that is registered with the Securities and Exchange Commission as a securities broker or

dealer may file with its designated self-regulatory organization a copy of any application that the registrant has filed with its designated examining authority, pursuant to § 240.17-a5(l)(1) of this title, for an extension of time to file audited annual financial statements. The registrant must also file immediately with the designated self-regulatory organization and the Commission copies of any notice it receives from its designated examining authority to approve or deny the requested extension of time. Upon receipt by the designated self-regulatory organization and the Commission of copies of any such notice of approval, the requested extension of time referenced in the notice shall be deemed approved under this paragraph (f)(1).

(iii) Any copy that under this paragraph (f) is required to be filed with the Commission shall be filed with 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 the required copies with the Commission's Southwestern Regional Office).

5. Section 1.17 is proposed to be amended by:

a. revising paragraphs (a)(1)(i)(B), (b)(4), (e)(1)(ii), (h)(2)(vi)(C)(1) and (2), (h)(2)(vii)(A)(1) and (2), (h)(2)(vii)(B)(1) and (2), (h)(2)(viii)(A)(1) and (2), (h)(3)(ii)(A) and (B), (h)(3)(v)(A) and (B) and (h)(3)(vii);

b. adding new paragraphs (b)(7) and (b)(8);

c. revising the words "three business days" to read "one business day" in both the first and second sentences of paragraph (c)(5)(viii);

d. revising the words "three business days" to read "one business day" in both the first and second sentences of paragraph (c)(5)(ix); and

e. revising the reference to "(a)(1)(ii)(A)" to read "(a)(1)(iii)(A)" in paragraph (e)(1)(i) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

(a)(1)(i) * * *

(B) The futures commission merchant's risk-based capital requirement computed as follows:

(1) Eight percent of the total risk margin requirement (as defined in § 1.17(b)(8)) for all futures and options on futures positions carried by the futures commission merchant in customer accounts (as defined in § 1.17(b)(7)), plus

(2) Four percent of the total risk margin requirement (as defined in

§ 1.17(b)(8)) for all futures and options on futures positions carried by the futures commission merchant in noncustomer accounts (as defined in § 1.17(b)(4)).

* * * * *

(b) * * *

(4) "Noncustomer account" means a commodity futures or option account carried on the books of the applicant or registrant which is either:

(i) An account that is not included in the definition of customer (as defined in § 1.17(b)(2)) or proprietary account (as defined in § 1.17(b)(3)), or

(ii) An account for a foreign-domiciled person trading futures or options on a foreign board of trade, and such account is a proprietary account as defined in § 1.3(y) of this title, but is not a proprietary account as defined in § 1.17(b)(3).

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(7) "Customer account" means a commodity futures or option account carried on the books of the applicant or registrant which is either:

(i) An account that is included in the definition of customer (as defined in § 1.17(b)(2)), or

(ii) An account for a foreign-domiciled person trading on a foreign board of trade, where such account for the foreign-domiciled person is not a proprietary account (as defined in § 1.17(b)(3)) or a noncustomer account (as defined in § 1.17(b)(4)(ii)).

(8) "Risk margin" for an account means the level of maintenance margin or performance bond that the exchange on which a position or portfolio of futures contracts and/or options on futures contracts is traded requires its members to collect from the owner of the account, subject to the following:

(i) Risk margin does not include the equity component of short or long option positions maintained in an account;

(ii) The maintenance margin or performance bond requirement associated with a long option position may be excluded from risk margin to the extent that the value of such long option position does not reduce the total risk maintenance or performance bond requirement of the account that holds the long option position;

(iii) The risk margin for an account carried by an FCM which is not a member of the exchange on which the positions are traded should be calculated as if the FCM were such a member; and

(iv) If a futures commission merchant does not possess sufficient information to determine what portion of an account's total margin requirement