

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, sec. 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307; 12 U.S.C. 1818; 12 U.S.C. 1786(q).

■ 2. Section 103.11 is amended by revising paragraph (f), adding paragraphs (n)(8) and (n)(9), revising paragraph (ii)(1), and adding paragraphs (xx), (yy), (zz), (aaa), and (bbb) to read as follows:

§ 103.11 Meaning of terms.

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(f) *Broker or dealer in securities.* A broker or dealer in securities, registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, except persons who register pursuant to section 15(b)(11) of the Securities Exchange Act of 1934.

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(n) * * *

(8) A futures commission merchant;

(9) An introducing broker in commodities.

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(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, security, contract of sale of a commodity for future delivery, option on any contract of sale of a commodity for future delivery, option on a commodity, purchase or redemption of any money order, payment or order for any money remittance or transfer, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

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(xx) *Commodity.* Any good, article, service, right, or interest described in section 1a(4) of the Commodity Exchange Act (“CEA”), 7 U.S.C. 1a(4).

(yy) *Contract of sale.* Any sale, agreement of sale, or agreement to sell as described in section 1a(7) of the CEA, 7 U.S.C. 1a(7).

(zz) *Futures commission merchant.* Any person registered or required to be registered as a futures commission merchant with the Commodity Futures

Trading Commission (“CFTC”) under the CEA, except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2).

(aaa) *Introducing broker-commodities.* Any person registered or required to be registered as an introducing broker with the CFTC under the CEA, except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2).

(bbb) *Option on a commodity.* Any agreement, contract, or transaction described in section 1a(26) of the CEA, 7 U.S.C. 1a(26).

■ 3. Section 103.17 is added to read as follows:

§ 103.17 Reports by futures commission merchants and introducing brokers in commodities of suspicious transactions.

(a) *General*—(1) Every futures commission merchant (“FCM”) and introducing broker in commodities (“IB–C”) within the United States shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. An FCM or IB–C may also file with FinCEN a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section. Filing a report of a suspicious transaction does not relieve an FCM or IB–C from the responsibility of complying with any other reporting requirements imposed by the Commodity Futures Trading Commission (“CFTC”) or any registered futures association or registered entity as those terms are defined in the Commodity Exchange Act (“CEA”), 7 U.S.C. 21 and 7 U.S.C. 1a(29).

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through an FCM or IB–C, it involves or aggregates funds or other assets of at least \$5,000, and the FCM or IB–C knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank

Secrecy Act (“BSA”), Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the FCM or IB–C knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the FCM or IB–C to facilitate criminal activity.

(3) The obligation to identify and properly and timely to report a suspicious transaction rests with each FCM and IB–C involved in the transaction, provided that no more than one report is required to be filed by any of the FCMs or IB–Cs involved in a particular transaction, so long as the report filed contains all relevant facts.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report–Securities and Futures Industry (“SAR–SF”), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR–SF shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR–SF.

(3) *When to file.* A SAR–SF shall be filed no later than 30 calendar days after the date of the initial detection by the reporting FCM or IB–C of facts that may constitute a basis for filing a SAR–SF under this section. If no suspect is identified on the date of such initial detection, an FCM or IB–C may delay filing a SAR–SF for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as terrorist financing or ongoing money laundering schemes, the FCM or IB–C shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR–SF. FCMs and IB–Cs wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN’s Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–SF if required by this section. The FCM or IB–C may also, but is not required to, contact the CFTC to report in such situations.