Commodity Futures Trading Commission

§ 1.32 Segregated account; daily computation and record.

(a) Each futures commission merchant must compute as of the close of each business day, on a currency-by-currency basis:

(1) The total amount of customer funds on deposit in segregated accounts on behalf of commodity and option customers;

(2) the amount of such customer funds required by the Act and these regulations to be on deposit in segregated accounts on behalf of such commodity and option customers; and

(3) the amount of the futures commission merchant’s residual interest in such customer funds.

(b) In computing the amount of funds required to be in segregated accounts, a futures commission merchant may offset any net deficit in a particular customer’s account against the current market value of readily marketable securities, less applicable percentage deductions (i.e., “securities haircuts”) as set forth in Rule 15c3-3(1)(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 241.15c3-3(1)(c)(2)(vi)), held for the same customer’s account. The futures commission merchant must maintain a security interest in the securities at the futures commission merchant’s discretion, and CD-ROM technology shall so state. The representation shall be accompanied by the type of oath or affirmation described in §1.10(d)(4).

(d) Trading cards, documents on which trade information is originally recorded in writing, written orders required to be kept pursuant to §1.35(a), (a–1)(1), (a–1)(2), and (d), and paper copies of electronically filed certified Forms 1–FR and FOCUS Reports with the original manually signed certification must be retained in hard-copy for the required time period.

(Approved by the Office of Management and Budget under control numbers 3038–0007 and 3038–0022)


§ 1.32 Commodity Futures Trading Commission

(b)(4). The arrangement shall provide that the Technical Consultant will have access to, and the ability to download, information from the Electronic Recordkeeper’s electronic storage media to any medium acceptable under this regulation.

(i) The Technical Consultant must file with the Commission an undertaking in a form acceptable to the Commission, signed by the Technical Consultant or a person duly authorized by the Technical Consultant. An acceptable undertaking must include the following provision with respect to the Electronic Recordkeeper:

With respect to any books and records maintained or preserved on behalf of the Electronic Recordkeeper, the undersigned hereby undertakes to furnish promptly to any representative of the United States Commodity Futures Trading Commission or the United States Department of Justice (the “Representative”), upon reasonable request, such information as is deemed necessary by the Representative to download information kept on the Electronic Recordkeeper’s electronic storage media, including, as appropriate, arrangements for downloading any record required to be maintained under the Commodity Exchange Act or the rules, regulations, or orders of the United States Commodity Futures Trading Commission, in a format acceptable to the Representative. In the event the Electronic Recordkeeper fails to download a record into a readable format after reasonable notice to the Electronic Recordkeeper, upon being provided with the appropriate electronic storage medium, the undersigned will undertake to do so, at no charge to the United States, as the Representative may request.

(ii) [Reserved]

(c) Persons employing an electronic storage system shall provide a representation to the Commission prior to the initial use of the system. The representation shall be made by the person required to maintain the records, the storage system vendor, or another third party with appropriate expertise and shall state that the selected electronic storage system meets the requirements set forth in paragraph (b)(1)(ii) of this section. Persons employing an electronic storage system using media other than optical disk or
must segregate the securities in a safe-
keeping account with a bank, trust
company, clearing organization of a
contract market, or another futures
commission merchant. For purposes of
this section, a security will be consid-
ered readily marketable if it is traded
on a “ready market” as defined in Rule
15c3-1(c)(11)(i) of the Securities and Ex-
change Commission (17 CFR 240.15c3-
1(c)(11)(i)).

(c) The daily computations required
by this section must be completed by
the futures commission merchant prior
to noon on the next business day and
must be kept, together with all sup-
porting data, in accordance with the
requirements of §1.31.

[66 FR 41133, Aug. 7, 2001, as amended at 68
FR 5551, Feb. 4, 2003]

§ 1.33 Monthly and confirmation state-
ments.

(a) Monthly statements. Each futures
commission merchant must promptly
furnish in writing to each commodity
customer and to each option customer
and to each foreign futures and foreign
options customer, as of the close of the
last business day of each month or as
of any regular monthly date selected,
extcept for accounts in which there are
neither open positions at the end of the
statement period nor any changes to
the account balance since the prior
statement period, but in any event not
less frequently than once every three
months, a statement which clearly
shows:

(1) For each commodity customer
and foreign futures customer—
(i) The open contracts with prices at
which acquired;
(ii) The net unrealized profits or
losses in all open contracts marked to
the market; and
(iii) Any customer funds carried with
the futures commission merchant; and
(iv) A detailed accounting of all fi-
nancial charges and credits to such
customer accounts during the monthly
reporting period, including all cus-
tomer funds and funds on deposit with
respect to foreign futures transactions
in accordance with §30.7 of this chapter
received from or disbursed to such cus-
tomer and realized profits and losses; and

(2) For each option customer and for-
eign options customer—
(i) All commodity options and for-
eign options purchased, sold, exercised,
or expired during the monthly report-
ing period, identified by underlying fu-
tures contract or underlying physical,
strike price, transaction date, and ex-
piration date;
(ii) The open commodity option and
foreign option positions carried for
such customer as of the end of the
monthly reporting period, identified by
underlying futures contract or under-
lying physical, strike price, trans-
action date, and expiration date;
(iii) A separate listing of the actual
premium, as well as each mark-up thereon, if applicable,
and all other commissions, costs, fees
and other charges incurred in connec-
tion with the commodity option trans-
action;
(iv) The strike price;
(v) The underlying futures contract
or underlying physical;