§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.

(a) No person shall be registered as a futures commission merchant or as an introducing broker under the Act unless, commencing on the date his application for such registration is filed, he prepares and keeps current ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 1–FR–FCM or Form 1–FR–IB, respectively, or, if such person is registered with the Securities and Exchange Commission as a securities broker or dealer and he files (in accordance with §1.10(h)) a copy of his Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part II A, or Part II CSE (FOCUS report) in lieu of Form 1–FR–FCM or Form 1–FR–IB, the account classification subdivisions specified on such FOCUS report, or categories that are in accord with generally accepted accounting principles. Each person so registered shall prepare and keep current such records.

(b)(1) Each applicant or registrant must make and keep as a record in accordance with §1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to §1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 17 business days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

(2) An applicant or registrant that has filed a monthly Form 1–FR or Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part II A, or Part II CSE (FOCUS report) in accordance with the requirements of §1.10(b) will be deemed to have satisfied the requirements of paragraph (b)(1) of this section for such month.

(c) The provisions of this section do not apply to an introducing broker which is operating pursuant to a guarantee agreement, nor do such provisions apply to an applicant for registration as an introducing broker who files concurrently with such application a guarantee agreement, provided such introducing broker or applicant therefor is not also a securities broker or dealer.


§ 1.19 Prohibited trading in certain "puts" and "calls".

No futures commission merchant or introducing broker may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except:

(a) Commodity options traded on or subject to the rules of a contract market in accordance with the requirements of part 33 of this chapter;

(b) Commodity options traded on or subject to the rules of a foreign board of trade in accordance with the requirements of part 30 of this chapter; or

(c) For futures commission merchants, any option permitted under §32.4 of this chapter, provided however, that a capital treatment for such options is referenced in §1.17(c)(5)(vi).

Futures customer funds to be segregated and separately accounted for.

(a) General. A futures commission merchant must separately account for all futures customer funds and segregate such funds as belonging to its futures customers. A futures commission merchant shall deposit futures customer funds under an account name that clearly identifies them as futures customer funds and shows that such funds are segregated as required by sections 4d(a) and 4d(b) of the Act and by this part. A futures commission merchant must at all times maintain in the separate account or accounts money, securities and property in an amount at least sufficient in the aggregate to cover its total obligations to all futures customers as computed under paragraph (i) of this section. The futures commission merchant must perform appropriate due diligence as required by § 1.11 on any and all locations of futures customer funds, as specified in paragraph (b) of this section, to ensure that the location in which the futures commission merchant has deposited such funds is a financially sound entity.

(b) Location of futures customer funds. A futures commission merchant may deposit futures customer funds, subject to the risk management policies and procedures of the futures commission merchant required by § 1.11, with the following depositories:
   (1) A bank or trust company;
   (2) A derivatives clearing organization; or
   (3) Another futures commission merchant.

(c) Limitation on the holding of futures customer funds outside of the United States. A futures commission merchant may hold futures customer funds with a depository outside of the United States only in accordance with § 1.19.

(d) Written acknowledgment from depositories. (1) A futures commission merchant must obtain a written acknowledgment from each bank, trust company, derivatives clearing organization, or futures commission merchant prior to or contemporaneously with the opening of an account by the futures commission merchant with such depositories; provided, however, that a written acknowledgment need not be obtained from a derivatives clearing organization that has adopted and submitted to the Commission rules that provide for the segregation of futures customer funds in accordance with all relevant provisions of the Act and the rules and orders promulgated thereunder.

   (2) The written acknowledgment must be in the form as set out in Appendix A to this part.

   (3)(i) A futures commission merchant shall deposit futures customer funds only with a depository that agrees to provide the director of the Division of Swap Dealer and Intermediary Oversight, or any successor division, or such director’s designees, with direct, read-only electronic access to transaction and account balance information for futures customer accounts.

   (ii) The written acknowledgment must contain the futures commission merchant’s authorization to the depository to provide direct, read-only electronic access to futures customer account transaction and account balance information to the director of the Division of Swap Dealer and Intermediary Oversight, or any successor division, or such director’s designees, without further notice to or consent from the futures commission merchant.

   (4) A futures commission merchant shall deposit futures customer funds only with a depository that agrees to provide the Commission and the futures commission merchant’s designated self-regulatory organization with a copy of the executed written acknowledgment no later than three business days after the opening of the account or the execution of a new written acknowledgment for an existing account, as applicable. The Commission must receive the written acknowledgment from the depository via electronic means, in a format and manner determined by the Commission. The written acknowledgment must contain the futures commission merchant’s authorization to the depository to provide the written acknowledgment to the Commission and to the futures commission merchant’s designated...