

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Airbus Industrie:** Docket 94–NM–209–AD.

**Applicability:** Model A320–111, –211, and –231 series airplanes, serial numbers 005 through 043 inclusive, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking at the mounting hinge of the aileron support frames of the wings, which could result in loss of the aileron control surface and the inability of the pilot to control rolling moments of the airplane, accomplish the following:

(a) Prior to the accumulation of 14,000 flight cycles or within 500 flight cycles after the effective date of this AD, whichever occurs later, modify the aileron support frames of the wings, in accordance with Airbus Service Bulletin A320–57–1002, Revision 1, dated May 12, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 12, 1995.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 95–14767 Filed 6–15–95; 8:45 am]

**BILLING CODE 4910–13–U**

#### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Part 17

#### Reports by Futures Commission Merchants, Members of Contract Markets and Foreign Brokers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Rule 17.01 and to modify the Form 102 required to be filed by clearing members, futures commission merchants (FCMs) and foreign brokers. This form identifies persons having financial interest in, or control of, special accounts in futures and options. The proposed amendments clarify the information required on the Form 102 for various kinds of special accounts

reported to the Commission. The Commission is also proposing to amend Rule 17.02 concerning the time in which a completed Form 102 must be filed. The proposed rules would require that certain specified identification information be provided on the first day that a special account is reported to the Commission and that a completed Form 102 be filed with the Commission within three business days of that date.

**EFFECTIVE DATE:** Comments must be received by August 15, 1995.

**ADDRESSES:** Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 and should make reference to "Form 102 changes."

#### FOR FURTHER INFORMATION CONTACT:

Lamont L. Reese, Supervisory Statistician, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–3310.

**SUPPLEMENTARY INFORMATION:** Part 17 of the Commission's regulations requires that FCMs, clearing members, and foreign brokers ("firms") submit a daily report to the Commission with respect to futures positions in all special accounts on their books.<sup>1</sup> Information required to be provided to the Commission includes quantities of reportable futures positions, exchanges of futures for cash, and delivery notices issued or stopped by each special account.<sup>2</sup> For reporting purposes, futures positions in all accounts controlled by the same person and those in which a person has a 10 percent or more financial interest must be combined and treated as if they are held in a single account. The firm assigns a reporting number to the special account and reports all information to the Commission using this number.<sup>3</sup>

In addition to the reporting number and the position and transaction information mentioned above, the firm must file a CFTC Form 102 showing the information specified under § 17.01 of the regulations for each special

<sup>1</sup> Special account means any commodity futures or option account in which there is a reportable position, 17 CFR 15.00 (1994). Firms report futures information to the Commission and option information to the exchanges.

<sup>2</sup> A reportable position is any open position held or controlled by a trader at the close of business in any one futures contract of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations, 17 CFR 15.03 (1994).

<sup>3</sup> The firm's reporting number may be the account number carried on its books. However, as noted above, the number may refer to a collection of accounts that are owned and/or controlled by the same person.

account.<sup>4</sup> This information identifies persons who have a financial interest in or trading control of a special account, informs the Commission of the type of account that is being reported, and gives preliminary information whether positions and transactions are commercial or non-commercial in nature.<sup>5</sup> The form must be filed when the account first becomes reportable and updated when information concerning financial interest in or control of the special account changes.<sup>6</sup> In addition to its use by the Commission, the Form 102 is used by the exchanges to identify accounts reported through their large trader reporting systems for both futures and options.<sup>7</sup>

Effective August 16, 1993, the Commission adopted amendments to part 17 of the regulations which clarified the reporting of futures positions of commodity pools, certain commodity trading advisors and accounts controlled by two or more persons.<sup>8</sup> These amendments primarily addressed the reporting of accounts controlled by independent account controllers for eligible entities, conforming this reporting to the same method used by the Commission to determine compliance with speculative limits.<sup>9</sup> Although certain amendments were made to Rule 17.01, the Commission did not change its Form 102. Rather, Commission staff at that time began a review of the Form 102 in relation to the newly amended Rule 17.01 and to changes in the nature of accounts carried and reported by firms since the last substantive revision of the form by the Commission.<sup>10</sup>

Staff review of this matter concluded that there are generally three types of special accounts reported to the Commission where information requirements differ: House and customer omnibus accounts; accounts

controlled by independent account controllers; and accounts generally owned and controlled by the same entity or an employee of the entity. The current Form 102 and Rule 17.01 require the same information for all accounts. Since all of the information is not pertinent for each of the different types of special accounts, the form is subject to varying interpretations and may be confusing for both the persons filing the form and those who receive it.

In view of this, Commission staff interviewed their counterparts at the exchanges in order to develop a new Form 102 which resolves some of the ambiguities in the present form making it more useful to both the exchanges and the Commission. The views of the operations committees of the Futures Industry Association ("FIA") were also sought and are discussed below. Persons on these committees represent the back office staff of clearing members and FCMs generally responsible for completing and filing the Form 102.

The proposed, modified Form 102 is included as an attachment to this notice. The amendments to Rule 17.01 conform the information required in the proposed regulations to that asked on the form.<sup>11</sup> In this respect, the rule amendments will not increase the information currently required under the rule for various types of accounts.

### **The New Form 102 and Proposed Amendments to Rule 17.01**

As noted above, Commission staff have identified three types of special accounts that firms generally report: Omnibus accounts; accounts controlled by an independent account advisor; and accounts owned and controlled by the same entity or employee of the entity.

Item 1 on the proposed Form 102 requires that the firm classify the special account as one of the three types (Sec. 1(a), 1(b) or 1(c)) and give identifying information concerning the person or legal entity holding and/or controlling the account in item 1(d). In addition, if the account is not an omnibus account, the firm must report whether the person or legal entity identified in item 1(d) is a Commodity Trading Advisor ("CTA")

<sup>11</sup> On a related issue, the Commission is also proposing to amend Rule 17.01 to require that option and futures accounts be reported using the same designator. This may be any string of alphanumeric characters up to the maximum number permitted. Currently, Rule 17.01 specifies that a designator for a futures account be numeric while that for an option account can be alphanumeric. The restrictions on the use of alphanumeric characters for futures accounts is no longer necessary. Using the same designator for both types of accounts for the same persons will reduce the number of Form 102s that firms must file and that the Commission must process.

or a Securities Investment Advisor ("SIA"). See proposed §§ 17.01(b)(1), (b)(1)(i), (ii), (ii)(A), and (iii)(A).

The reason for identifying SIAs is that many of the participants in stock index futures are SIAs. Exchanges that trade stock index futures have created exclusions from certain of their rules for SIAs. The exchanges therefore believe it is important to identify such persons for enforcement purposes. The Commission also believes this information may be important to determine if investigations or studies should be conducted in cooperation with the Securities and Exchange Commission. Other information required for each type of special account is discussed below.<sup>12</sup>

### **Omnibus Accounts**

For reporting purposes an omnibus account is considered an account carried on the books of an FCM (carrying firm) for and in the name of another FCM, clearing member, or foreign broker (originating firm) where trading in the account may be conducted for two or more persons at the originating firm and the traders are not separately identified to the carrying firm. Since the Commission will contact the originating firm to file the necessary reports required by part 17 of the regulations, the carrying firm need only identify the account as a house or customer omnibus account (question 1(a) on the Form 102) and provide the identifying information specified in item 1(d) of the form. See proposed §§ 17.01(b)(1), and (b)(1)(i).

### **Accounts Controlled by Independent Account Advisors**

In pertinent part, an independent account advisor is a person who specifically is authorized by an FCM or eligible entity, as defined in part 150, to control trading decisions on behalf of, but without the day-to-day direction of, the FCM or eligible entity and over whose trading the FCM or eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities to supervise diligently the trading done on its behalf.<sup>13</sup> As noted above, the Commission amended Rule 17.00 in 1993 to provide that all accounts controlled by independent account advisors for FCMs and eligible

<sup>12</sup> Items 6 through 12 on the proposed Form 102 must be provided for all special accounts. This concerns information about the associated person handling the account and the firm filing the report.

<sup>13</sup> The Commission has specified other indices of control to determine if certain accounts should be considered separate from other accounts owned or controlled by an FCM or eligible entity. See, for example the Commission's "Statement of Policy on Aggregation" (44 FR 33839, June 13, 1979) and Rule 150.1 (17 CFR 150.1, 1994).

<sup>4</sup> 17 CFR 17.01 (1994).

<sup>5</sup> Account types are shown on the CFTC Form 102 as house or customer omnibus, individual, partnership, corporation, etc.

<sup>6</sup> 17 CFR 17.02 (1994).

<sup>7</sup> Part 17 of the regulations requires that firms identify large traders in options on the Form 102 and transmit the form to the appropriate exchange in accordance with their rules. Those exchanges that maintain a futures large trader reporting system also use the CFTC Form 102 for identifying futures large traders.

<sup>8</sup> 58 FR 33327 (June 17, 1993).

<sup>9</sup> Eligible entities are defined in Commission Rule 150.1 as commodity pool operators, operators of a trading vehicle which is excluded or who themselves have qualified for the exclusion from the definition of the term "pool" or "commodity pool operator," respectively, under § 4.5 of this chapter or a commodity trading advisor.

<sup>10</sup> These changes occurred in September of 1982 when the form was revised to include instructions for reporting option large trader information to the exchanges.

entities would be treated as a single account and reported in the name of the advisor.<sup>14</sup> Changes to the Form 102 specifically provide for this. See proposed §§ 17.01(b)(1) and (b)(1)(iii). Certain additional information must be provided on all accounts included in this type of special account. If the special account is a customer trading program and involves 10 or more separate accounts of other persons, firms need only give the name of the program and identify those accounts held by commodity pools in item 3(a) on the Form 102.<sup>15</sup> Information concerning other controlled accounts is reported in item 3(b). See proposed § 17.01(b)(1)(iii)(B) and (C). On the new form, the account numbers of the controlled accounts must now be reported. This information is helpful to those exchanges using their large trader systems to identify accounts on the daily trade register. Additionally, the information will be useful when Commission or exchange staff contact firms about specific accounts on their books.<sup>16</sup>

The operations committees of the FIA which were interviewed posed a number of questions concerning accounts controlled by independent account advisors. First, those surveyed by the Commission suggested that a distinction be made between managed and guided accounts. The Commission does not agree. In its 1979 Statement of Policy on Aggregation the Commission considered differences between managed and guided account programs.<sup>17</sup> The Commission determined then that there was little difference between managed and guided account programs since such programs are designed and represented to customers to give best results by complete or general participation in the trades generated by the program.

The operations committees also noted that a definition of "program" might be

helpful and questioned whether the language in item 3(a) concerning "programs in which 10 or more accounts participate" referred to all accounts parented to an investment advisor and whether this would include investment partnerships. Commission Rule 15.00(f) currently defines a customer trading program for reporting purposes as:

Any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, an introducing broker, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice or otherwise directly or indirectly controls trading done and positions held by any other person.

Generally, this refers to all accounts parented to an investment advisor.

With respect to investment partnerships, if all partners make trading decisions for the partnership and share in ownership rights of the assets of the partnership, then under § 17.00(b)(1)(ii) accounts of the partnership should be reported in the name of the partnership.<sup>18</sup> In this instance, none of the partners are parented to the partnership account for reporting. A second type of partnership involves limited partners. Many commodity pools are organized in this manner. In this case, if the partnership is traded by an independent account advisor for an FCM or eligible entity, the partnership is reported in the name of the independent account advisor.<sup>19</sup> If the partnership trading is conducted by a general partner and there is only one such person, then the partnership is reported in the name of the general partner.<sup>20</sup>

Those who are required to respond on the Form 102 also suggested that consideration be given to include instructions or guidelines in completing the Form 102, especially as it relates to independent account advisors. Generally, reporting issues and questions arise when multiple persons have financial interest or control of an account or control of an account is vested in persons other than those having a financial interest in the account. In such cases it is possible for reporting firms to combine and report

positions in more than one manner.<sup>21</sup> The Commission has given guidance in §§ 17.00(b)(1)(i) and (ii) for reporting the more commonly occurring types of such situations. Answers to other problems are generally specific in nature depending on the particular circumstances surrounding each situation. In view of this, the Commission is instructing its staff to coordinate with their counterparts at the exchanges and give answers to reporting questions in writing. These answers, which will be publicly available, will serve as advisories on reporting, providing guidance on reporting issues within the context of those which have already been encountered.

### Other Special Accounts

This includes accounts owned and controlled by the same person or entity (or controlled by an officer or employee of the entity) and general partnership or joint accounts. The information that is required for special accounts in this category on the new Form 102 is similar to that requested on the current Form 102. See items 1(d) and 2 on the Form 102 and proposed §§ 17.01(b)(1), 17.01(b)(1)(i), and (ii)(A)-(E). Additional information on the new form includes the names and locations of all persons authorized to trade an account included in the special account. Since this identifies employees or officers of corporations or other entities who conduct the actual trading, the information can be used to ensure that if persons are suspended from trading, they are not violating the suspension by masking their trading in the name of a business. The Commission, however, is limiting the amount of information that must be supplied. Large corporations may use multiple accounts and traders, creating a burden for firms to obtain and report all persons having trading authority for a special account. Moreover, for large corporations this information is not necessary for surveillance purposes. In view of this, the Commission is proposing that the names and locations of account controllers be provided only if there are five or fewer such traders.<sup>22</sup>

During staff interviews, those likely to be responding on the forms presented a number of other suggestions. Chief among these was a concern about the

<sup>14</sup> There is one general exception to this manner of reporting. If an FCM or eligible entity owns an account, the account is reported in the name of the FCM or eligible entity unless otherwise directed by the Commission. Reporting accounts in this manner will alert the Commission when an FCM or eligible entity trades above the speculative limit levels and that further investigation may be necessary.

<sup>15</sup> The Commission amended Rules 17.01 (b)(6) and 18.04(a)(5) in June 1993, to limit the amount of information that is supplied on Forms 102 and 40 concerning controlled accounts. As the Commission then noted, participants in customer trading programs tend to be small traders whose identity for market surveillance purposes is not needed on a routine basis. The Commission reserved the right to obtain this information on call (58 FR 33329 June 17, 1993).

<sup>16</sup> For these same reasons, the Commission is requiring that account numbers be provided in items 2(c) and 4 on the new form.

<sup>17</sup> 44 FR 33842 (June 13, 1979).

<sup>18</sup> On the new Form 102, as proposed, item 1(b) would be checked and the partnership identified in item 1(d). This manner of reporting general partnerships was set forth in the 1993 **Federal Register** Notice (58 FR 33328 June 17, 1993). Generally, this would also apply to joint accounts.

<sup>19</sup> Item 1(c) is checked and information about the advisor is supplied in item 1(d).

<sup>20</sup> Item 1(b) is checked and information about the general partner is supplied in item 1(d).

<sup>21</sup> As noted in the June 17, 1993 **Federal Register**, firms must report in a manner that avoids duplicate reporting of position data so that the data is suitable for regulatory analysis and publication (55 FR 33328).

<sup>22</sup> The remaining information on the proposed Form 102 (items 4-12) is substantively the same information that is asked on the current form and does not need further discussion.

turn around time for the Form 102 and the accuracy of the information that can be supplied in such a short time frame. Currently a Form 102 is due at the same time a special account is reportable for the first time. This is generally the business day following the trade date the account first exceeds reporting levels.<sup>23</sup> Since much of the required information comes from the sales force, delays in obtaining the information are not uncommon. Currently in such instances, Commission staff will accept a filing providing at least the identity and location of the account owner and/or controller within the first 24 hours with a completed Form 102 filed as soon as possible thereafter. This is the least amount of information deemed necessary in order to assign a CFTC trader number to the account. Some exchanges also require that minimal identifying information be provided immediately allowing some longer period for firms to complete and return the Form 102.

In order to obtain more accurate information, the Commission is proposing that Rule 17.02 be amended to require that firms need only supply on an immediate basis the information in items 1(a), 1(b), or 1(c) and the name and location of the trader who will be identified in 1(d).<sup>24</sup> Receipt of a fully completed and accurate Form 102 will be required within 3 business days of the date the special account is first reported.<sup>25</sup>

<sup>23</sup> 17 CFR 17.02 (1994).

<sup>24</sup> Similarly, the Commission is proposing that updates to the Form 102 be filed within three business days of the subject changes. The Commission is also proposing to amend Rule 17.02 to require that hardcopy reports be filed with the Commission by facsimile rather than mail. Currently, all such reports are filed by facsimile. If facsimile reporting represents a problem for some firms, the rule provides that the Commission's designee may specify an alternate means of reporting.

<sup>25</sup> Other suggestions put forth by the FIA and methods suggested by Commission staff for addressing these concerns are as follows:

(1) More space should be provided on the form to alleviate the need for continuation sheets. Since the form will be printed on both sides of a single page, additional space is not available;

(2) Question 5 concerning contract markets used for hedging should contain check boxes with possible choices of specific futures and option markets. Currently, there are over 40 markets which could be considered highly active. It would be difficult and probably of little help to list only a few markets; and

(3) Customers should either complete or sign the form since the filing of a false or fraudulent report may be a basis for administrative action. The Commission currently receives a Form 40 from customers. Generally, a Form 40 requires the reporting of more complete information. However, it is not as timely in its filing as the Form 102. The Commission believes that obtaining information from both sources on the Forms 102 and 40, respectively, is the best method for assuring both

### Exchange Initiatives

Staff of the Chicago Mercantile Exchange ("CME") have provided the Commission with proposed record layouts for the electronic transmission of information on the Form 102. CME staff have inquired about the feasibility of firms electronically transmitting Form 102 information to the exchange and the exchange then providing the Commission with the information. The CME indicates that they have had preliminary talks concerning this matter with a number of firms, bookkeeping services,<sup>26</sup> and staff of the Chicago Board of Trade. In the meetings concerns were raised about the Commission's role in this process.

Apparently there is concern whether the Commission would be able to receive transmissions in the prescribed format, whether multiple transmissions to the exchanges and the Commission would be necessary and whether the Commission might begin its own development effort. Commission staff are currently reviewing the proposed format and have scheduled further discussions with exchange staff. In the interim, the Commission invites all interested persons to submit comments concerning the CME's suggestion to electronically transmit Form 102 data. The Commission is especially interested in the feasibility of such a proposal, whether and to what extent data required on the new Form 102 is currently in machine readable form, potential costs and benefits to firms if the information is transmitted electronically, and any alternate means through which the firms believe they can reduce the cost of filing Form 102 information.

### Other Related Matters

#### *The Regulatory Flexibility Act (RFA)*

The RFA requires that agencies consider the impact of substantive rules on small businesses. These amendments affect large traders, FCMs, commodity pools, CTAs and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" in evaluating the impact of its rule in accordance with the RFA, 47 FR 18618-18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and FCMs

timely and complete information necessary for market surveillance.

The Commission requests further comment on the feasibility of these suggestions and alternative methods of addressing these concerns.

<sup>26</sup> Bookkeeping services provide software and/or hardware for firms' operational staff. These services would be responsible for developing software to transmit Form 102 information.

are not considered to be small entities for purposes of the RFA. In this regard, the proposed amendments to reporting requirements relating to the Form 102 fall mainly upon FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable positions, i.e., large positions. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that these proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission however, invites comments from any firm which believes that these rules would have a significant economic impact upon its operation.

#### *Paperwork Reduction Act ("PRA")*

The PRA of 1980, 44 U.S.C. 3501 et. seq., imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted these rules and their associated information collection requirements to the Office of Management and Budget.

The burden associated with the entire collection, including this rule, is as follows:

Average Burden Hours Per Response—  
.1587 hour  
Number of Respondents—3709  
Frequency of Response—Daily

The burden associated with this specific proposed rule, is as follows:  
Average Burden Hours Per Response—  
0.2 hour  
Number of Respondents—6,592  
Frequency of Response—On occasion

Persons wishing to comment on the information which would be required by this proposed rule should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW, Washington, DC 20581, (202) 254-9735.

### List of Subjects in

#### *17 CFR Part 17*

Brokers, Commodity Futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1989), the Commission proposes to amend Chapter I of title 17

of the Code of Federal Regulations as follows:

**PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 7 U.S.C. 6a, 6d, 6f, 6g, 6i, 7 and 12a.

2. Section 17.01 is proposed to be revised as follows:

**§ 17.01 Special account designation and identification.**

(a) *Designation of special account.* For the purpose of reporting futures information to the Commission and option information to a contract market, each futures commission merchant, clearing member and foreign broker shall assign a unique designator to each special account for futures and options and shall report the account only by such designator. *Provided*, that the designator for options and futures shall not be changed or assigned to another account without prior approval of the Commission.

(b) *Identification of special account.* When a Special Account is reported for the first time, the futures commission merchant, clearing member or foreign broker shall identify the account to the Commission or to the contract market on Form 102 showing the information requested thereon, including:

(1) The designator assigned to the account for reporting purposes and the name, address, business phone and, for individuals, the person's job title and employer for:

(i) The person originating the account, if the special account is a house omnibus or customer omnibus account;

(ii) The person (*i.e.*, individual, corporation, partnership etc.) who owns the special account if such person (or an employee or officer) also controls the trading of the special account. And in addition:

(A) The registration status of the person as a commodity trading advisor or a securities investment advisor;

(B) The legal organization of the person and the person's principal business or occupation;

(C) Account numbers and account names included in the special account, if different than supplied in paragraph (b)(1) of this section;

(D) The name and location of all persons not identified in paragraph (b)(1) of this section having a 10% or more financial interest in the special account, indicating those having

discretionary trading over the account; and

(E) For special accounts with five or fewer persons having trading authority, the names and locations of all persons with trading authority that have not been identified in paragraphs (b)(1) or (1)(ii)(D) of this section; or

(iii) The account controller, if trading of the special account is controlled by a person or legal entity who is an independent account controller of the account owners as defined in § 150.1(e). And, in addition:

(A) The registration status of the person as a commodity trading advisor or a securities investment advisor;

(B) For publicly offered managed or guided account programs in which 10 or more accounts participate, the account number and the name of each guided or managed account program and of each pool and the name and address of the commodity pool operator for the pool that participates in the program;

(C) For each controlled account not participating in a program identified above, the account number and the name and address of each person having a 10% or more financial interest in the account. For commodity pools, provide the account number, name of the pool and name and address of the commodity pool operator; and

(D) On call by the Commission or its designee the account numbers and names and locations of each person participating in a program.

(2) For each account not included in the special account that the person identified in paragraph (b)(1) of this section either controls or in which such person has a financial interest of 10% or more, the account number and the name of the account.

(3) For futures or options, commodities in which positions or transactions in the account are associated with a commercial activity of the account owner in a related cash commodity or activity (*i.e.*, those considered as hedging, risk-reducing, or otherwise off-setting with respect to the cash commodity or activity).

(4) The name and business telephone number of the associated person of the futures commission merchant who has solicited and is responsible for the account or, in the case of an introduced account, the name and business telephone number of the introducing broker who introduced the account.

(5) Name and address of the futures commission merchant, clearing member or foreign broker carrying the account, the signature, title and business phone of the authorized representative of the firm filing the report, and the date of signing the Form 102.

(c) *Form 102 update.* If at the time an account is in special account status and a Form 102 filed by a futures commission merchant, clearing member, or foreign broker is then no longer accurate because there has been a change in the information required under paragraphs (b)(1)(B)(iv), (b)(1)(C) and (b)(2) of this section since the previous filing, the futures commission merchant, clearing member, or foreign broker shall file an updated Form 102 with the Commission or the contract market, as appropriate, within three business days after such change occurs.

3. Section 17.02 is proposed to be amended by revising the introductory text and paragraph (b) and by adding a new paragraph (c) as follows:

**§ 17.02 Place and time of filing reports.**

Unless otherwise instructed by the Commission or its designee, the reports required to be filed by futures commission merchants, clearing members and foreign brokers under §§ 17.00 and 17.01 shall be filed at the nearest appropriate Commission office as specified in paragraphs (a), (b), and (c) of this section, wherein the times stated are eastern times for information concerning markets located in that time zone and central time for information concerning all other markets.

(a) \* \* \*

(b) For data submitted in hardcopy form pursuant to §§ 17.00 (a), or (h) at a Commission office by facsimile or in accordance with instructions by the Commission or its designee not later than 9:00 a.m. on the business day following that to which the information pertains.

(c) For data submitted pursuant to § 17.01 on the Form 102;

(1) The type of special account specified in 1(a), 1(b) or 1(c) and the name and location of the person to be identified in 1(d) on the Form 102 by facsimile or telephone on the same day that the special account in question is first reported to the Commission; and

(2) A completed Form 102 within three business days of the first day that the special account in question is reported to the Commission.

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Issued in Washington, DC, this June 12, 1995, by the Commission.

**Lynn K. Gilbert,**

*Deputy Secretary of the Commission.*

**Note:** CFTC Form 102 is being published for informational purposes only and will not be codified in the Code of Federal Regulations.



**COMMODITY FUTURES TRADING COMMISSION**  
**Identification of "Special Accounts"**

OMB No. 3038-0009

CFTC Form 102 (Revised 4/95)

For Administrative Use Only	
Trader Code:	Firm Code:

**NOTICE:** Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false or fraudulent report may be a basis for administrative action under 7 U.S.C. Sec. 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Sec. 13 or 18 U.S.C. Sec. 1001.

**INSTRUCTIONS TO FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS**

Assign a reporting number to each special account when it is reportable for the first time in futures or options. If an account has been assigned a number for reporting in futures (options), use the same number for reporting options (futures). Such reporting number must not be changed or assigned to any other special account without prior approval of the Commodity Futures Trading Commission. For a futures account, transmit the form to the Commission. For an option account, transmit the form to the appropriate contract market in accordance with their instructions.

*PLEASE TYPE OR PRINT*

1. Check one of (a), (b) or (c) for the special account and give identifying information as directed below:

(a)  House omnibus or  Customer omnibus account of an FCM, clearing member, or foreign broker. Report the information in (d) below for that firm. In addition, complete items 6-12.

(b)  Account(s) owned and controlled by the same person or legal entity, such as a corporation or partnership (or controlled by an employee or officer of the entity). Report the information in (d) below for the person or other legal entity who owns and controls the accounts. In addition, complete items 2 and 4-12.

(c)  Accounts controlled by an advisor or legal entity who is independent of the account owners. Report the information in (d) below for the advisor or legal entity controlling the special account. In addition, complete items 3 through 12.

(d) Name: \_\_\_\_\_ Reporting Number: \_\_\_\_\_  
If individual, Last, First, Middle Initial

Street: \_\_\_\_\_ Business Phone: \_\_\_\_\_

City: \_\_\_\_\_ State/Country: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_

If individual, Employer: \_\_\_\_\_ Job Title: \_\_\_\_\_

If (b) or (c) is checked, is the above-identified person or legal entity registered as a:

commodity trading advisor  Yes  No  
 securities investment advisor  Yes  No

If this special account is reported in the name of a business, such as a corporation, give the name of an officer or employee to contact:

Name: \_\_\_\_\_ Job Title: \_\_\_\_\_  
Last, First, Middle Initial

2. If item 1(b) is checked, complete the following:

(a) Check as many as apply to the legal entity identified in 1(d) above:

Individual  Trust  Partnership  Joint  
 Sole Proprietorship  Corporation  Other (Specify) \_\_\_\_\_

(b) Principal Business or Occupation: \_\_\_\_\_

*(Continued on Reverse Side)*

(c) Report on an attachment all account numbers and account names included in this special account if different than identified in 1(d) above.

(d) Report all persons or entities not identified in 1(d) above who have a 10% or more financial interest in this special account, including limited partners, indicating with an asterisk those having discretionary trading authority with respect to this account. If none, write "none". Use a continuation sheet, if necessary.

Name: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

(e) Report all persons other than those above who control the trading of accounts included in the special account. Use a continuation sheet, if necessary. If there are more than five such persons, show "multiple controllers" in the space below.

Name: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

3. Controlled Accounts. If you checked item 1(c), complete (a) and (b) below. Use (a) to report customer trading programs in which ten or more accounts participate. Use (b) to report all other controlled accounts.

(a) Program Name: \_\_\_\_\_ For each commodity pool participating in the program, provide on an attachment the account number, name of the pool, and name and address of the CPO.

(b) For accounts not in a program, or programs having fewer than ten accounts, provide on an attachment for each account the account number and name and address of persons having a 10% or more financial interest in the account. For commodity pools, provide the account number, name of the pool, and name and address of the CPO.

4. If the person or entity identified in 1(d) has trading authority over, or a 10% or more financial interest in, accounts not included in the special account, complete the information below for each such account. If none, write "none". Use a continuation sheet if necessary. Check "F" for financial interest and "C" for control.

Name: \_\_\_\_\_ Account Number: \_\_\_\_\_  F  C

Name: \_\_\_\_\_ Account Number: \_\_\_\_\_  F  C

5. Are trades and positions in this special account usually associated with commercial activity of the account owner in related cash commodities (i.e., positions considered as hedging in futures or options)?  Yes  No

If "yes," list those specific futures or option markets in which the trader hedges. Use a continuation sheet if necessary.

\_\_\_\_\_

6. Name, location and business phone number of the account executive handling the account. (If account executive is in a foreign country, list country and city.)

Name: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Last, First, Middle Initial

Location: \_\_\_\_\_  
City and State or Country

7. Firm Name and Address:	8. Name (Print): _____	
	9. Title: _____	
	10. Business Phone: _____	11. Date: _____
	12. Signature: _____	