

(iv) Subtract any positive difference computed in paragraph (d)(1)(iii) of this section from the amount computed in paragraph (d)(1)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(1)(iv) of this section by the hundredweight of milk described in paragraph (c)(1) of this section.

(2) For milk described in paragraph (c)(2) of this section:

(i) Each milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may stop at the nearest independently-operated truck stop with a truck scale and obtain a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop. The location of the truck stop shall be used as a starting point for the purpose of measuring the distance to the pool plant receiving that load of milk. If a weight certificate for a supplemental load of milk for which a transportation credit is requested is not available, the market administrator shall use the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant.

(ii) For each bulk tank load of milk received pursuant to paragraph (d)(2)(i) of this section, the market administrator shall determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Multiply the number of miles computed in paragraph (d)(2)(ii) of this section by 0.37 cents;

(iv) Subtract this order's Class I price applicable at the origination point determined pursuant to paragraph (d)(2)(ii) of this section (as if this point were a plant) from the Class I price applicable at the distributing plant receiving the milk;

(v) Subtract any positive difference computed in paragraph (d)(2)(iv) of this section from the amount computed in paragraph (d)(2)(iii) of this section; and

(vi) Multiply the number computed in paragraph (d)(2)(v) of this section by the hundredweight of milk described in paragraph (c)(2) of this section.

Dated: August 2, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96-20203 Filed 8-8-96; 8:45 am]

BILLING CODE 3410-02-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Correction

AGENCY: Small Business Administration.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, January 31, 1996, (61 FR 3177).

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Leonard Fagan, Office of Investment, (202) 205-6510.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections concern policies applicable to financing of small businesses by licensees and participating securities leverage under the Small Business Investment Company program.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Accordingly, 13 CFR Part 107 is corrected by making the following correcting amendments:

1. The authority citation for Part 107 continues to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g, and 687m.

§ 107.50 [Corrected]

In § 107.50, in the definition of "Affiliate or Affiliates", the citation to "§ 121.401" is revised to read "§ 121.103".

§ 107.860 [Corrected]

In § 107.860, paragraph (b), the citation to "§ 107.115" is revised to read "107.500".

§ 107.1530 [Corrected]

In § 107.1530, in the example to paragraph (g)(2)(i), in the brackets following the last sentence, the word "Rate" is added after the word "Treasury".

In § 107.1530, in paragraph (g)(2)(ii), the portion of the equation

"((.0855×.08)–.08)" is revised to read "((.0855–.08)÷.08)".

Dated: July 30, 1996.

Philip Lader,

Administrator.

[FR Doc. 96-20317 Filed 8-8-96; 8:45 am]

BILLING CODE 8025-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Publicizing of Broker Association Memberships

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted a new Regulation 156.4 which requires that contract markets make more readily available to the public the identity of members of broker associations at their respective exchanges.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5481.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 3, 1996, the Commission published for public comment in the Federal Register a proposed new Regulation 156.4 which would require that contract markets make more readily available to the public the identity of members of broker associations at their respective exchanges.¹

II. Comments Received

The Commission received five letters from commenters which addressed the proposed rulemaking regarding the

¹ 61 FR 19869 (May 3, 1996). In that same Federal Register release, the Commission also published for public comment a proposed new Regulation 1.69 which would prohibit members of self-regulatory organization governing boards, disciplinary committees and oversight panels from deliberating and voting on certain matters where the member had either a relationship with the matter's named party in interest or a financial interest in the matter's outcome. Proposed Regulation 1.69 would implement the statutory directives of Section 5a(a)(17) of the Commodity Exchange Act ("CEA") as it was amended by Section 217 of the Futures Trading Practices Act of 1992 ("FTPA"). Pub. L. No. 102-546, § 217, 106 Stat. 3590 (1992). The Commission will consider that rulemaking at a future date.

publicizing of the identities of broker association members. The comments were submitted by three futures exchanges (the Coffee, Sugar & Cocoa Exchange, Inc. ("CSC"), the New York Cotton Exchange ("NYCE") and the New York Mercantile Exchange ("NYMEX")); a futures trade association (the Future Industry Association ("FIA")); and, a business and financial news publisher (Dow Jones & Company, Inc. ("Dow Jones")).

The Commission has carefully reviewed the comments received and has decided to issue Regulation 156.4 as final with slight modifications from the rule as originally proposed. The comments and an explanation of the Commission's decision to adopt Regulation 156.4 are discussed below.

III. Regulation 156.4

A. Proposed Rulemaking

As proposed, Regulation 156.4 required contract markets to post "in a location accessible to the public" a list of all registered broker associations at the contract market which identifies for each such association the name of each person who is a member or otherwise has a direct beneficial interest in the association.² In discussing what type of location would be "accessible to the public," the Commission explained in the preamble of the proposed rulemaking's Federal Register release that a posting should be made in a place designed to ensure its availability to the general public "such as an exchange's lobby or other common access area."³

The Commission emphasized in its release, that the information which proposed Regulation 156.4 would require contract markets to post already was being maintained by the contract markets pursuant to Commission Regulation 156.2(b) which requires the members of such associations to be registered.⁴

² The Commission adopted its part 156 Regulations in response to Section 102 of the FTPA which amended Section 4j(d) of the CEA to prohibit the knowing execution of a customer order by a floor broker opposite any broker or trader with whom the floor broker has a specified business relationship, unless the Commission adopted rules requiring exchange procedures and standards designed to prevent violations of the CEA attributable to broker association trading. The Part 156 Regulations establish requirements for contract market identification and surveillance of broker associations. See 58 FR 31167 (June 1, 1993) for a full description of the Commission's Part 156 Regulations.

³ 61 FR 19869, 19876.

⁴ *Id.* Among other things, Commission Regulation 156.2(b) requires that each contract market maintain registration records for each of its broker associations indicating the "name of each person who is a member or otherwise has a direct beneficial interest in the association."

B. Comments Received

The CSC commented that under the proposed rulemaking most of the trading public would not have access to a broker association membership list posted in the lobby or common access area of an exchange. The CSC further indicated its belief that floor traders would be the only group of market users who would have ready access to such a list, but that they already would be aware of such information because of their presence on the trading floor. Accordingly, the CSC concluded that a broker association membership list only would serve to "stigmatize" broker association members by implying that membership in a broker association was "relevant to the quality of the execution that (could) be expected."

NYMEX commented that it did not believe that a posting requirement would provide any measurable benefit to the public. NYMEX indicated that its offices and trading floor are not currently accessible to the public and that it did not believe that members of the public would visit NYMEX for the purpose of reviewing such a posting.

The NYCE did not address the merits of the proposed rulemaking directly, but instead suggested that the Commission defer consideration of the proposal until the Division of Trading and Markets concluded and publicized its current rule enforcement review of broker association oversight at the various futures exchanges.

FIA generally supported the Commission's proposal but commented that if broker association membership information was made available upon request, it might not be necessary to require that such information be physically posted.

Dow Jones commented that the Commission's proposal would enhance each exchange's ability to enforce its broker association trading restrictions because if members of the public had knowledge of broker association memberships they would be able to alert the exchanges about possible violative conduct involving such associations. Dow Jones also commented that the publicizing of broker association memberships would enable the trading public to choose for themselves whether to execute futures transactions through broker association members.

Dow Jones indicated its belief that the information from broker association membership lists would enable it to provide more information to its readers for their trading decisions. Dow Jones also believed that the proposal would further the press' attention to broker association trading activities and that

such attention would promote the exchanges' oversight of broker associations.

C. Final Rulemaking

The Commission has carefully considered the comments received and has determined to adopt Regulation 156.4 with slight modifications from the rule as originally proposed.

The Commission believes that the identities of broker associations and their members are useful information, comparable to other information which is currently made available to the public about the capacity in which various industry participants are licensed and the relationships between registrants.

Contrary to the CSC's suggestion, Commission Regulation 156.4 is not intended to imply any judgment of or to "stigmatize" broker association members or their activities. Rather, the Commission believes that Commission Regulation 156.4 will provide useful information to market users about relationships among members who handle customer orders. In this connection, the Commission notes that the Division of Trading and Markets ("Division") released a study of broker associations in January 1990 based upon interviews with broker association members and representatives of other market participants which used the services of broker associations, such as futures commission merchants.⁵ In that study, the Division found that some market users ascribed certain benefits to the use of broker associations, including specialized order execution expertise, better capitalization from increased financial resources and uninterrupted customer service.⁶ The broker association study, however, reported concerns of other participants that relationships between broker association members could increase the potential for trading abuses, such as providing increased incentives for accommodation trades between members due to their associations' profit- or loss-sharing arrangements.⁷ Moreover, the FTPA required the Commission to particularly address the activities of such associations and determine whether to further restrict their activities.⁸ Given these perceptions among sophisticated market participants and the Congressional mandate, the Commission believes that the type of information which would be

⁵ See Division of Trading and Markets, Study on Broker Associations (January 4, 1990) ("broker association study"). Copies of this study are available to the public.

⁶ Broker Association Study at 53-54.

⁷ *Id.* at 60.

⁸ See CEA Section 4j(d)(2).

disseminated pursuant to Regulation 156.4 may be of use to the general population of market participants when evaluating the execution of their orders.

Similarly, the NYCE's recommendation that the Commission defer adoption of Regulation 156.4 until the Division of Trading and Markets concludes its current rule enforcement review of broker association oversight presumes that Regulation 156.4 addresses some trade practice concern which may or may not be validated by that review. As indicated above, however, Commission Regulation 156.4 is not intended to imply any judgment on broker association members or their activities. The registration of such associations' members was originally undertaken to facilitate surveillance of their activities by the relevant self-regulatory organization. The publication of such relationships as required by this rulemaking is intended to assure that those relationships are not abused. Accordingly, the Commission does not believe there is any reason to defer the adoption of Regulation 156.4 until the conclusion of the Division's rule enforcement review.

Under the proposed version of Commission Regulation 156.4, contract markets would have been required to post their broker association membership lists "in a location accessible to the public." As indicated in the preamble of the proposed rulemaking's Federal Register release, such a location could have included "an exchange's lobby or other common access area."⁹ The CSC and NYMEX both commented that posting information in an exchange lobby may not be an effective means of dissemination. While the Commission believes that postings in these areas could effectively disseminate information to market users,¹⁰ the Commission never intended that such postings be the exclusive manner of compliance with Regulation 156.4. The primary purpose of this rulemaking always has been to make clear the Commission's view that such information is public information and should be readily accessible to market users.

In order to eliminate any confusion created by proposed Regulation 156.4's reference to posting broker association membership information, the Commission has determined to revise proposed Regulation 156.4 to require

that such information be made "available to the public generally." The Commission believes that this approach should provide exchanges with more flexibility in deciding how to make broker association membership information available. As examples of ways to publicize such information, the Commission notes that certain exchanges already publicize information about exchange matters by maintaining home pages on the Internet or widely distributing their newsletters.

In addition to requiring that broker association membership information be made "available to the public generally," final Commission Regulation 156.4 also makes clear that exchanges must make this information available "upon request." Accordingly, no matter how broadly an exchange publicizes its broker associations' memberships in conformance with Regulation 156.4, it also must make the same information available upon particular request by any member of the public.

The Commission may further report on how broker association membership information is made available in the report it is currently undertaking.

IV. Conclusion

The Commission has determined to adopt Regulation 156.4 with slight modifications from the original proposed rulemaking. Upon Regulation 156.4's effective date, the Commission may request that the exchanges inform the Commission of how they intend to comply with Regulation 156.4.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. Regulation 156.4 will affect contract markets. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of proposed rules on contract markets. 47 FR 18618, 18619 (April 30, 1982). Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.* (1988), 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. As indicated in the Commission's proposed rulemaking, Regulation 156.4 will require contract markets to post a listing of the broker association membership information which they are already required to compile pursuant to Regulation 156.2(b). 61 FR 19869, 19876. Accordingly, Commission Regulation 156.4 will not impose any additional information collection responsibilities.

List of Subjects in 17 CFR Part 156

Broker associations, Commodity futures, Contract markets, Members of contract markets, Registration requirements.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 4b, 4c, 4j(d), 5a(b), and 8a(5) thereof, 7 U.S.C. 6b, 6c, 6j(d), 7a(b) and 12a(5), the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 156—BROKER ASSOCIATIONS

1. The authority citation for Part 156 continues to read as follows:

Authority: 7 U.S.C. 6b, 6c, 6j(d), 7a(b) and 12a.

2. Section 156.4 is added to read as follows:

§ 156.4 Disclosure of Broker Association Membership.

Each contract market shall make available to the public generally and upon request a list of all registered broker associations which identifies for each such association the name of each person who is a member or otherwise has a direct beneficial interest in the association. This list shall be updated at least semi-annually.

Issued in Washington, DC, on August 2, 1996, by the Commission.

Catherine D. Dixon,

Assistant to the Secretary.

[FR Doc. 96-20332 Filed 8-8-96; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol

AGENCY: Food and Drug Administration, HHS.

⁹ 61 FR 19869, 19876.

¹⁰ For instance, the Commission notes that Regulation 9.13, already requires exchanges to post Regulation 9.11 disciplinary notices "in a conspicuous place on (exchange) premises to which its members and the public regularly have access."