(2) Install a manual door seal inflation system instead of an electric system. Aircraft with existing manual systems as of the effective date of this AD are excluded from the requirements of paragraphs (a) and (b) of this AD.

(d) As of the effective date of this AD, no person may install, on any aircraft, a Bob Fields Aerocessories electric door seal inflation system unless the actions specified in Bob Fields Aerocessories Service Bulletin No. BFA–001, Date: November 3, 1998, are incorporated.

(e) 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.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Lakewood, California 90712.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

(2) Alternative methods of compliance approved in accordance with AD 98–21–21 are considered approved as alternative methods of compliance for this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Bob Fields Aerocessories, 340 East Santa Maria St., Santa Paula, California 93060; or may examine this document(s) at the FAA, Central Region, Office of the Regional Counsel, Room 506, 901 Locust, Kansas City, Missouri 64106.

(h) This amendment revises AD 98–21–21, Amendment 39–10844.

(i) This amendment becomes effective on May 1, 2000.

Issued in Kansas City, Missouri, on March 2, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–5732 Filed 3–8–00; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Use of Electronic Signatures of Customers, Participants and Clients of Registrants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting new rules allowing the use of electronic signatures of lieu of handwritten signatures for certain purposes under the Commission's rules.[1] This action is part of the Commission's ongoing efforts to facilitate the use of electronic technology and media in the futures industry.

EFFECTIVE DATE: March 9, 2000.

FOR FURTHER INFORMATION CONTACT: Lawrence P. Patent, Associate Chief Counsel, or Christopher W. Cummings, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On August 30, 1999, the Commission published for comment proposed rules to permit futures commission merchants (''FCMs''), introducing brokers (''IBs''), commodity pool operators (''CPOs'') and commodity trading advisors (''CTAs'') to accept electronic signatures from their customers, pool participants and advisory clients, as the case may be, in lieu of manual signatures in each of those instances where the Commission's rules require those registrants to obtain a signature on a document (the ''Proposing Release'').[2] As noted in the Proposing Release, this rulemaking was prompted by a request to interpret Commission rules to permit an FCM to accept, in lieu of a prospective customer's manually signed, paper acknowledgment that he received and understood the risk disclosure statement specified in Rule 1.55, an electronic mail message to that effect on which the customer has typed his name. In considering that request the Commission determined that customers of FCMs and IBs, as well as commodity pool participants and clients of CTAs, should be permitted to use electronic signatures in those instances where Commission rules require the customer's (or participant's or client's) manual signature. In furtherance of this determination, the Commission proposed defining the term ''electronic signature'' in new Rule 1.3(tt)[3] and authorizing the use of electronic signatures in new Rule 1.4.

The Proposing Release recounted in some detail various provisions of the Commission's rules that require registrants to obtain a signature,[4] and it noted that the actual steps taken to open an account (including the signing of the actual account agreement between a futures broker and its customer) are not directly covered by Commission rules.[5] Rather, as the Proposing Release explained, Commission rules address a number of ancillary aspects of the account opening process (including, for example, a signed acknowledgment of the receipt of a required disclosure). The Proposing Release also described efforts then pending in Congress and elsewhere to enact a legislative framework for the use of electronic and digital signatures in commercial and governmental transactions.[6]

B. The Commenters

The Commission received five comment letters in response to the Paperwork Release; two from futures industry trade organizations; one from a registered futures association; one from a registered FCM, and one from a corporate group including FCMs and CPOs. Although all of the commenters strongly agreed with the general intent of the rulemaking, each took issue with various aspects of the proposal.

II. Response to the Comments Received

A. General

All of the commenters supported the proposed rulemaking in concept. They saw the proposal as a worthy effort to keep pace with technological developments. Two commenters suggested that the Commission pare down the proposed rule to a definition and a general authorization to use electronic signatures. Another suggestion was to withdrawn the rulemaking and issue an advisory in its stead. As detailed below, the Commission has determined to adopt the proposed definition of the term ''electronic signature'' in Rule 1.3(tt)

[1] Commission rules referred to herein are found at 17 CFR Ch. I (1999).

[2] ''Use of Electronic Signatures by Customers, Participants,'' 64 FR 47151 (August 30, 1999). Readers may review the text of the Proposing Release in the **Federal Register** or at the Commission's Internet web site (http://www.cftc.gov).

[3] Rule 1.3 contains definitions of terms generally applicable under the Commission's rules.

[4] See 64 FR 47151 at 47152–47153.

[5] See 64 FR 47151 at 47152.

[6] Since the publication date of the Proposing Release, the United States Senate and the House of Representatives have each passed bills aimed in whole or in part at facilitating the use of electronic signatures. The Senate passed S. 761 November 19, 1999, and the House passed H.R. 1714 on November 9, 1999. H.R. 1714 has been received by the Senate and was referred to the Senate Committee on Commerce, Science and Transportation on November 19, 1999. Neither bill has been enacted into law.

essentially as proposed, and to adopt a streamlined version of proposed Rule 1.4.

B. Rule 1.3(tt)—Definition of Electronic Signature

The proposed definition tracked the definition used in the Uniform Electronic Transactions Act.[7] Four of the five commenters mentioned the proposed definition, and all of them endorsed it. Accordingly, the Commission is adopting Rule 1.3(tt) substantially as proposed.[8]

C. Rule 1.4—Use of Electronic Signatures

1. Proposed Paragraph (a)

As proposed, Rule 1.4(a) would have provided that, for purposes of Commission rules, an FCM, IB, COP or CTA could accept an electronic signature in lieu of a handwritten signature wherever Commission rules require that a document be signed by a customer, pool participant or advisory client, if the registrant elects generally to accept electronic signatures. The general permission to accept electronic signatures would been qualified by the caveat that an electronic signature must comply with applicable Federal law and any standards the Commission may adopt or guidance its staff may issue. It would have been further qualified by the requirement that registrants adopt and utilize reasonable safeguards, including at least safeguards to verify that an electronic signature is being used by the person it purports to identify, that the electronically-signed record will not be subsequently altered, and that no changes or errors occur in the electronic signature.

The commenters acknowledged the need for reasonable safeguards in connection with the use and processing of electronic signatures, but they expressed the belief that nature and specifies of the safeguards should be left up to the registrant and not spelled out in a rule. One commenter further stated that an express requirement that electronic signatures comply with applicable Federal law amounted to unnecessarily prescribing procedural safeguards.

After considering the comments, the Commission has determined not to adopt in Rule 1.4(a) the proposed requirements that the safeguards adopted and utilized by registrants must include measures to verify that the electronic signature is that of the person purporting to use it, and measures to detect changes or errors in a person's electronic signature. The rule as adopted retains, however, the proposed requirement to comply with applicable Federal law and includes a requirement to comply with other Commission rules.[9] The rule as adopted also retains a requirement for safeguards to prevent subsequent alteration of an electronically-signed record. The Commission believes that the reference to Federal law is an appropriate deferral to the end product of the pending efforts in Congress to produce legislation covering electronic signatures (and electronic commerce in general), as well as a signal to registrants that other statutory and regulatory provisions may affect the use of electronic signatures. Intact preservation of signed records (whether electronically or manually signed) is required by the recordkeeping requirements included in the Commission's rules.[10] Placing a paper document in a safe place is generally adequate to allow such authorized persons as Commission representatives to review the document at a later date as may be necessary. Electronic documents may require different measures to ensure that they can be retrieved and reviewed in the future. Thus, while the requirement to preserve and retain specified electronically-signed records is the same as for manually-signed documents, the manner in which registrants carry it out will vary—with the particular measures being left up to the registrant.

2. Proposed Paragraph (b)

Proposed Rule 1.4(b) would have required that registrants accepting electronic signatures from customers, pool participants or advisory clients clearly disclose to them that although an electronic signature is sufficient for purposes of the Commodity Exchange Act (the ''Act'')[11] and Commission rules, it may not be sufficient for purposes of other Federal or state laws or regulations. The commenters unanimously disapproved of this proposed requirement on a variety of grounds, including that it would cause confusion, that it would tend to distinguish manual and electronic signatures qualitatively, that the required disclosure would be subject to constant modification and varying legal interpretations, and that it would likely become moot in the foreseeable future.

After considering the comments, the Commission has determined to eliminate proposed paragraph (b) from Rule 1.4 as adopted. The provisions in Commission rules that require the signature of a customer, pool participant or advisory client generally do not involve the creation of contractual rights or liabilities. The validity of an electronic signature in the context of Commission rules is unlikely to become an issue except as between the Commission and the registrant because the signature generally does no more than confirm, in the event of a Commission audit or review of records, that the registrant has met its disclosure or other obligations under the rules. Accordingly, to accomplish its aim of alerting registrants and their clients to the legal concerns arising from the use of electronic signatures, by this **Federal Register** release the Commission is strongly urging registrants to exercise informed judgment in their decisions to accept electronic signatures (including, as appropriate, consulting legal counsel or performing their own legal research, as the case may be).

Thus, rule 1.4 as adopted consists of a single paragraph with no express requirement that registrants make disclosures relative to electronic signatures. Nevertheless, in the exercise of conscientious business practice, registrants are encouraged to provide information on the nature and significance of electronic signatures, and any legal or practical issues that may be relevant to the use of electronic signatures, by their customers, pool participants and advisory clients. Providing such information is consistent with the registrant's duties of diligent supervision as set forth in Commission rules (*e.g.,* Rule 166.3).

D. Comments Submitted in Response to Specific Questions in the Proposing Release

The Proposing Release contained a set of questions to elicit public comments on issues arising from and related to the use of electronic signatures. Each of the commenters addressed some or all of these questions.

In response to the question whether the Commission should defer rulemaking on electronic signatures to a later date, all of the commenters urged the Commission to act promptly to

[7] At its annual meeting held July 23–30, 1999, the National Conference of Commissioners of Uniform State Laws approved and recommended for adoption by all of the states the Uniform Electronic Transactions Act.

[8] In order for the definition of the term ''electronic signature'' in the rule to conform to the definition in the Uniform Electronic Transactions Act (as approved by the National Conference of Commissioners on Uniform State Laws), the language ''intent to sign the record'' is being substituted in the rule for the proposed language ''intent of signing the record.''

[9] In the proposed rule, the Commission had stated that the electronic signature ''must comply with . . . such standards as the Commission may adopt and such guidance as the Commission's staff may provide.''

[10] See, *e.g.,* Rules 1.31, 4.23 and 4.33.

[11] 7 U.S.C. § 1 *et seq.* (1994).

confirm registrants' authority to accept electronic signatures, rather than wait for final Congressional action. The Commission agrees that rulemaking in this area should not be delayed. Commenters did not believe that additional safeguards should be put in place to establish conclusively the identity of a user of an electronic signature or to counter any possible loss of security occasioned by switching from manual to electronic signatures. The commenters did not believe that face-to-face dealings or paper-based transactions were inherently more secure than electronic transactions, and they did not believe that electronic signatures should be treated as qualitatively different from handwritten signatures. They stated that Commission rules should be ''Medium-neutral'' with identical requirements applicable to paper-based and electronic dealings. The commenters generally saw no need for the imposition of a waiting period to replace the built-in delay that obtains when hard-copy account documents are delivered to a customer, read, signed and returned. The Commission nonetheless remains concerned that traditional high pressure, telephonic sales tactics, in combination with the ability to gain immediate customer approval to begin trading, may increase the pressure on the prospective customer. Industry participants should therefore exercise caution when permitting the use of electronic signatures as part of the solicitation process.

In denying a need for the Commission to adopt additional regulatory safeguards in this area, a view with which the Commission concurs, commenters expressed the belief that registrants will impose their own prudential controls, and that the nature and details of safeguards and protections should be left to the discretion of registrants exercising their supervisory procedures. Registrants are again reminded, however, that they have express obligations under Commission rules (*e.g.,* Rule 166.3) diligently to supervise the handling of all commodity interest accounts carried, operated, advised or introduced by the registrant.

Finally, commenters were split on the question whether the Commission should expressly require that the rules of self-regulatory organizations (''SROs'') be consistent with (proposed) Rules 1.3(tt) and 1.4. Some commenters expressed the view that although SROs should defer to the Commission's rules in this ares, there was adequate opportunity in the process by which the Commission reviews proposed SRO rules to ensure consistency without the Commission adopting an express provision in its own rules.[12] Other commenters urged the Commission to require SROs to conform their rules to those of the Commission. The Commission has determined not to adopt any requirement in this area in order to allow SROs to exercise flexibility.

III. Important Additional Considerations

The Commission reminds registrants that the adoption of Rule 1.4 affects the use of electronic signatures only in the context of complying with those Commission rules that require the signature of a customer, pool participant or client. Registrants remain subject, in their business activities generally, to other Federal and state laws and regulations. Congressional action on the use of electronic signatures has not been finalized, and the requirements for, and effect of, electronic signatures under state contract law remains far from uniform (notwithstanding recent submission to the states of the Uniform Electronic Transactions Act).

Accordingly, registrants should make their own inquiries, including consultation with counsel where appropriate, before accepting electronic signatures in situations (*e.g.,* for execution of account agreements by brokerage customers) that are not specifically addressed by Commission rules. In addition, registrants should make an informed judgment as to the information they should provide to prospective customers regarding the nature, use and effect of electronic signatures.

The Commission does not consider it likely that the rules adopted hereby will come into conflict with any law applicable to electronic signatures that may be enacted. Nevertheless, the Commission intends that its staff will monitor legislative developments in this area and that in the event staff identifies such a conflict, the Commission will undertake appropriate action.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA;''), 5 U.S.C. §§ 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[13] The Commission has previously determined that registered FCMs and CPOs are not small entities for the purpose of the RFA.[14] With respect to CTAs and IBs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs and IBs would be considered to be small entities and, if so, the economic impact on them of any rule.[15] In this regard, the Commission notes that the rules being adopted herein do not change the obligations of CTAs and IBs under the Act and Commission regulations, but permit CTAs and IBs to comply with certain existing obligations by using electronic means as an acceptable alternate to paper-based compliance. The Chairman, on behalf of the Commission hereby certifies, pursuant to 5 U.S.C. § 605(b), that these rules will not have a significant economic impact on a substantial number of small entities. No comments were received in response to the Commission's specific request for comments on the impact these rules as proposed would have on small entities.

V. Administrative Procedure Act

The Administrative Procedure Act (the ''APA'') generally requires that rules promulgated by an agency may not be made effective less than thirty days after publication, except for, among other things, instances where the agency has found good cause to make a rule effective sooner, and has published that finding together with the rule (5 U.S.C. 553). The Commission notes that many persons to whom the new rules would apply have indicated their eagerness to make use of them as soon as possible. The Commission generally attempts to respond to ongoing industry demands to implement technology in the marketplace as it becomes available and recognizes that existing technology supports to use of electronic signatures. Moreover, although these rules clarify that registrants may accept electronic signatures, they do not require any registrant to do so. Indeed, the existing rules remain unchanged. The Commission finds that these new rules facilitate a particular aspect of electronic commerce in a manner that does not impose any additional burdens on registrants or on their customers or

[12] We note that the Commission has proposed for public comment a rule change to permit futures exchanges to adopt changes to their rules without prior approval by the Commission. See ''Proposed Revision of the Commission's Procedure for the Review of Contract Market Rules,'' 64 FR 66428 (November 26, 1999). The comment period for that proposal closes February 24, 2000.

[13] 47 FR 189618–18621 (April 30, 1982).

[14] 47 FR 18619–18620.

[15] 47 FR 18618–18620.

clients. Accordingly, the Commission finds good cause to make these rules effective March 9, 2000, in accordance with 5 U.S.C. § 553(d)(3).

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, Section 1a, 4b, 4g and 8a, 7 U.S.C. §§ 1a, 6b, 6g and 12a (1994), the Commission hereby amends 17 CFR Part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, 24.

2. Section 1.3 is hereby amended by adding new paragraph (tt) to read as follows:

§ 1.3 Definitions.

* * * * *

(tt) *Electronic signature* means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

3. Section 1.4 is hereby added immediately following § 1.3 to read as follows:

§ 1.4 Use of electronic signatures.

For purposes of complying with any provision in the Commodity Exchange Act or the rules or regulations in this Chapter I that requires a document to be signed by a customer of a futures commission merchant or introducing broker, a pool participant or a client of a commodity trading advisor, an electronic signature executed by the customer, participant or client will be sufficient, if the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor elects generally to accept electronic signatures; *Provided, however,* That the electronic signature must comply with applicable Federal laws and other Commission rules; And, *Provided further,* That the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor must adopt and utilize reasonable safeguards regarding the use of electronic signatures, including at a minimum safeguards employed to prevent alteration of the electronic record with which the electronic signature is associated, after such record has been electronically signed.

Issued in Washington D.C. March 3, 2000.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–5637 Filed 3–8–00; 8:45 am]

BILLING CODE 6351–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34–42488]

Delegation of Authority to the Office of the General Counsel

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules to delegate to the General Counsel its authority to initiate proceedings under Section 21(e)(1) of the Securities Exchange Act of 1934 to enforce Commission orders, including Commission orders affirming self-regulatory organization sanctions, when the General Counsel determines such a proceeding is appropriate. This delegation would spare the Commissioners and their staff from having to review matters in which the Commission has already issued an order and which are noncontroversial and implicate no policy issues. The effect would be to allow the staff to bring proceedings more expeditiously and to promote efficiency in the enforcement of Commission orders.

EFFECTIVE DATE: March 9, 2000.

FOR FURTHER INFORMATION CONTACT: Melinda Hardy, Assistant General Counsel, (202) 942–0877.

SUPPLEMENTARY INFORMATION: Section 21(e)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes the Commission to apply to the district courts of the United States for orders commanding any person to comply with orders issued pursuant to the Exchange Act. Thus, Section 21(e)(1) authorizes the Commission to seek court orders requiring, among other things, payment of unpaid self-regulatory organization sanctions where the Commission has entered an order affirming that sanction. *See Lang* v. *French,* 154 F.3d 217, 222 (5th Cir. 1998).

The Commission is delegating to the General Counsel the authority to determine when to initiate actions under Section 21(e)(1) to enforce Commission-affirmed SRO sanctions and other sanctions because the decision to initiate such an action will rarely involve policy issues or be controversial. Actions under Section 21(e)(1) will necessarily follow a Commission order affirming or imposing a sanction, so Section 21(e)(1) actions will concern primarily the simple issue of whether a person has complied with the order. The staff may submit matters to the Commission for consideration as it deems appropriate.

The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(A)), that this revision relates solely to agency organization, procedures, or practices. It is therefore not subject to the provisions of the Administrative Procedure Act requiring notice and opportunity for comment. Accordingly, it is effective March 9, 2000.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

Text of Amendment

For the reasons set out in the Preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for part 200, subpart A, continues to read in part as follows:

Authority: 15 U.S.C. 77s, 78d–1, 78d–2, 78w, 78*ll*(d), 78mm, 79t, 77sss, 80a–37, 80b–11, unless otherwise noted.

* * * * *

2. Section 200.30–14 is amended by adding paragraph (l) to read as follows:

§ 200.30–14 Delegation of authority to the General Counsel.

* * * * *

(l) File applications in district court under Section 21(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(e)(1)) to obtain orders commanding persons to comply with Commission orders.

Dated: March 2, 2000.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–5756 Filed 3–8–00; 8:45 am]

BILLING CODE 8010;–01–P