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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 1999N-2637]

Public Information Regulations; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the public information regulations to correct an error that was incorporated in the regulations. This action is being taken to improve the accuracy of the regulations.

DATES: This correction is effective July 28, 2003.

FOR FURTHER INFORMATION CONTACT: Joyce A. Strong, Office of Policy and Planning (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-7010.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of May 12, 2003 (68 FR 25283), FDA published a final rule that, among other things, amended its regulations, in part 20 (21 CFR part 20). In § 20.120, the zip code for the Dockets Management Branch is incorrect. This document corrects that error.

§ 20.120 [Corrected]

■ 1. On page 25287, in the second column, § 20.120 *Records available in Food and Drug Administration Public Reading Rooms* is corrected in the third sentence of paragraph (a) by removing “20857” and adding in its place “20852”.

Dated: November 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03-28985 Filed 11-19-03; 8:45 am]

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506-AA44

Financial Crimes Enforcement Network; Amendments to the Bank Secrecy Act Regulations; Definition of Futures Commission Merchants and Introducing Brokers in Commodities as Financial Institutions; Requirement That Futures Commission Merchants and Introducing Brokers in Commodities Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Final rules.

SUMMARY: This document contains amendments to the regulations implementing the statute generally referred to as the Bank Secrecy Act. The amendments add futures commission merchants and introducing brokers in commodities to the regulatory definition of “financial institution” and require that they report suspicious transactions to FinCEN. Bringing these major participants in the futures industry into the Bank Secrecy Act regulatory structure is intended to further the counter-money laundering program of the Department of the Treasury.

DATES: *Effective Date:* December 22, 2003.

Applicability Date: May 18, 2004.

FOR FURTHER INFORMATION CONTACT: Alma M. Angotti, Senior Enforcement Counsel, and Judith R. Starr, Chief Counsel, FinCEN, at (703) 905-3590; David Vogt, Associate Director, and Donald Carbaugh, Chief, Depository Institutions, Office of Regulatory Programs, FinCEN, (202) 354-6400.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act, Pub. L. 91-508, codified as amended at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314; 5316-5332 (“BSA”), authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹

¹ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to

Regulations implementing Title II of the BSA (codified at 31 U.S.C. 5311 *et seq.*) appear at 31 CFR part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The BSA defines the term “financial institution” to include, among other broad categories of institutions, any “broker or dealer in securities or commodities.”² Section 321(b) of the USA Patriot Act amended the BSA to expressly include in the definition of “financial institution” futures commission merchants (“FCMs”) that are registered, or required to register, with the Commodity Futures Trading Commission (“CFTC”) under the Commodity Exchange Act (“CEA”).³

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g),⁴ to require financial institutions to report suspicious transactions. Subsection (g)(1) provides:

The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2) provides further:

If a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this

protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (“USA Patriot Act”), Pub. L. 107-56.

² 31 U.S.C. 5312(a)(2)(H). The Secretary has clarified that the term “broker or dealer in commodities” in the BSA includes introducing brokers in commodities (“IB-Cs”). See 67 FR 21110, 21111 n.5 (April 29, 2002) (anti-money laundering programs for certain financial institutions); 68 FR 25148 (May 9, 2003) (joint final rule requiring customer identification programs for FCMs and IB-Cs).

³ 7 U.S.C. 1 *et seq.* Section 321(b) also provided that the term “financial institution” includes any commodity pool operator (“CPO”) and any commodity trading advisor (“CTA”) registered, or required to register, under the CEA. See 31 U.S.C. 5312(c). FinCEN has proposed rules that require unregistered investment companies, including commodity pools, to have anti-money laundering (“AML”) programs (“AMLPs”). FinCEN also has proposed rules requiring CTAs to have AMLPs. 68 FR 23640 (May 5, 2003). A requisite element of these AMLPs is the requirement to have policies, procedures, and controls that are reasonably designed to ensure compliance with the BSA and its implementing regulations.

⁴ 31 U.S.C. 5318(g) was added to the BSA by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Pub. L. 102-550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103-325, to require designation of a single government recipient for reports of suspicious transactions.