

### Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, Attn: Tom Stafford, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057-3356, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements*: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

(4) *Special Flight Permits*: We are not allowing special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199).

### Related Information

(g) Refer to MCAI European Aviation Safety Agency emergency airworthiness directive 2006-0335-E, dated November 3, 2006, and Airbus Service Bulletin A310-57A2088, dated November 6, 2006, for related information.

### Material Incorporated by Reference

(h) You must use Airbus Service Bulletin A310-57A2088, excluding Appendix 01, dated November 6, 2006, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on December 7, 2006.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 170

**RIN 3038-AC29**

### Membership in a Registered Futures Association

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (“Commission” or “CFTC”) has amended its regulations to require that all persons registered with the Commission as futures commission merchants (“FCMs”), subject to an exception for certain notice-registered securities brokers or dealers (“BDs”), must become and remain members of at least one registered futures association (“RFA”). This action is consistent with the regulatory philosophy underlying the Commodity Futures Modernization Act of 2000 (“CFMA”).

**DATES:** *Effective Date:* February 21, 2007.

### FOR FURTHER INFORMATION CONTACT:

Helene D. Schroeder, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418-5450; facsimile number: (202) 418-5528; and electronic mail: [hschroeder@cftc.gov](mailto:hschroeder@cftc.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

##### A. Commission Regulation 170.15

Commission Regulation 170.15<sup>1</sup> (“Regulation”) concerns membership by FCMs in an RFA. Section 17(p) of the Commodity Exchange Act (“Act” or “CEA”) requires each RFA to have a comprehensive program to audit the financial and sales practices of its members and their associated persons.<sup>2</sup>

<sup>1</sup> 17 CFR 170.15. The Commission’s regulations can be accessed at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/17cfr1\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/17cfr1_06.html).

<sup>2</sup> 7 U.S.C. 21(p). The Act can be accessed at [http://www.access.gpo.gov/uscode/title7/chapter1\\_.html](http://www.access.gpo.gov/uscode/title7/chapter1_.html).

Section 17(q) of the Act requires each RFA to establish such programs “as soon as practicable but not later than September 30, 1985.” Currently, the National Futures Association (“NFA”) is the sole RFA under Section 17(a) of the Act, and it is also a self-regulatory organization (“SRO”).

In adopting the Regulation, the Commission found that comprehensive and effective self-regulation and the avoidance of duplicative regulation would be enhanced by adoption of a regulation mandating membership in an RFA by each person required to be registered as an FCM. The Commission also found that the need to maintain these extensive programs for the comparatively small number of persons likely to remain subject solely to the Commission’s direct regulation would be inefficient and duplicative of the self-regulatory functions for which NFA would be responsible.

#### B. The Commodity Futures Modernization Act of 2000

In December 2000, the CFMA was enacted into law. Among other things, it revised the supervisory functions of the Commission. Specifically, the CFMA transformed the role of the CFTC from a front-line regulator, with responsibility for direct supervision of the commodity futures markets and their participants and professionals, to an oversight agency.<sup>3</sup>

#### C. The Proposal

In light of the Commission’s new oversight role and the policies and purposes of the Act, including the goals of effective self-regulation and the avoidance of duplicative regulation, on November 1, 2006, the Commission published in the **Federal Register** a proposed revision to the Regulation (“Proposal”).<sup>4</sup> The Proposal would require that all persons that are registered with the Commission as an FCM, subject to an exception for persons that are notice-registered as BDs,<sup>5</sup> and regardless of whether any such person is required to be registered as an FCM, must become and remain a member of at least one RFA. As the Commission explained in the **Federal Register** release announcing the Proposal (“Proposing Release”), the purpose of the Proposal was “to ensure that all FCMs would come under direct

<sup>3</sup> See 7 U.S.C. 5(b).

<sup>4</sup> 71 FR 64171.

<sup>5</sup> Paragraph (b) of the Regulation, which the Commission did not propose to amend, provides an exception for persons registered as BDs with the Securities and Exchange Commission that are notice-registered as FCMs in accordance with Commission Regulation 3.10(a)(3).

supervision of at least one SRO.”<sup>6</sup> The Commission invites interested persons to read the Proposing Release for a fuller discussion of the purpose of the amendment contained in the Proposal.

#### D. The Comments on the Proposal

The Commission received two comment letters on the Proposal. One was from NFA, which expressed support for the amendment. The other was from legal counsel representing clients who would be affected by the Proposal in the event the Commission adopted it. This latter commenter requested that, in the event the Commission adopted the Proposal, the Commission make the amendment effective 60 days after publication in the **Federal Register**. The additional 30 days was requested “in order to provide an orderly time for transition and permit sufficient time for registrants affected by the proposed amendment to determine their future course of action if the proposed amendment is approved.”

In response, the Commission notes that, as an agency of the Federal Government, in adopting regulations, it is subject to the provisions of the Administrative Procedure Act. Among other things, this means that, in the absence of certain specified circumstances, the Commission may not make a substantive regulation effective earlier than 30 days before the regulation is published in the **Federal Register**.<sup>7</sup> Thus, the Commission typically makes its substantive regulations effective 30 days after the date on which the regulation is published in the **Federal Register**. With respect to the instant matter, the Commission believes that 30 days is sufficient time to achieve compliance with the amended regulation, given the reasons cited by the commenter. Accordingly, the Commission has determined to adopt the amendment to Regulation 170.15(a) as proposed and to make the amendment effective 30 days after publication in the **Federal Register**.

## II. Related Matters

### A. Regulatory Flexibility Act

The Regulatory Flexibility Act<sup>8</sup> requires that agencies, in issuing regulations, consider the impact of those regulations on small businesses. The amended Regulation would affect persons that are registered as FCMs, even if they are not required to be so registered. The Commission has previously established certain

definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the Regulatory Flexibility Act.<sup>9</sup> The Commission previously determined that registered FCMs are not small entities for the purpose of the Regulatory Flexibility Act.<sup>10</sup>

The Commission did not receive any public comments relative to its analysis of the application of the Regulatory Flexibility Act to the Proposal.

### B. Cost-Benefit Analysis

Section 15(a) of the Act<sup>11</sup> requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to “consider the costs and benefits” of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission, in its discretion, can choose to give greater weight to any one of the five enumerated areas and determine that, notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Proposal contained an analysis of the Commission’s consideration of these costs and benefits and solicited public comment thereon.<sup>12</sup> The Commission did not receive any public comments relative to its cost-benefit analysis of the Proposal.

### List of Subjects in 17 CFR Part 170

Authority delegations (Government agencies), Commodity futures, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

## PART 170—REGISTERED FUTURES ASSOCIATIONS

■ 1. The authority citation for part 170 continues to read as follows:

**Authority:** 7 U.S.C. 6p, 12a and 21, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

■ 2. Section 170.15 is amended by revising paragraph (a) to read as follows:

### § 170.15 Futures commission merchants.

(a) Except as provided in paragraph (b) of this section, each person registered as a futures commission merchant must become and remain a member of at least one futures association that is registered under section 17 of the Act and that provides for the membership therein of such futures commission merchant, unless no such futures association is so registered.

\* \* \* \* \*

Issued in Washington, DC, on January 16, 2007, by the Commission.

**Eileen A. Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. E7–805 Filed 1–19–07; 8:45 am]

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Part 4011

RIN 1212–AB12

### Disclosure to Participants

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** Section 4011 of ERISA requires certain underfunded plans to notify participants of plan funding status and the limits on the PBGC’s guarantee. The Pension Protection Act of 2006 repealed section 4011 for plan years beginning after 2006 and replaced the disclosure requirement under that section with a disclosure requirement under Title I of ERISA. This rule amends PBGC’s regulation on Disclosure to Participants to reflect that statutory change.

**DATES:** *Effective Date:* January 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** John H. Hanley, Director, Legislative and Regulatory Department; or Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington DC 20005–4026; 202–326–

<sup>6</sup> 71 FR at 64172.

<sup>7</sup> See 5 U.S.C. 553(d).

<sup>8</sup> 5 U.S.C. 601 *et seq.*

<sup>9</sup> 47 FR 18618 (Apr. 30, 1982).

<sup>10</sup> *Id.* at 18619.

<sup>11</sup> 7 U.S.C. 19(a).

<sup>12</sup> 71 FR at 64172–73.