



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of
Market Oversight

CFTC Letter No. 16-32
No-Action
April 8, 2016
Division of Market Oversight

**Conditional Time-Limited No-Action Relief from
Certain Ownership and Control (OCR) Data Reporting Requirements
Under Parts 17, 18 and 20 of the Commission's Regulations:
Replaces CFTC No-Action Letter No. 15-52**

Allison Lurton
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Dear Ms. Lurton:

This letter is in response to FIA's request dated February 24, 2016 (the "February 2016 FIA Letter"), to the Division of Market Oversight ("DMO" or "Division") of the Commodity Futures Trading Commission ("Commission"), on behalf of the members of the Futures Industry Association ("FIA") that are required to submit certain reports under Parts 17, 18 and 20 of the Commission's regulations. In the February 2016 FIA Letter, FIA requested no-action relief from certain data reporting requirements of Parts 17, 18 and 20 of the Commission's regulations that were implemented pursuant to the OCR Final Rule (as defined below).

In response to the February 2016 FIA Letter, the Division is providing additional time-limited no-action relief from certain reporting obligations implemented by the Ownership and Control ("OCR") Final Rule (the "OCR Final Rule").¹ This no-action letter (the "April 2016 CFTC

¹ Commission, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71; Final Rule, 78 FR 69178 (November 18, 2013) (hereinafter, "OCR Final Rule"). Terms not otherwise defined in this April 2016 CFTC NAL shall have the meaning assigned to them in the OCR Final Rule or in the Commission's regulations. The Commission adopted the OCR Final Rule in 2013 to enhance its identification of futures and swap market participants.

NAL”) replaces a no-action letter with respect to the OCR Final Rule issued by the Division in September 2015. The September 2015 no-action letter, CFTC Letter No. 15-52 (the “September 2015 CFTC NAL”), extended the time period for relief from certain reporting obligations under the OCR Final Rule.²

In this April 2016 CFTC NAL, the Division is granting two components of no-action relief. The first component, described in Section I below, extends no-action relief available under the September 2015 CFTC NAL for approximately an additional five months for certain of the OCR forms. As a result, the prior relief for New Form 102A, New Form 102B (with respect to DCM volume threshold accounts)³ and New Form 102S (which previously expired on April 27, 2016) will now extend to **September 28, 2016**;⁴ furthermore, the prior relief for New Form 40/40S and New Form 71 (which previously expired on September 28, 2016) will now extend an additional two months, to **November 17, 2016**,⁵ in each case subject to certain conditions more fully described below.

The second component, described in Section II below, provides substantive new no-action relief for New Form 102A, New Form 102B, and New Form 102S, in each case subject to certain conditions more fully described below. With respect to SEF-related reporting on New Form 102B, Division staff will use the period of relief to consider whether to recommend that the Commission pursue certain changes to the OCR Final Rule as it pertains to SEFs.

The no-action relief provided by this April 2016 CFTC NAL is summarized on the PowerPoint chart provided by the Division alongside this no-action letter. Reporting Parties may find it helpful to examine the chart when reviewing this no-action letter.

1. Cooperation of Customers and Counterparties

The additional no-action relief described in this letter may be relied upon by all parties that are obligated to report pursuant to the OCR Final Rule on any of New Form 102A, New Form 102B, New Form 102S, New Form 40/40S and New Form 71 (collectively, “Reporting Parties”), as such terms are defined below. As discussed in Section I(F) below, the Division advises Reporting Parties to check the Commission’s “Ownership and Control Reporting (OCR)” homepage on a regular basis during this period of no-action relief to review updated testing requirements.⁶

² The September 2015 CFTC NAL was issued in response to a request by the FIA on behalf of its members that are required to submit certain reports under Parts 15, 17, 18 and 20 of the Commission’s regulations. The September 2015 CFTC NAL (Sept. 28, 2015) is available at: <http://www.cftc.gov/idc/groups/public/@llettergeneral/documents/letter/15-52.pdf>

³ As used herein, “DCM volume threshold accounts” means volume threshold accounts on or subject to the rules of a reporting market that is a board of trade designated as a contract market under section 5 of the Commodity Exchange Act (the “Act”).

⁴ At 11:59 p.m. Eastern Time.

⁵ At 11:59 p.m. Eastern Time.

⁶ See <http://www.cftc.gov/Forms/OCR>

Reporting Parties must obtain from their customers or counterparties the information necessary to submit the OCR forms described below. The cooperation of such customers and counterparties is essential to the implementation of the OCR Final Rule. The Division expects such persons to promptly provide responsive OCR data to Reporting Parties upon the request of Reporting Parties. The no-action relief described herein may not be relied upon by customers or counterparties of Reporting Parties. Reporting Parties may deem it advisable to furnish either this April 2016 CFTC NAL, or a previously issued Division advisory regarding OCR reporting,⁷ to their customers or counterparties as a tool to ensure that such customers and counterparties provide the timely cooperation needed for Reporting Parties to comply with the OCR Final Rule.

As discussed in Section II(A) below, Form 102A Reporting Parties may indicate to the Commission that a client will not provide the name and physical address of a trading account controller reportable on a Form 102A (or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule) during the period of no-action relief. Furthermore, as discussed in Section II(B) below, Form 102B Reporting Parties may indicate to the Commission that a client will not provide the name and physical address of a volume threshold account controller reportable on a Form 102B (or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule) during the period of no-action relief. As discussed in Section II(G)(2) below, Reporting Parties taking advantage of such relief during the period of no-action relief must provide to DMO, upon request, a list of clients (including their phone number and address) that have not provided such information to such Reporting Parties.

2. Background; OCR Final Rule⁸

The OCR Final Rule requires the electronic submission of trader identification and market participant data on updated Form 102 (“New Form 102”) and Form 40 (“New Form 40”), and on entirely new Form 71 (“New Form 71”). New Form 102 is subdivided into three parts (“New Form 102A,” “New Form 102B,” and “New Form 102S”).⁹ New Form 102B is an entirely new form, introduced by the OCR Final Rule. Among other fields, the new and updated forms require the reporting of the following information:

- New Form 102A: a position-based reporting form, which requires the reporting of both special accounts and the trading accounts that comprise special accounts.

⁷ See CFTC Staff Advisory No. 15-14 (Mar. 23, 2015), available at: <http://www.cftc.gov/idc/groups/public/@llettergeneral/documents/letter/15-14.pdf>

⁸ Important information related to the implementation of the OCR Final Rule, including the Technical Guidance Document discussed herein, is available on the Commission’s “Ownership and Control Reporting (OCR)” homepage at: <http://www.cftc.gov/Forms/OCR>

⁹ Forms 102 and 40 (including 102S and 40S Filings) as they existed prior to the OCR Final Rule are referred to herein as “Legacy” forms and filings—i.e., Legacy Form 102, Legacy 102S Filing, Legacy Form 40, and Legacy 40S Filing.

- New Form 102B: requires the reporting of trading accounts that exceed a stated volume threshold during a single trading day (“volume threshold accounts”), regardless of whether these positions remain open at the end of the day.
- New Form 102S: facilitates the electronic submission of 102S filings, and requires position-based reporting of consolidated accounts in the swaps market.
- New Form 40/40S: sent by the Commission to reporting traders via special call to collect identifying information regarding traders.
- New Form 71: sent by the Commission via special call to collect additional information on omnibus volume threshold accounts identified on New Form 102B.

3. February 2016 FIA Letter; April 2016 CFTC NAL

In the February 2016 FIA Letter, FIA represented that FIA and its members have taken a number of steps to come into compliance with the OCR Final Rule, including: participating in bi-weekly Commission calls to discuss OCR implementation; developing internal firm software to facilitate the collection and reporting of OCR data; and engaging in a broad client outreach program to educate customers and counterparties about the OCR Rule and its enhanced reporting requirements. FIA stated that notwithstanding these efforts, “reporting entities will not be ready to comply with the OCR Rule when the Current Relief [as provided in the September 2015 CFTC NAL] expires.”

Based on the representations provided in the February 2016 FIA Letter, and to increase the reliability and consistency of the OCR data, the Division believes that some additional extension of the time-limited no-action relief now in place under the September 2015 CFTC NAL is warranted. The Division is therefore providing additional relief to allow Reporting Parties to come into compliance with their reporting obligations.

I. Summary of Upcoming No-Action Relief for Additional Testing and Compliance.

This no-action letter replaces the September 2015 CFTC NAL. The Division believes that the following additional time-limited no-action relief is warranted, for testing and other preparation for the implementation of the relief described in Section II below:

Date hereof until September 28, 2016:¹⁰

- **Relief from electronically reporting via New Form 102A (see Section (A) below);**
- **Relief from electronically reporting DCM volume threshold accounts via New Form 102B (see Section (B) below).**
- **Relief from electronically reporting via New Form 102S (see Section (D) below); and**

Date hereof until November 17, 2016:¹¹

¹⁰ At 11:59 p.m. Eastern Time.

- **Relief from electronically reporting via New Form 40/40S and New Form 71 (see Section (E) below).**

As further described below, among other conditions, the no-action relief described in this Section I is subject to Reporting Parties continuing to report to the Commission via Legacy Form 102, the Legacy 102S Filing, Legacy Form 40 and the Legacy 40S Filing in accordance with the reporting requirements in place prior to the implementation of the OCR Final Rule.

The remainder of this Section I describes the time-limited no-action relief described above in more detail.

A. Conditional No-action Relief from Submitting Information via New Form 102A Until September 28, 2016¹²

Summary of Relief Granted: The Division is providing relief from electronically reporting via New Form 102A until September 28, 2016, provided that Reporting Parties comply with the reporting practice that was in place prior to the implementation of the OCR Final Rule, by reporting via Legacy Form 102 (as such term is defined below) until September 28, 2016.

The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission’s regulations that were implemented by the OCR Final Rule. Subject to the conditions below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report via New Form 102A, as required by Part 17,¹³ until **September 28, 2016**.

The no-action relief described in this Section (A) is subject to Reporting Parties reporting via Legacy Form 102 until September 28, 2016. Such reporting must be consistent in all respects with the time, form and manner of the Legacy Form 102 reporting practice. In particular, the no-action relief described in this Section (A) is subject to Reporting Parties reporting via Legacy Form 102 in accordance with the following conditions and Appendix A hereto:¹⁴

- Report via Legacy Form 102
 - As used herein, “Legacy Form 102” refers to the Form 102 required prior to the implementation of the OCR Final Rule, which is available on the Commission’s

¹¹ At 11:59 p.m. Eastern Time.

¹² At 11:59 p.m. Eastern Time.

¹³ See 17 CFR §§ 17.01(a), 17.01(d), 17.01(e) and 17.02(b).

¹⁴ When submitting either Legacy Form 102 or New Form 102A, Reporting Parties should report special accounts pursuant to Commission regulation § 17.00 and on the applicable 102 form on a disaggregated basis, if the parties have been so instructed by the Commission or its designee. All Reporting Parties should provide position reporting on the applicable 102 form based on control of a special account. As an example, if a special account is controlled by one Reporting Party but owned by another, such account should be reported only by the Reporting Party that controls the special account. See discussion in OCR Final Rule, 78 FR at 69184.

website.¹⁵ See Appendix A hereto for additional instructions for completing Legacy Form 102 in accordance with the legacy reporting practice.

- Within three business days of the first day that a special account is reported to the Commission pursuant to § 17.00(a) by a futures commission merchant, clearing member, or foreign broker, in accordance with instructions by the Commission or its designee, such party must submit Legacy Form 102 to the Commission in accordance with instructions by the Commission or its designee, showing the information in paragraphs (a) through (f) of Appendix A hereto.
- On call by the Commission or its designee, a futures commission merchant, clearing member, or foreign broker must identify the type of special account specified by items 1(a), 1(b), or 1(c) of Legacy Form 102, and the name and location of the person to be identified in item 1(d) on Legacy Form 102, and submit such information by facsimile or telephone, in accordance with instructions by the Commission or its designee, on the same day that the special account in question is first reported to the Commission by such party.
- *Legacy Form 102 updates.* If, at the time an account is in special account status and a Legacy 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 paragraph (b) of Appendix A to this no-action letter since the previous filing, the futures commission merchant, clearing member, or foreign broker must file an updated Legacy Form 102 with the Commission within three business days after such change occurs.
- *Exclusively self-cleared contracts.* Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts must submit and update Legacy Form 102, as the requirement to submit and update Legacy Form 102 applies to trading in such contracts by all clearing members, on behalf of all clearing members.
- The Legacy Form 102 reporting practice described above and on Appendix A is referred to herein as the “Legacy Form 102 reporting practice.”

The no-action relief described in this Section (A) is also subject to Reporting Parties complying with the electronic reporting testing condition set out in Section (F) below.

B. Conditional No-action Relief from Submitting Information Regarding DCM Volume Threshold Accounts via New Form 102B Until September 28, 2016¹⁶

Summary of Relief Granted: The Division is providing relief from electronically reporting DCM volume threshold accounts via New Form 102B until September 28, 2016, provided that Reporting Parties comply with the reporting practice that was in place prior to the

¹⁵ See the link below to the Commission’s website for a copy of Legacy Form 102:
<http://www.cftc.gov/Forms/ssLINK/cftcform102>

¹⁶ At 11:59 p.m. Eastern Time.

*implementation of the OCR Final Rule, by reporting via Legacy Form 102 and the Legacy 102S Filing until September 28, 2016.*¹⁷

The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission's regulations that were implemented by the OCR Final Rule. Subject to the conditions in Sections (A) (102A Submission), (D) (102S Submission), and (F) (Testing Requirements), the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report DCM volume threshold accounts via New Form 102B, as required by Part 17, until **September 28, 2016**.¹⁸

C. Conditional No-action Relief from Submitting Information Regarding SEF Volume Threshold Accounts via New Form 102B

See Section II(E) below.

D. Conditional No-action Relief from Submitting Information via New Form 102S Until September 28, 2016¹⁹

Summary of Relief Granted: The Division is providing relief from electronically reporting via New Form 102S until September 28, 2016, provided that Reporting Parties comply with the reporting practice that was in place prior to the implementation of the OCR Final Rule, by reporting via the Legacy 102S Filing (as such term is defined below) until September 28, 2016.

The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 20 of the Commission's regulations that were implemented by the OCR Final Rule. Subject to the conditions below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report via New Form 102S, as required by Part 20,²⁰ until **September 28, 2016**.

The no-action relief described in this Section (D) is subject to Reporting Parties reporting via the Legacy 102S Filing until September 28, 2016. Such reporting must be consistent in all respects with the time, form and manner of the Legacy 102S reporting practice. In particular, the no-

¹⁷ As noted in Section (A) above and (D) below, the transition from Legacy Form 102 and the Legacy Form 102S filing to New Form 102A and New Form 102S will occur at 11:59 p.m. Eastern Time on September 28, 2016.

¹⁸ The reporting requirements with respect to New Form 102B were implemented by the OCR Final Rule, and arise under regulations §§ 17.01(b), 17.01(d), 17.01(e) and 17.02(c). 17 CFR §§ 17.01(b), 17.01(d), 17.01(e) and 17.02(c). As noted above, New Form 102B is an entirely new form introduced by the OCR Final Rule, and as a result there is no legacy Form 102B reporting method.

¹⁹ At 11:59 p.m. Eastern Time.

²⁰ See 17 CFR §§ 20.5(a)(1), 20.5(a)(2), 20.5(a)(4) and 20.5(a)(5).

action relief described in this Section (D) is subject to Reporting Parties reporting via the Legacy 102S Filing in accordance with the following conditions:

- Report via Legacy 102S Filings
 - Within three days following the first day that a counterparty consolidated account first becomes reportable, or at such time as instructed by the Commission upon special call, a reporting entity²¹ must submit a 102S filing, which must consist of the name, address, and contact information of the counterparty and a brief description of the nature of such person's paired swaps and swaptions market activity (the "Legacy 102S Filing").²²
 - A reporting entity may submit a Legacy 102S Filing only once for each counterparty, even if such persons at various times have multiple reportable positions in the same or different paired swaps or swaptions. However, reporting entities must update a Legacy 102S Filing if the information provided is no longer accurate.
 - The 102S reporting practice described above is referred to herein as the "Legacy 102S reporting practice."

The no-action relief described in this Section (D) is also subject to Reporting Parties complying with the electronic reporting testing condition set out in Section (F) below. Furthermore, Reporting Parties submitting New Form 102S during the testing period are expected to provide, in addition to the data fields required on New Form 102S, the name, address, and contact information of the reportable counterparty. The Commission's Office of Data and Technology ("ODT") staff will provide additional information on the Commission's "Ownership and Control Reporting (OCR)" homepage regarding the time and manner for reporting such counterparty information during the testing period for New Form 102S.

E. Conditional No-action Relief from Submitting Information via New Form 40/40S and New Form 71 Until November 17, 2016²³

Summary of Relief Granted: The Division is providing relief from electronically reporting via New Form 40/40S and New Form 71 until November 17, 2016,²⁴ provided that Reporting Parties comply with the Form 40/40S reporting practice that was in place prior to the implementation of

²¹ See § 20.1 of the Commission's regulations for the definition of "reporting entity." 17 CFR § 20.1.

²² Reporting Parties should submit a Legacy 102S Filing in accordance with the specifications set forth in the Large Trader Reporting for Physical Commodity Swaps: Division of Market Oversight Guidebook for Part 20 Reports (as amended from time to time, the "102S Guidebook"). The current version of the 102S Guidebook is available at the link below:

<http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/ltrguidebook053112.pdf>

²³ At 11:59 p.m. Eastern Time.

²⁴ At 11:59 p.m. Eastern Time.

*the OCR Final Rule, by reporting via Legacy Form 40 and the Legacy 40S Filing (as such terms are defined below) until November 17, 2016.*²⁵

The Division believes that time-limited no-action relief is warranted for certain additional reporting obligations under Parts 17 and 18 of the Commission’s regulations that were implemented by the OCR Final Rule. Subject to the conditions below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Trader²⁶ for failure to report via New Form 40, as required by Part 18. In addition, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report via New Form 71, as required by Part 17.²⁷ The no-action relief with respect to New Form 40 and New Form 71 described in this paragraph ends in each case **on November 17, 2016.**²⁸

The no-action relief described above with respect to New Form 40 is subject to Reporting Traders reporting via Legacy Form 40 until November 17, 2016.²⁹ Such reporting must be consistent in all respects with the time, form and manner of the Legacy Form 40 reporting practice. In particular, this no-action relief is subject to Reporting Traders reporting via Legacy Form 40 in accordance with the following condition:

- Report via Legacy Form 40
 - As used herein, “Legacy Form 40” refers to the Form 40 required prior to the implementation of the OCR Final Rule, which is available on the Commission’s website.³⁰ See Appendix B hereto for additional instructions for completing Legacy Form 40 in accordance with the legacy reporting practice.
 - Every trader who holds or controls a reportable futures and option position must, after a special call upon such trader by the Commission or its designee, file with the Commission a “Statement of Reporting Trader” on Legacy Form 40, at such time and place as directed in the call.
 - The Legacy Form 40 reporting practice described above and on Appendix B is referred to herein as the “Legacy Form 40 reporting practice.”

²⁵ At 11:59 p.m. Eastern Time.

²⁶ As used herein, “Reporting Traders” means parties that are obligated to report pursuant to the OCR Final Rule on New Form 40/40S. See regulations §§18.04 and 20.5. 17 CFR §§ 18.04 and 20.5.

²⁷ The reporting requirements with respect to New Form 40 and New Form 71 were implemented by the OCR Final Rule, and arise under regulations §§ 18.04 (New Form 40), 17.01(c), and 17.01(e) (New Form 71). 17 CFR §§ 18.04, 17.01(c), and 17.01(e). As noted above, New Form 71 is an entirely new form introduced by the OCR Final Rule, and as a result there is no legacy Form 71 reporting method.

²⁸ At 11:59 p.m. Eastern Time.

²⁹ At 11:59 p.m. Eastern Time.

³⁰ See the link below to the Commission’s website for a copy of Legacy Form 40:

<http://www.cftc.gov/Forms/ssLINK/cftcform40>

The no-action relief described in this Section (E) is also subject to Reporting Parties complying with the electronic reporting testing condition set out in Section (F) below.

For the avoidance of doubt, the no-action relief and conditions described in this Section (E) with respect to New Form 40 also apply to the obligation to submit New Form 40S pursuant to regulation § 20.5(b).³¹ As a result, all references in this Section (E) to New Form 40 and Legacy Form 40, including the no-action relief and conditions described in this Section (E), shall apply equally to New Form 40S and the legacy 40S filing (the “Legacy 40S Filing”) required by regulation § 20.5(b). The reporting practice by which parties submit the Legacy 40S Filing in accordance with regulation § 20.5(b) is referred to herein as the “Legacy 40S reporting practice.”

F. Condition of Relief; Testing of Electronic Reporting Methods

Between the date of this April 2016 CFTC NAL and the implementation of electronic reporting on the dates described herein, Reporting Parties are expected to cooperate with staff of the Commission’s Office of Data and Technology (ODT) as requested to test and implement any information technology standards or systems associated with the OCR Final Rule as contemplated in that rulemaking.³² During this testing period, Reporting Parties are expected to provide “Production Grade” test data³³ and any other form filings requested by ODT staff,³⁴ in the form and manner described on the Commission’s “Ownership and Control Reporting (OCR)” homepage.³⁵ In addition, Reporting Parties are expected to provide status reports on their implementation efforts upon request by ODT or DMO. The Division advises Reporting Parties to check the OCR homepage on a regular basis to review testing requirements.

³¹ 17 CFR § 20.5(b).

³² OCR Final Rule at 69188-69189.

³³ “Production Grade” data means (a) in the context of New Form 102A testing, data that, to the extent it overlaps, is identical to data submitted pursuant to Part 17 of the Commission’s regulations (Large Trader data and Trader Capture Report data); (b) in the context of New Form 102S testing, data that, to the extent it overlaps, is identical to data submitted pursuant to Part 20 of the Commission’s regulations (Commodity Swaps data); and (c) in the context of New Form 102B testing, data that is equivalent to the data that the Commission will receive following the implementation of electronic reporting on New Form 102B. Production Grade data will be used by the Commission only for testing purposes.

³⁴ The Commission will protect proprietary information consistent with the Freedom of Information Act, 5 U.S.C. 552, and 17 CFR part 145, “Commission Records and Information.” In addition, § 8(a)(1) of the Commodity Exchange Act, 7 U.S.C. §12(a)(1), strictly prohibits the Commission, unless specifically authorized by the Act, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.” The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

³⁵ See <http://www.cftc.gov/Forms/OCR>

II. Summary of Upcoming 12, 23 and 29 Month No-Action Relief to Address Reporting Issues.

In addition to the time-limited no-action relief described in Section I above, the Division believes that additional time-limited no-action relief is warranted to address certain reporting issues identified by FIA in the February 2016 FIA Letter. This additional relief is summarized below, and discussed in more detail in the remainder of this Section II.

September 29, 2016- September 28, 2017 (12 month relief):

- **Form 102A, Question 10(iii): trading account controller.** In Question 10(iii), Reporting Parties whose client(s) fail to provide the name and physical address of the trading account controller may report to the Commission that a client will not provide this information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule, in lieu of reporting the data. Reporting Parties should refer to the Technical Guidance Document, available on the Commission's "Ownership and Control Reporting (OCR)" homepage,³⁶ for more information on how to designate to the Commission that a client will not provide the required information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule.
- **Form 102B (DCM reporting), Question 6: volume threshold account controller.** In Question 6, Reporting Parties whose client(s) fail to provide the name and physical address of the volume threshold account controller may report to the Commission that a client will not provide this information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule, in lieu of reporting the data. Reporting Parties should refer to the Technical Guidance Document for more information on how to designate to the Commission that a client will not provide the required information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule.

September 29, 2016- August 29, 2018 (23 month relief):

- **Form 102A, Question 10(iii): trading account controller.** Form 102A requires the reporting of various contact fields related to the trading account controller in Question 10(iii). During the period of no-action relief, Reporting Parties will not be required to report the phone number, name of employer, employer NFA ID, employer legal entity identifier, job title, relationship to owner, email address, or controller NFA ID in Question 10(iii).
- **Form 102A, Question 10(ii): trading account owner; Question 10(iii): trading account controller.** Form 102A requires the names of trading account owners in Question 10(ii) and the names of trading account controllers in Question 10(iii) to be reported by 9 a.m. on the business day following the date on which the special account becomes reportable. During the period of no-action relief, the names of trading account owners in Question 10(ii) and the names of trading account controllers in Question 10(iii)

³⁶ See <http://www.cftc.gov/Forms/OCR>

must still be reported by 9 a.m. on the business day following the date on which the special account becomes reportable; provided, however, that the Division will not recommend that the Commission commence an enforcement action, during the period of no-action relief, in instances where Reporting Parties modify the information they previously reported for these fields up to 9 a.m. on the third business day following the date on which the special account becomes reportable.

- **Form 102B (DCM reporting) reporting trigger.** Form 102B requires volume-based reporting, for which the reporting trigger is trading volume of 50 or more contracts per day, under the definition of “reportable trading volume level” in § 15.04. This no-action letter provides relief from the requirement to report on Form 102B based on a reportable trading volume level of 50 contracts, provided that reporting parties relying on this relief report on Form 102B based instead on the following reportable trading volume level:
 - trading volume of 250 or more contracts per day **from September 29, 2016³⁷ until September 28, 2017.**³⁸
 - trading volume of 100 or more contracts per day **from September 29, 2017³⁹ until August 29, 2018.**⁴⁰

No-action relief with respect to the reportable trading volume level expires on August 29, 2018,⁴¹ at which point the reportable trading volume level will revert back to the original 50 contracts under § 15.04.

- **Form 102B (DCM reporting), Question 6: volume threshold account controller.** Form 102B requires the reporting of various contact fields related to the DCM volume threshold account controller in Question 6. During the period of no-action relief, Reporting Parties will not be required to report the phone number, name of employer, employer NFA ID, employer legal entity identifier, job title, relationship to owner, email address, or controller NFA ID in Question 6.
- **Form 102B (DCM reporting), Question 5: volume threshold account owner; Question 6: volume threshold account controller.** Form 102B requires the names of DCM volume threshold account owners in Question 5 and the names of DCM volume threshold account controllers in Question 6 to be reported by 9 a.m. on the business day following the date on which the volume threshold account becomes reportable. During the period of no-action relief, the names of DCM volume threshold account owners in Question 5 and the names of DCM volume threshold account controllers in Question 6 must still be reported by 9 a.m. on the business day following the date on which the volume threshold account becomes reportable; provided, however, that the Division will not recommend that the Commission commence an enforcement action, during the period of no-action relief, in instances where Reporting Parties modify the information they

³⁷ At 12:00 a.m. Eastern Time.

³⁸ At 11:59 p.m. Eastern Time.

³⁹ At 12:00 a.m. Eastern Time.

⁴⁰ At 11:59 p.m. Eastern Time.

⁴¹ At 11:59 p.m. Eastern Time.

previously reported for these fields up to 9 a.m. on the third business day following the date on which the volume threshold account becomes reportable.

- **Form 102S.** Form 102S requires the reporting of several new data points not required on the Legacy 102S Filing. During the period of no-action relief, the following new data points will be optional to report on Form 102S, and will not be required to be reported: the name of omnibus account originators, and all related address and contact fields (see Question 3(ii) on Form 102S); all consolidated account owner fields (see Question 3(iii) on Form 102S); and all consolidated account controller fields (see Question 3(iv) on Form 102S). As a condition of this relief, Reporting Parties must instead identify the consolidated account counterparty, and must also report the required 102S information via the new automated methods introduced by the OCR Final Rule. Reporting Parties should refer to the Technical Guidance Document, available on the Commission’s “Ownership and Control Reporting (OCR)” homepage,⁴² for detailed specifications regarding the data points required to be reported on Form 102S.

Date of this April 2016 CFTC NAL – August 29, 2018 (29 month relief):

- **Form 102B (SEF reporting).** Reporting Parties will not be required to report SEF volume threshold accounts via New Form 102B during this period of no-action relief.

The remainder of this Section II describes the time-limited no-action relief summarized above, along with the terms and conditions of relief, in more detail.

A. Conditional No-action Relief from Submitting Certain Specified Information via New Form 102A; Runs from September 29, 2016⁴³ until September 28, 2017⁴⁴

Form 102A, Question 10(iii): trading account controller. The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission’s regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102A information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁴⁵ until September 28, 2017.⁴⁶

In Question 10(iii) of Form 102A, Reporting Parties whose client(s) fail to provide the name and physical address of the trading account controller may report to the Commission that a client will not provide this information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the

⁴² See <http://www.cftc.gov/Forms/OCR>

⁴³ At 12:00 a.m. Eastern Time.

⁴⁴ At 11:59 p.m. Eastern Time.

⁴⁵ At 12:00 a.m. Eastern Time.

⁴⁶ At 11:59 p.m. Eastern Time.

OCR Final Rule, in lieu of reporting the data. Reporting Parties should refer to the Technical Guidance Document for more information on how to designate to the Commission that a client will not provide the required information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule. This no-action relief applies to new filings (§ 17.01(a)), change updates (§ 17.02(b)(3)) and refresh updates (§ 17.02(b)(4)) submitted within the period of no-action relief. Any such filings submitted after the end of no-action relief must include the name and physical address of the trading account controller, even if such filings are intended to change or refresh filings that, because they were submitted during the period of no-action relief, originally omitted this information. The no-action relief described in this Section (A) is subject to the condition in Section (G)(1) and (2) below.

B. Conditional No-action Relief from Submitting Certain Specified Information Regarding DCM Volume Threshold Accounts via New Form 102B; Runs from September 29, 2016⁴⁷ until September 28, 2017⁴⁸

Form 102B (DCM reporting), Question 6: volume threshold account controller. The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission's regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102B information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁴⁹ until September 28, 2017.⁵⁰

In Question 6 of Form 102B, Reporting Parties whose client(s) fail to provide the name and physical address of the volume threshold account controller may report to the Commission that a client will not provide this information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule, in lieu of reporting the data. Reporting Parties should refer to the Technical Guidance Document for more information on how to designate to the Commission that a client will not provide the required information, or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule. This no-action relief applies to new filings (§ 17.01(b)), change updates (§ 17.02(c)(3)) and refresh updates (§ 17.02(c)(4)) for DCM volume threshold accounts. Any such filings submitted after the end of no-action relief must include the name and physical address of the volume threshold account controller, even if such filings are intended to change or refresh filings that, because they were submitted during the period of no-action relief, originally omitted this information. The no-action relief described in this Section (B) is subject to the condition in Section (G)(1) and (2) below.

⁴⁷ At 12:00 a.m. Eastern Time.

⁴⁸ At 11:59 p.m. Eastern Time.

⁴⁹ At 12:00 a.m. Eastern Time.

⁵⁰ At 11:59 p.m. Eastern Time.

C. Conditional No-action Relief from Submitting Certain Specified Information via New Form 102A; Runs from September 29, 2016⁵¹ until August 29, 2018⁵²

(1) **Form 102A, Question 10(iii): trading account controller.** The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission's regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102A information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁵³ until August 29, 2018.⁵⁴

Form 102A requires the reporting of various contact fields related to the trading account controller in Question 10(iii). During the period of no-action relief, Reporting Parties will not be required to report the phone number, name of employer, employer NFA ID, employer legal entity identifier, job title, relationship to owner, email address, or controller NFA ID in Question 10(iii). This no-action relief applies to new filings (§ 17.01(a)), change updates (§ 17.02(b)(3)) and refresh updates (§ 17.02(b)(4)). The no-action relief described in this Section (C)(1) is subject to the condition in Section (G)(1) below.

(2) **Form 102A, Question 10(ii): trading account owner; Question 10(iii): trading account controller.** The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission's regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102A information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁵⁵ until August 29, 2018.⁵⁶

Form 102A requires the names of trading account owners in Question 10(ii) and the names of trading account controllers in Question 10(iii) to be reported by 9 a.m. on the business day following the date on which the special account becomes reportable. During the period of no-action relief, the names of trading account owners in Question 10(ii) and the names of trading account controllers in Question 10(iii) must still be reported by 9 a.m. on the business day following the date on which the special account becomes reportable; provided, however, that the Division will not recommend that the

⁵¹ At 12:00 a.m. Eastern Time.

⁵² At 11:59 p.m. Eastern Time.

⁵³ At 12:00 a.m. Eastern Time.

⁵⁴ At 11:59 p.m. Eastern Time.

⁵⁵ At 12:00 a.m. Eastern Time.

⁵⁶ At 11:59 p.m. Eastern Time.

Commission commence an enforcement action, during the period of no-action relief, in instances where Reporting Parties modify the information they previously reported for these fields up to 9 a.m. on the third business day following the date on which the special account becomes reportable. This no-action relief applies to new filings (§ 17.01(a)) and change updates (§ 17.02(b)(3)). The no-action relief described in this Section (C)(2) is subject to the condition in Section (G)(1) below.

D. Conditional No-action Relief from Submitting Certain Specified Information Regarding DCM Volume Threshold Accounts via New Form 102B; Runs from September 29, 2016⁵⁷ until August 29, 2018⁵⁸

(1) **Form 102B (DCM reporting) reporting trigger.** Form 102B requires volume-based reporting, for which the reporting trigger is trading volume of 50 or more contracts per day, under the definition of “reportable trading volume level” in § 15.04. The Division believes that time-limited no-action relief is warranted for the obligation to report on Form 102B in accordance with the 50 contract level.

Staggered reporting trigger. This April 2016 CFTC NAL provides relief from the requirement to report on Form 102B based on a reportable trading volume level of 50 contracts, provided that reporting parties relying on this relief report on Form 102B based instead on the following reportable trading volume level:

- trading volume of 250 or more contracts per day **from September 29, 2016⁵⁹ until September 28, 2017.**⁶⁰
- trading volume of 100 or more contracts per day **from September 29, 2017⁶¹ until August 29, 2018.**⁶²

No-action relief with respect to the reportable trading volume level expires on August 29, 2018,⁶³ at which point the reportable trading volume level will revert back to the original 50 contracts under § 15.04.

Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action, during the period of no-action relief, against a Reporting Party for failure to report a DCM volume threshold account based on a reportable trading volume level of 50 contracts, provided that Reporting Parties relying on this relief report instead based on a reportable trading volume level of (i) 250 or more

⁵⁷ At 12:00 a.m. Eastern Time.

⁵⁸ At 11:59 p.m. Eastern Time.

⁵⁹ At 12:00 a.m. Eastern Time.

⁶⁰ At 11:59 p.m. Eastern Time.

⁶¹ At 12:00 a.m. Eastern Time.

⁶² At 11:59 p.m. Eastern Time.

⁶³ At 11:59 p.m. Eastern Time.

contracts per day, from September 29, 2016⁶⁴ until September 28, 2017,⁶⁵ and (ii) 100 or more contracts per day, from September 29, 2017⁶⁶ until August 29, 2018.⁶⁷ This no-action relief applies to new filings (§ 17.01(b)), change updates (§ 17.02(c)(3)) and refresh updates (§ 17.02(c)(4)) for DCM volume threshold accounts. The no-action relief described in this Section (D)(1) is subject to the condition in Section (G)(1) below.

(2) **Form 102B (DCM reporting), Question 6: volume threshold account controller.** The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission’s regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102B information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁶⁸ until August 29, 2018.⁶⁹

Form 102B requires the reporting of various contact fields related to the DCM volume threshold account controller in Question 6. During the period of no-action relief, Reporting Parties will not be required to report the phone number, name of employer, employer NFA ID, employer legal entity identifier, job title, relationship to owner, email address, or controller NFA ID in Question 6. This no-action relief applies to new filings (§ 17.01(b)), change updates (§ 17.02(c)(3)) and refresh updates (§ 17.02(c)(4)) for DCM volume threshold accounts. The no-action relief described in this Section (D)(2) is subject to the condition in Section (G)(1) below.

(3) **Form 102B (DCM reporting), Question 5: volume threshold account owner; Question 6: volume threshold account controller.** The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission’s regulations that were implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102B information discussed in the following paragraph, as required by Part 17, from September 29, 2016⁷⁰ until August 29, 2018.⁷¹

⁶⁴ At 12:00 a.m. Eastern Time.

⁶⁵ At 11:59 p.m. Eastern Time.

⁶⁶ At 12:00 a.m. Eastern Time.

⁶⁷ At 11:59 p.m. Eastern Time.

⁶⁸ At 12:00 a.m. Eastern Time.

⁶⁹ At 11:59 p.m. Eastern Time.

⁷⁰ At 12:00 a.m. Eastern Time.

⁷¹ At 11:59 p.m. Eastern Time.

Form 102B requires the names of DCM volume threshold account owners in Question 5 and the names of DCM volume threshold account controllers in Question 6 to be reported by 9 a.m. on the business day following the date on which the volume threshold account becomes reportable. During the period of no-action relief, the names of DCM volume threshold account owners in Question 5 and the names of DCM volume threshold account controllers in Question 6 must still be reported by 9 a.m. on the business day following the date on which the volume threshold account becomes reportable; provided, however, that the Division will not recommend that the Commission commence an enforcement action, during the period of no-action relief, in instances where Reporting Parties modify the information they previously reported for these fields up to 9 a.m. on the third business day following the date on which the volume threshold account becomes reportable. This no-action relief applies to new filings (§ 17.01(b)) and change updates (§ 17.02(c)(3)) for DCM volume threshold accounts. The no-action relief described in this Section (D)(3) is subject to the condition in Section (G)(1) below.

E. Conditional No-action Relief from Submitting Certain Specified Information Regarding SEF Volume Threshold Accounts via New Form 102B; Runs from date of this April 2016 CFTC NAL until August 29, 2018⁷²

Form 102B (SEF reporting). The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 17 of the Commission's regulations that were implemented by the OCR Final Rule. In particular, Division staff is aware of practical limitations regarding the reportable trading volume level, as defined in regulation § 15.04, for SEF volume threshold accounts reported via New Form 102B. In light of these concerns regarding § 15.04 as it applies to SEFs, the Division believes that no-action relief extending from the date of this April 2016 CFTC NAL to August 29, 2018⁷³ is warranted with respect to this reporting obligation. Subject to the condition in Section (G)(1) below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report SEF volume threshold accounts via New Form 102B, as required by Part 17, until August 29, 2018.⁷⁴ Division staff will use the period of relief to consider whether to recommend that the Commission pursue certain changes to the OCR Final Rule as it pertains to SEFs.

F. Conditional No-action Relief from Submitting Certain Specified Information via New Form 102S; Runs from September 29, 2016⁷⁵ until August 29, 2018⁷⁶

Form 102S. The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Part 20.5 of the Commission's regulations that were

⁷² At 11:59 p.m. Eastern Time.

⁷³ At 11:59 p.m. Eastern Time.

⁷⁴ At 11:59 p.m. Eastern Time.

⁷⁵ At 12:00 a.m. Eastern Time.

⁷⁶ At 11:59 p.m. Eastern Time.

implemented by the OCR Final Rule. Subject to the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report the Form 102S information discussed in the following paragraph, as required by Part 20.5, from September 29, 2016⁷⁷ until August 29, 2018.⁷⁸

Form 102S requires the reporting of several new data points not required on the Legacy 102S Filing. During the period of no-action relief, the following new data points will be optional to report on Form 102S, and will not be required to be reported: the name of omnibus account originators, and all related address and contact fields (see Question 3(ii) on Form 102S); all consolidated account owner fields (see Question 3(iii) on Form 102S); and all consolidated account controller fields (see Question 3(iv) on Form 102S). Reporting Parties relying on this relief will be required instead to identify the consolidated account counterparty, and must also report the required 102S information via the new automated methods introduced by the OCR Final Rule. Reporting Parties should refer to the Technical Guidance Document, available on the Commission's "Ownership and Control Reporting (OCR)" homepage,⁷⁹ for detailed specifications regarding the data points required to be reported on Form 102S. This no-action relief applies to new filings (§ 20.5 (a)), change updates (§ 20.5 (a)(4)), and refresh updates (§ 20.5 (a)(5)). The no-action relief described in this Section (F) is subject to the condition in Section (G)(1) below.

G. Conditions of Relief; Testing of Electronic Reporting Methods

(1) Prior to the final expiration of no-action relief described in this Section II, Reporting Parties are expected to cooperate with staff of the Commission's ODT group as requested to test and implement any information technology standards or systems associated with the OCR Final Rule as contemplated in that rulemaking.⁸⁰ During the period of relief described in this Section II, Reporting Parties are expected to provide "Production Grade" test data⁸¹ and any other form filings requested by ODT staff,⁸² in

⁷⁷ At 12:00 a.m. Eastern Time.

⁷⁸ At 11:59 p.m. Eastern Time.

⁷⁹ See <http://www.cftc.gov/Forms/OCR>

⁸⁰ OCR Final Rule at 69188-69189.

⁸¹ "Production Grade" data means (a) in the context of New Form 102A testing, data that, to the extent it overlaps, is identical to data submitted pursuant to Part 17 of the Commission's regulations (Large Trader data and Trader Capture Report data); (b) in the context of New Form 102S testing, data that, to the extent it overlaps, is identical to data submitted pursuant to Part 20 of the Commission's regulations (Commodity Swaps data); and (c) in the context of New Form 102B testing, data that is equivalent to the data that the Commission will receive following the implementation of electronic reporting on New Form 102B. Production Grade data will be used by the Commission only for testing purposes.

⁸² The Commission will protect proprietary information consistent with the Freedom of Information Act, 5 U.S.C. 552, and 17 CFR part 145, "Commission Records and Information." In addition, § 8(a)(1) of the Commodity Exchange Act, 7 U.S.C. §12(a)(1), strictly prohibits the Commission, unless specifically authorized by the Act, from making public "data and information that would separately disclose the

the form and manner described on the Commission’s “Ownership and Control Reporting (OCR)” homepage.⁸³ In addition, Reporting Parties are expected to provide status reports on their implementation efforts upon request by ODT or DMO. The Division advises Reporting Parties to check the OCR homepage on a regular basis to review testing requirements.

(2) As discussed in Section II(A) above, Form 102A Reporting Parties may indicate to the Commission that a client will not provide the name and physical address of a trading account controller reportable on a Form 102A (or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule) during the period of no-action relief. Furthermore, as discussed in Section II(B) above, Form 102B Reporting Parties may indicate to the Commission that a client will not provide the name and physical address of a volume threshold account controller reportable on a Form 102B (or that the Reporting Party does not believe that the information provided by a client meets the requirements of the OCR Final Rule) during the period of no-action relief. Reporting Parties taking advantage of such relief in accordance with the terms described in Section II(A) and Section II(B) during the period of no-action relief must provide to DMO, upon request, a list of clients (including their phone number and address) that have not provided such information to such Reporting Parties.

business transactions or market positions of any person and trade secrets or names of customers.” The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974, 5 U.S.C. 552a.

⁸³ See <http://www.cftc.gov/Forms/OCR>

This letter, and the no-action position taken herein, which is based on FIA's representations, represents the views of the Division only, and does not necessarily represent the position or views of the Commission or of any other division or office of the Commission's staff. The no-action position taken herein does not excuse affected persons from compliance with any other applicable requirements of the Commodity Exchange Act or the regulations thereunder. As with all no-action letters, the Division retains the authority to, in its discretion, further condition, modify, suspend, terminate or otherwise restrict the terms of the no-action relief provided herein.

If you have any questions concerning this correspondence, please contact Sebastian Pujol Schott, Associate Director, DMO, at (202) 418-5641, or Mark Schlegel, Special Counsel, DMO, at (202) 418-5055.

Sincerely yours,

Vincent McGonagle
Director
Division of Market Oversight

Detailed Instructions on Submitting Legacy Form 102⁸⁵

Special account designation and identification.

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 on Legacy Form 102, in the form and manner specified in Section I(A) of this no-action letter, showing the information in paragraphs (a) through (f) of this Appendix A.

(a) Special account designator. A unique identifier for the account, provided, that the same designator is assigned for option and futures reporting, and the designator is not changed or assigned to another account without prior approval of the Commission or its designee.

(b) Special account identification. The name, address, business phone, and for individuals, the person's job title and employer for the following:

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

(2) 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:

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

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

(iii) Account numbers and account names included in the special account, if different than supplied in paragraph (b)(2) of this Appendix A;

(iv) The name and location of all persons not identified in paragraph (b)(2) of this Appendix A having a ten percent or more financial interest in the special account, indicating those having discretionary trading over the account; and

(v) 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)(2) or (b)(2)(iv) of this Appendix A; or

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

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

(ii) [Reserved]

⁸⁴ See the link below to the Commission's website for general information on submitting forms to the Commission:

<http://www.cftc.gov/Forms/index.htm>

⁸⁵ See the link below to the Commission's website for a copy of Legacy Form 102:

<http://www.cftc.gov/Forms/ssLINK/cftcform102>

(iii) If fewer than ten accounts are under control of the independent advisor, for each account the account number and the name and location of each person having a ten percent or more financial interest in the account; and

(iv) On call by the Commission or its designee, for each account controlled by the independent advisor, the account number and account name and the name and location of each person having a ten percent or more financial interest in the account.

(c) [Reserved]

(d) Commercial use. 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).

(e) Account executive. 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.

(f) Reporting firms. The name and address of the futures commission merchant, clearing member, or foreign broker carrying the account, and the name, title and business phone of the authorized representative of the firm filing the Legacy Form 102 and the date of the Legacy Form 102. The authorized representative shall sign the Legacy Form 102 or satisfy such other requirements for authenticating the report as instructed in writing by the Commission or its designee.

Detailed Instructions on Submitting Legacy Form 40⁸⁶

Every trader who holds or controls a reportable futures and option position shall after a special call upon such trader by the Commission or its designee file with the Commission a “Statement of Reporting Trader” on the Legacy Form 40 at such time and place as directed in the call. All traders shall complete part A of the Legacy Form 40 and, in addition, shall complete:

Part B--If the trader is an individual, a partnership or a joint tenant.

Part C--If the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

(a) Information to be furnished by all traders in part A of the Legacy Form 40 shall include:

(1) Name and address of reporting trader.

(2) Principal business and occupation of the reporting trader and, in addition, whether transactions are made for, on behalf of, or in association with, a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged, or for personal use.

(3) Type of trader.

(4) Registration status with the Commission, if any.

(5) The name and address of each person whose option or futures trading is controlled by the reporting trader. Provided that if the reporting trader is a customer trading program, or the commodity trading advisor thereof, that is a managed or guided account program in which ten or more persons participate, the information furnished may be limited to the name of any commodity pool which participates in the program and the name and address of the CPO.

(6) The name, address and business phone of each person who controls the trading of the reporting trader.

(7) The names and locations of all futures commission merchants, clearing members, introducing brokers, and foreign brokers through whom accounts owned or controlled by the reporting trader are carried or introduced at the time of filing a Legacy Form 40, if such accounts are carried through more than one futures commission merchant, clearing member or foreign broker or carried through more than one office of the same futures commission merchant, clearing member or foreign broker, or introduced by more than one introducing broker clearing accounts through the same futures commission merchant, and the name of the reporting trader’s account executive at each firm or office of the firm.

(8) The names and locations (city and state) of persons who guarantee the futures or option trading accounts of the reporting trader or who have a financial interest of 10 percent or more in the reporting trader or the accounts of the reporting trader.

(9) The following information concerning other option or futures trading accounts which the reporting trader guarantees or other futures or option traders or accounts in which the reporting trader has a financial interest of 10 percent or more:

⁸⁶ See the link below to the Commission’s website for a copy of Legacy Form 40:

<http://www.cftc.gov/Forms/ssLINK/cftcform40>

- (i) The names of traders for whom the reporting trader guarantees accounts or in which the reporting trader has a financial interest;
 - (ii) The names of the accounts that the reporting trader guarantees or in which the reporting trader has a financial interest; and
 - (iii) The names and locations of the brokerage firms at which the accounts are carried.
- (10) Information concerning ownership or control by a foreign government, agent of a foreign government entity specially acknowledged by a statute or regulation of a foreign jurisdiction or entity financed by a foreign government either through ownership of capital assets or provision of operating expenses.
- (11) Signature of the trader and date of signing the report. If the reporting trader is an organization, the signature must be that of a partner, officer or trustee authorized to sign on behalf of that organization.
- (b) Information to be furnished in part B of the Legacy Form 40 shall include:
- (1) Business telephone number of the reporting trader.
 - (2) Employer and job title if the reporting trader is an individual.
 - (3) The following information if a trader makes transactions or holds positions in a futures or option contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:
 - (i) Commercial activity associated with use of the option or futures market (such as and including production, merchandising or processing of a cash commodity, asset or liability risk management by depository institutions, or security portfolio risk management).
 - (ii) Physical commodities underlying use of the futures or option markets.
 - (iii) Futures or option markets used.
 - (4) The name, address, and type of any organization in which the reporting trader participates in the management if such organization holds another futures or option trading account.
 - (5) If the reporting trader is a partnership or joint tenant, the name and address of each partner (excluding limited partners in commodity pools) or joint tenant and the name of the partner or joint tenant who ordinarily places orders.
- (c) Information to be furnished in part C of the Legacy Form 40 shall include:
- (1) Whether or not the reporting trader is organized under the laws of any state (including the District of Columbia) or territory or possession of the United States or under the laws of any foreign jurisdiction. Reporting traders organized outside the jurisdiction of the United States must indicate the country of origin.
 - (2) The names of parent firms and whether or not they are organized under the laws of any state (including the District of Columbia) or territory or possession of the United States and the location of each headquarter's office.
 - (3) Names and locations of all subsidiary firms that trade in commodity futures or options and whether or not the subsidiary firms are organized under the law of any state (including the District of Columbia) or territory or possession of the United States.
 - (4) Name, address, and business telephone number of person(s) actually controlling the trading and, if different persons are responsible for different commodities or options, the commodities or options for which each controller has responsibility.
 - (5) Name, office address and business telephone number of person or persons to contact regarding trading.

(6) The following information if a trader makes transactions or holds positions in a futures or option contract where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel and the transactions or positions are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise:

(i) Commercial activity associated with use of the option or futures market (e.g., production, merchandising or processing of a cash commodity, asset/liability risk management by depository institutions, security portfolio risk management, etc.)

(ii) Physical commodities underlying use of the futures or option markets.

(iii) Futures or option markets used.