

DIVISION OF MARKET OVERSIGHT ADVISORY

Obligation of Futures Commission Merchants, Clearing Members and Foreign Brokers to Update Form 102 as Required by Commission Regulation 17.01(g)

I. Introduction and Background

The Division of Market Oversight (“Division”) of the Commodity Futures Trading Commission (“CFTC” or “Commission”) issues this advisory to remind market participants of their ongoing legal obligation to comply with the Form 102 *special account identification* update requirements of regulation 17.01(g). Special account identifications are critical to the proper functioning of the Commission's market surveillance program. The Commission relies on timely and accurate special account identifications submitted by futures commission merchants, clearing members, and foreign brokers on the Form 102 to be able to solicit a Statement of Reporting Trader (Form 40) from traders identified in Form 102s.¹ The Commission also relies on Form 102 special account identifications in order to combine special accounts belonging to a single trader across futures commission merchants, clearing members, and foreign brokers in order to accurately assess a trader's position for market surveillance and enforcement of speculative limits.

II. Commission Form 102 Special Account Identification Update Compliance Requirements

Regulation 17.01(g) requires futures commission merchants, clearing members, and foreign brokers to submit an updated Form 102 with the Commission whenever there has been a

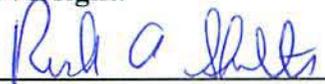
¹ See, 17 C.F.R. § 18.04. The Form 40 provides the Commission basic information about a trader, including the name and address of a reporting trader, the principal business and occupation of the reporting trader, type of trader, registration status, information on persons that control the trading of the reporting trader, and information on persons who have a financial interest of 10 percent or more in the reporting trader or the accounts of the reporting trader. 17 C.F.R. § 18.04(a).

change in information contained in a previously submitted Form 102.² An updated Form 102 must be filed with the Commission within three business days after the change that requires the update. Changes to a special account that could require the submission of an updated Form 102 include, but are not limited to, changes in the name, address, business phone, of the person originating a special account (or owning or controlling the account), the person's registration status, the person's legal organization, the person's principal business or occupation, or the account number(s) and account name(s) included in the special account.³

The failure to submit a timely updated Form 102 whenever there is a change in information submitted in a previous Form 102 constitutes a violation of regulation 17.02, which is actionable under the Commodity Exchange Act and CFTC regulations.⁴ This advisory reiterates existing legal requirements and shall not be relied upon by any person to seek to excuse past violations.

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DIRECTOR

² The submission of an updated Form 102 is required whenever the information contained in a previous Form 102 is "no longer accurate." 17 C.F.R. § 17.01(g).

³ 17 C.F.R. § 17.01(b).

⁴ See, e.g., Sections 6(c) and 6c of the Commodity Exchange Act (7 U.S.C. 15, 13a-1) regarding sanctions for violations of the Commodity Exchange Act and Commission regulations and section 9(a)(5) (7 U.S.C. 13(a)(5)) regarding criminal penalties for willful violations of Commission regulations.