

# **Division of Swap Dealer and Intermediary Oversight (DSIO) Notice to Futures Commission Merchants and Depositories of Procedures for the Filing of Acknowledgment Letters for Accounts Holding Customer Funds and Other Financial Reporting Requirements**

## **Procedures for Filing Acknowledgment Letters for Accounts Holding Customer Funds**

Commission Regulations 1.20, 1.26, 22.2, and 30.7 require an FCM to obtain from each depository authorized to hold customer funds (e.g., banks, trust companies, other FCMs, foreign brokers, and money market mutual funds) an acknowledgment that the funds deposited into the customer segregated or secured accounts belong to customers of the FCM and must be held and accounted for in accordance with the Commodity Exchange Act and Commission regulations. The Commission revised the regulations to require each FCM and depository holding customer funds to use a standard template acknowledgment letter. FCMs and depositories are required to use the new template acknowledgment letters for all accounts opened on or after January 13, 2014. FCMs and depositories, however, have until July 12, 2014, to execute new letters that conform to the template acknowledgment letters for all accounts that were opened prior to January 13, 2014.

The revised regulations also require an FCM to file a copy of any executed acknowledgment letter with the Commission in the format and manner specified by the Commission within three business days of the opening of the account or the execution of a new acknowledgment letter for an existing account, as applicable. The Commission is directing FCMs to file such acknowledgment letters using the WinJammer Online Filing System.

Depositories, including FCMs clearing for other FCMs, holding customer funds deposited by an FCM also are required under the revised regulations to use an electronic means to submit copies of executed acknowledgment letters with the Commission and the FCM's DSRO no later than three business days after the opening of the account or the execution of a new written acknowledgment letter for an existing account, as applicable. The Commission has established a web-based submission site for depositories to submit the acknowledgment letters to the Commission. The web-based submission site contains general filing instructions and provides a link for a depository to obtain technical support if it encounters issues in submitting the acknowledgment letters. To view or access the web-based submission site, please see the related link under the "Other Submissions" heading, <http://www.cftc.gov/Forms/index.htm>.

The template acknowledgment letter also requires depositories holding funds deposited by FCMs to provide DSIO staff with read-only access to customer segregated or secured accounts. The template acknowledgment letter also requires depositories holding funds deposited by FCMs to respond to requests for account information received from DSIO staff or staff from the Division of Clearing and Risk (DCR). Certain depositories have stated that their operating and security protocols or requirements require account opening documents to include the names of DSIO

and/or DCR staff that will have read-only access or the authority to request account information from the depositories. For assistance with the designation of appropriate Commission staff in establishing these accounts and the related acknowledgment letters please contact Kevin Piccoli, Deputy Director, DSIO (646-746-9834).

### **Procedures for Filing “Early Warning” Notices**

Commission Regulation 1.12 requires an FCM to file notices with the Commission and with the FCM’s DSRO if certain specified predefined events occur. The Commission amended Regulation 1.12 to require an FCM to file all regulatory notices with the Commission and with the FCM’s DSRO via electronic means using a Commission-approved form of user authentication.

The Commission is issuing this notice to alert FCMs that they must file the regulatory notices using the WinJammer Online Filing System. The electronic filing requirement via the WinJammer Online Filing System became effective January 13, 2014.

### **Procedures for Filing Certain Financial and Risk Reports**

#### ***Procedures for Filing Risk Assessment Reports***

Regulation 1.15 requires certain FCMs to file with the Commission risk assessment reports that include the firms’ organizational charts and year-end consolidated and consolidating financial statements for the FCMs and their material affiliates. The Commission amended Regulation 1.15 to provide that all risk assessment reports required to be filed by an FCM under Regulation 1.15 must be filed via electronic means using a Commission-approved form of user authentication.

In order to comply with Regulation 1.15, effective January 13, 2014, FCMs must file such risk assessment reports with the Commission using the WinJammer Online Filing System.

#### ***Procedures for Filing Risk Management Programs***

The Commission adopted new Regulation 1.11 that requires each FCM carrying customer funds to develop written policies and procedures describing the FCM’s risk management program. Each FCM is required to file such policies and procedures with the Commission and with the FCM’s DSRO. FCMs should file their risk management programs with the Commission and with their DSROs electronically using the WinJammer Online Filing System no later than July 12, 2014.

### ***Procedures for Filing Risk Exposure Reports***

Regulation 1.11 requires an FCM, effective July 12, 2014, to provide its senior management and governing body with risk exposure reports on a quarterly basis and immediately upon the detection of any material change in the risk exposure of the FCM. Each FCM subject to Regulation 1.11 is required to furnish the Commission with a copy of each risk exposure report within five business days of submission to its senior management and governing body. The risk exposure reports should be submitted to the Commission using the WinJammer Online Filing System.

### ***Procedures for Filing Certified Annual Financial Reports***

Regulation 1.10 was amended, effective January 13, 2014, to require each FCM to file its certified annual report with the Commission and with the FCM's DSRO in an electronic format. To comply with this provision, each FCM must file its certified financial statements with the Commission and with its DSRO using the WinJammer Online Filing System for financial statements submitted after January 13, 2014, including financial statements for the year ending December 31, 2013.

The full text and a background discussion of the final notification and reporting regulations was published in the [Federal Register](#) (78 Fed. Reg. 68,506 (Nov. 14, 2013)), and is available on the Commission's web site.

For further information regarding the filing procedures for the notices and regulatory reporting discussed above, please contact Kevin Piccoli, Deputy Director, DSIO at 646-746-9834.