

South Service Road, West Oakville, ON, Canada L6L 5Y7; telephone +1-877-808-7575; fax: +1-860-660-0372; Internet: <https://techpubs.goodrich.com/ContactUs>. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on July 25, 2016.

Victor Wicklund,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016-18482 Filed 8-4-16; 8:45 am]

BILLING CODE 4910-13-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Children's Sleepwear Seminar

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of meeting.

SUMMARY: The Consumer Product Safety Commission (CPSC, Commission, or we) staff is holding a 1-day Flammable Fabrics Act (FFA) Children's Sleepwear Seminar (the Seminar). The Seminar will focus on testing, certification, and other compliance guidance relating to mandatory FFA standards and requirements for children's sleepwear. The Seminar will be held on October 20, 2016, at the CPSC offices in Bethesda Towers, Bethesda, MD. We invite interested parties to participate in or attend the Seminar.

DATES: The Seminar will be held on October 20, 2016 at 8:30 a.m. Individuals interested in serving on panels or presenting information at the Seminar should register by August 26, 2016; all other individuals who wish to attend in person should register as soon as possible because available spots may fill up.

ADDRESSES: The Seminar will be held in the 4th floor Hearing Room at the CPSC offices in Bethesda Towers, 4330 East West Highway, Bethesda, MD 20814. Persons interested in serving on a panel, presenting information, or attending the Seminar should register online at: <http://www.cpsc.gov/meetingsignup.html> (click on the link titled, "Children's Sleepwear Seminar"). Some sessions of the Seminar may be available through a webcast, but viewers will not be able to interact with the panels and presenters.

FOR FURTHER INFORMATION CONTACT: Carolyn Carlin, Textile Flammability Compliance Officer, Office of

Compliance, 4330 East West Highway, Room 610-33, Bethesda, MD 20814. Telephone: 301-504-7889, Email: ccarlin@cpsc.gov; or, Paige Witzen, Textile Technologist, Division of Engineering; Directorate for Laboratory Sciences, 5 Research Place, Rockville, MD 20850, Room 117-03. Telephone: 301-987-2029, Email: pwitzen@cpsc.gov.

SUPPLEMENTARY INFORMATION: The FFA, 15 U.S.C. 1191-1204, regulates the manufacture of highly flammable clothing, including children's sleepwear. The FFA standards governing the flammability of children's sleepwear are found at 16 CFR parts 1615 and 1616. These regulations protect children from burns by requiring that children's sleepwear must be flame resistant, as demonstrated through prescribed flammability tests, and self-extinguish if the item catches fire.

The goal of the Seminar is to bring together CPSC staff and stakeholders (manufacturers, importers, retailers, suppliers, legal counsel, testing laboratories and other interested parties) to discuss testing, certification, and other compliance guidance relating to mandatory FFA standards and requirements for children's sleepwear products. The Seminar will include presentations by CPSC staff and industry representatives, as well as a panel discussion among manufacturers, importers, retailers, suppliers, legal counsel, testing laboratories, and other parties involved in the children's sleepwear industry. Topics covered during the Seminar may include:

- Issues and questions about testing and compliance for children's sleepwear products regulated under the FFA.
- challenges faced in implementing testing, certification, and quality control programs to ensure that regulated products are accurately identified, tested according to applicable children's sleepwear testing methods, and certified as conforming to the applicable children's sleepwear standard.

This Seminar will focus exclusively on issues related to current CPSC requirements for children's sleepwear.

Staff intends to organize and develop panels to address these topics, informed by responses to this announcement. In addition, participants may present individually. If you would like to be a presenter or panel member, you should register by August 26, 2016 (see the **ADDRESSES** portion of this document for the Web site link and instruction on how to register). Please submit a brief summary of the topic on which you would like to make a presentation or speak as a panel participant, and your

area of expertise. Although every effort will be made to accommodate all persons who wish to be a presenter or panelist, CPSC staff will determine the final agenda. To assist in making the final panelist selections, CPSC staff may request that potential panelists submit presentations in addition to the initial summary. We will notify those who are selected as presenters and panelists by September 2, 2016. If you wish to attend and participate in the Seminar, but do not wish to be a presenter or panelist, you should also register as soon as possible because the CPSC Hearing Room has a limited occupancy. Please identify your affiliation with your registration.

Dated: August 2, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016-18597 Filed 8-4-16; 8:45 am]

BILLING CODE 6355-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038-AE46

Exemption From Registration for Certain Foreign Persons

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend one of its regulations. The proposed amendment would amend the conditions under which persons located outside the United States ("U.S.") acting in the capacity of a futures commission merchant ("FCM"), an introducing broker ("IB"), commodity trading advisor ("CTA"), or commodity pool operator ("CPO") in connection with commodity interest transactions solely on behalf of persons located outside the U.S., or on behalf of certain international financial institutions, would qualify for an exemption from registration with the Commission.

DATES: Comments must be received on or before September 6, 2016.

ADDRESSES: You may submit comments, identified by RIN number 3038-AE46, by any of the following methods:

- *CFTC Web site:* <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Comments Online process on the Web site.

• *Mail*: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

• *Hand Delivery/Courier*: Same as Mail, above.

• *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make publicly available. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from www.cftc.gov that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Frank Fisanich, Chief Counsel, or Andrew Chapin, Associate Chief Counsel, at (202) 418-5430, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Electronic mail: ffisanich@cftc.gov or achapin@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Registration and Exemption From Registration of Intermediaries

Part 3 of the Commission's regulations governs the registration of intermediaries engaged in the offer and sale of, and providing advice concerning, all commodity interest transactions, including those futures, options on futures, and swaps traded on

U.S. trading facilities, including both designated contract markets ("DCMs") and swap execution facilities ("SEFs"). Commission Regulation 3.10 sets forth the manner in which intermediaries, including FCMs, IBs, CPOs, and CTAs, must apply for registration with the Commission. Currently, § 3.10(c)

provides an exemption from registration, subject to certain conditions, for certain persons located outside the U.S. (such intermediaries are referred to herein as "Foreign Intermediaries") acting as intermediaries with respect to persons also located outside the U.S., even though such transactions may be executed bilaterally, or on or subject to the rules of a DCM or SEF.

As a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010,² swaps³ became subject to regulation under the Commodity Exchange Act ("CEA"). Accordingly, the Commission promulgated conforming amendments to its regulations to include swaps in the definition of "commodity interest" in Regulation 1.3(yy). Thus, acting as an intermediary for persons located within the U.S. in connection with swaps, whether executed bilaterally, or on or subject to the rules of a DCM or SEF, may require Foreign Intermediaries to register with the Commission. On the other hand, certain Foreign Intermediaries acting only for persons located outside the U.S. in connection with swaps may be exempt from registration with the Commission under § 3.10(c).⁴

With respect to activities involving commodity interest transactions (which, as explained above, includes swaps) executed bilaterally, or made on or subject to the rules of any DCM or SEF, existing Regulation 3.10(c)(3)(i) provides an exemption from registration as a CPO, CTA, or IB if a person⁵ and the transaction meet the following conditions:

1. The person is located outside the U.S.;
2. The person acts only on behalf of persons located outside the U.S.; and

² Pub. L. 111-203, 124 Stat. 137 (2010).

³ Swaps are defined in Section 1a(47) of the CEA and Commission Regulation § 1.3(xxx).

⁴ See Adaptation of Regulations To Incorporate Swaps, 77 FR 66288, 66295 (Nov. 2, 2012) (discussing the modification of the term, "commodity interest," to include swaps); Registration of Intermediaries, 77 FR 51898, 51899 (Aug. 28, 2012) (discussing the conforming amendments to Regulation 3.10(c)).

⁵ Under Section 1a(38) of the CEA and Regulation 1.3(u), the term "person" imports the plural and singular, and includes individuals, associations, partnerships, corporations and trusts. 7 U.S.C. 1a(38); 17 CFR 1.3(u).

3. The commodity interest transaction is submitted for clearing through a registered FCM.

Regulation 3.10(c)(2)(i) provides a similar exemption from registration for any Foreign Intermediary acting as an FCM.

In 2015 and 2016, the Commission's Division of Swap Dealer and Intermediary Oversight ("Division") issued staff no-action relief that permitted Foreign Intermediaries to rely on the exemption from registration in § 3.10(c)(3)(i) if their activities involve swaps that are not subject to a Commission clearing requirement.⁶ The Division noted that the CEA and Commission regulations do not require that all swaps be cleared and some swaps are not yet accepted for clearing by any Commission-registered derivatives clearing organization ("DCO"). Thus, the Division stated that it did not believe the Commission intended that Foreign Intermediaries acting only for persons located outside the U.S. be required to register if the intermediaries merely acted for such persons in connection with transactions not required to be cleared by the CEA or Commission regulations.

Similarly, pursuant to additional no-action relief provided in 2015, the Division also provided relief from registration as an IB or CTA for intermediaries acting for International Financial Institutions ("IFIs").⁷ While such institutions may have headquarters or another significant presence in the U.S.,⁸ the Division recognized that the unique attributes and multinational status of these institutions did not warrant treating them as domestic persons.

⁶ See CFTC Letters 15-37 (June 4, 2015) and 16-08 (Feb. 12, 2016).

⁷ IFIs are those institutions defined in the Commission's previous rulemakings and staff no-action letters, *i.e.*, Int'l Monetary Fund, Int'l Bank for Reconstruction and Development, European Bank for Reconstruction and Development, Int'l Development Association, Int'l Finance Corp., Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, Bank for Economic Cooperation and Development in the Middle East and North Africa, Inter-American Investment Corp., Council of Europe Development Bank, Nordic Investment Bank, Caribbean Development Bank, European Investment Bank and European Investment Fund (Int'l Bank for Reconstruction and Development, Int'l Finance Corp. and Multilateral Investment Guarantee Agency are parts of the World Bank Group). See, *e.g.*, Further Definition of "Swap Dealer," "Security-Based Swap Dealer," "Major Swap Participant," "Major Security-Based Swap Participant," and "Eligible Contract Participant," 77 FR 30596, 30692 n.1180 (May 23, 2012).

⁸ See CFTC No-Action Letter 15-37 (June 4, 2015).

¹ 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR Chapter I.

II. The Proposal

A. Proposal Rationale

Given the various execution venues and clearing requirements applicable to swaps,⁹ the Commission now proposes to amend § 3.10(c)(2)(i) and (3)(i) in tandem to simplify the registration exemption that is available to Foreign Intermediaries. Specifically, the proposed amendments would permit a Foreign Intermediary to be eligible for an exemption from registration with the Commission if the Foreign Intermediary, in connection with a commodity interest transaction, only acts on behalf of (1) persons located outside the U.S., or (2) IFIs (as defined in the proposed rule amendments), without regard to whether such persons or institutions clear such commodity interest transaction.

The Commission notes at the outset that the exemptions from registration in § 3.10(c)(2) and (3) do not in themselves excuse any person (including any IFI) from compliance with any provision of the CEA or Commission regulations otherwise applicable to such persons, including, without limitation, any requirement that a resulting commodity interest transaction be cleared by a DCO registered or exempt from registration with the Commission. Commission Regulation 3.10 in its current form makes it a condition of the Foreign Intermediary's exemption that its foreign located customer's commodity interest transactions be cleared through a registered FCM. However, as explained above, not all commodity interest transactions are subject to a clearing requirement under the CEA or Commission regulations, and some are not available for clearing by any DCO registered with the Commission.

Thus, the Commission is proposing to amend the language of the exemptions by removing the clearing requirement because persons located outside the U.S. that are subject to any applicable clearing requirement for futures or swaps, or any other applicable provision of the CEA or Commission regulations, must comply with those requirements regardless of any registration exemption for a Foreign Intermediary.

⁹ *E.g.*, A swap may be executed bilaterally and then performed bilaterally between those counterparties or could be submitted for clearing where each counterparty would then face the clearing house for performance; a swap could be executed on a SEF and then performed bilaterally between the counterparties or could be cleared; a swap could be executed on a DCM and cleared. Under Part 50 of the Commission's regulations, some swaps are required to be cleared, but some swaps can be either performed bilaterally or voluntarily cleared if a clearing house accepts such swaps for clearing.

The Commission has come to the view that the focus of the exemption should be the activity of the Foreign Intermediary, not its customer. Accordingly, the Commission believes that the proposed amendments are consistent with its longstanding policy to focus its customer protection activities upon domestic firms and upon firms soliciting or accepting orders from domestic participants. Where a Foreign Intermediary's customers are located outside the U.S., the Commission believes the jurisdiction where the customer is located has the preeminent interest in protecting such customers.

B. Proposed Amended Rule Text

Further to the foregoing, with respect to the amended rule text, the Commission is proposing to eliminate from § 3.10(c)(2)(i) and (3)(i) both the clearing requirement and references to DCMs and SEFs. The Commission is retaining the reference to the definition of "foreign broker" in paragraph (c)(2)(i) because "foreign broker" is not a Commission intermediary registration category (as are IB, CTA, and CPO) and the definition is necessary to make clear that a foreign broker is one who is "engaged in soliciting or in accepting orders *only* from persons located outside the United States, its territories or possessions." This definitional reference also maintains symmetry with paragraph (c)(3)(i), which specifies that the exemption from registration applies to intermediary activity, as described in the IB, CTA, and CPO definitions, on behalf of IFIs or persons located outside the U.S., its territories, or possessions.

Finally, because the Commission is proposing to codify the registration relief in No-Action Letter 15-37 with respect to intermediary activities on behalf of IFIs, the Commission proposes to add a new § 3.10(c)(6) to define IFIs for the purposes of § 3.10 in order to provide legal clarity on the scope of the registration exemption.

The Commission requests comment on all aspects of this proposed rulemaking.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") requires Federal agencies, in promulgating regulations, to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities. Each Federal agency is required to conduct an initial and final regulatory flexibility

analysis for each rule of general applicability for which the agency issues a general notice of proposed rulemaking.¹⁰

The rule proposed by the Commission would affect only FCMs, IBs, CTAs, and CPOs. The Commission has previously determined that FCMs and CPOs are not small entities for purposes of the RFA. Therefore, the requirements of the RFA do not apply to those entities.¹¹ The Commission notes that the foreign persons affected by the proposed changes would be registered FCMs and CPOs if not for the exemption provided therein. Further, the Commission notes that the proposed rule would impose no new obligation, significant or otherwise, on any of the entities remaining entities.

With respect to CTAs and IBs, the Commission has found it appropriate to consider whether such registrants should be deemed small entities for purposes of the RFA on a case-by-case basis, in the context of the particular Commission regulation at issue.¹² As certain of these registrants may be small entities for purposes of the RFA, the Commission considered whether this rulemaking would have a significant economic impact on such registrants. This proposal would clarify in what circumstances certain foreign persons acting in the capacity of a FCM or an IB, CTA, or CPO would be exempt from registration, in connection with commodity interest transactions solely on behalf of persons located outside the U.S. This proposal is not expected to impose any new burdens on market participants. Rather, to the extent that this proposal provides an exemption to the intermediary registration requirement, the Commission believes it is reasonable to infer that the exemption would be less burdensome to such participant. The Commission does not, therefore, expect small entities to incur any additional costs as a result of this proposal. Therefore, the Commission has determined that the proposed rule will not create a significant economic impact on a substantial number of small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rule will not have a

¹⁰ 5 U.S.C. 601 *et seq.*

¹¹ See Policy Statement and Establishment of Definitions of "Small Entities" for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18620 (Apr. 30, 1982) (FCMs and CPOs).

¹² See 47 FR at 18620 (CTAs); and Introducing Brokers and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators; Registration and Other Regulatory Requirements, 48 FR 35248, 35276 (Aug. 3, 1983) (IBs).

significant impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”) imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined the PRA.¹³ An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The proposed rules will not impose any new recordkeeping or information collection requirements, or other collections of information that require approval of the Office of Management and Budget (“OMB”) under the PRA.

The Commission invites the public and other interested parties to comment on any aspect of the reporting burdens. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission generally solicits comments in order to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) evaluate the accuracy of the Commission’s estimate of the burden of the proposed collection of information; (3) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (4) mitigate the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. The Commission specifically invites public comment on the accuracy of its estimate that no additional information collection requirements or changes to existing collection requirements would result from the rules proposed herein.

Comments may be submitted directly to the Office of Information and Regulatory Affairs, by fax at (202) 395–6566 or by email at OIRASubmissions@omb.eop.gov. Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rule preamble. Refer to the **ADDRESSES** section of this proposed rule for comment submission instructions to the Commission. A copy of the supporting statement for the collection of information discussed above may be obtained by visiting <http://reginfo.gov/>. OMB is required to make a decision concerning the collection of information between 30 and 60 days after

publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

C. Cost-Benefit Analysis

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before issuing new regulations under the Act.¹⁴ By its terms, it does not require the Commission to quantify the costs and benefits of new rules or to determine whether the benefits of the proposed rules outweigh their costs; it requires the Commission to “consider” the cost and benefits of its actions. Section 15(A) of the CEA further specifies that the costs and benefits of the proposed rules shall be evaluated in light of five broad areas of market public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of the futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule 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 CEA.

The proposed regulation should foster: (1) The protection of market participants and the public by providing greater legal certainty to the commodity interest activities of persons located outside the U.S.; and (2) greater efficiency, competitiveness and financial integrity of financial markets; price discovery; and sound risk management practices by ensuring greater depth in swaps markets accessed by U.S. persons. The Commission invites public comment on its cost-benefit considerations.

List of Subjects in 17 CFR Part 3

Definitions, Consumer protection, Foreign futures, Foreign options, Registration requirements.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 3 as follows:

PART 3—REGISTRATION

■ 1. The authority citation for part 3 continues to read as follows:

Authority: 5 U.S.C. 552, 552b; 7 U.S.C. 1a, 2, 6a, 6b, 6b–1, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 6s, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

■ 2. Amend § 3.10 as follows:

■ a. Revise paragraphs (c)(2)(i) and (c)(3)(i); and

■ b. Add paragraph (c)(6).

The revisions and addition to read as follows:

§ 3.10 Registration of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, swap dealers, major swap participants and leverage transaction merchants.

* * * * *

(c) * * *

(2)(i) A person located outside the United States, its territories, or possessions (a “foreign located person”) engaged in activity that meets the definition of a futures commission merchant in the Act and § 1.3(p) of this chapter is not required to register as a futures commission merchant if such activity is either solely that of a foreign broker as defined in § 1.3(xx) of this chapter or solely on behalf of international financial institutions.

* * * * *

(3)(i) A foreign located person engaged in activity that meets the definition of an introducing broker, commodity trading advisor, or commodity pool operator, as defined in the Act and in § 1.3(mm), (bb), and (nn) of this chapter, respectively, is not required to register as an introducing broker, commodity trading advisor, or commodity pool operator if such activity is either solely on behalf of foreign located persons or international financial institutions.

* * * * *

(6) For the purposes of this section, “international financial institution” means each of the following and any other international financial institution that the Commission may designate: Int’l Monetary Fund, Int’l Bank for Reconstruction and Development, European Bank for Reconstruction and Development, Int’l Development Association, Int’l Finance Corp., Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, Bank for Economic Cooperation and Development in the Middle East and North Africa, Inter-American Investment Corp., Council of Europe Development Bank, Nordic Investment Bank, Caribbean Development Bank, European

¹³ 44 U.S.C. 3501 *et seq.*

¹⁴ 7 U.S.C. 19(a).

Investment Bank and European Investment Fund.

* * * * *

Issued in Washington, DC, on July 27, 2016, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Amendment to Commission Regulation 3.10(c): Exemption From Registration for Certain Foreign Persons—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2016-18210 Filed 8-4-16; 8:45 am]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AE47

Commodity Pool Operator Annual Report

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend certain of its regulations applicable to the Annual Report that each person registered or required to be registered as a commodity pool operator (CPO) must distribute for each commodity pool that it operates (Proposal). Specifically, the Proposal addresses the use of additional alternative generally accepted accounting principles, standards or practices, and the Annual Report audit requirement where the first fiscal year of a pool consists of a period of three months or less from the date of formation of the pool.

DATES: Comments must be received on or before September 6, 2016.

ADDRESSES: You may submit comments, identified by RIN 3038-AE47 and “Commodity Pool Operator Annual Report,” by any of the following methods:

- *CFTC Web site:* <http://comments.cftc.gov>. Follow the instructions for submitting comments through the Comments Online process on the Web site.

- *Mail:* Send to Christopher Kirkpatrick, Secretary of the

Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Please submit your comments using only one of these methods.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Commission Regulation 145.9.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from www.cftc.gov that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, 202-418-5445, ccummings@cftc.gov or Barbara S. Gold, Associate Director, 202-418-5441, bgold@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

A. Part 4 of the Commission’s Regulations

Part 4 of the Commission’s regulations governs the operations and activities of CPOs.² It requires each CPO registered

¹ 17 CFR 145.9 (2016). The Commission’s regulations are found at 17 CFR Ch. I (2016). They are accessible through the Commission’s Web site.

² Section 1a(11) of the Commodity Exchange Act (Act or CEA), 7 U.S.C. 1a(11) (2012), defines the term “commodity pool operator” and CEA Section 4m(1) generally requires each person who comes within the CPO definition to register as a CPO with the Commission. The Act is found at 7 U.S.C. *et seq.*

or required to be registered with the Commission: To deliver to each participant in its commodity pool a Disclosure Document for the pool containing specified information (Regulations 4.21, 4.24, 4.25 and 4.26); to distribute to each participant periodic unaudited Account Statements for the pool (Regulation 4.22(a)) and an audited Annual Report for the pool (Regulation 4.22(c)); and to make and keep specified books and records (Regulation 4.23). Additionally, Part 4 prohibits certain activities on the part of all CPOs (Regulations 4.20 and 4.41) and provides for various CPO definitional exclusions (Regulation 4.5), CPO registration exemptions (Regulation 4.13), and compliance exemptions from otherwise applicable CPO requirements (Regulations 4.7, 4.12(b), and 4.12(c)).³

Over the past years, and pursuant to authority delegated to it by Regulation 140.93, Commission staff has provided exemptive relief from specific Part 4 requirements on a case-by-case basis.⁴ By this **Federal Register** release, the Commission is proposing to codify certain of these exemptions as applicable to the Annual Report.

B. Regulation 4.22: The Annual Report Requirement

Regulation 4.22 requires, in general, that each CPO registered or required to be registered with the Commission to distribute to each participant in each commodity pool it operates, and to submit to the National Futures Association (NFA),⁵ an Annual Report for the pool within 90 calendar days after the end of the pool’s fiscal year.⁶

(2012). It similarly is accessible through the Commission’s Web site.

³ Part 4 contains many similar provisions applicable to commodity trading advisors (CTAs). The Proposal does not pertain to CTAs, however, because CTAs do not operate commodity pools (CPOs do) and therefore there is no Annual Report requirement applicable to them.

⁴ These were issued by the Commission’s Division of Swap Dealer and Intermediary Oversight (“DSIO”) and its predecessors, the Division of Clearing and Intermediary Oversight and the Division of Trading and Markets.

Regulation 140.93 currently delegates to the Director of DSIO “all functions reserved to the Commission” in Regulation 4.12(a)—which provides that the Commission “may exempt any person or any class or classes of persons from any provision of this Part 4 if it finds that the exemption is not contrary to the public interest and the purposes of the provisions from which the exemption is sought” and, further, that the Commission “may grant the exemption subject to such terms and conditions as it may find appropriate.”

⁵ NFA is registered as a futures association in accordance with CEA Section 17. It is the only futures association registered as such.

⁶ Regulation 4.22(c) further requires the CPO to submit to NFA certain key financial balances from the Annual Report.