



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of  
Market Oversight

CFTC Letter No. 14-95  
No-Action  
July 23, 2014  
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**

July 23, 2014

Walt L. Lukken  
President and Chief Executive Officer  
The Futures Industry Association  
2001 Pennsylvania Avenue NW  
Suite 600  
Washington, DC 20006

Dear Mr. Lukken:

This letter is in response to your request dated June 6, 2014 (the "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 reports under Parts 15, 17, 18 and 20 of the Commission's regulations. In the FIA Letter, you 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 in section B below). In the FIA Letter, you assert that the industry needs sufficient time to build and test systems in keeping with industry standard technology risk management practices for purposes of complying with the electronic reporting requirements of the OCR Final Rule. You also assert that, in addition to the technical development necessitated by the OCR Final Rule, the industry needs more time to educate clients globally and collect the new data required for OCR reporting. You request relief for reporting entities from: (i) submitting automated forms 102A and 102S until February 11, 2015; (ii) submitting automated form 102B until March 11, 2015; and (iii) submitting automated forms 40 and 71, which are sent by the Commission in its discretion via special call, until February 11, 2016.

## A. Summary of Relief Granted

The Division believes that the following time-limited no-action relief is warranted:

- **Relief from electronically reporting via New Form 102A and New Form 102S<sup>1</sup> until February 11, 2015;**
- **Relief from electronically reporting via New Form 102B until March 11, 2015; and**
- **Relief from electronically reporting via New Form 40/40S and New Form 71 until February 11, 2016.**

The no-action relief described in this no-action 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 further described below, among other conditions, the no-action relief described above is subject to Reporting Parties reporting 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, until the applicable transition dates specified below, or such earlier date that the Division may determine.

Notwithstanding the no-action relief provided herein, the compliance date for the additional recordkeeping obligations imposed by § 18.05, as amended by the OCR Final Rule, remains August 15, 2014, the compliance date set forth in the OCR Final Rule.

## B. Background; OCR Final Rule

On November 18, 2013, the Commission adopted new rules and related forms to enhance its identification of futures and swap market participants (the "OCR Final Rule").<sup>2</sup> The OCR Final Rule expands upon the Commission's pre-existing position and transaction reporting programs by requiring 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"). 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.
- 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.

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<sup>1</sup> See the discussion below for the definition of capitalized terms used in this section A, and additional terms and conditions regarding the no-action relief summarized in section A.

<sup>2</sup> Commission, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71; Final Rule, 78 FR 69178 (November 18, 2013). Terms not otherwise defined in this no-action letter shall have the meaning assigned to them in the OCR Final Rule or in the Commission's regulations.

- 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.

The OCR Final Rule also amends § 18.05 to impose additional recordkeeping obligations upon certain categories of persons required by the rule to submit data to the Commission.

As discussed in the OCR Final Rule, the Commission is developing both a web-based portal and a secure FTP transmission through which Reporting Parties will submit and update their reporting forms. The OCR Final Rule provides that Reporting Parties may submit the required information through either electronic submission method. The compliance date of the OCR Final Rule is August 15, 2014.

### **C. Summary of FIA Letter**

In the FIA Letter, you represented that the tasks required to build a secure, efficient and reliable technology infrastructure to house and deliver the data required by the OCR Final Rule include:

- (1) Building a database to house the customer information that resides in various systems within the firm as well as data that has never before been collected;
- (2) Expanding the data collection to include an entirely new class of reportable accounts triggered by a volume threshold;
- (3) Designing trigger files that determine when accounts are reportable;
- (4) Designing systems that detect change updates and report them to the Commission;
- (5) Designing systems that detect annual refresh dates and prompt clients to review the data;
- (6) Designing a secure system to protect highly confidential data pertaining to clients and natural persons; and
- (7) Changing internal processes in order to meet the deadlines included in the OCR Final Rule.

You stated in the FIA Letter that the requested compliance dates of February 2015 and February 2016 will also respect the annual technology freeze scheduled by firms at the end of the year that extends (on a firm-by-firm basis) from early November until mid-to-late January.

You further represented in the FIA Letter that the industry needs more time to educate clients of FIA member firms with reporting obligations globally and collect the new data required for OCR reporting. You represented that questions raised by client representatives over the past several months indicate that the client community is not ready to supply information regarding account ownership and control that must be reported pursuant to the OCR Final Rule.

**D. Conditional No-action Relief from Submitting Information via New Form 102A and New Form 102S Until 11:59 p.m. Eastern Time on February 11, 2015**

*Summary of Relief Granted:* The Division is providing relief from electronically reporting via New Form 102A and New Form 102S until 11:59 p.m. eastern time on February 11, 2015, 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 and the Legacy 102S Filing (as such terms are defined below) until 11:59 p.m. eastern time on February 11, 2015, or such earlier date that the Division may determine.

The Division believes that time-limited no-action relief is warranted for certain reporting obligations under Parts 17 and 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 102A or New Form 102S, as required by Parts 17 and 20, until **11:59 p.m. eastern time on February 11, 2015.**<sup>3</sup>

The no-action relief described in this section D is subject to Reporting Parties reporting via Legacy Form 102 and the Legacy 102S Filing until 11:59 p.m. eastern time on February 11, 2015, or such earlier date that the Division may determine. Such reporting must be consistent in all respects with the time, form and manner of the Legacy Form 102 reporting practice and the Legacy 102S reporting practice. In particular, the no-action relief described in this section D is subject to Reporting Parties reporting via Legacy Form 102 and the Legacy 102S Filing in accordance with the following conditions:<sup>4</sup>

- 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 website.<sup>5</sup> 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

<sup>3</sup> The reporting requirements with respect to New Form 102A and New Form 102S were implemented by the OCR Final Rule, and arise under: §§ 17.01(a), 17.01(d), 17.01(e) and 17.02(b) (New Form 102A); and 20.5(a)(1), 20.5(a)(2), 20.5(a)(4) and 20.5(a)(5) (New Form 102S).

<sup>4</sup> When submitting either Legacy Form 102 or New Form 102A, Reporting Parties should report special accounts pursuant to § 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 OCR Final Rule at 69184 for further details.

<sup>5</sup> See the link below to the Commission's website for a copy of Legacy Form 102:

<http://www.cftc.gov/Forms/ssLINK/cftform102>

- 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.”
- 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 entity<sup>6</sup> 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”).<sup>7</sup>
    - 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.”

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<sup>6</sup> See § 20.1 of the Commission’s regulations for the definition of “reporting entity.”

<sup>7</sup> 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>

The no-action relief described in this section D is also subject to the following condition:

- Reporting Parties Shall Cooperate with Staff of the Commission’s Office of Data and Technology (“ODT”) to Test and Implement Electronic Reporting Methods
  - Prior to the implementation of electronic reporting via New Form 102A and New Form 102S on February 11, 2015, Reporting Parties must cooperate with ODT staff as requested to test and implement any information technology standards or systems associated with the OCR Final Rule. During this testing period, Reporting Parties must provide all test data or form filings requested by ODT staff, in the form and manner requested by staff.<sup>8</sup> Reporting Parties must also provide status reports on their implementation efforts upon request by ODT.

**E. Conditional No-action Relief from Submitting Information via New Form 102B Until 11:59 p.m. Eastern Time on March 11, 2015**

*Summary of Relief Granted: The Division is providing relief from electronically reporting via New Form 102B until 11:59 p.m. eastern time on March 11, 2015, 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 and the Legacy 102S Filing until 11:59 p.m. eastern time on February 11, 2015, or such earlier date that the Division may determine.<sup>9</sup>*

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 section D above and the condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Party for failure to report via New Form 102B, as required by Part 17, until **11:59 p.m. eastern time on March 11, 2015.**<sup>10</sup>

- Reporting Parties Shall Cooperate with ODT Staff to Test and Implement Electronic Reporting Methods

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<sup>8</sup> 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 (the “Act”) 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.

<sup>9</sup> As noted in section D above, 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 February 11, 2015, or such earlier date that the Division may determine.

<sup>10</sup> The reporting requirements with respect to New Form 102B were implemented by the OCR Final Rule, and arise under §§ 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.

- Prior to the implementation of electronic reporting via New Form 102B on March 11, 2015, Reporting Parties must cooperate with ODT staff as requested to test and implement any information technology standards or systems associated with the OCR Final Rule. During this testing period, Reporting Parties must provide all test data or form filings requested by ODT staff, in the form and manner requested by staff. Reporting Parties must also provide status reports on their implementation efforts upon request by ODT.

**F. Conditional No-action Relief from Submitting Information via New Form 40/40S and New Form 71 Until 11:59 p.m. Eastern Time on February 11, 2016**

*Summary of Relief Granted: The Division is providing relief from electronically reporting via New Form 40/40S and New Form 71 until 11:59 p.m. eastern time on February 11, 2016, provided that Reporting Parties comply with the Form 40/40S reporting practice that was in place prior to the implementation of the OCR Final Rule, by reporting via Legacy Form 40 and the Legacy 40S Filing (as such terms are defined below) until 11:59 p.m. eastern time on February 11, 2016, or such earlier date that the Division may determine.*

In addition, 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 condition below, the Division will not recommend that the Commission commence an enforcement action against a Reporting Trader<sup>11</sup> 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.<sup>12</sup> The no-action relief with respect to New Form 40 and New Form 71 described in this paragraph ends in each case at **11:59 p.m. eastern time on February 11, 2016.**

The no-action relief described above with respect to New Form 40 is subject to Reporting Traders reporting via Legacy Form 40 until 11:59 p.m. eastern time on February 11, 2016, or such earlier date that the Division may determine. 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

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<sup>11</sup> As used herein, "Reporting Traders" means parties that are obligated to report pursuant to the OCR Final Rule on New Form 40/40S.

<sup>12</sup> The reporting requirements with respect to New Form 40 and New Form 71 were implemented by the OCR Final Rule, and arise under §§ 18.04 (New Form 40), and 17.01(c) and 17.01(e) (New Form 71). 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.

website.<sup>13</sup> 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.”

The no-action relief described in this section F is also subject to the following condition:

- Reporting Parties Shall Cooperate with ODT Staff to Test and Implement Electronic Reporting Methods
  - Prior to the implementation of electronic reporting via New Form 40 and New Form 71 on February 11, 2016, Reporting Parties must cooperate with ODT staff as requested to test and implement any information technology standards or systems associated with the OCR Final Rule. During this testing period, Reporting Parties must provide all test data or form filings requested by ODT staff, in the form and manner requested by staff. Reporting Parties must also provide status reports on their implementation efforts upon request by ODT.

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

#### **G. Compliance Date for Additional Recordkeeping Obligations Imposed by Amended § 18.05 Remains August 15, 2014**

The compliance date for the additional recordkeeping obligations imposed by § 18.05, as amended by the OCR Final Rule, remains August 15, 2014, the compliance date set forth in the OCR Final Rule. Amended § 18.05 imposes additional recordkeeping obligations upon four new categories of market participants: (1) owners of volume threshold accounts reported on New Form 102B; (2) controllers of volume threshold accounts reported on New Form 102B; (3) owners of reportable sub-accounts reported on New Form 71; and (4) controllers of reportable sub-accounts reported on New Form 71.

#### **H. Conclusion**

The no-action relief provided in this no-action letter is time-limited, and ends in all respects as follows:

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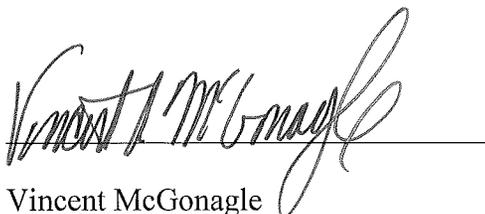
<sup>13</sup> See the link below to the Commission’s website for a copy of Legacy Form 40:  
<http://www.cftc.gov/Forms/ssLINK/cftcform40>

- The no-action relief provided in section D of this no-action letter ends at **11:59 p.m. eastern time on February 11, 2015;**
- The no-action relief provided in section E of this no-action letter ends at **11:59 p.m. eastern time on March 11, 2015; and**
- The no-action relief provided in section F of this no-action letter ends at **11:59 p.m. eastern time on February 11, 2016.**

This letter, and the no-action position taken herein, which is based on your 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,

A handwritten signature in cursive script, reading "Vincent McGonagle", is written over a horizontal line. The signature is fluid and extends slightly above and below the line.

Vincent McGonagle  
Director  
Division of Market Oversight

Detailed Instructions on Submitting Legacy Form 102<sup>15</sup>

## 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 D 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]

(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

<sup>14</sup> 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>

<sup>15</sup> See the link below to the Commission's website for a copy of Legacy Form 102:

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

(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 40<sup>16</sup>

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:

(i) The names of traders for whom the reporting trader guarantees accounts or in which the reporting trader has a financial interest;

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<sup>16</sup> See the link below to the Commission's website for a copy of Legacy Form 40:  
<http://www.cftc.gov/Forms/ssLINK/cftcform40>

(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.

