§ 303.2 Definitions and forms.

(a) * * *

(16) *Permanent resident* means a person with one residence which is in the insular possessions or a person with one or more residences outside the insular possessions who meets criteria that include maintaining his or her domicile in the insular possessions, residing (*i.e.*, be physically present for at least 183 days per year) and working in the territory at a program company, and maintaining his or her primary office for day-to-day work in the insular possessions.

* * * * *

3. Section 303.16 is amended by adding paragraph (a)(11) as follows:

§ 303.16 Definitions and forms.

(a) * * *

(11) *Permanent resident* means a person with one residence which is in the insular possessions or a person with one or more residences outside the insular possessions who meets criteria that include maintaining his or her domicile in the insular possessions, residing (*i.e.*, be physically present for at least 183 days per year) and working in the territory at a program company, and maintaining his or her primary office for day-to-day work in the insular possessions.

* * * * *

Faryar Shirzad,

Assistant Secretary for Import Administration, Department of Commerce.

David B. Cohen,

Deputy Assistant Secretary for Insular Affairs, Department of the Interior.

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BILLING CODE 3510–DS–P; 4310–93–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Commodity Pool Operators and Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') has adopted amendments which govern Commodity Pool Operators (''CPOs'') and Commodity Trading Advisors (''CTAs''). These amendments make clear that certain Disclosure Documents, annual financial reports, notices of eligibility, claims of exemption, and requests for extensions of time to file annual financial reports, need only be filed with the National Futures Association (''NFA'') and need not also be filed with the Commission. The Commission, in separate Notices and Orders published elsewhere in the **Federal Register,** has authorized NFA to receive and review these documents.

DATES: Effectice January 1, 2003. Amendments to Commission Rules 4.7(b)(3)(i) and 4.22 shall be applicable with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter.

FOR FURTHER INFORMATION CONTACT: Kevin P. Walek, Assistant Director, Eileen R. Chotiner, Futures Trading Specialist, Audit and Financial Review Section, or Michael A. Piracci, Attorney Advisor, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

In a Notice and Order issued in 1997 (the ''1997 Order''), the Commission, among other things, authorized NFA to process: (1) Notices of eligibility for exclusion for certain otherwise regulated persons from the definition of CPO, pursuant to Commission Rule 4.5;[1] (2) notices of claim for exemption from certain part 4 requirements with respect to commodity pools and CTAs whose participants or clients are qualified eligible persons, pursuant to Commission Rule 4.7; (3) claims of exemption from certain part 4 requirements for CPOs with respect to pools that principally trade securities, pursuant to Commission Rule 4.12(b); (4) statements of exemption from registration as a CPO, pursuant to Commission Rule 4.13; and (5) notices of exemption from registration as a CTA for certain persons registered as an investment adviser, pursuant to Rule 4.14(a)(8).[2] As part of the 1997 Order, the Commission also authorized NFA to receive and review Disclosure Documents required to be filed with the Commission by CPOs, pursuant to Commission Rule 4.26(d), with regard to ''privately offered'' [3] commodity pools, and CTAs, pursuant to Commission Rule 4.36(d).[4]

In a separate notice published elsewhere today in the **Federal Register**, the Commission is authorizing NFA, with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter, to, among other things: (1) Rceive and review annual financial reports required to be filed by CPOs pursuant to Commission Rules 4.7(b)(3) and 4.22(c); (2) receive and grant or deny applications filed pursuant to Commission Rule 4.22(f)(1) for extensions of time to distribute annual financial reports; and (3) process notices of claims of extension of time to distribute and file annual financial reports filed pursuant to Commission Rule 4.22(f)(2).

II. Rule Amendments

In the 1997 notice and order and the notice and order published elsewhere in the **Federal Register** today, the Commission noted that NFA Compliance Rule 2–13 [5] requires NFA members to file with NFA copies of any documents required to be filed with the Commission pursuant to part 4 of the Commission's Rules. Moreover, certain of the Commission rules that are the subject of the orders explicitly require that the document be filed with both NFA and the Commission.[6] As a result of the Commission authorizations, it is no longer necessary for the Commission to receive copies of these documents. As discussed more fully in the notice published elsewhere today in the **Federal Register**, the Commission will have immediate electronic access to all required pertinent information contained in these documents. Moreover, if the Commission or Commission staff requires a hard copy of any of the subject documents, NFA will make such copies available within 24 hours. Accordingly, it is not necessary for the Commission to impose upon the persons filing these documents the burden and cost of having to file the documents with both NFA and the Commission. The Commission is, therefore, amending the subject rules to make clear that the required documents

[1] Commission rules referred to herein may be found at 17 CFR ch. I (2002).

[2] *See* 62 FR 52088 (Oct. 6, 1997).

[3] *See* note 2, *supra.* Pursuant to Commission Rule 4.24(d)(3)(i), ''privately offered'' commodity pools are those offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*).

[4] Pursuant to Commission Rule 4.24(d)(3)(i), privately offered commodity pools are those that are offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*).

[5] NFA Rules may be found on NFA's Web site at: *http://www.nfa.futures.org.*

[6] *See,* e.g., Commission Rule 4.14(a)(8)(v).

need only be filed with NFA and need not also be filed with the Commission.[7]

Generally, the amendments being adopted herein are simply removing the phrase ''the Commission'' and, where appropriate, adding in its place ''the National Futures Association.'' [8] In the 1997 Order, the Commission authorized NFA to review Disclosure Documents that CPOs are required to file, pursuant to Commission Rule 4.26(d), with regard to only those Disclosure Documents filed for ''privately offered'' pools. The Commission, therefore, continues to receive and review Disclosure Documents for pools that are not ''privately offered.'' Accordingly, Rule 4.26(d) is being amended by adding paragraph (d)(3) to make clear that Disclosure Documents for pools that are not ''privately offered'' must be filed with the Commission, as well as any subsequent amendments to such Disclosure Documents.

III. Effective Date

The amendments adopted by the Commission herein shall be effective January 1, 2003, except for the amendments to Commission Rules 4.7(b)(3) and 4.22, which involve the annual financial reports of commodity pools and extensions of time for filing such reports. As discussed in the notice published elsewhere today in the **Federal Register**, in order to avoid disruption of outstanding reviews of annual financial reports, this authorization is effective only with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter. Accordingly, the amendments to Rules 4.7(b)(3) and 4.22 are similarly effective only with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter. CPOs, therefore, must continue to file annual financial reports and extensions of time for such reports with both the Commission and NFA regarding any commodity pool annual financial reports for fiscal years ending prior to December 31, 2002.

IV. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [9] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The rule amendments do not require a new collection of information on the part of any entities subject to the proposed rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that these rule amendments will not impose any new reporting or recordkeeping requirements.

B. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, sction 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

These amendments are intended to minimize the filing burdens imposed upon CPOs and CTAs by making clear that the subject documents need only be filed with NFA and not also the Commission. The Commission is considering the costs and benefits of these rules in light of the specific provisions of section 15(a) of the Act:

1. *Protection of market participants and the public.* While the amendments are expected to lessen the filing burdens imposed upon CPOS and CTAs, they do not reduce the type of information and documents that must be provided to customers of CPOs and CTAs. Moreover, these documents will continue to be reviewed for compliance with the Act and Commission Rules. Accordingly, the amendments being adopted herein should have no effect on the Commission's ability to protect market participants and the public.

2. *Efficiency and competition.* The amendments, by requiring that the subject documents need only be filed with NFA and not also the Commission, should increase the efficiency with which CPOs and CTAs comply with the applicable regulations.

3. *Financial integrity of futures markets and price discovery.* The amendments should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets.

4. *Sound risk management practices.* The amendments being adopted herein should have no effect on the risk management practices of the futures and options industry.

5. *Other public interest considerations.* The amendments should make compliance with the applicable Commission rules more efficient without imposing any costs to the regulatory oversight of commodity registrants.

After considering these factors, the Commission has determined to adopt the amendments discussed above.

C. Administrative Procedure Act

The Commission has determined that the amendments discussed herein relate solely to agency organization, procedure, and practice. Accordingly, the provisions of the Administrative Procedure Act that generally require notice of proposed rulemaking and that provide other opportunities for public participation are not applicable.[10] The Commission further finds that, because the amendments relieve a restriction as to the required filing of documents and the amendments have no adverse effect upon a member of the public, there is good cause to make them effective less than thirty days after publication in the **Federal Register.**[11]

List of Subjects in 17 CFR Part 4

Reporting and recordkeeping requirements.

For the reasons discussed in the foregoing, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

1. The authority citation for part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6b, 6c, 6(c), 6l, 6m, 6n, 6o, 12a, and 23.

2. Section 4.5 is amended as follows:

a. By amending the introductory text of paragraph (c) by removing

[7] The Commission rules being amended herein are rule: (1) 4.5; (2) 4.7; (3) 4.12; (4) 4.13; (5) 4.14; (6) 4.22; (7) 4.26; and (8) 4.36.

[8] *See* the amendments to Commission Rule 4.5 being adopted herein.

[9] 44 U.S.C. 3501 *et seq.*

[10] 5 U.S.C. 553(b)(3)(A) (1994).

[11] *See* 5 U.S.C. 553(d) (1994).

''Commission'' and by adding in its place ''National Futures Association'';

b. By amending paragraph (c)(3) by removing ''Commission'' and adding in its place ''National Futures Association'';

c. By amending paragraph (d)(1) by removing ''Commission'' and adding in its place ''National Futures Association'';

d. By removing paragraph (f)(3); and

e. Redesignating paragraph (f)(4) as (f)(3).

3. Section 4.7 is amended as follows:

a. By amending paragraph (b)(3)(i) by removing ''the Commission and'';

b. By amending paragraph (d)(1)(viii) by removing ''in duplicate with the Commission at the address specified in § 4.2 and'';

c. By amending paragraph (d)(1)(ix) by removing every instance of ''Commission'' and adding in its place ''National Futures Association'';

d. By revising paragraph (d)(2); and

e. By amending paragraph (d)(3) by removing ''Commission'' and adding in its place ''National Futures Association''.

The revisions read as follows:

§ 4.7 Exemption from certain Part 4 requirements for commodity pool operators with respect to offerings to qualified eligible persons and for commodity trading advisors with respect to advising qualified eligible persons.

* * * * *

(d) * * *

(2) The notice will be effective upon receipt by the National Futures Association with respect to each pool for which it was made where the claimant is a commodity pool operator and otherwise generally where the claimant is a commodity trading advisor; *Provided,* That any notice which does not include all the required information shall not be effective, and that if at the time the National Futures Association receives the notice an enforcement proceeding brought by the Commission under the Act or the regulations is pending against the pool operator or trading advisor or any of its principals, the exemption will not be effective until twenty-one calendar days after receipt of the notice by the National Futures Association and that in such case an exemption may be denied by the Commission or the National Futures Association or made subject to such conditions as the Commission or the National Futures Association may impose.

* * * * *

§ 4.12 [Amended]

4. Section 4.12 is amended as follows:

a. By amending the introductory text of paragraph (b)(3) by removing ''Commission'' and adding in its place ''National Futures Association'';

b. By removing paragraph (b)(3)(vii);

c. By redesignating paragraph (b)(3)(viii) as (b)(3)(vii) and by amending paragraph (b)(3)(vii) as redesignated by removing ''A copy also must be'' and adding in its place ''Be''; and

d. By amending paragraph (b)(5)(ii) by removing ''Commission'' and adding in its place ''National Futures Association''.

§ 4.13 [Amended]

5. Section 4.13 is amended as follows:

a. By removing paragraph (b)(1)(iv)(A); and

b. By redesignating paragraph (b)(1)(iv)(B) as (b)(1)(iv)(A).

6. Section 4.14 is amended as follows:

a. By amending paragraph (a)(8)(iii) by removing ''Commission'' and adding in its place ''National Futures Association'';

b. By removing paragraph (a)(8)(v)(C); and

c. By redesignating paragraph (a)(8)(v)(D) as (a)(8)(v)(C) and by amending paragraph (a)(8)(v)(C) as redesignated by removing ''A copy also must be filed'' and adding in its place ''Filed''.

§ 4.22 [Amended]

7. Section 4.22 is amended as follows:

a. By amending the introductory text of paragraph (c) by removing ''two copies of the Report with the Commission'' and adding in its place ''a copy of the Report with the National Futures Association'' and by removing ''Commission'' and adding in its place ''National Futures Association'';

b. By amending paragraph (f)(1) by removing every instance of ''Commission' and adding in its place ''National Futures Association''; and

c. By amending paragraph (f)(2)(i) by removing ''and the Commission''.

8. Section 4.26 is amended by revising paragraph (d) to read as follows:

§ 4.26 Use, amendment and filing of Disclosure Document.

* * * * *

(d) Except as provided by § 4.8 and paragraph (d)(3) of this section:

(1) The commodity pool operator must file with the National Futures Association one copy of the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver such Document or documents to a prospective participant in the pool; and

(2) The commodity pool operator must file with the National Futures Association one copy of the subsequent amendments to the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

(3) With respect to pools that are not offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*), a commodity pool operator must:

(i) File with the Commission one copy of the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate not less than 21 calendar days prior to the date the pool operator first intends to deliver such Document or documents to a prospective participant in the pool; and

(ii) File with the Commission one copy of the subsequent amendments to the Disclosure Document and, where used, profile document for each pool that it operates or that it intends to operate within 21 calendar days of the date upon which the pool operator first knows or has reason to know of the defect requiring the amendment.

§ 4.36 [Amended]

9. Section 4.36(d) is amended by removing every instance of ''Commission'' and adding in its place ''National Futures Association''.

Issued in Washington, DC, on December 11, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–31685 Filed 12–17–02; 8:45 am]

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DEPARTMENT OF THE TREASURY

17 CFR Part 420

RIN 1505–AA88

Government Securities Act Regulations: Large Position Rules

AGENCY: Office of the Assistant Secretary for Financial Markets, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') is