

Joint Audit Committee

REGULATORY ALERT

TO: Chief Executive Officers
Chief Financial Officers
Chief Compliance Officers

#13-02

DATE: November 21, 2013

SUBJECT: Enhancing Customer Protections – Final Rules 17 CFR Parts 1, 3, 22, 30, and 140

The CFTC has adopted new regulations and amended existing regulations to require enhanced customer protections, risk management programs, internal monitoring and controls, capital and liquidity standards, customer disclosures, and auditing and examination programs for FCMs.

The final rules will afford greater assurances to market participants that:

- Customer segregated funds, secured amount funds, and cleared swaps funds are protected;
- Customers are provided with appropriate notice of the risks of futures trading and of the FCMs with which they may choose to do business;
- FCMs are monitoring and managing risks in a robust manner;
- The capital and liquidity of FCMs are strengthened to safeguard their continued operations; and
- The auditing and examination programs of the Commission and the self-regulatory organizations (“SROs”) are monitoring the activities of FCMs in a prudent and thorough manner.

The final rules are effective January 13, 2014; however certain provisions have alternative compliance dates as detailed in Section III of the release and include generally:

Effective date plus 90 days:

- Revised risk disclosure statements to customers regarding the general risks of trading in domestic and foreign futures markets

June 1, 2014:

- Commencing with fiscal years ending on or after June 1, 2014, each FCM is required to file its certified annual report with the Commission and with the FCM’s designated self-regulatory organization (“DSRO”) electronically within 60 days of the firm’s fiscal year-end
- Auditors of FCMs must register with the Public Company Accounting Oversight Board (“PCAOB”) and utilize PCAOB standards

Effective date plus 180 days:

- FCMs are required to obtain revised acknowledgment letters from depositories holding customer funds. For new accounts opened on or after January 13, 2014, FCMs must obtain the new acknowledgment letter from the depository and file such letter with the Commission and with their DSRO within 3 business days of the opening of the account
- Specific risk disclosure requirements provided to customers and posting of historical financial and segregation schedules on FCM websites
- SRO submission of supervisory programs to the Commission with examinations expert review
- FCMs must submit their risk management programs to the Commission and their DSRO

One year after publication in the Federal Register release:

- Revised number of days to calculate the undermargined capital charges
- Initial next day 6 p.m. EST residual interest requirement for futures and foreign futures accounts (Note: If no further Commission action is taken after a study is performed the time for such residual interest requirement will move to settlement time with DCOs at December 31, 2018).

December 31, 2015

- All PCAOB registered auditors of FCMs must have been examined by the PCAOB

FCMs should carefully review the new and amended regulations as there are significant additions and changes to their regulatory obligations. The enhancements adopted will require extensive work by FCMs to develop and implement policies, procedures, controls, and disclosures to ensure compliance with the regulations.

For a complete copy of the final rule and its requirements, please see the applicable Federal Register (November 14, 2013, Vol. 78, No. 220, at page 68506) which can be found on the CFTC's web site at <http://www.cftc.gov/ucm/groups/public/@lfederalregister/documents/file/2013-26665a.pdf>. Further, the CFTC's Q & A on the Final Rules may be found on the CFTC's web site at http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/custprot_qa_final.pdf.

If you have any questions, please contact your DSRO.