

Joint Audit Committee

REGULATORY ALERT

TO: Chief Executive Officers #19-05
Chief Financial Officers
Chief Compliance Officers

CC: Division of Swap Dealer and Intermediary Oversight, CFTC

DATE: August 1, 2019

SUBJECT: Holidays - Financial Related Regulatory Reporting Requirements

Today FCMs operate on a global basis in the futures, options on futures and cleared swaps industries. FCMs have expanded their reach and footprint and carry the accounts of global customers providing access to U.S. and non-U.S. markets. In the global marketplace, holidays are recognized and observed differently throughout the world requiring FCMs to be cognizant of the varying observance of holidays by industry participants including markets, clearing organizations, brokers, banks and customers/noncustomers. With such complexity in the application of the term "holiday", FCMs have sought clarity as to their financial related regulatory reporting requirements and obligations. To assist FCMs in this regard, the JAC is providing this summary of current requirements which incorporates prior notices with respect to financial related regulatory reporting requirements on holidays.

Financial Related Regulatory Reporting Requirements

This JAC Regulatory Alert sets forth the financial related regulatory reporting requirements for FCMs with regards to holidays in the attached chart. While the chart summarizes the minimum financial related regulatory reporting requirements, FCMs may incorporate more conservative practices in their policies and procedures. All FCMs, regardless of location, are subject to the same requirements which are primarily driven by U.S. business days and holidays.

The chart is not an all-inclusive list of required reports and regulatory obligations for holiday processing purposes, but for the financial related regulatory reporting requirements contained in the chart, the requirement is stated for the U.S. holidays identified. For ad-hoc U.S. holidays, such as a National Day of Mourning, the financial related regulatory reporting requirements should correspond to a holiday listed with the same business conditions unless guidance is otherwise provided.

Accordingly, FCMs will need to run their back office, general ledger and other systems as necessary to fulfill their financial related regulatory reporting responsibilities and to maintain and execute trades of their customers and noncustomers on global markets.

Risk Management and Holidays

FCMs are subject to numerous regulatory reporting requirements regarding capital and customer segregation and must adopt and implement risk management policies and procedures to monitor and manage the risks of an FCM's activities and to ensure customers are adequately protected. The efficient collection of margin and debit equity calls is an important component in reducing risk to FCMs and their customers. Thus, it is important that when banks are open, margin is called for and collected, even if markets are not trading. Similarly, if banks are closed, but markets are open, as part of its risk management policies and procedures an FCM shall consider prudent actions including, for example, requiring pre-funding of margin from customers/noncustomers, collection of "extra" margin from customer/noncustomers, stricter credit limits on customers/noncustomers and additional firm buffers in customer segregated, secured 30.7 and cleared swap customer accounts.

Further, under CFTC Regulations, FCMs are not permitted to use the funds of one customer to margin, secure or guarantee the account of another customer. Thus, when banks are open, and funds are moved, FCMs must demonstrate compliance through the completion of the Residual Interest Compliance Calculation (for segregated and secured 30.7) and Legally Segregated Operationally Commingled ("LSOC") Compliance Calculation (for cleared swap customer) by their respective required deadlines. Conversely, if banks are closed and funds do not move, even if markets are open, the Residual Interest and LSOC Compliance Calculations would not be required. However, if banks are closed, but markets are open, FCMs should take prudent action under its risk management policies and procedures as stated above.

Summary

This guidance is meant to provide clarity and certainty to FCMs to assist them in meeting their financial related regulatory reporting obligations and in establishing appropriate risk management policies and procedures to manage risks unique to the different observance of holidays throughout the world.

FCMs should be cognizant that market events such as significant volatility or stress events may warrant more rigorous risk management policies and procedures around U.S. and non-U.S. holidays. FCMs should be aware of their customers/noncustomers ability to meet calls due to holidays observed in the location of the customers/noncustomers as well as the FCM.

Strong internal controls and procedures pertaining to the monitoring of margin calls and their timely collection, especially taking into account the impacts of holidays, is critical to ensure the protection of customers and the maintenance of required capital.

If you have any questions, please contact your DSRO.

	Holiday ¹					
	New Year's Day	ML King Jr. Day Presidents' Day Memorial Day July 4th Labor Day Thanksgiving Christmas	Good Friday ¹	July 4th (when July 4th is a Saturday and observed on Friday)	Columbus Day Veterans Day	Non-US Holiday
Business Conditions						
US Banks	Closed	Closed	Open	Open	Closed	Open
Designated Contract Markets (US Exchanges) - Trading	Closed	Open/Closed	Open/Closed	Open/Closed	Open	Open
Derivatives Clearing Organizations (US Clearing Houses) - Settlement Made ²	No	No	Yes	Yes	No	Yes
Minimum Required Regulatory Treatment						
Daily Segregation Statement - File ³	No	No	Yes	Yes	Yes	Yes
Daily Segregation Statement - Prepare ⁴	No	No ⁵	Yes	Yes	Yes	Yes
Daily Secured 30.7 Statement - File ³	No	No	Yes	Yes	Yes	Yes
Daily Secured 30.7 Statement - Prepare ⁴	No	No ⁵	Yes	Yes	Yes	Yes
Daily Cleared Swap Statement - File ³	No	No	Yes	Yes	Yes	Yes
Daily Cleared Swap Statement - Prepare ⁴	No	No ⁵	Yes	Yes	Yes	Yes
Residual Interest Compliance Calculation Segregation	No	No ⁶	Yes	Yes	No ⁶	Yes
Residual Interest Compliance Calculation Secured 30.7	No	No ⁶	Yes	Yes	No ⁶	Yes
LSOC Compliance Calculation	No	No ⁶	Yes	Yes	No ⁶	Yes
Daily Net Capital Compliance ⁷	No	No	Yes	Yes	Yes	Yes
Regulation 1.12 Notices Required to be Filed ⁸	No	No	Yes	Yes	Yes	Yes
Segregated Investment Detail Report (SIDR)	No	No	Yes	Yes	Yes	Yes
30.7(c) - 120% Limitation of Margin Held in Foreign Depositories	No	No	Yes	Yes	No	Yes
Issue Margin Calls	No	No	Yes	Yes	Yes	Yes
Age Margin Calls	No	No	Yes	Yes	No	Yes
Age Debits	No	No	Yes	Yes	No	Yes
Count Day for 17 Business Day 1-FR/FOCUS Filing	No	No	Yes	No	No	Yes
Count Day for Aged Reconciling Items	No	No	Yes	Yes	Yes	Yes

1 - For clarity, Holiday refers to the day the holiday is actually observed. Further, although Good Friday is not a U.S. Federal Holiday, it is in many cases observed as a holiday by U.S. markets.

2 - Settlement is made to the clearing house on the holiday.

3 - Is the prior business day's daily statement required to be filed on the holiday? Notwithstanding filing requirements, all FCMs are required to be in segregation, secured 30.7 and cleared swap customer compliance at all times.

4 - Is the prior business day's daily statement required to be prepared on the holiday? Notwithstanding preparation requirements, all FCMs are required to be in segregation, secured 30.7 and cleared swap customer compliance at all times.

5 - For clarity, a daily statement must be prepared "as of" the holiday on the next business day after the holiday (even though there may be little change from the previous business day's statement); filed on business day after the holiday.

6 - For clarity, a residual interest compliance calculation/LSOC compliance calculation is not required to be prepared on the holiday. The residual interest compliance calculation /LSOC compliance calculation prepared on the next business day must use the most current balances, including the trading activity from the holiday.

7 - If an FCM is required to prepare and submit daily net capital computations, is the prior business day's daily statement required to be prepared on the holiday? If the statement is required to be prepared on the holiday, then the statement must be filed on the holiday. Notwithstanding preparation/filing requirements, all FCMs are required to be in capital compliance at all times.

8 - Notwithstanding the observance of a holiday, notices to be provided immediately under Regulation 1.12 must be filed immediately. That is, once a notice requirement is triggered, it must be filed immediately even on a holiday.