

information is accepted, NMFS will send the shareholder an initial transaction approval code and make an application for share transfer available for downloading and printing. The shareholder and eligible transferee must complete the application, have their signatures notarized, and mail the signed application to the RA at least 30 days prior to the date on which the applicant desires to have the transfer effective. The signed application must be received by the RA prior to December 1. See paragraph (c)(4)(v) of this section regarding a prohibition on transfer during December of each year. If the RA approves the application for transfer, the online system will send the shareholder and the transferee an electronic message acknowledging the approval; a transfer is effective upon receipt of the message. The adjusted shares resulting from a transfer may be viewed online by each of the respective shareholders involved in the transaction. If the RA does not approve the transfer application, the RA will return the application to the shareholder with an explanation and instructions for correcting any deficiencies.

(iii) *Allocation transfers.* An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void.

(iv) *Allocation transfer procedures.* Unlike share transfers which require a notarized application for transfer, allocation transfers can be accomplished online via the red snapper IFQ website. An IFQ allocation holder can initiate an allocation transfer by logging on to the red snapper IFQ website at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov), entering the required information, including but not limited to, name of an eligible transferee and amount of IFQ allocation to be transferred and price, and submitting the transfer electronically. If the transfer is approved, the website will provide a transaction approval code to the transferor and transferee confirming the transaction.

(v) *Prohibition of transfer of shares during December each year.* No IFQ shares may be transferred during December of each year. This period is necessary to provide the RA sufficient time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial quota for Gulf red snapper has changed, and update shares and allocations for the upcoming fishing year.

(5) *Fleet management and assignment of IFQ allocation.* An IFQ shareholder or IFQ allocation holder who owns more

than one vessel with a valid Gulf reef fish vessel permit and a valid Gulf red snapper IFQ vessel endorsement may assign IFQ allocation to a person aboard such vessel and provide that person the IFQ account information necessary to conduct landing transactions.

(6) *IFQ share cap.* No person, including a corporation or other entity, may individually or collectively hold IFQ shares in excess of the maximum share initially issued to a person for the 2007 fishing year, as of the date appeals are resolved and shares are adjusted accordingly. For the purposes of considering the share cap, a corporation's total IFQ share is defined as the sum of the IFQ shares held by the corporation and the IFQ shares held by individual shareholders of the corporation. A corporation must identify the shareholders of the corporation and their percent of shares in the corporation.

(7) *Redistribution of shares resulting from permanent permit or endorsement revocation.* If a shareholder's commercial vessel permit for Gulf reef fish or Gulf red snapper IFQ vessel endorsement has been permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares held by that shareholder proportionately among remaining shareholders based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(8) *Annual recalculation and notification of IFQ shares and allocation.* On or about January 1 each year, IFQ shareholders will be notified, via the IFQ website at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov), of their IFQ share and allocation for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares resulting from permanent revocation of applicable permits or endorsements under 15 CFR part 904. Allocation is calculated by multiplying IFQ share times the annual red snapper commercial quota. Updated allocation values will reflect any change in IFQ share, any change in the annual commercial quota for Gulf red snapper, and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ participants can monitor the status of their shares and allocation throughout the year via the IFQ website.

8A. Section 622.16, with the exception of paragraph (b), is stayed until January 1, 2007.

#### § 622.34 [Amended]

■ 9. In § 622.34, paragraph (l) is removed and reserved.

■ 10. In § 622.42, paragraph (a)(1)(i) is revised to read as follows:

#### § 622.42 Quotas.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(i) *Red snapper*—4.65 million lb (2.11 million kg), round weight.

\* \* \* \* \*

#### § 622.44 [Amended]

■ 11. In § 622.44, paragraph (d) is removed and reserved.

[FR Doc. 06-9342 Filed 11-17-06; 4:47 pm]

BILLING CODE 3510-22-S

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

RIN 3038-AC34

### Financial Reporting Requirements for Introducing Brokers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is amending Commission regulations to require introducing brokers ("IBs") submitting CFTC financial Forms 1-FR-IB that are certified by independent public accountants to file such financial reports electronically with the National Futures Association ("NFA"). The amendments also require that certified Financial and Operational Combined Uniform Single Reports ("FOCUS" Reports), submitted by IBs registered with the Securities and Exchange Commission ("SEC") as securities brokers or dealers ("B/Ds") in lieu of Form 1-FR-IB, be filed either electronically or in paper form in accordance with the rules of the NFA. The CFTC also is amending Commission regulations to require that, with respect to any such electronic filing, a paper copy including the original signed certification be maintained by the IB in its records for a period of five years in accordance with Commission Regulation 1.31.

**DATES:** *Effective Date:* December 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Smith, Deputy Director and

Chief Accountant, at (202) 418-5430 or Jennifer C.P. Bauer, Special Counsel, at (202) 418-5472, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: [tsmith@cftc.gov](mailto:tsmith@cftc.gov) or [jbauer@cftc.gov](mailto:jbauer@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

Section 4f(b) of the Commodity Exchange Act ("Act") authorizes the Commission to adopt regulations imposing minimum financial requirements on IBs.<sup>1</sup> Commission Regulation 1.10(a)(2)(ii)(A)<sup>2</sup> requires each person filing an application for registration as an IB to file a financial Form 1-FR-IB<sup>3</sup> certified by an independent public accountant concurrently with the application. IBs that also are registered with the SEC as a B/D may file a FOCUS Report in lieu of a Form 1-FR-IB. The application for registration, and the certified Form 1-FR-IB or FOCUS Report, must be filed with the NFA in paper form.<sup>4</sup>

Regulation 1.10(b)(2)(ii)(A) requires each registered IB to annually file a certified Form 1-FR-IB as of the close of the IB's fiscal year with NFA. IBs that are registered with the SEC as B/Ds may file an annual FOCUS Report with NFA in lieu of the Form 1-FR-IB. Regulation 1.10(b)(2)(iii) requires that certified Forms 1-FR-IB, or FOCUS Reports, must be filed in paper form with NFA and may not be filed electronically. Regulation 1.10(d)(4) requires that Forms 1-FR-IB, or FOCUS reports filed in lieu thereof, be accompanied by an oath or affirmation from specified persons that the information in the filing is true and correct.

The Commission previously has approved rules submitted by NFA that require IBs to submit uncertified Forms 1-FR-IB, or FOCUS Reports, electronically using the NFA EasyFile electronic filing system.<sup>5</sup> NFA

implemented electronic filing of the uncertified Form 1-FR for IBs beginning in 2002 by providing them with the WinJammer software utilized by other self-regulatory organizations and the Commission for the Forms 1-FR and FOCUS Reports filed electronically by futures commission merchants ("FCMs"). The EasyFile system was developed by NFA as a web-based alternative to WinJammer using the same security procedure available under NFA's On-line Registration System, or ORS.<sup>6</sup>

NFA petitioned the Commission to amend its regulations to permit NFA to expand the EasyFile electronic 1-FR-IB submissions of IBs to include the mandatory filing of certified Form 1-FR-IBs through the use of an electronic file in the Portable Document Format (".pdf format"). The Commission has determined to amend its Regulations 1.10 and 1.31 as set forth herein to effectuate this purpose. NFA has not requested the amendment of regulations to require mandatory electronic filing of certified FOCUS Reports from IBs that are SEC registered B/Ds as NFA currently does not have the systems capability to receive FOCUS reports through EasyFile.<sup>7</sup> However, NFA has indicated that it will develop a mechanism to receive certified FOCUS Reports from IBs electronically in the future, and the Commission has determined to also amend its Regulation 1.10 to accommodate the future electronic filing of such reports by requiring such reports to be submitted in accordance with NFA rules, either electronically or in paper form.

NFA previously petitioned the Commission for rule amendments in 2005 to enable NFA to implement mandatory electronic filing of commodity pool certified annual reports using the Web-based structure of EasyFile system, which amendments were adopted by the Commission and became effective in March 2006.<sup>8</sup> As a result of these amendments and NFA's rules, currently all certified commodity pool annual reports must be received by NFA electronically, through the use of electronic files in the Portable Document Format (".pdf format").

<sup>6</sup> The firm's security manager can establish users with unique and secure user identification and password combinations and assign them abilities to enter data and/or submit the report in the NFA EasyFile system. This "Security Manager" procedure is part of NFA's existing electronic system for registration processing.

<sup>7</sup> NFA's petition states that EasyFile is not yet equipped to handle the receipt of FOCUS reports from IBs. Uncertified FOCUS reports of IBs are still submitted to NFA electronically using WinJammer.

<sup>8</sup> 71 FR 8939 (Feb. 22, 2006).

NFA's electronic filing system for certified financial statements from IBs will similarly require that the IB submit an electronic .pdf file of the entire certified statement, including the financial information, footnotes, auditors' statement, and any necessary reconciliation of the IB's certified financial statement and most recent unaudited 1-FR. Because the IB will have already electronically submitted the unaudited Form 1-FR-IB to NFA through EasyFile, the IB will not have to re-enter any data from the certified statement unless that statement includes a reconciliation and difference from the unaudited Form 1-FR-IB of the same date. When the IB submits the electronic filing, NFA's EasyFile system prompts the submitter to read and to indicate agreement to an electronic oath or affirmation. The submitter already will have securely accessed NFA's system and had his or her identification authenticated through the use of his or her unique user identification and password combination, established and maintained by the firm's Security Manager. The IB's Security Manager can establish users and assign them abilities to enter data and/or submit the report and data in the NFA electronic filing system. The IB is responsible for ensuring that only persons who are duly authorized to bind the IB, in accordance with Regulation 1.10(d)(4), are granted the permission, through the use of a unique user identification and password, to submit the report and make the required oath or affirmation. This oath or affirmation is made with respect to the .pdf file of the annual report and any information entered into the system from the certified statement. The electronic version of the oath or affirmation will appear in dialog boxes when reports or data are submitted, and completion of the submission will require an affirmative acceptance of the oath or affirmation by the user. In clarification of the proposing release, a Personal Identification Number is not used to authenticate the identity of the authorized representative in the NFA's EasyFile system. The EasyFile system architecture uses a secure user identification and password combination for the same purpose, to authenticate the identity of the authorized user submitting the report.

### II. Comments

NFA was the only entity to file a comment letter on the proposed amendments. NFA supported the proposed amendments and stated that "(t)hese amendments will simplify the filing process and allow it to keep pace with technological changes without

<sup>1</sup> 7 U.S.C. 6f(b).

<sup>2</sup> The regulations of the Commission cited in this release may be found at 17 CFR Ch. I (2006).

<sup>3</sup> The Form 1-FR-IB is a financial report that includes a statement of financial condition, a statement of income or loss, a statement of minimum net capital, and appropriate footnote disclosures.

<sup>4</sup> NFA is a registered futures association under Section 17 of the Commodity Exchange Act, 7 U.S.C. 21, and has been delegated responsibility for processing the Commission's registration function. NFA also is a self-regulatory organization, as defined in Regulation 1.3(ee).

<sup>5</sup> By letter dated June 1, 2004, NFA submitted to the Commission for its review and approval, pursuant to Section 17(j) of the Act (7 U.S.C. 21(j)), amendments to Section 5 of NFA Financial Requirements, regarding IB financial requirements, which amendments were approved by the Commission and were effective June 30, 2004.

losing any of the protections provided by the current requirements". NFA also commented in support of the additional amendment to require IBs that file FOCUS reports in lieu of Form 1-FR to file electronically or in paper copy, according to NFA instructions, which will permit NFA to implement electronic filing of such reports when it develops the systems capacity to receive them electronically. NFA staff also verbally commented that the current EasyFile system architecture used by IBs and commodity pool operators does not include the use of a Personal Identification Number as discussed in the proposing release, but instead uses a unique user identification and password combination that fully satisfies the same purpose for the authentication of the authorized person making the electronic oath or affirmation. The Commission has therefore changed the language proposed for Regulation 1.10(d)(4)(iii) to clarify that in the case of a Form 1-FR filed via electronic transmission in accordance with procedures established or approved by the Commission, such transmission must be accompanied by the Personal Identification Number or other user authentication assigned under such procedures to the authorized signer, and such Personal Identification Number or other user authentication will constitute and become a substitute for the manual signature of such authorized representative.

### III. Amendments

Regulation 1.10(b)(2)(iii) requires that a Form 1-FR certified by an independent public accountant that is filed by an FCM, IB or applicant for registration as an FCM or IB, must be filed in paper form and may not be filed electronically. The Commission is amending Regulation 1.10(b)(2)(iii) to provide that a certified Form 1-FR required from an IB, or applicant for IB registration, must be filed electronically with NFA through compliance with NFA's electronic filing procedures, and that a paper copy with the original, manually signed certification must be maintained by the IB in accordance with Regulation 1.31.

The Commission also is amending Regulation 1.10(d)(4)(ii), by revising the second sentence and redesignating the revised sentence as Regulation 1.10(d)(4)(iii). Regulation 1.10(d)(4)(iii) would confirm that, in the case of a Form 1-FR-IB filed via electronic transmission in accordance with NFA procedures approved by the Commission, such transmission must be accompanied by the user authentication assigned under such procedures to the

authorized signer, and the use of such user authentication will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the required oath or affirmation.

In addition, the Commission is amending Regulation 1.10(h), to provide that an IB that is permitted to file a copy of its certified FOCUS Report in lieu of Form 1-FR file such report either in paper form, or through compliance with NFA's electronic filing procedures, according to the rules of NFA. The amendment to Regulation 1.10(h) also will require that a paper copy with the original, manually signed certification be maintained by the IB in accordance with Regulation 1.31 for any IB FOCUS Report electronically filed with NFA. Lastly, the Commission is amending Regulation 1.31(d) to provide that paper copies of electronically filed certified Forms 1-FR or FOCUS Reports must be retained by the IB in hard copy with the original manually signed certification. These amendments implement mandatory electronic filing of certified annual reports on Form 1-FR-IB with NFA, as NFA has petitioned, and allow electronic filing by IBs of certified FOCUS reports as NFA may in the future require.

### IV. Related Matters

#### A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in rulemaking consider the impact of those rules on small businesses. The Commission previously has established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.<sup>9</sup> These amendments will not place any additional burdens upon IBs that are small businesses since all such parties already are subject to the financial reporting requirements under Regulation 1.10 and already comply with the electronic filing of uncertified reports through NFA's electronic filing system. The Commission's proposal solicited public comment on this analysis.<sup>10</sup> No comments were received. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

#### B. Paperwork Reduction Act

This rulemaking alters the method of collection for a required collection of

information under Part 1 of the Commission's rules, but is not anticipated to change the burden under such collection as the actual financial reporting requirement has not changed and all the parties subject to such requirement already must use NFA's electronic filing system for the filing of uncertified reports. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Commission submitted a copy of this section to the Office of Management and Budget ("OMB") for its review. No comments were received in response to the Commission's invitation in the notice of proposed rulemaking<sup>11</sup> to comment on any change in the potential paperwork burden associated with these rule amendments.

#### C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 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 regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) of the Act 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 regulation 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.

The Commission's proposal contained an analysis of its consideration of these costs and benefits and solicited public comment thereon.<sup>12</sup> No comments were received with respect to the analysis of the Commission's consideration. Therefore, pursuant to such consideration, the Commission has decided to adopt these amendments as discussed above.

<sup>9</sup> 47 FR 18618 (April 30, 1982).

<sup>10</sup> 71 FR 54789 at 54791 (September 19, 2006).

<sup>11</sup> *Id.*

<sup>12</sup> 71 FR at 54791-2.

**List of Subjects in 17 CFR Part 1**

Brokers, Commodity futures, Reporting and recordkeeping requirements.

■ Accordingly, 17 CFR part 1 is amended as follows:

**PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT**

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

**Authority:** 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

- 2. Section 1.10 is amended by:
  - a. revising paragraph (b)(2)(iii);
  - b. revising paragraph (d)(4)(ii);
  - c. adding paragraph (d)(4)(iii); and
  - c. revising paragraph (h), to read as follows:

**§ 1.10 Financial reports of futures commission merchants and introducing brokers.**

\* \* \* \* \*

- (b) \* \* \*
- (2) \* \* \*

(iii) A Form 1-FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by a futures commission merchant or applicant for registration as a futures commission merchant must be filed in paper form and may not be filed electronically. A Form 1-FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by an introducing broker or applicant for registration as an introducing broker must be filed electronically in accordance with NFA's electronic filing procedures, and a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

\* \* \* \* \*

- (d) \* \* \*
- (4) \* \* \*

(ii) If the registrant or applicant is registered with the Securities and Exchange Commission as a securities broker or dealer, the representative authorized under § 240.17a-5 of this title to file for the securities broker or dealer its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE.

(iii) In the case of a Form 1-FR filed via electronic transmission in accordance with procedures established or approved by the Commission, such

transmission must be accompanied by the Personal Identification Number or other user authentication assigned under such procedures to the authorized signer, and the use of such Personal Identification Number or other user authentication will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the oath or affirmation referred to in this paragraph.

\* \* \* \* \*

(h) *Filing option available to a futures commission merchant or an introducing broker that is also a securities broker or dealer.* Any applicant or registrant which is registered with the Securities and Exchange Commission as a securities broker or dealer may comply with the requirements of this section by filing (in accordance with paragraphs (a), (b), (c), and (j) of this section) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, Part IIA, or Part II CSE (FOCUS Report), in lieu of Form 1-FR; *Provided, however,* That all information which is required to be furnished on and submitted with Form 1-FR is provided with such FOCUS Report; and *Provided, further,* That a certified FOCUS Report filed by an introducing broker or applicant for registration as an introducing broker in lieu of a certified Form 1-FR-IB must be filed according to NFA rules, either in paper form or electronically in accordance with NFA electronic filing procedures, and if filed electronically, a paper copy of such filing with the original manually signed certification must be maintained by such introducing broker or applicant in accordance with § 1.31.

\* \* \* \* \*

■ 3. Section 1.31 is amended by revising paragraph (d) to read as follows:

**§ 1.31 Books and records; keeping and inspection.**

\* \* \* \* \*

(d) Trading cards, documents on which trade information is originally recorded in writing, written orders required to be kept pursuant to § 1.35(a), (a-1)(1), (a-1)(2) and (d), and paper copies of electronically filed certified Forms 1-FR and FOCUS Reports with the original manually signed certification must be retained in hard-copy for the required time period.

\* \* \* \* \*

Issued in Washington, DC, on November 14, 2006 by the Commission.

**Eileen Donovan,**

*Acting Secretary of the Commission.*

[FR Doc. E6-19533 Filed 11-21-06; 8:45 am]

**BILLING CODE 6351-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 06-2276; MB Docket No. 04-12; RM-10834]

**Radio Broadcasting Services; Littleville and Russellville, AL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; dismissal of petition for reconsideration.

**SUMMARY:** The staff approves the withdrawal of a petition for reconsideration in this FM allotment rulemaking proceeding and finds no reason for further consideration of the matters raised therein. *See SUPPLEMENTARY INFORMATION.*

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Rhodes, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MB Docket No. 04-12, adopted November 1, 2006, and released November 3, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>.

The *Report and Order* in this proceeding reallocated and changed the community of license for Station WLAY-FM from Channel 278A at Russellville to Channel 278A at Littleville, Alabama. The withdrawal of the petition for reconsideration and related pleadings complies with Section 1.420(j) of the Commission's rules because the parties have documented that the consideration that J. Michael Self will receive does not exceed his legitimate and prudent out of pocket expenses. *See* 69 FR 25845 (May 10, 2004).

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the petition for reconsideration was dismissed).