

CFTC Reporting Requirements



Administrative Items

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CFTC Compliance Issues for End Users

February 16, 2017 | 10:00 – 21:00 AM ET | Webinar

Presenters: Stephen Humenik and Anne Termine from Covington & Burling LLP



Futures 101: An Introduction to U.S. Futures Markets and Regulation

February 28, 2017 | 2:00 - 5:00 PM CT | New York, NY

Moderator: Ronald H. Filler of New York Law School

Panelists: Tammy Botsford of JPMorgan Chase & Co.; Gary DeWaal of KattenMuchinRosenman LLP; Kimberly Johns of Goldman Sachs; Tom Lasala of CME Group; Bonnie Litt of Goldman Sachs and; Katie Trkla of Foley & Lardner LLP



The Federal Reserve Board's Proposed Rule on Mandatory Contractual Stays for QFCs

March 9, 2017 | 10:00 – 21:00 AM ET | Webinar

Presenters: Conrad Bahlke, Marvin Goldstein and Mark Speiser of Stroock & Stroock & Lavan LLP

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Introduction

- Reporting Programs
 - Overview of reporting programs regarding cash positions
 - Designed to collect comprehensive market data that comes in from large traders and clearing firms
 - Reporting requirements are also replicated for swaps dealers
 - Designed to implement the goals of Dodd-Frank of reducing systemic risk, increasing transparency, and promoting market integrity within the financial system
 - Understanding the reporting requirements is essential for firms operating in today's financial markets
 - The information is used to detect and prevent potential market manipulation

Reports

Form No.	Title
40/S	Statement of Reporting Trader
204	Cash Positions of Grain Traders (including Oilseeds and Products)
304	Cash Positions of Cotton Traders
102/A/B/S	Identification of Special Accounts, Volume Threshold Accounts, and Consolidated Accounts
71	
	Risk Exposure and Valuation Disputes
TO	Unreported Trade Options

Reporting Forms

- Large Trader Reports
 - Form 40/S
 - Form 204
 - Form 304
- Special Accounts
 - Form 102/A/B/S
 - Form 71
- Risk Exposure and Valuation Disputes
- Unreported Trade Options
 - Form TO



Reportable Traders



Form 40/S

- Designed to
 - Collect information allowing the CFTC to aggregate related accounts
 - Collect information regarding a firm's traders or about a participant's trading and delivery activity
 - Allow the CFTC to investigate potential market manipulation activity and monitor position limits



Reporting Traders

- New Single Form 40/40S
- Filed by every trader who owns, holds, or controls a reportable position in swaps, futures or options
- Filed electronically
- All derivatives activity
- Control vs influence
- Commodity index traders
- Categorizing business and trading activity
- Updating requirements
- Difficult questions – seek advice

Form 204

- Statement of cash positions in grains, soybeans, soybean oil, and soybean meal
- Filed by all persons holding or controlling:
 - Positions for future delivery that are reportable pursuant to regulation 15.00(b)(1)(ii) and any part of which constitute bona fide hedging positions as defined in regulation 1.3(z)
 - Positions for future delivery that are reportable pursuant to regulation 15.00(b)(1)(i) who have received a special call from the CFTC
- A reportable position means:
 - Any one futures of any commodity on any one reporting market, excluding futures contracts against which notices of delivery have been stopped by a trader or issued by the clearing organization of a reporting market; or
 - Long or short put or call options that exercise into the same future of any commodity, or other long or short put or call commodity options that have identical expirations and exercise into the same commodity, on any one reporting market

Form 204 (cont...)

- Reported monthly as of the close of business on the last Friday of the month
 - Due to the Commission's Chicago office no later than the third business day following the Friday date of the report
- Report, in thousands of bushels, the quantity of cash stocks owned and open fixed price cash purchases and cash sales of the commodity and its products and byproduct
- For “cross hedging,” report the cash commodity hedged in 1000-bushel equivalents

Form 204

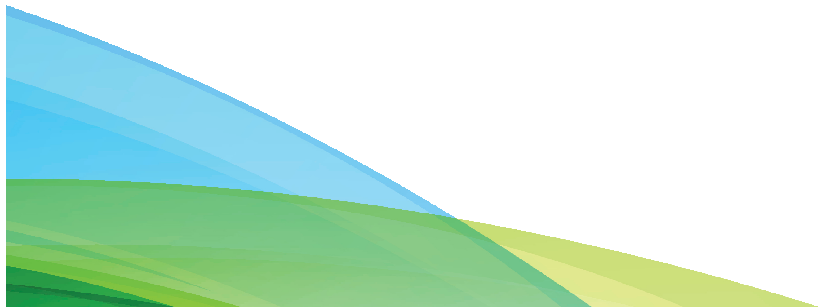
COMMODITY FUTURES TRADING COMMISSION STATEMENT OF CASH POSITIONS IN GRAINS, SOYBEANS, SOYBEAN OIL, AND SOYBEAN MEAL		CFTC CODE NO.	OMB No. 3038-0009		
		Report as of close of business Friday (DATE)			
<p>NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false report, may be basis for administrative action under 7 U.S.C. Section 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Section 13, or 18 U.S.C. Section 1001. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this, to Agency Clearance Officer, Office of General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.</p>					
<p>PART I: FIXED-PRICE CASH POSITIONS IN TERMS OF COMMODITY FOR FUTURE DELIVERY Report all quantities in thousand bushels, i.e., 000 omitted. Show products and byproducts in terms of '000-bushel equivalents. If you have no cash position, write "None" on the form and return it to CFTC.</p>					
FUTURES MARKET USED FOR HEDGING	CASH COMMODITY HEDGED IN FUTURES	LONG CASH			SHORT CASH
		(1) STOCKS OWNED '000 Bushels	(2) PURCHASE COMMITMENTS '000 Bushels	(3) TOTAL LONG '000 Bushels	
WHEAT	Wheat				
	Wheat Products (in '000 bu. equiv.)				
	Other*				
	Total				
CORN	Corn				
	Corn Products (in '000 bu. equiv.)				
	Other*				
	Total				
OATS	Oats				
	Oat Products (in '000 bu. equiv.)				
	Other*				
	Total				
SOYBEANS SOYBEAN OIL SOYBEAN MEAL	Beans				
	Oil & Oil Products (in '000 bu. equiv.)				
	Meal & Meal Products (in '000 bu. equiv.)				
	Other*				
(OTHER FUTURES MARKET)	Grain (same as futures)				
	Products (of same futures (in '000 bu. equiv.)				
	Other*				
	Total				
* Use "Other" to identify commodities you are cross hedging. Show quantities in 1,000-bushel equivalents of the commodity futures being used for hedging and complete Part II to show the quantities in terms of the actual commodity					
PART II: FIXED-PRICE CASH POSITIONS FOR CROSS HEDGES IN TERMS OF ACTUAL CASH COMMODITY					
FUTURES MARKET USED FOR HEDGING	CASH COMMODITY (Specify Commodity or Product)	UNITS (Specify Tons, Cwt., Lbs., Bu., Etc.)	LONG CASH		SHORT CASH
			STOCK OWNED (1)	PURCHASE COMMITMENTS (2)	
FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS					

CFTC Form 204 (10-00)
Previous Editions Obsolete



Form 204 Enforcement Action

- Marubeni America Corp.
 - Settled 03/23/2015
 - Relevant time period July 2010-August 2013
 - Marubeni filed 38 Form 204 reports that did not accurately state the quantities of Marubeni's fixed price cash positions
 - Penalty: \$800,000



Form 304

- Statement of cash positions in cotton
- Filed by all persons holding or controlling:
 - Positions for future delivery that are reportable pursuant to regulation 15.00(b)(1)(ii) and any part of which constitute bona fide hedging positions as defined in regulation 1.3(z)
 - Positions for future delivery that are reportable pursuant to regulation 15.00(b)(1)(i) who have received a special call from the CFTC
- Reportable size is a minimum of 100 contracts

Form 304 (cont...)

- What to report:
 - Equity Stocks: The quantity of equity cotton (“cotton in the loan”) that you have with the Commodity Credit Corporation under the provisions of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture
 - Certificated stocks: The quantity of certificated cotton that you own
 - Non-certificated stocks: The quantity of cotton and cotton products that you own and have paid for at fixed prices, excluding certificated cotton
 - Open purchase and sale commitments: The quantity of open fixed-price cash purchases and sales of cotton and cotton products
- Reported monthly as of the close of business on the last Friday of the month
 - Due to the Commission’s New York office no later than the second business day following the Friday date of the report

Form 304 (cont...)

COMMODITY FUTURES TRADING COMMISSION STATEMENT OF CASH POSITIONS IN COTTON		CFTC CODE NO.	OMB No. 3038-0009				
		Report as of close of business Friday (DATE)					
<p>NOTICE: Failure to file a report required by the Commodity Exchange Act and the regulations thereunder, or the filing of a false report, may be a basis for administrative action under 7 U.S.C. Section 9, and may be punishable by fine or imprisonment, or both, under 7 U.S.C. Section 13, or 18 U.S.C. Section 1001. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this, to Agency Clearance Officer, Office of General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.</p>							
PART I: FIXED-PRICE CASH POSITIONS Report in hundreds of bales, i.e., 00 omitted. Convert products to cotton equivalent (500-lb. bales) If you have no cash position, write "None" on the form and return it to CFTC							
CASH COMMODITY	LONG CASH				SHORT CASH		
	Equity Stocks	Certificated Stocks	Non-Certificated Stocks	Purchase Commitments	Sale Commitments		
Cotton							
Cotton Products, including stocks in process of manufacture (specify)							
Other* (specify)							
* Use this space to identify commodities you are cross hedging. Show quantities in terms of the commodity futures being used for hedging and use PART II to show the quantities in terms of actual commodity.							
PART II: FIXED-PRICE CASH POSITIONS IN CROSS HEDGED COMMODITIES							
CASH COMMODITY (SPECIFY COMMODITY OR PRODUCT)	UNITS	LONG CASH		SHORT CASH			
		Stocks Owned	Purchase Commitments	Total Sale Commitments			
PART III: UNFIXED-PRICE COTTON "ON CALL" Report in hundreds of bales, i.e., 00 omitted Include under "Call Purchases" stocks on hand for which price has not yet been fixed							
DELIVERY MONTH	DELIVERY YEAR	CALL PURCHASES	CALL SALES	DELIVERY MONTH	DELIVERY YEAR	CALL PURCHASES	CALL SALES
FURTHER EXPLANATION/CORRECTION OF PREVIOUS REPORTS							

CFTC FORM 304 (05-03)
Previous Editions Obsolete



Form 304 Enforcement Action

- Libero Commodities SA
 - Settled 05/11/2015
 - Relevant time period May 2010-April 2014
 - On approximately 200 occasions during the relevant time period, Libero held or controlled at least 100 cotton futures positions but failed to file weekly CFTC Form 304 reports
 - Penalty: \$480,000
- Agrocorp Int'l Pte. Ltd.
 - Settled 07/11/2016
 - Relevant time period October 2014-February 2015
 - On approximately 22 occasions during the relevant time period, Agrocorp held or controlled at least 100 cotton futures positions but failed to file weekly CFTC Form 304 reports
 - Penalty: \$150,000

Form 304 Enforcement Action

- CNCGC Hong Kong Ltd.
 - Settled 01/17/2017
 - Relevant time period March 2014-August 2015 and October 2015-January 2016
 - On approximately 53 occasions during the relevant time period, CNCGC held or controlled at least 100 cotton futures positions but failed to file weekly CFTC Form 304 reports
 - Penalty: \$150,000



Identification of Special Accounts



Forms 102/102A/102B/102S

- Identification of Special Accounts
- Provide the Commission with enhanced visibility of participants in futures and swaps markets
- Provide more efficient reporting of information related to positions in futures and swaps
- Filed by Futures Commissions Merchants, Clearing Members, and Foreign Brokers

Forms 102/102A/102B/102S

- Form 102:
 - Filed by 9 a.m. on the business day after the special account becomes reportable
 - “Follow on information” may be submitted by 9 a.m. on the third business day on which the special account becomes reportable
- Form 102A
 - Collects information with respect to position-based special accounts in the futures market
 - Filed by 9 a.m. on the business day after the special account becomes reportable
 - “Follow on information” may be submitted by 9 a.m. on the third business day on which the special account becomes reportable

Forms 102/102A/102B/102S

- Form 102B
 - Requires the transaction-based reporting of trading accounts that have daily trading volume that exceeds a specified level on a DCM or SEF in a single trading day regardless of whether the accounts maintain positions at the end of the day
- Form 102S
 - Collects information regarding position-based counterparty consolidated accounts with respect to 47 categories of nonfinancial, paired swaps listed in part 20
 - Swap dealers and clearing members may have reporting obligations on Form 102S

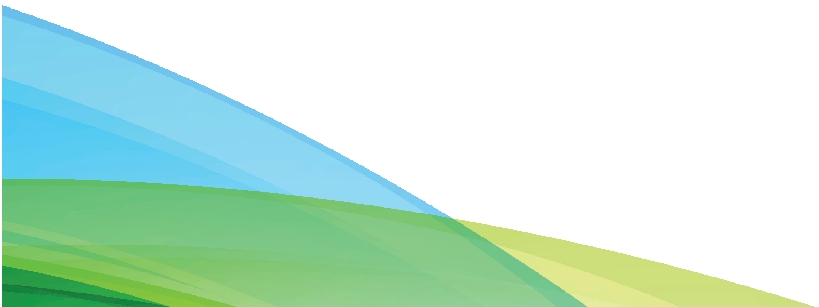
Form 71

- “Volume threshold account”
- Designed to enable CFTC to have visibility into omnibus accounts



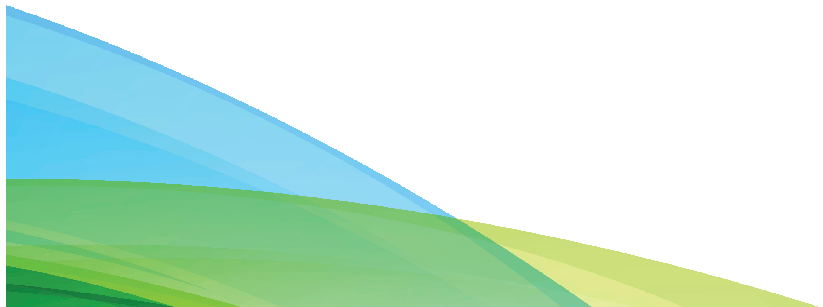


Swap Dealers and Major Swap Participants Risk Exposure Reports and Valuation Dispute Reports



Swap Dealers and Major Swap Participants Risk Exposure Reports, Valuation Dispute Reports

- Valuation Dispute Report required under Part 23.502(c)
- Risk Exposure Report required under Part 23.600(c)(2)(ii)



SWAP DEALERS AND MAJOR SWAP PARTICIPANTS RISK EXPOSURE REPORTS, VALUATION DISPUTE REPORTS, AND CCO ANNUAL REPORTS

Commission Regulation 3.3(f) requires that each SD and MSP furnish electronically to the Commission a copy of the Annual Report of the SDs or MSP's Chief Compliance Officer not more than 90 days after the end of the fiscal year of the SD or MSP.

Commission Regulation 23.602(c) requires that each SD and MSP promptly notify the Commission of any swap valuation dispute in excess of \$20,000,000 (or its equivalent in any other currency), if not resolved within the time frames set forth in the Regulation.

Commission Regulation 23.600(c)(2)(ii) requires that each SD and MSP furnish copies of its Risk Exposure Reports to the Commission within five (5) business days of providing such reports to its senior management.

Please complete all Required fields and upload at least one attachment prior to clicking Submit.

Risk Exposure Reports and CCO Annual Reports submitted through WinJammer™ will be furnished to the CFTC automatically. Accordingly, SDs and MSPs need not re-submit those same reports to the Commission through this website.

After 65 minutes of inactivity, your form will timeout and all data will be lost. You will then need to re-access the form and enter your data again.

Fields marked with a red exclamation (!) are required

SECTION 1 TELL US ABOUT YOURSELF

Organization Name	(!) -Select-
Submitter First Name	(!)
Submitter Middle Initial	
Submitter Last Name	(!)
Title of Submitter	(!)
Type of Registrant	(!) -Select-
National Futures Association (NFA) ID	(!)
Report Type	(!) -Select-

Risk Exposure Reports and CCO Annual Reports submitted through WinJammer™ will be furnished to the CFTC automatically. Accordingly, SDs and MSPs need not re-submit those same reports to the Commission through this website.

SECTION 2 FILE ATTACHMENTS

The CFTC Portal is encrypted throughout transmission and processing, it is not necessary to password protect or encrypt uploaded files. These files will be rejected since they cannot be automatically checked for malware and viruses.

You must upload at least 1 but not more than 10 files.

We prefer the uploaded files to be readable PDFs.

File size restrictions is 10 MB each.

Acceptable Formats (.doc, docx, dot, xls, xlsx, .jpg, .jpeg, .pdf, .bmp, .txt, .ppt, .pptx, .odt, .ods, .odp) (!)

SECTION 3 CONCLUSION

I agree to the collection, processing, use, and disclosure of my personal information as stated in the [Privacy Policy](#) for [www.cftc.gov](#). (!)

Validation Code: * (!)



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Form TO

- Elimination of Reporting and Recordkeeping Requirements for trade option counterparties that are neither swap dealers nor major swap participants

Cooperation

- On January 19, 2017, the CFTC issued advisories outlining the factors the Enforcement Division will consider when determining whether to credit an individual or company with cooperation in an investigation
 - The value of the cooperation to the Division's investigation(s) and enforcement action(s)
 - The value of the cooperation to the Commission's broader law enforcement interests
 - The culpability of the company or individual and other relevant factors
 - Uncooperative conduct that offsets or limits credit that the company or individual would otherwise receive

Cooperation (cont...)

- The Division does not consider mere compliance with the law to be cooperation
- The Division looks for more than “ordinary” cooperation
- Potential rewards for cooperation include
 - No recommendation for an enforcement action
 - A recommendation for reduced charges
 - A recommendation for reduced sanctions
- Assessment of cooperation is a discretionary function of the Director and staff
 - Cooperation is assessed on a case-by-case basis

Conclusion

Thank you for your attention.

Please use the “question” function on your webinar control panel to ask a question to the moderator or speakers.



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