R–5119 Socorro, NM [New]

Boundaries. Beginning at lat. 33°59′56″ N., long. 106°43′29″ W.; to lat. 33°59′51″ N., long. 106°56′27″ W.; to lat. 34°08′16″ N., long. 107°05′17″ W.; to lat. 34°00′28″ N., long. 107°12′04″ W.; to lat. 33°46′04″ N., long. 107°02′38″ W.; to lat. 33°26′49″ N., long. 107°02′25″ W.; to lat. 33°26′49″ N., long. 107°00′00″ W.; to lat. 33°32′44″ N., long. 106°58′47″ W.; to lat. 33°54′10″ N., long. 106°46′24″ W.; to lat. 33°57′16″ N., long. 106°43′58″ W.; to the point of beginning.

Designated altitudes. FL 350 to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

R–5121 Ft. Wingate, NM [New]

Boundaries. Beginning at lat. 35°25′51″ N., long. 108°30′09″ W.; to lat. 35°21′22″ N., long. 108°25′59″ W.; to lat. 35°19′18″ N., long. 108°28′10″ W.; to lat. 35°17′48″ N., long. 108°31′41″ W.; to lat. 35°21′27″ N., long. 108°36′58″ W.; to the point of beginning.

Designated altitudes. FL 200 to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

R–5123 Magdalena, NM [New]

Boundaries. Beginning at lat. 34°22′30″ N., long. 107°57′00″ W.; to lat. 34°25′00″ N., long. 107°49′00″ W.; to lat. 34°24′45″ N., long. 107°37′00″ W.; to lat. 34°18′00″ N., long. 107°30′00″ W.; to lat. 34°15′08″ N., long. 107°37′00″ W.; to lat. 34°19′00″ N., long. 107°40′00″ W.; to lat. 34°15′08″ N., long. 107°45′20″ W.; to lat. 34°14′52″ N., long. 107°44′40″ W.; to lat. 34°13′00″ N., long. 107°48′00″ W.; to the point of beginning.

Designated altitudes. Surface to unlimited.

Time of designation. Intermittent by NOTAM 24 hours in advance.

Controlling agency. FAA, Albuquerque ARTCC.

Using agency. Commanding General, White Sands Missile Range, NM.

* * * * *

Issued in Washington, DC, on April 14, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–10010 Filed 4–20–00; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AB51

Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is amending Regulation 1.17, which governs the minimum financial requirements imposed upon futures commission merchants (''FCMs'') and introducing brokers (''IBs''). The amendments will ease the restrictions imposed upon the withdrawal of equity capital from an FCM. The amendments also increase the percentage deduction (*i.e.,* ''haircut'') applied to the value of equity securities pledged as collateral for secured demand notes that are included in the adjusted net capital of an FCM or IB and delete a reference to a section of the Securities and Exchange Commission's (''SEC'') capital rule that has been repealed.

EFFECTIVE DATE: May 22, 2000.

FOR FURTHER INFORMATION CONTACT: Henry J. Matecki, Financial Audit and Review Branch, Commodity Futures Trading Commission, 300 S. Riverside Plaza, Room 1600–N, Chicago, IL 60606; telephone (312) 886–3217; electronic mail *hmatecki@cftc.gov:* or Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581; telephone (202) 418–5495; electronic mail *tsmith@cftc.gov.*

SUPPLEMENTARY INFORMATION

I. Background

On February 10, 2000, the Commission published in the **Federal Register** [1] for public comment proposed amendments to Regulation 1.17, which governs the minimum financial requirements imposed upon FCMs and IBs (the ''Proposal'').[2] The Proposal was to: (1) Ease the restrictions imposed upon the withdrawal of equity capital from an FCM; (2) increase the percentage deduction (*i.e.,* ''haircut'') applied to the value of equity securities pledged as collateral for secured demand notes that are included in the adjusted net capital of an FCM or IB; and (3) delete a reference to a section of the SEC's capital rules that has been repealed. The comment period expired on March 13, 2000. No comments were received.

After considering the issues, the Commission has determined to adopt the amendments as proposed. A discussion of the final rule amendments is provided below.

II. Rule Amendments

A. Restriction on the Withdrawal of Equity Capital From an FCM

Commission Regulation 1.17(e) prohibits the withdrawal of equity capital from an FCM [3] to redeem or to repurchase shares of stock of the FCM, to pay dividends, or to make an unsecured advance or loan to a stockholder, partner, sole proprietor or employee of the FCM if, after giving effect to the withdrawal and to certain other specified withdrawals and payments, the FCM's adjusted net capital would be less than the greatest of:

(1) $300,000 (120 percent of the $250,000 minimum adjusted net capital requirement);

(2) Seven percent of the customer funds required to be segregated or set aside pursuant to the Commodity Exchange Act (''Act'') and Commission regulations, [4] (hereinafter collectively referred to as the ''customer segregated and secured amount'');

(3) 120 percent of the amount of adjusted net capital required by a registered futures association of which the FCM is a member; or

(4) For an FCM that is also a securities broker or dealer registered with the SEC, the amount of net capital specified in SEC Rule 15c3–1(e).[5]

[1] 65 FR 6569 (February 10, 2000).

[2] Commission rules cited herein can be found at 17 CFR Ch. I (1999).

[3] The prohibition against withdrawal of equity capital set forth in Regulation 1.17(e) applies to both FCMs and IBs. The restriction requires consideration of both the minimum dollar amount of net capital required for both types of registrants ($250,000 for FCMs and $30,000 for IBs) and, just for FCMs, the amount of funds required to be segregated and set aside for FCMs' customers. For purposes of this final rulemaking, only the restriction on FCMs need be addressed since the amendments relate only to the percentage applied to the amount of funds required to be segregated and set aside for customers.

[4] Before applying the percentage capital factor, the amount required to be segregated or set aside is reduced by the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid: provided, however, that the option premium deduction for each customer is limited to the amount of customer funds and the foreign futures and foreign options secured amounts in such customer's account(s).

[5] SEC rules cited herein can be found at 17 CFR Part 240 (1999).

The Commission is amending the restriction in (2) above to permit the withdrawal of equity capital from an FCM provided that, after giving effect to the withdrawal, the FCM's adjusted net capital is in excess of six percent of the customer segregated and secured amount. The Commission believes that easing this restriction is appropriate in light of other provisions of the Commission's regulations that provide adequate assurances against the excessive withdrawal of equity capital.

Generally, FCMs that carry customer positions are required to maintain minimum adjusted net capital of at least four percent of the customer segregated and secured amount.[6] FCMs that are members of self-regulatory organizations (''SROs''—that is, commodity exchanges and NFA) also must comply with the minimum net capital requirements of those exchanges, which are required to be at least as stringent as the Commission's.[7]

An FCM that fails to comply with the minimum net capital requirement must transfer all customer accounts and immediately cease doing business as an FCM.[8] Therefore, each FCM must ensure that a capital withdrawal does not cause the FCM's adjusted net capital to fall below four percent of the customer segregated and secured amount.

In addition, as stated in the Proposal, the Commission's ''early warning'' notice and financial reporting requirements deter excessive equity withdrawals. Regulation 1.12(b)(2) requires an FCM to notify in writing the Commission and its designated self-regulatory organization (''DSRO'') if its adjusted net capital does not equal or exceed six percent of the customer segregated and secured amount. The early warning notices must be filed within five business days of the FCM's adjusted net capital falling below the early warning level. Moreover, Regulation 1.12(g)(2) requires an FCM to give the Commission written notice at least two business days prior to a planned withdrawal of equity capital if such withdrawal would reduce excess net capital by 30 percent or more from that most recently reported in a financial report filed with the Commission.

An FCM that hits the early warning trigger is also required to file a financial report on Form 1–FR–FCM with the Commission and its DSRO as of the close of the month during which its adjusted net capital does not exceed the early warning level and for each month thereafter until three successive months have elapsed during which its adjusted net capital is at all times equal to or in excess of the early warning level.[9] The early warning notices bring to the Commission's and DSRO's attention firms that should be subjected to closer monitoring because of their minimal regulatory capital.

Furthermore, the Commission's ''debt-equity ratio'' requirement also provides a limit on the amount of capital that may be withdrawn from an FCM. Regulation 1.17(d) prohibits the withdrawal of capital from an FCM if, after giving effect to the withdrawal, the FCM's equity capital would be less than 30 percent of its debt-equity total.[10] Finally, as noted in the Proposal, setting the capital withdrawal limit at the Commission's early warning level is consistent with the capital withdrawal rules adopted by the SEC for securities brokers or dealers that compute their minimum net capital requirement in accordance with the ''alternative'' method.[11]

B. Equity Securities Pledged as Collateral for Secured Demand Notes

The Commission is amending Regulation 1.17(h)(1)(iii) to increase from 15 percent to 30 percent the haircut that is applied to equity securities collateralizing secured demand notes that are included in an FCM's or IB's adjusted net capital computation. The amendment will provide greater uniformity between the Commission's and SEC's capital rules.

As stated in the Proposal, SEC capital rules currently require brokers and dealers to apply a 30 percent haircut to equity securities collateralizing secured demand notes included in the brokers' or dealers' adjusted net capital.[12] Uniform capital rules reduce the regulatory burden imposed upon dually-registered FCMs (*i.e.,* FCMs that are also SEC registered securities brokers or dealers) by more readily permitting such FCMs to comply with both the Commission's and SEC's capital rules.

Furthermore, as more fully discussed in the Proposal, the Commission's capital rules incorporate by reference the securities haircuts set forth in the SEC's capital rules. In 1992, the SEC adopted several amendments to its capital rules. One of the amendments had the unintended consequence of reducing from 30 percent to 15 percent the haircut that an FCM was required to apply to equity securities collateralizing a secured demand note.[13] Brokers and dealers, however, were still required to apply a 30 percent haircut to such equity securities. The amendments would restore the haircut to the 30 percent level.

C. Technical Amendment

The Commission is amending Regulation 1.17(c)(5)(v) to delete a reference to SEC Rule 15c3–1(f) which has been repealed.[14] The technical amendment has no impact on the Commission's capital rule and will not affect FCMs or IBs.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein would affect FCMs and IBs. The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.

With respect to IBs, the Commission stated that it is appropriate to evaluate within the context of a particular rule whether some or all IBs should be

[6] Regulation 1.17(a)(1)(i). FCMs that are also registered with the SEC as securities brokers or dealers are required to comply with the Commission's minimum adjusted net capital requirement or the minimum adjusted net capital requirement established by SEC Rule 15c3–1(e), whichever is greater.

[7] Regulations 1.17(a)(2)(i) and 1.52.

[8] Regulation 1.17(a)(4).

[9] Regulation 1.12(b)(4).

[10] Equity capital is defined by Regulation 1.17(d)(1) to include certain loans subject to qualifying satisfactory subordination agreements and the following: (1) In the case of a corporation, the sum of its par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized profit and loss, and other capital accounts;

(2) In the case of a partnership, the sum of its capital accounts of partners (inclusive of such partners' commodity interest and securities accounts subject to the provisions of Rule 1.17(e) concerning restrictions on withdrawals of equity capital), and unrealized profit and loss; and

(3) In the case of a sole proprietorship, the sum of its capital accounts and unrealized profit and loss.

''Debt-equity total'' is defined by Regulation 1.17(d)(2) and encompasses equity capital as defined above plus loans subject to satisfactory subordination agreements that do not qualify as equity capital under Regulation 1.17(d)(1).

[11] *See* SEC Rule 15c3–1(a)(1)(ii).

[12] *See* Rule 15c3–1d(a)(2)(iii).

[13] *See* 57FR 56984 (December 2, 1992).

[14] *See* 57 FR 56973 (December 2, 1992).

considered to be small entities and, if so, to analyze the economic impact on such entities at that time. The technical amendment to Regulation 1.17(c)(5)(v) and the amendment to Regulation 1.17(e) easing the restriction on the withdrawal of equity capital from an FCM do not impose additional requirements on an IB. The amendment to Regulation 1.17(h)(1)(iii) increasing the haircut on equity securities submitted as collateral for a secured demand note may have a minimal economic impact on an IB's financial operations. The amendment, however, conforms the Commission's rules to those of the SEC and restores the haircut to its previous level prior to the SEC amendment of its capital rules in December 1992. Furthermore, no comments were received in response to the Commission's specific request for comments on the impact these rules, as proposed, would have on small entities. Thus, on behalf of the Commission, the Chairman certifies that the rule amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, requires federal agencies (including the Commission) to review rules and rule amendments to evaluate the information collection burden that they impose on the public. The Commission believes that paragraphs (c)(5)(v), (e)(1)(ii), and (h)(1)(iii) of Rule 1.17, as amended, do not impose an information collection burden on the public.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4f, 4g and 8a (5) thereof, 7 U.S.C. 6d, 6g and 12a(5), the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations 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, 2a, 4, 4a, 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.

2. Section 1.17 is amended by revising paragraphs (c)(5)(v), (e)(1)(ii), and (h)(1)(iii) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(c) * * *

(5) * * *

(v) In the case of securities and obligations used by the applicant or registrant in computing net capital, and in the case of a futures commission merchant with securities in segregation pursuant to section 4d(2) of the Act and the regulations in this chapter which were not deposited by customers, the percentages specified in Rule 240.15c3–1(c)(2)(vi) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vi)) (''securities haircuts'') and 100 percent of the value of ''nonmarketable securities'' as specified in Rule 240.15c3–1(c)(2)(vii) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(2)(vii));

* * * * *

(e)* * *

(1)* * *

(ii) For a futures commission merchant or applicant therefor, 6 percent of the following amount: The customer funds required to be segregated pursuant to the Act and the regulations in this part and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid: Provided, however, That the deduction for each customer shall be limited to the amount of customer funds in such customer's account(s) and foreign futures and foreign options secured amounts;

* * * * *

(h)* * *

(1)* * *

(iii) The term ''collateral value'' of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the percentage deductions specified in Rule 240.15c3–1d(a)(2)(iii) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(a)(2)(iii)).

* * * * *

Issued in Washington D.C. on April 12, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–9647 Filed 4–20–00; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 98F–0675]

Indirect Food Additives: Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyethylenepolyamines as cross-linking agents for epoxy resins in coatings intended for use in contact with food. This action responds to a petition filed by the Dow Chemical Co.

DATES: This rule is effective April 21, 2000; submit written objections and requests for a hearing by May 22, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 24, 1998 (63 FR 45073), FDA announced that a food additive petition (FAP 8B4606) had been filed by The Dow Chemical Co., 2030 Dow Center, Midland, MI 48674. The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of polyethylenepolyamines (PEPA's) as cross-linking agents for epoxy resins in coatings intended for use in contact with food.

In its evaluation of the safety of PEPA's, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although PEPA's have not been shown to cause cancer, they could contain minute amounts of unreacted starting material, ethylene dichloride (1,2-dichloroethane), a carcinogenic impurity. However, FDA concludes that 1, 2-dichloroethane is not likely to be present in the final food contact material in an amount that could present a safety concern for the