

turn around time for the Form 102 and the accuracy of the information that can be supplied in such a short time frame. Currently a Form 102 is due at the same time a special account is reportable for the first time. This is generally the business day following the trade date the account first exceeds reporting levels.<sup>23</sup> Since much of the required information comes from the sales force, delays in obtaining the information are not uncommon. Currently in such instances, Commission staff will accept a filing providing at least the identity and location of the account owner and/or controller within the first 24 hours with a completed Form 102 filed as soon as possible thereafter. This is the least amount of information deemed necessary in order to assign a CFTC trader number to the account. Some exchanges also require that minimal identifying information be provided immediately allowing some longer period for firms to complete and return the Form 102.

In order to obtain more accurate information, the Commission is proposing that Rule 17.02 be amended to require that firms need only supply on an immediate basis the information in items 1(a), 1(b), or 1(c) and the name and location of the trader who will be identified in 1(d).<sup>24</sup> Receipt of a fully completed and accurate Form 102 will be required within 3 business days of the date the special account is first reported.<sup>25</sup>

<sup>23</sup> 17 CFR 17.02 (1994).

<sup>24</sup> Similarly, the Commission is proposing that updates to the Form 102 be filed within three business days of the subject changes. The Commission is also proposing to amend Rule 17.02 to require that hardcopy reports be filed with the Commission by facsimile rather than mail. Currently, all such reports are filed by facsimile. If facsimile reporting represents a problem for some firms, the rule provides that the Commission's designee may specify an alternate means of reporting.

<sup>25</sup> Other suggestions put forth by the FIA and methods suggested by Commission staff for addressing these concerns are as follows:

(1) More space should be provided on the form to alleviate the need for continuation sheets. Since the form will be printed on both sides of a single page, additional space is not available;

(2) Question 5 concerning contract markets used for hedging should contain check boxes with possible choices of specific futures and option markets. Currently, there are over 40 markets which could be considered highly active. It would be difficult and probably of little help to list only a few markets; and

(3) Customers should either complete or sign the form since the filing of a false or fraudulent report may be a basis for administrative action. The Commission currently receives a Form 40 from customers. Generally, a Form 40 requires the reporting of more complete information. However, it is not as timely in its filing as the Form 102. The Commission believes that obtaining information from both sources on the Forms 102 and 40, respectively, is the best method for assuring both

## Exchange Initiatives

Staff of the Chicago Mercantile Exchange ("CME") have provided the Commission with proposed record layouts for the electronic transmission of information on the Form 102. CME staff have inquired about the feasibility of firms electronically transmitting Form 102 information to the exchange and the exchange then providing the Commission with the information. The CME indicates that they have had preliminary talks concerning this matter with a number of firms, bookkeeping services,<sup>26</sup> and staff of the Chicago Board of Trade. In the meetings concerns were raised about the Commission's role in this process.

Apparently there is concern whether the Commission would be able to receive transmissions in the prescribed format, whether multiple transmissions to the exchanges and the Commission would be necessary and whether the Commission might begin its own development effort. Commission staff are currently reviewing the proposed format and have scheduled further discussions with exchange staff. In the interim, the Commission invites all interested persons to submit comments concerning the CME's suggestion to electronically transmit Form 102 data. The Commission is especially interested in the feasibility of such a proposal, whether and to what extent data required on the new Form 102 is currently in machine readable form, potential costs and benefits to firms if the information is transmitted electronically, and any alternate means through which the firms believe they can reduce the cost of filing Form 102 information.

## Other Related Matters

### *The Regulatory Flexibility Act (RFA)*

The RFA requires that agencies consider the impact of substantive rules on small businesses. These amendments affect large traders, FCMs, commodity pools, CTAs and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" in evaluating the impact of its rule in accordance with the RFA, 47 FR 18618-18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and FCMs

timely and complete information necessary for market surveillance.

The Commission requests further comment on the feasibility of these suggestions and alternative methods of addressing these concerns.

<sup>26</sup> Bookkeeping services provide software and/or hardware for firms' operational staff. These services would be responsible for developing software to transmit Form 102 information.

are not considered to be small entities for purposes of the RFA. In this regard, the proposed amendments to reporting requirements relating to the Form 102 fall mainly upon FCMs. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable positions, i.e., large positions. Thus, pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that these proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission however, invites comments from any firm which believes that these rules would have a significant economic impact upon its operation.

### *Paperwork Reduction Act ("PRA")*

The PRA of 1980, 44 U.S.C. 3501 et. seq., imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted these rules and their associated information collection requirements to the Office of Management and Budget.

The burden associated with the entire collection, including this rule, is as follows:

Average Burden Hours Per Response—  
.1587 hour  
Number of Respondents—3709  
Frequency of Response—Daily

The burden associated with this specific proposed rule, is as follows:  
Average Burden Hours Per Response—  
0.2 hour  
Number of Respondents—6,592  
Frequency of Response—On occasion

Persons wishing to comment on the information which would be required by this proposed rule should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW, Washington, DC 20581, (202) 254-9735.

## List of Subjects in

### *17 CFR Part 17*

Brokers, Commodity Futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1989), the Commission proposes to amend Chapter I of title 17