

registration.²⁴ However, NFA should arrange with providers to accomplish this task by the most efficient means for all concerned.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein will affect only those ethics training providers that are not SROs or entities accredited to conduct continuing education programs by a state professional licensing authority in the fields of law, finance, accounting or economics. The Commission believes that the impact of these rule amendments on other providers of ethics training or persons seeking to become providers of ethics training should be minimal. The procedure for becoming an ethics training provider will be simplified. The restrictions upon permissible representations by ethics training providers concerning their status as such essentially codify conditions already imposed by the Commission to date in granting applications of individual ethics training providers. Finally, since ethics training providers are already required to maintain records of attendees, furnishing such information to NFA upon request should not be unduly burdensome. Therefore, these rules will not have significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 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 previously submitted this rule and its associated information collection requirements to the Office of Management and Budget. While the amendments adopted herein have no burden, Rule 3.34 is a part of a group of rules which has the following burden:

Rules 3.16, 3.32 and 3.34 (3038–0023, approved June 2, 1993):

Average Burden Hours Per Response—1.13
Number of Respondents—60,980
Frequency of Response—On Occasion and Triennially

Persons wishing to comment on the information which will be required by these rules as amended should contact Jeff Hill, Office of Management and Budget, room 3228, NEOB, Washington, D.C. 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 1155 21st St. N.W., Washington, D.C. 20581, (202) 418–5170.

List of Subjects in 17 CFR Part 3

Registration, Ethics training

Accordingly, the Commission, pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 1a, 4d, 4e, 4g, 4m, 4p, 8a and 17 thereof (7 U.S.C. 1a, 6d, 6e, 6g, 6m, 6p, 12a and 21 (1994)), hereby amends Part 3 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. The authority citation for Part 3 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21 and 23; 5 U.S.C. 552, 552b.

2. Section 3.34 is amended by revising paragraphs (b)(3) and (b)(4) and by adding paragraph (b)(5) to read as follows:

§ 3.34 Mandatory ethics training for registrants.

* * * * *

(b) * * *

(3) The training required by this section must be provided by or pursuant to a program of training (including videotape or electronic presentation) sponsored by:

- (i) A self-regulatory organization;
- (ii) An entity accredited to conduct continuing education programs by a state professional licensing authority in the fields of law, finance, accounting or economics; or,
- (iii) A person included on a list maintained by a registered futures association who has filed a notice with the registered futures association certifying that:

(A) Such person, any principals thereof (as defined in § 3.1(a)) and any individuals, on behalf of such person, who present ethics training or who prepare an ethics training videotape or electronic presentation are not subject to:

- (1) Statutory disqualification from registration under Sections 8a(2) or (3) of the Act;
- (2) A bar from service on self-regulatory organization governing

boards or committees based on disciplinary histories pursuant to § 1.63 of this chapter or any self-regulatory organization rule adopted thereunder; or

(3) A pending adjudicatory proceeding under Sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act, or §§ 3.55, 3.56 or 3.60; and

(B) If the person will conduct training via videotape or electronic presentation, either exclusively or in addition to in-person training, he will maintain documentation reasonably designed to verify the attendance of registrants at such videotape or electronic presentation for the minimum time required.

(iv) The certification required by paragraph (b)(3)(iii) of this section is continuous and if circumstances change which result in the certification becoming inaccurate, the person must promptly so inform the registered futures association. Upon notice of such inaccuracy, the registered futures association shall refuse to include such person on or remove such person from the list referred to in paragraph (b)(3)(iii) of this section.

(v) The registered futures association shall develop and submit to the Commission in accordance with Section 17(j) of the Act rules to provide reasonable procedures for making determinations not to include or to remove persons from the list referred to in paragraph (b)(3)(iii) of this section. Such rules shall permit a hearing before the registered futures association with an opportunity for appeal to the Commission. Such appeal shall consist solely of consideration of the record before the registered futures association and the opportunity for the presentation of supporting reasons to affirm, modify, or set aside the decision of the registered futures association.

(4) Any person providing ethics training under this section must maintain records of the materials used in such training, and of the attendees at such training, documentation to verify completion by a registrant of training through videotape or electronic presentation and evaluations of trainers in accordance with § 1.31 of this chapter. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice and persons providing ethics training shall be subject to audit by any representative of the Commission. Records of attendees at such training shall be provided upon request to a registered futures association in such format as specified by the registered futures association.

(5) No person referred to in paragraph (b)(3) of this section may represent or

²⁴ Ethics training may be taken up to six months prior to the date of application for registration. See 58 FR 19575, 19585.