

## PART 13

### COMMODITY BROKER-DEALERS, SALESPERSONS AND INVESTMENT ADVISORS

(Statutory authority: General Business Law, art. 23-A)

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#### Section 13.1 Definitions.

- a) For purposes of these regulations the term "commodity" shall not include stamps or numismatic coins whose fair market value is at least 20% higher than the value of the metal they contain where such numismatic coins or stamps are sold by any person or firm whose income from the sale of such numismatic coins or stamps derives substantially from retail sales in face-to-face transactions with purchasers in retail stores.
- b) The term "substantially" shall mean seventy-five percent or more of such income.
- c) The term "person" shall mean an individual, firm, company, partnership, corporation, trust or association.

#### Section 13.2 Registration of Commodity Broker-Dealers, Salespersons Investment Advisors.

a) In compliance with subdivision 14 of Section 359-e of the General Business Law, all commodity broker-dealers shall file Form CBD with the Office of the Attorney General. All commodity salespersons shall file Form CM-2 with the Office of the Attorney General. All commodity investment advisors shall file Form CADV with the Office of the Attorney General. Any person who manages or supervises any such commodity broker-dealer, salesperson or investment advisor shall supply the information set forth and required on forms CBD and CADV. All officers, directors, principals, partners, managers, supervisors and 10% or more equity holders of commodity broker-dealers and commodity investment advisors shall file Form CI-1 with the Office of the Attorney General. Each of the above forms shall be subscribed and sworn to by the signer thereof and notarized.

#### Section 13.3 Supplemental Commodity Statement.

a) In compliance with paragraph 14(e) of Section 359-e of the General Business Law, every commodity broker-dealer who shall have filed a Commodity Broker-Dealer Statement (Form CBD) with the Office of the Attorney General, and every commodity investment advisor who shall have filed a Commodity Investment Advisor Statement (Form CADV) with the Office of the Attorney General, shall file a Supplemental Commodity Statement (Form CM-3) whenever the information contained in the original filing becomes inaccurate or incomplete in any material respect, including, but not limited to, the following:

- (1) Name.** Any change in the name of the registrant. However, in the event the registrant incorporates, an entirely new registration statement must be filed.
- (2) Address.** Any change of business address or address of each new branch office.
- (3) Management.** Any change in the officers, directors, partners, 10 % or more equity holders or other principals of the registrant or any person who manages or supervises the commodity broker-dealer, commodity investment advisor or the commodity salespersons, giving the name and address of each such person involved in the change.
- (4) Salespersons.** Any change in commodity salespersons of a registered commodity broker-dealer, giving name and date of termination of any salespersons leaving the registrant's employ and the reasons therefor, and the name and commencement date of any salespersons brought into the employ of the registrant.
- (5) Injunctions and other proceedings.** Any change in disciplinary history, including, but not limited to, each occasion when the registrant or any officer, director, partner, principal, managing person or supervisor, 10 % or more equity holder or salesperson thereof becomes the subject of any criminal action, or is convicted of any misdemeanor or felony, or is the subject of any pending civil action commenced by a government agency relating to the offer or sale of securities or commodities, or is the subject of any injunction or cease and desist order relating to the offer or sale of securities or commodities.
- (6) Termination of business activity.**

#### **Section 13.4 Supplemental Commodity Salesperson's Statement.**

**(a)** In compliance with paragraph 14(e) of section 359-e of the General Business Law, every commodity salesperson who shall have filed a Commodity Salesperson's Statement (Form CM-2) with the Office of the Attorney General, shall file a Supplemental Commodity Salesperson's Statement (Form CM-4) whenever the information contained in the original filing becomes inaccurate or incomplete in any material respect, including, but not limited to the following:

- (1) Name.** Any change in the name of the registrant.
- (2) Address.** Any change of residence address of the registrant.
- (3) Termination of Employment.** Any termination of employment as a commodity salesperson, giving the date of termination and reason therefor.
- (4) Change of Employment.** Any new employment as a commodity salesperson, giving the name and address of the new firm and the date of commencement of employment as a salesperson.
- (5) Injunctions and other proceedings.** Any change in disciplinary history, including, but not limited to, each occasion when the registrant becomes the subject of any criminal action, or is convicted of any misdemeanor or felony, or is the subject of any pending civil action commenced by a government agency relating to the offer or sale of securities or commodities, or is the subject of any injunction or cease and desist order relating to the offer or sale of securities or commodities.

#### **Section 13.5 Filing Fees.**

The annual filing fee for each commodity broker-dealer and commodity investment advisor registration statement is \$100. The annual filing fee for each commodity salesperson registration statement is \$25. The filing fee for each supplemental statement is \$10. Checks should be made payable to the New York State Office of the Attorney General. Personal checks or cash will not be accepted. Attorney's checks, bank checks, certified checks or money orders only will be accepted.

#### **Section 13.6 Time and Place for Filing.**

- a)** Form CBD, Form CADV and Form CM-2 must be filed with the Department of Law prior to engaging in any activity covered by the registration.
- b)** The information required by Sections 13.3 and 13.4 shall be filed no later than 30 days after the change in circumstances has occurred. Any changes which occur within 30 days of each other may

be reported by filing one appropriate form with the applicable fee.

c) Whenever in these regulations there is a reference to submission or filing with the Office of the Attorney General this shall mean the New York State Office of the Attorney General, Bureau of Investor Protection and Securities, 120 Broadway, New York, New York 10271.

**Section 13.7 Duration of Registration.**

a) Registration is for a period of one year from date of filing.

b) A registration renewal is executed on Form CBD, Form CM-2 or Form CADV in the same manner as the original registration. Such application should contain complete answers to all questions and not merely statements that there are no changes since the last registration.

c) A registered commodity broker-dealer or commodity investment advisor may terminate its registration by filing form CM-3.

**Section 13.8 Fee Receipt.**

A receipt for the filing fee will be sent as an acknowledgement of filing.

**Section 13.9 Effective Date.**

These regulations shall become effective October 29, 1984.

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