

accomplished on all affected airplanes. Operators must continue to operate the airplane in the configuration required by this proposed AD unless an alternative method of compliance is approved.

#### Costs of Compliance

This proposed AD would affect about 51 airplanes of U.S. registry. The proposed actions would take about 34 work hours per airplane, at an average labor rate of \$65 per work hour. Required parts would cost about \$356 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is \$130,866 or \$2,566 per airplane.

#### Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**Airbus:** Docket No. FAA-2004-19560; Directorate Identifier 2004-NM-121-AD.

#### Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by December 9, 2004.

#### Affected ADs

- (b) None.

#### Applicability

(c) This AD applies to all Airbus Model A310-203, -204, -221, -222, -304, -322, -324, and -325 series airplanes, certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by the manufacturer's analysis for compliance with Special Federal Aviation Regulation No. 88, which has shown that wiring 2M of the 115V anti-collision white strobe lights and wiring 2S of the fuel quantity indication system (FQIS) should be rerouted into separate conduits. We are issuing this AD to prevent chafing damage to wiring 2M and 2S, which could result in a short circuit and consequently introduce an electrical current into the wiring of the FQIS and create an ignition source in the fuel tank.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Modification

(f) Within 72 months after the effective date of this AD, modify the routing of electrical harness 636VB in the right-hand wing by accomplishing all of the actions in the Accomplishment Instructions of Airbus Service Bulletin A310-28-2140, Revision 04, dated March 31, 2004.

#### Credit for Previously Accomplished Service Bulletins

(g) Modification of the routing of electrical harness 636VB accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A310-28-2140, Revision 02, dated May 24, 2002; or Revision 03, dated November 21, 2002; is acceptable for compliance with the requirements of paragraph (f) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(h) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Related Information

(i) French airworthiness directive F-2004-005, dated January 7, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on November 1, 2004.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-24938 Filed 11-8-04; 8:45 am]

**BILLING CODE 4910-13-U**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 1

### RIN 3038-AC16

### Distribution of "Risk Disclosure Statement" by Futures Commission Merchants and Introducing Brokers

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend Rule 1.55 to provide that non-institutional customers may indicate with a single signature, in addition to the acknowledgment of receipt of various disclosures and the making of certain elections, the consent referenced in Rules 155.3(b)(2) and 155.4(b)(2) concerning customer permission for futures commission merchants ("FCMs") and introducing brokers ("IBs") to take the opposite side of an order.

**DATES:** Comments must be received by December 9, 2004.

**ADDRESSES:** You may submit comments, identified by RIN 3038-AC16, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [secretary@cftc.gov](mailto:secretary@cftc.gov). Include "Proposed Amendments to Rule 1.55" in the subject line of the message.
- Fax: (202) 418-5521.
- Mail: Send to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington DC 20581.

• Courier: See above.  
*Instructions:* All comments received will be posted without change to <http://www.cftc.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Deputy Director, or Susan A. Elliott, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC

20581. Telephone: (202) 418-5439 or (202) 418-5464, or electronic mail: [lp@patent@cftc.gov](mailto:lp@patent@cftc.gov) or [selliott@cftc.gov](mailto:selliott@cftc.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

The Commission is proposing to amend Rule 1.55 to provide that the single signature by which non-institutional customers acknowledge receipt of basic risk disclosures of futures and option trading, and elect how hedging positions shall be handled in the event of a commodity broker bankruptcy, may also reflect the consent referenced in Rules 155.3(b)(2) and 155.4(b)(2) concerning customer permission for FCMs and IBs to take the opposite side of an order. The Commission adopted a similar rule amendment in November 2000,<sup>1</sup> but withdrew it the following month upon passage of the Commodity Futures Modernization Act of 2000.<sup>2</sup> Most of the rules adopted and withdrawn in 2000 were re-proposed and re-adopted in 2001,<sup>3</sup> but this one was not. Recently, Commission staff received an inquiry about this issue and the Commission has determined to repropose the rule amendment.

The Commission first adopted the so-called single signature acknowledgment format in 1993.<sup>4</sup> It had proposed that use of the single signature format be limited to certain sophisticated customers.<sup>5</sup> However, the Commission stated in the final rule that three of four commenters noted "that since when an account is opened customers generally receive and must acknowledge all prescribed disclosures at the same time, it is reasonable to permit the customer to acknowledge all such statements by means of a single signature. Such commenters contended that separate signatures do not convey the required disclosures more clearly and compellingly."<sup>6</sup> In that rule, the Commission extended the single signature acknowledgment format to all customers, but excluded the acknowledgments required by Rules 155.3(d) and 155.4(d) on the grounds that a separate signature would reflect more "meaningful confirmation of the customer's review of the relevant disclosures."<sup>7</sup>

In 2000, the Commission adopted rule amendments that included the Rule

155.3(d) and 155.4(d) acknowledgments, and all other acknowledgments,<sup>8</sup> within the single signature acknowledgment format, concluding that the requirement of multiple signatures, which may or may not reflect enhanced review of the documents, is not practical in light of the need to further streamline the account opening process. The Commission noted: "All of the commenters who addressed the proposed amendments to Rule 1.55(d) responded favorably to the expansion of disclosures and consents that could be acknowledged and made by a single signature, and the Commission is adopting the amendments as proposed. \* \* \* The Commission agrees that the FCM may open the customer account simultaneously with receiving the acknowledgment of receipt and understanding of the risk disclosure statement, along with margin funds and any other required account opening documents, from the customer. However, the FCM will remain responsible for ensuring that the risk disclosure document is furnished to the customer in such a way that the customer can review and understand the document before committing funds to the FCM."<sup>9</sup>

### II. Proposed Rule Amendment

Rule 1.55 ensures the important customer protection of requiring intermediaries to disclose the basic risks of futures and options trading to their non-institutional customers. Over the years, it has been recognized that the relative sophistication of the customer should determine the degree of disclosure obligation, with non-institutional and retail (and presumably less sophisticated) customers the beneficiaries of the most detailed disclosure.

One aspect of risk disclosure is intended to ensure that the customer understands and consents to the trading practices of FCMs and IBs that are permitted by Commission regulations. Rules 155.3(b)(2) and 155.4(b)(2) permit FCMs and IBs, respectively, to take the other side of any order of a customer, subject to contract market rules, if that customer has given prior consent. These rules implement the specific provisions of Section 4b(a)(2)(C)(iv) of the Act that prohibit knowingly taking, directly or

indirectly, the other side of a customer order without the customer's consent.

The Commission recognizes the important customer protection interests served by Section 4b(a)(2)(C)(iv) of the Act and Rules 155.3(b)(2) and 155.4(b)(2) to address the inherent conflict of interest that arises when an FCM or IB is the opposite party to a transaction with its own customer. The Commission also recognizes that simplifying and streamlining the account opening process, which was begun in 1993 as described above, is also an important goal in today's financial markets. The Commission believes that the content of disclosure and that the manner of acknowledging receipt of such disclosure by non-institutional customers is appropriate to the single signature acknowledgment format. The Commission further believes that, as it determined in 2000, the acknowledgements required by Rules 155.3(b) and 155.4(b) may appropriately be included within the single signature.

### 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 Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.<sup>10</sup> The Commission previously has determined that, based upon the fiduciary nature of the FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entities. With respect to IBs, the CFTC has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all of the affected entities should be considered small entities and, if so, to analyze the economic impact on them of any rule.<sup>11</sup> In this regard, the rule being proposed would not require any IB to change its current method of doing business, and in fact eases a regulatory burden by permitting a single signature of the customer to represent an additional consent required by Commission regulations. Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that this proposed regulation will not have a significant

<sup>1</sup> 65 FR 77993 at 78013 (December 13, 2000).

<sup>2</sup> 65 FR 82272.

<sup>3</sup> 66 FR 45221 at 45226 (August 28, 2001) (proposed rules) and 66 FR 53510 at 53513 (October 23, 2001) (final rules).

<sup>4</sup> 58 FR 17495, 17498 (April 5, 1993).

<sup>5</sup> See 57 FR 34853 (August 7, 1992).

<sup>6</sup> 58 FR at 17498.

<sup>7</sup> Id. at 17498-99 & nn. 17-18.

<sup>8</sup> This included the amendment of Rule 1.55(d)(1) and (2) to permit within the "single signature" format the consents: (2) to allow electronic transmission of statements under new rule 1.33(g), and (2) to transfer funds out of segregated accounts to another account (such as a money market account).

<sup>9</sup> 65 FR at 77993 (December 13, 2000).

<sup>10</sup> 47 FR 18618-18621 (April 30, 1982).

<sup>11</sup> Id.

economic impact on a substantial number of small entities.

### B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995<sup>12</sup> imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act ("PRA"). The amendment to Rule 1.55(d) that is the subject of this proposed rulemaking does not alter the paperwork burden associated with the OMB Collection of Information submission, OMB Control Number 3038-0022, Rules Pertaining to Contract Markets and Their Members, where the Commission most recently described the paperwork burden associated with the 2001 rulemaking amendments.<sup>13</sup> Thus, there is no need for an additional submission pursuant to the PRA.

### List of Subjects in 17 CFR Part 1

Brokers, Commodity Futures, Consumer protection, Disclosure, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4b, 4c(b), and 8a(5) thereof, 7 U.S.C. 6b, 6c(b), and 12a(5) (2000), and pursuant to the authority contained in 5 U.S.C. 552 and 552b (2003), the Commission hereby proposes to amend 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, 4, 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, as amended by the Commodity Futures Modernization Act of 2000, appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

2. Section 1.55 is proposed to be amended by revising paragraph (d)(1) to read as follows:

#### § 1.55 Distribution of "Risk Disclosure Statement" by futures commission merchants and introducing brokers.

\* \* \* \* \*

(d) \* \* \*

(1) Prior to the opening of such account, the futures commission merchant or introducing broker obtains

an acknowledgment from the customer, which may consist of a single signature at the end of the futures commission merchant's or introducing broker's customer account agreement, or on a separate page, of the disclosure statements, consents and elections specified in this section and § 1.33(g), and in § 33.7, § 155.3(b)(2), § 155.4(b)(2), and § 190.06 of this chapter, and which may include authorization for the transfer of funds from a segregated customer account to another account of such customer, as listed directly above the signature line, provided the customer has acknowledged by check or other indication next to a description of each specified disclosure statement, consent or election that the customer has received and understood such disclosure statement or made such consent or election; and

\* \* \* \* \*

Dated: November 4, 2004.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04-24949 Filed 11-8-04; 8:45 am]

BILLING CODE 6351-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD08-04-040]

RIN 1625-AA09

#### Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the regulation governing the Clinton Railroad Drawbridge, Mile 518.0, Upper Mississippi River, at Clinton, Iowa. The drawbridge would open on signal if at least 24 hours advance notice is given from 7:30 a.m., on December 15, 2004, until 7:30 a.m. on March 1, 2005. This proposed rule would allow time for making upgrades to critical mechanical components and perform scheduled annual maintenance and repairs.

**DATES:** Comments and related material must reach the Coast Guard on or before December 9, 2004.

**ADDRESSES:** You may mail comments and related material to Commander, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832. Commander (obr)

maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 2.107f in the Robert A. Young Federal Building, Eighth Coast Guard District, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Bridge Administrator, (314) 539-3900, extension 2378.

### SUPPLEMENTARY INFORMATION:

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08-04-040), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Eighth Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

On September 7, 2004, the Union Pacific Railroad Company requested a temporary change to the operation of the Clinton Railroad Drawbridge across the Upper Mississippi River, Mile 518.0 at Clinton, Iowa to open on signal if at least 24 hours advance notice is given to facilitate critical bridge repair and annual maintenance. Advance notice may be given by calling the Clinton Yardmaster's office at (563) 244-3204 at any time; or (563) 244-3269 weekdays between 7 a.m. and 3:30 p.m.; or Mr. Tomaz Gawronski, office (515) 263-4536 or cell phone (515) 229-2993.

<sup>12</sup> Pub. L. 104-13 (May 13, 1995).

<sup>13</sup> See 66 FR 45221, 45228 (August 28, 2001).