



OMB NO. 3038-0009

## CFTC FORM 40

### STATEMENT OF REPORTING TRADER

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Agency Clearance Officer, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, NW, Washington, DC 20581; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

#### PRIVACY ACT NOTICE

The Privacy Act of 1974 says that each Federal Agency that asks you for information must tell you the following:

1. Its legal right to ask for the information and whether the law says you must give it.
2. What purpose the agency has in asking for it, and the use to which it will be put.
3. What could happen if you do not give it.

For the large trader reporting system of the Commodity Futures Trading Commission, the law covers the following:

1. The CFTC form 40.
2. The series '04 reports.
3. Any questions concerning records of your cash, futures, and option positions which you are required to maintain by the regulations under the Commodity Exchange Act.

Our legal right to ask for information from traders with large futures or option market positions is granted in sections 4i and 8 of the Commodity Exchange Act (7 U.S.C. 6i and 12). Disclosure of the information called for is mandatory and failure to comply may result in the imposition of criminal or administrative sanctions (see *e.g.*, 7 U.S.C. 9, 213a-1, 13(c)).

The information requested is used generally in the Commission's market surveillance activities to provide information concerning the size and composition of the commodity futures or option markets, and to permit the Commission to monitor and enforce the speculative position limits that have been established. The complete listing of routine uses, in accordance with the Privacy Act, 5 U.S.C. §522a, and the Commission's rules thereunder, 17 CFR Part 146, of the information contained in these records is found in the Commission's annual notice of its system of records.

Data from the forms may be used by the Commission in the conduct of investigations or litigation and, in limited circumstances, may be made public in accordance with provisions of the Commodity Exchange Act. It may also be disclosed to other government agencies and to contract markets to meet their responsibilities assigned to them by law.

## GENERAL INSTRUCTIONS

**Who Must File a Form 40** – Every person who holds or controls a reportable position must file a CFTC Form 40, Statement of Reporting Trader. (See section 18.04 of the regulations under the Commodity Exchange Act.)

**Persons** include individuals, associations, partnerships, corporations, and trusts.

**What to File** – All traders required to file must complete Part A. In addition:

1. Traders who are individuals, partnerships, or joint tenants must also complete Part B.
2. All other traders must complete Part C.
3. All traders commercially engaged in the marketing of cash commodities or in business activities that they hedge by using futures or option markets must also complete Schedule 1.

**When to File** – A reportable trader must file a Form 40 on call by the Commission or its designee.

**Where to File** – This statement is to be submitted to the nearest CFTC office or as otherwise instructed.

**Signature** – Your signature is required as the last item on Part A.

## COMPLETING PART A

All reportable traders are required to complete Part A and all questions must be answered. If the trader filing the Form 40 is an independent account controller and is not employed by, in partnership with, or similarly affiliated with the trader in whose name futures or option trading is done, the controller is the reporting trader and should answer all questions with respect to himself, not with respect to the person whose trading is controlled.

1. **Name and address of the trader.** If futures or option trading is done in the name of a firm, list the firm's name as the reporting trader. If the futures or option trading is done in the name of an individual, list the reporting trader's last name, first name, and middle initial.
2. **Principal business and occupation of the reporting trader.** Show the principal business or occupation of reporting trader. In addition, for question 2b, check at least one and/or as many categories as are applicable.
3. **Type of trader.** Indicate type with respect to the reporting trader. If individual, joint tenant, or partnership is indicated, complete Part B in addition to Part A. If corporation, association, or trust, etc., is indicated, complete Part C in addition to Part A.
4. **Is the reporting trader registered under the Commodity Exchange Act?** Answer "yes" only if the registration is currently in effect. Note: If the registration status changes during the next twelve months, the reporting trader is not required to file an updated Form 40.
5. **Does the reporting trader control the futures or option trading for any other persons?** Traders control the futures or option trading of other persons if, by power of attorney or otherwise, they actually direct trading in futures or option accounts of other persons. Persons who control all or a portion of the assets of commodity pools must give the names and addresses of each commodity pool operator and for each commodity pool operator the names of the pools for which trading is controlled. For managed or guided account customer programs in which 10 or more persons participate, give the name of the program indicating that it is a customer trading program and give the name and address of the person sponsoring the program.
6. **Does any other person control the trading of the reporting trader?** Do not include brokers unless, by power of attorney or otherwise, the broker actually directs the trading. Persons who are commodity pool operators, or participate in the management of commodity pools by selecting an advisor to trade the assets of the pools, give the names of each pool for which assets are

managed, indicate whether you are a commodity pool operator for the pool, and, for each pool, give the names, addresses and business phones of those controlling the trading of the assets of the pool.

7. **Give names and locations of all firms through which the reporting trader now carries accounts.** In addition, provide the name of the account executive at each office of the firms at which the futures or option trading accounts are carried. (Note: If the information in answer to this question changes, an updated statement is not required.)
8. **Do any other persons guarantee the futures or option trading accounts of the reporting trader or have a financial interest of 10 percent or more in the reporting trader or the futures or option accounts of the reporting trader?** If "yes," list the names and locations of such persons and show whether they guarantee the accounts by checking "G," or have a financial interest in the accounts of the reporting trader by checking "F."
9. **Does the reporting trader guarantee or have a financial interest of 10 percent or more in futures or option accounts not in the trader's name or have a financial interest of 10 percent or more in another futures or option trader?** If "yes," give (1) the names of the accounts that the reporting trader guarantees or in which the reporting trader has a financial interest (including interest as a limited partner), the names of the principal owners of such accounts, and the names and the locations of the brokerage firms through which such accounts are carried; and/or (2) the names of the futures or option traders in which the reporting trader has a financial interest. In addition, show whether the reporting trader guarantees (G) or has a financial interest (F) in the traders or accounts listed.
10. **Does the reporting trader represent a foreign government?** If the reporting trader is a representative or instrumentality of a foreign government, specify the relationship according to those shown on the form. On a continuation sheet, briefly elaborate on the type of relationship, and indicate any manner in which the futures or option trading is restricted or otherwise controlled.

## **COMPLETING PART B**

*To be Completed by Individuals, Joint Tenants, and Partnerships*

1. Give the **telephone number** at which the reporting trader can be contacted during normal business hours.
2. **Employer and job title.** This question should be answered only if type of trader (Part A, question 3) has been checked "individual."
3. **Is the reporting trader commercially engaged in business activities hedged by use of the futures or option markets?** This would include production, merchandising, or processing of a cash commodity, asset/liability risk management by depository institution, security portfolio risk management, etc. If "yes," complete schedule 1 listing the futures or option contract used, the cash commodity(ies) hedged, or the risk exposure covered, and the marketing occupations associated with hedging uses. (*For a definition of hedging, see the instructions for completing Schedule 1.*)
4. **Does the reporting trader participate in the management of any organization that holds another futures or option trading account?** If the reporting trader is an officer, partner, or holds a position of similar responsibility, answer "yes."
5. **For partnerships and joint tenants.** For partnerships, list the name and address of each partner, excluding limited partners in commodity pools. (Limited partners with 10 percent or more financial interest should be reported under Part A, question 9.) For joint tenants, list each tenant. In both instances, indicate which person ordinarily places orders.

## COMPLETING PART C

*To be Completed by Traders Who Checked Corporation, Association, Trust, or "Other" Type of Trader in Part A*

1. **For corporations, associations, and trusts.** In answering item "b" of this question, a company is considered to be your parent if it has more than 50 percent financial interest in your firm. List all parent companies. For example, a company that is a wholly owned subsidiary of a wholly owned subsidiary would have two parent companies.
2. **Is the reporting trader commercially engaged in business activities hedged by use of the futures or option markets?** This would include production, merchandising, or processing of a cash commodity, asset/liability risk management by depository institution, security portfolio risk management, etc. If "yes," complete schedule 1 listing the futures or option contract used, the cash commodity(ies) hedged or the risk exposure covered, and the market occupations associated with hedging uses. *(For a definition of hedging, see the instruction for completing schedule 1.)*
3. **Person(s) to contact regarding a firm's futures or option trading.** If the person to contact regarding the firm's futures or option trading is different than the person controlling such trading, give name, office address, and business telephone number under question 3b. If same, please indicate.

## COMPLETING SCHEDULE 1

*To be Completed Only by Traders Who Checked "Yes" to Question 3 of Part B or Question 2 of Part C*

**General Definition.** Bona fide hedging transactions and positions mean transactions and positions in a contract for future delivery on any contract market, or in a commodity option, where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

1. The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;
2. The potential change in the value of liabilities which a person owns or anticipates incurring; or
3. The potential change in the value of services which a person provides, purchases, or anticipates providing or purchasing.

If the reporting trader's use of the futures or option markets conforms to this general definition, complete schedule 1 using a continuation sheet if necessary. The schedule is comprised of three parts based on the type of futures or option market used for hedging: financial futures and options including currencies; agricultural and natural resources futures and options, excluding livestock and meats; and, livestock and meats futures and options. For each of the three types of futures and option markets that you use for hedging, first list or check-off all merchandising or marketing activities associated with your hedging. Next, list the futures and option markets you use and the cash market instruments, commodities, or risk exposure that you hedge. If the marketing activities listed on the schedule do not adequately describe activities associated with your hedging, check "other" and attach a short narrative comment. Please contact any CFTC office if you have questions.

**Complete and return this statement promptly. Print or type. ALL TRADERS MUST COMPLETE PART A**

**PART A**

1. Name of reporting trader (if individual – last, first, middle initial). \_\_\_\_\_

\_\_\_\_\_ Street Address

\_\_\_\_\_ City/State/Country/Zip/Postal Code

2. a. Principal business and occupation of the reporting trader (be specific). \_\_\_\_\_

Does the reporting trader's business include the trading of futures or options for customers?  YES  NO

b. Is the reporting trader's futures or option trading for, on behalf of, or in association with, any of the following: (Check at least one and as many more as are applicable.)

- (1)  A customer trading program of an FCM?
- (2)  A commodity pool?
- (3)  Speculative activity (i.e., futures or option transactions that do not constitute hedging)?
- (4)  Commercial use by self or employer?
- (5)  Other (specify). \_\_\_\_\_

3. Type of trader (check only one):

- a.  Individual
  - b.  Joint tenant
  - c.  Partnership
  - d.  Corporation
  - e.  Association
  - f.  Trust
  - g.  Other (specify) \_\_\_\_\_
- } In addition to Part A, complete Part B
- } In addition to Part A, complete Part C

4. Is the reporting trader registered under the Commodity Exchange Act as:

- |                                    | YES                      | NO                       |
|------------------------------------|--------------------------|--------------------------|
| a. A futures commission merchant?  | <input type="checkbox"/> | <input type="checkbox"/> |
| b. An introducing broker?          | <input type="checkbox"/> | <input type="checkbox"/> |
| c. An associated person of an FCM? | <input type="checkbox"/> | <input type="checkbox"/> |
| d. A commodity trading advisor?    | <input type="checkbox"/> | <input type="checkbox"/> |
| e. A commodity pool operator?      | <input type="checkbox"/> | <input type="checkbox"/> |
| f. A floor broker?                 | <input type="checkbox"/> | <input type="checkbox"/> |
| g. A floor trader?                 | <input type="checkbox"/> | <input type="checkbox"/> |

5. Does the reporting trader control the futures or option trading of any other persons? Persons include individuals, associations, partnerships, corporations, and trusts.  YES  NO

If "YES," give names and addresses of such persons. See the instructions for reporting commodity pools and managed or guided account customer trading programs. (Use a continuation sheet if necessary.)

\_\_\_\_\_ Name \_\_\_\_\_ Street Address

\_\_\_\_\_ City/State/Country/Zip/Postal Code

\_\_\_\_\_ Name \_\_\_\_\_ Street Address

\_\_\_\_\_ City/State/Country/Zip/Postal Code

\_\_\_\_\_ Name \_\_\_\_\_ Street Address

\_\_\_\_\_ City/State/Country/Zip/Postal Code

6. Do any other persons control the trading of the reporting trader? *(Do not include brokers who merely execute orders.)*  
 If "YES," give names, addresses, and business telephone numbers of such persons. See the instructions for reporting trading advisors that trade the assets of commodity pools. *(Use a continuation sheet, if necessary.)*

YES  NO

Name	Street Address
Business Phone	City/State/Country/Zip/Postal Code
Name	Street Address
Business Phone	City/State/Country/Zip/Postal Code

7. Give names and locations of all firms through which the reporting trader now carries accounts and the name of the account executive at each firm. If U.S. location, give city and state; if foreign country, give city and country. *(Use a continuation sheet, if necessary.)*

Firm	City/State/Country
Account Executive	

8. Do any other persons guarantee the futures or option trading accounts of the reporting trader or have a financial interest of 10 percent or more in the reporting trader or in the futures or option accounts of the reporting trader?  YES  NO  
 If "YES," give names and locations (city and state) of such persons. Indicate whether they guarantee (G) or have a financial interest (F) in the reporting trader or the accounts. *(Use a continuation sheet if necessary.)*

Name	Location	<input type="checkbox"/> (F)	<input type="checkbox"/> (G)
Name	Location	<input type="checkbox"/> (F)	<input type="checkbox"/> (G)

9. Does the reporting trader guarantee or have a financial interest of 10 percent or more in futures or option accounts not in the trader's name or have a financial interest of 10 percent or more in another futures or option trader (including interest as a limited partner)?  YES  NO

If "YES," give (a) the names of such accounts that the reporting trader guarantees or in which the reporting trader has a financial interest, the names of the principal owners of such accounts, and the names and the locations of the brokerage firms through which such accounts are carried; and/or (b) the names of the futures or option traders in which the reporting trader has a financial interest. In addition, show whether the reporting trader guarantees (G) or has a financial interest (F) in the traders or accounts listed.

(1) _____ <input type="checkbox"/> (F) <input type="checkbox"/> (G)	(2) _____
Account or Trader Name	Principal Owner(s) of the Account
(3) _____	(4) _____
Brokerage Firm Carrying the Account	Brokerage Firm Location

10. Does the reporting trader represent a foreign government, act as an agent of a foreign government, receive financing from a foreign government either through ownership of capital assets or provision of operation expenses, or is the reporting trader an entity specially acknowledged by a statute or regulation of a foreign jurisdiction?  YES  NO

If "YES," give the name of the country that the trader represents and complete items a through e below.

Name of Country \_\_\_\_\_

- a. Does the reporting trader act as an agent of the government?  YES  NO  
 b. Is the reporting trader acknowledged by a statute or regulation of a foreign jurisdiction?  YES  NO  
 c. Does the government directly or indirectly control the trading?  YES  NO  
 d. Does the government finance the reporting trader, either through capital ownership of assets or by providing operating expenses?  YES  NO  
 e. Use a continuation sheet to briefly describe the nature of the relationship(s) with foreign governments indicated in items a-d above, or any other manner in which the reporting trader represents a foreign government.

This statement should be signed by the reporting trader personally.  
 If the reporting trader is in the name of an organization, a partner, officer, or trustee should sign this form.  
 Name and title should be printed or typed on the lines above signature and date.

Name (print or type)	Title
Signature	Date

**PART B**

For Individual, Joint Tenant or Partnership Accounts  
If INDIVIDUAL, JOINT TENANT, or PARTNERSHIP is Checked as Type of Trader in Part A, Item 3,  
Complete This Part B

Name of Reporting Trader (as shown in Part A) \_\_\_\_\_

1. Business Telephone Number of Reporting Trader. \_\_\_\_\_

2. Answer a and b only if type has been checked "Individual."

a. Name of Employer \_\_\_\_\_

b. Job Title \_\_\_\_\_

3. Is the reporting trader engaged in business activities hedged by use of the futures or option markets? This would include production, merchandising or processing of a cash commodity, asset/liability risk management, security portfolio risk management, etc.  YES  NO

If "YES," complete **Schedule 1** listing the futures or option contract used, the cash commodity(ies) hedged or the risk exposure covered, and the marketing occupations associated with hedging uses. (For a definition of hedging, see the instructions for completing Schedule 1.)

4. Does the reporting trader participate in the management of any organization that holds another futures or option trading account?  YES  NO

If "YES," give names and addresses of organizations and check type. (Use a continuation sheet, if necessary.)

_____	<input type="checkbox"/> Corporation
Name of Organization	<input type="checkbox"/> Partnership
_____	<input type="checkbox"/> Trust
Street Address	<input type="checkbox"/> Other (specify) _____
_____	
City/State/Country/Zip/Postal Code	

5. For partnerships and joint tenants: List name and address of each partner and/or joint tenant, excluding limited partners in commodity pools. (Limited partners with 10 percent or more financial interest should be reported under question 8 of Part A.) Indicate by an asterisk which person ordinarily places orders. (Not required if the reporting trader is a futures commission merchant registered under the Commodity Exchange Act.) (Use a continuation sheet, if necessary.)

_____	_____
Name	Street Address
_____	_____
	City/State/Country/Zip/PostalCode
_____	_____
Name	Street Address
_____	_____
	City/State/Country/Zip/PostalCode
_____	_____
Name	Street Address
_____	_____
	City/State/Country/Zip/PostalCode

**PART C**

For Corporations, Associations, Trusts, or "Other" Types of Traders Only  
 If CORPORATION, ASSOCIATION, TRUST, or "OTHER" is Checked as Type of Trader in Part A, Item 3,  
 Complete this Part C

Name of Reporting Trader (as shown in Part A) \_\_\_\_\_

1. For firms such as corporations, associations, trusts:

a. Is this firm organized under the laws of any state or other jurisdiction in the United States?  YES  NO  
 If "NO," give the name of the country under whose jurisdiction the reporting trader is organized: \_\_\_\_\_

b. List the names and locations of all parent companies. Indicate whether or not the parents are organized or incorporated under the laws of any state or other jurisdiction in the United States by checking "YES" or "NO." If the reporting trader has no parent organization check "NONE."  NONE

_____	_____	YES	NO
Name	Location	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	YES	NO
Name	Location	<input type="checkbox"/>	<input type="checkbox"/>

c. Give names and locations of all subsidiaries, if any, that trade in commodity futures or options. Indicate whether or not each company is organized or incorporated under the laws of any state or other jurisdiction in the United States by checking "YES" or "NO." If no subsidiaries, check "NONE."  NONE

_____	_____	YES	NO
Name	Location	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	YES	NO
Name	Location	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	YES	NO
Name	Location	<input type="checkbox"/>	<input type="checkbox"/>

2. Is the reporting trader engaged in business activities hedged by use of the futures or option markets?  YES  NO  
 This would include production, merchandising or processing of a cash commodity, asset/liability risk management, security portfolio risk management, etc.

If "YES," complete **Schedule 1** listing the futures or option contract used, the cash commodity(ies) hedged or the risk exposure covered, and the marketing occupations associated with hedging uses. (For a definition of hedging, see the instructions for completing Schedule 1.)

3. a. Give name, office address, and business telephone number of person(s) controlling the futures or option trading of the reporting trader. If different persons are responsible for different commodities, use a continuation sheet to list the information below for each controller, and indicate the commodities for which they are responsible.

_____	_____
Name	Street Address
_____	_____
Business Telephone Number	City/State/Country/Zip/Postal Code

b. Give name, office address, and business telephone number of person to contact regarding the futures or option trading of the reporting trader.

_____	_____
Name	Street Address
_____	_____
Business Telephone Number	City/State/Country/Zip/Postal Code



**SCHEDULE 1:** To be completed only by traders who checked "Yes" to question 3 of Part B or question 2 of Part C. (1) Complete each section that pertains to the types of futures/options in which you hedge or cover a risk exposure. (2) List or check your merchandising or marketing activity(ies). (3) List all futures/options markets used. (4) List all cash commodities hedged or risk exposure covered. [Use a continuation sheet if necessary.]

<b>FINANCIAL FUTURES/OPTIONS</b> <i>(e.g., Bonds, Notes, Bills, Eurodollars, Stock Indices &amp; Foreign Currencies)</i> (Check <u>each</u> activity that you hedge with futures/options)	List Futures or Option Markets Used. List Cash Markets Hedged or Risk Exposure Covered.	
	FUTURES/OPTION MARKETS USED	CASH MARKETS HEDGED
<input type="checkbox"/> ARBITRAGEUR, BROKER/DEALER, MARKET MAKER (A) <input type="checkbox"/> U.S. COMMERCIAL BANK (C) <input type="checkbox"/> CORPORATE TREASURY (T) <input type="checkbox"/> NON-U.S. COMMERCIAL BANK (B) <input type="checkbox"/> PENSION FUND (F) <input type="checkbox"/> SWAPS/DERIVATIVES DEALER (S) <input type="checkbox"/> INSURANCE COMPANY (G) <input type="checkbox"/> MORTGAGE ORIGINATOR (M) <input type="checkbox"/> HEDGE FUNDS (H) <input type="checkbox"/> COLLEGE ENDOWMENT, TRUST, FOUNDATION (D) <input type="checkbox"/> MUTUAL FUND (E) <input type="checkbox"/> MANAGED ACCOUNTS AND COMMODITY POOLS (P) <input type="checkbox"/> OTHER (O): Specify _____ (e.g., central bank, savings & loan)		
<b>AGRICULTURAL AND NATURAL RESOURCE FUTURES/OPTIONS</b> (Other Than Livestock/Meat) (Check <u>each</u> commercial activity that you hedge with futures/options)	FUTURES/OPTION MARKETS USED	CASH MARKETS HEDGED
<input type="checkbox"/> PRODUCER (P): Specify _____ (e.g., farmer, miner)		
<input type="checkbox"/> MANUFACTURER (M): Specify _____ (e.g., refiner, miller, crusher, fabricator, sawmill, coffee roaster, cocoa grinder)		
<input type="checkbox"/> DEALER/MERCHANT (D): Specify _____ (e.g., wholesaler, exporter/importer, shipper, grain elevator operator, crude oil marketer)		
<input type="checkbox"/> SWAPS/DERIVATIVES DEALER (S)		
<input type="checkbox"/> OTHER (O): Specify _____ (e.g., end user, restaurant chain)		
<b>LIVESTOCK/MEAT FUTURES/OPTIONS</b> (Check <u>each</u> commercial activity that you hedge with futures/options)	FUTURES/OPTION MARKETS USED	CASH MARKETS HEDGED
<input type="checkbox"/> LIVESTOCK FEEDER (F): Specify _____ (e.g., cattle feeder, hog feeder, poultry feeder)		
<input type="checkbox"/> LIVESTOCK SLAUGHTERER (S): Specify _____		
<input type="checkbox"/> OTHER (O): Specify _____ (e.g., cow/calf operator, meat processor, bacon slicer, warehouseman, restaurant chain, swaps/derivatives dealer)		