

## § 171.1

## 17 CFR Ch. I (4-1-01 Edition)

- 171.42 Notice of a final decision of the National Futures Association in a member responsibility action.
- 171.43 Petition for a stay of the effective date of a final decision of the National Futures Association in a member responsibility action.
- 171.44 Notice of appeal.
- 171.45 General procedures.
- 171.46 Standards of review.

### Subpart E—Delegation of Functions

- 171.50 Delegation to the General Counsel.

AUTHORITY: 7 U.S.C. 4a, 12a and 21, unless otherwise noted.

SOURCE: 55 FR 41068, Oct. 9, 1990, unless otherwise noted.

### Subpart A—General Provisions

#### § 171.1 Scope of rules.

(a) *Matters included.* Unless specifically excluded by subsection (b), this part governs review by the Commission, pursuant to sections 17(h), (i) and (o) of the Commodity Exchange Act (“Act”), as amended, of any disciplinary action, membership denial action, registration action or member responsibility action taken by the National Futures Association or any registered futures association. Unless specifically indicated, references in this part to the National Futures Association shall also include any other registered futures association.

(b) *Matters excluded.* The Commission will not review under these rules the following decisions by the National Futures Association:

(1) A decision in a disciplinary action if the party aggrieved by the decision knowingly failed to pursue the right to appeal an adverse decision to the Appeals Committee of the National Futures Association and there are no extraordinary circumstances that otherwise warrant Commission consideration of the aggrieved party’s appeal;

(2) A decision in an arbitration action brought pursuant to section 17(b)(10) of the Act or any rule of the National Futures Association;

(3) Suspension of a member based solely on that member’s failure to pay National Futures Association dues;

(4) A decision to disqualify any member for service on the National Futures Association Board of Directors, Busi-

ness Conduct Committees or arbitration panels pursuant to the standards for service adopted by the National Futures Association to implement Commission rule 1.63.

(c) *Appeals from excluded decisions.* If the Deputy General Counsel for Opinions or his delegee determines that a notice of appeal submitted to the Commission is from a decision that is excluded from review under this part, he may strike it and order it returned to the aggrieved party who submitted it.

(d) *Applicability of these part 171 rules.* Unless otherwise ordered, these rules will apply in their entirety to all appeals and matters relating thereto filed on or after October 31, 1990. Any part 171 proceeding commenced prior to October 31, 1990 continues to be governed by the procedures established in former subpart F of part 3 of the Commission’s regulations, if applicable, or by the procedures established for that proceeding by Commission order. Parties to any proceeding pending on October 31, 1990 may, within 30 days after October 31, 1990 by written stipulation executed by all parties, and filed with the Proceedings Clerk before the Commission’s final decision is rendered, elect to have the matter governed by the provisions of these part 171 rules.

#### § 171.2 Definitions.

For purposes of this part:

(a) *Commission decisional employee* includes any member of the Commission staff who participates in, or may be reasonably expected to participate in, the decisionmaking process in any proceeding under this part. It does not include Commissioners or members of their personal staff.

(b) *Disciplinary action* includes any proceeding brought by the National Futures Association to enforce its rules that may result in expulsion, suspension, censure, bar from association with a member, fine in excess of \$100 or any comparable sanction being imposed on a member or a person associated with a member.

(c) *Ex parte communication* shall include any communication, whether written or oral, which is both (1) not preceded by reasonable notice to all parties to a proceeding, and (2) not made on the public record. It shall not