

## Commodity Futures Trading Commission

## § 180.5

CONDUCTED BY A SELF-REGULATORY OR OTHER PRIVATE ORGANIZATION.

THE CFTC RECOGNIZES THAT THE OPPORTUNITY TO SETTLE DISPUTES BY ARBITRATION MAY IN SOME CASES PROVIDE MANY BENEFITS TO CUSTOMERS, INCLUDING THE ABILITY TO OBTAIN AN EXPEDITIOUS AND FINAL RESOLUTION OF DISPUTES WITHOUT INCURRING SUBSTANTIAL COSTS. THE CFTC REQUIRES, HOWEVER, THAT EACH CUSTOMER INDIVIDUALLY EXAMINE THE RELATIVE MERITS OF ARBITRATION AND THAT YOUR CONSENT TO THIS ARBITRATION AGREEMENT BE VOLUNTARY.

BY SIGNING THIS AGREEMENT, YOU: (1) MAY BE WAIVING YOUR RIGHT TO SUE IN A COURT OF LAW; AND (2) ARE AGREEING TO BE BOUND BY ARBITRATION OF ANY CLAIMS OR COUNTERCLAIMS WHICH YOU OR [NAME] MAY SUBMIT TO ARBITRATION UNDER THIS AGREEMENT. YOU ARE NOT, HOWEVER, WAIVING YOUR RIGHT TO ELECT INSTEAD TO PETITION THE CFTC TO INSTITUTE REPARATIONS PROCEEDINGS UNDER SECTION 14 OF THE COMMODITY EXCHANGE ACT WITH RESPECT TO ANY DISPUTE WHICH MAY BE ARBITRATED PURSUANT TO THIS AGREEMENT. IN THE EVENT A DISPUTE ARISES, YOU WILL BE NOTIFIED IF [NAME] INTENDS TO SUBMIT THE DISPUTE TO ARBITRATION. IF YOU BELIEVE A VIOLATION OF THE COMMODITY EXCHANGE ACT IS INVOLVED AND IF YOU PREFER TO REQUEST A SECTION 14 "REPARATIONS" PROCEEDING BEFORE THE CFTC, YOU WILL HAVE 45 DAYS FROM THE DATE OF SUCH NOTICE IN WHICH TO MAKE THAT ELECTION.

YOU NEED NOT SIGN THIS AGREEMENT TO OPEN AN ACCOUNT WITH [NAME]. SEE 17 CFR 180.1-180.5.

Customer

(7) If the agreement specifies a forum for arbitration other than a contract market or registered futures association, the procedures of such forum must be fair and equitable as defined by §180.2 of this part.

(c) The procedure established by a contract market pursuant to section 5a(a)(11) of the Act or this part may require parties utilizing such procedure to agree, under applicable state law, submission agreement or otherwise, to be bound by an award rendered in the procedure, provided that the agreement to submit the claim or grievance to the procedure was made in accordance with paragraph (b) of this section or that the agreement to submit the claim or grievance was made after the claim or

grievance arose. Any award so rendered shall be enforceable in accordance with applicable law.

(d) The procedure established by a contract market pursuant to the Act or this part shall not establish any unreasonably short limitation period foreclosing submission of customers' claim or grievances or counterclaims (permitted by §180.4 or this part) by contract market members or employees thereof.

(Approved by the Office of Management and Budget under control number 3038-0022)

(7 U.S.C. 7a(11), 12a (Supp. V, 1975); secs. 5(a)(11), 17(b)(10) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7(a)(11), 21(b)(10) and 12a(5))

[41 FR 42946, Sept. 29, 1976, as amended at 42 FR 3433, Jan. 18, 1977; 46 FR 63036, Dec. 30, 1981; 48 FR 22143, May 17, 1983; 48 FR 41153, Sept. 14, 1983; 54 FR 1684, Jan. 17, 1989; 58 FR 17505, Apr. 5, 1993; 59 FR 5529, Feb. 7, 1994; 65 FR 47859, Aug. 4, 2000]

### § 180.4 Counterclaims.

A procedure established by a contract market under the Act for the settlement of customers' claims or grievances against a member or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought. The contract market may permit such a counterclaim where the counterclaim arises out of the transaction or occurrence that is the subject of the customer's claim or grievance and does not require for adjudication the presence of essential witnesses, parties or third persons over whom the contract market does not have jurisdiction. Other counterclaims are permissible only if the customer agrees to the submission after the counterclaim has arisen, and if the aggregate monetary value of the counterclaim is capable of calculation.

(Secs. 5(a)(11), 17(b)(10) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(11), 21(b)(10) and 12a(5))

[48 FR 22143, May 17, 1983]

### § 180.5 Member-to-member settlement procedures.

A contract market may establish a procedure for compulsory settlement of claims and grievances or disputes