

## Commodity Futures Trading Commission

## § 140.735-4

under 18 U.S.C. 208 and 5 CFR part 2635, subpart D, to disqualify themselves from participating in any particular matter in which they, their spouses or minor children have a financial interest.

(e) *Exception applicable to legally separated employees.* This section shall not apply to the financial interests of a legally separated spouse of a Commission member or employee, including transactions for the benefit of a minor child, if the member or employee has no power to control and does not, in fact, advise or control with respect to such transactions. If the member or employee has actual or constructive knowledge of such financial interests held by a legally separated spouse or for the benefit of a minor child, the disqualification provisions of paragraphs (d)(2)(i)-(iii) of this section and 18 U.S.C. 208 are applicable.

(f) *Divestiture.* Based upon a determination of substantial conflict under 5 CFR 2635.403(b) and 18 U.S.C. 208, the Commission, or its designee, may require in writing that a member or employee, or the spouse or minor child or other related member of the immediate household of a member or employee, divest a financial interest that he or she is otherwise authorized to retain under this section.<sup>10</sup>

[67 FR 5940, Feb. 8, 2002, as amended at 67 FR 62353, Oct. 7, 2002]

### § 140.735-3 Non-governmental employment and other outside activity.

A Commission member or employee shall not accept employment or compensation from any person, exchange or clearinghouse subject to regulation by the Commission. For purposes of this section, a person subject to regulation by the Commission includes but is not limited to a contract market or clearinghouse or member thereof, a registered futures commission merchant, any person associated with a futures commission merchant or with any agent of a futures commission merchant, floor broker, commodity

trading advisor, commodity pool operator or any person required to be registered in a fashion similar to any of the above or file reports under the Act or pursuant to any rule or regulation promulgated by the Commission.<sup>8</sup>

[58 FR 52658, Oct. 12, 1993]

### § 140.735-4 Receipt and disposition of foreign gifts and decorations.

(a) For purposes of this section only:

(1) *Commission member* or *employee* means any Commission member or any person employed by or who occupies an office or a position in the Commission; an expert or consultant under contract with the Commission, or in the case of an organization performing services under such contract, any individual involved in the performance of such service; and the spouse, unless the individual and his or her spouse are separated, and any dependent, as defined by section 152 of the Internal Revenue Code of 1954, of any such person.

(2) *Foreign government* means:

(A) Any unit of foreign governmental authority, including any foreign national, state, local, and municipal government;

(B) Any international or multinational organization whose membership is composed of any unit of foreign government described in paragraph (a)(2)(A) of this section; and

(C) Any agent or representative of any such unit or such organization, while acting as such.

(3) *Gift* means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government, except grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

(4) *Decoration* means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

<sup>8</sup>Attention is directed to section 2(a)(7) of the Commodity Exchange Act, which provides, among other things, that no Commission member or employee shall accept employment or compensation from any person, exchange or clearinghouse subject to regulation by the Commission, or participate, directly or indirectly, in any contract market operations or transactions of a character subject to regulation by the Commission.

<sup>10</sup>Any evidence of a violation of 18 U.S.C. 208 must be reported by the General Counsel to the Commission, which may refer the matter to the Criminal Division of the Department of Justice and the United States Attorney in whose venue the violations lie. See 28 U.S.C. 535.