

(1) The profit or loss incurred by the leverage customer on the contract. In the case of a long leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the leverage transaction merchant's bid price at the time of repurchase or liquidation, the total value of the contract based on the ask price at which the contract was entered into, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial, carrying and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, in connection with the leverage contract. In the case of a short leverage contract, profit or loss shall be determined by subtracting, from the total value of the contract based on the bid price at which the contract was entered into, the total value of the contract based on the leverage transaction merchant's ask price at the time of resale or liquidation, minus any amounts paid or owed by the leverage customer to the leverage transaction merchant, including initial and termination charges, plus any amounts paid or credited by the leverage transaction merchant to the leverage customer, including carrying charges, in connection with the leverage contract.

[50 FR 36416, Sept. 6, 1985; 50 FR 37519, Sept. 16, 1985, as amended at 54 FR 41083, Oct. 5, 1989]

§ 31.27 Registered futures association membership.

Each person registered or required to register as a leverage transaction merchant must become and remain a member of at least one futures association which is registered under section 17 of the Act and which provides for the membership therein of such leverage transaction merchant, unless no such futures association is so registered.

[54 FR 41083, Oct. 5, 1989]

§ 31.28 Self-regulatory organization adoption and surveillance of minimum financial, cover, segregation and sales practice requirements.

(a) Each self-regulatory organization must adopt, and submit for Commission approval, rules prescribing min-

imum financial, cover, segregation and sales practice, and related reporting requirements for all its members who are registered leverage transaction merchants. Each self-regulatory organization shall submit for Commission approval any modification or other amendments to such rules. Such requirements must be the same as, or more stringent than, those contained in this part 31 and the definition of adjusted net capital must be the same as that prescribed in § 31.9(b)(4) of this part.

(b) Each self-regulatory organization which has members who are registered leverage transaction merchants shall have in effect and enforce rules submitted to the Commission pursuant to paragraph (a) of this section and approved by the Commission.

(c) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any registered leverage transaction merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this section; and

(2) Receiving the reports necessitated by such minimum financial, cover, segregation and sales practice, and related reporting requirements.

(d) Any plan filed under this section may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(e) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibility to monitor, audit or examine has been delegated to such designated self-regulatory organization under this section.

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(f) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary information.

(g) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part of it:

(1) Is necessary or appropriate to serve the public interest;

(2) Is for the protection and in the interest of leverage customers;

(3) Reduces multiple monitoring and auditing for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements of the self-regulatory organizations submitting the plan for any leverage transaction merchant which is a member of more than one self-regulatory organization;

(4) Reduces multiple reporting of the information necessitated by such minimum financial, cover, segregation and sales practice, and related reporting requirements by any leverage transaction merchant which is a member of more than one self-regulatory organization;

(5) Fosters cooperation and coordination among the self-regulatory organizations; and

(6) Does not hinder the development of a registered futures association under section 17 of the Act.

(h) After the Commission has approved a plan or part of one under paragraph (g) of this section, a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan:

(1) Of the limited nature of its responsibility for such a member's compliance with its minimum financial, cover, segregation and sales practice, and related reporting requirements; and

(2) Of the identity of the designated self-regulatory organization which has been delegated responsibility for such a member.

(i) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part of one established under this section, if such plan or part of one ceases to effectuate ade-

quately the purposes of section 19 of the Act or of this section.

(j) Whenever a registered leverage transaction merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, DC and send a copy of that notification to such leverage transaction merchant.

(k) Nothing in this section shall preclude the Commission from examining any leverage transaction merchant for compliance with the minimum financial, cover, segregation and sales practice, and related reporting requirements to which such leverage transaction merchant is subject.

(l) In the event a plan is not filed and/or approved for each registered leverage transaction merchant which is a member of more than one self-regulatory organization, the Commission may design and, after notice and opportunity for comment, approve a plan for those leverage transaction merchants which are not the subject of an approved plan (under paragraph (g) of this section), delegating to a designated self-regulatory organization the responsibilities described in paragraph (c) of this section.

[54 FR 41083, Oct. 5, 1989]

§ 31.29 Arbitration or other dispute settlement procedures.

Each self-regulatory organization which has members who are registered as leverage transaction merchants must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair, equitable and expeditious procedure, through arbitration or otherwise, for the voluntary settlement of a leverage customer's claim or grievance brought against any member leverage transaction merchant or any employee of a member leverage transaction merchant. Such rules shall be consistent with the rules set forth in part 180 of