

Commodity Futures Trading Commission

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10.114 Acceleration of establishment of restitution procedure.

APPENDIX A TO PART 10—COMMISSION POLICY RELATING TO THE ACCEPTANCE OF SETTLEMENTS IN ADMINISTRATIVE AND CIVIL PROCEEDINGS

AUTHORITY: Pub. L. 93-463, sec. 101(a)(11), 88 Stat. 1391, 7 U.S.C. 4a(j), unless otherwise noted.

SOURCE: 41 FR 2511, Jan. 16, 1976, unless otherwise noted.

Subpart A—General Provisions

§ 10.1 Scope and applicability of rules of practice.

These rules of practice are generally applicable to adjudicatory proceedings before the Commodity Futures Trading Commission under the Commodity Exchange Act. These include proceedings for:

(a) Denial, suspension, revocation, conditioning, restricting or modifying of registration as a futures commission merchant, introducing broker, or associated person, floor broker, floor trader, commodity pool operator, commodity trading advisor or leverage transaction merchant pursuant to sections 6(c), 8a(2), 8a(3), 8a(4) and 8a(11) of the Act, 7 U.S.C. 9 and 15, 12a(2), 12a(3), 12a(4) and 12(a)(11), or denial, suspension, or revocation of designation as a contract market pursuant to sections 6(a) and 6(b) of the Act, 7 U.S.C. 8;

(b) The issuance of cease and desist orders pursuant to sections 6b and 6(d) of the Act, 7 U.S.C. 13a and 13b;

(c) Denial of trading privileges pursuant to section 6(c) of the Act, 7 U.S.C. 9 and 15;

(d) The assessment of civil penalties pursuant to sections 6(c) and 6b of the Act, 7 U.S.C. 9 and 15 and 13a;

(e) The issuance of restitution orders pursuant to section 6(c) of the Act, 7 U.S.C. 9; and

(f) Any other proceedings where the Commission declares them to be applicable.

These rules do not apply to:

(g) Investigations conducted pursuant to sections 8 and 16(a) of the Act, 7 U.S.C. 12 and 20(a), except as specifically made applicable by the Rules Relating to Investigations set forth in part 11 of this chapter;

(h) Reparation proceedings under section 14 of the Act, 7 U.S.C. 18, except as specifically made applicable by the Rules Relating to Reparation Proceedings set forth in part 12 of this chapter;

(i) Public rulemaking, except as specifically made applicable by the Rules Relating to Public Rulemaking Procedures set forth in part 13 of this title. The rules shall be construed to secure the just, speedy and inexpensive determination of every proceeding with full protection for the rights of all parties therein.

[41 FR 2511, Jan. 16, 1976, as amended at 49 FR 8225, Mar. 5, 1984; 57 FR 19597, Apr. 15, 1993; 59 FR 5701, Feb. 8, 1994; 63 FR 55791, Oct. 19, 1998; 64 FR 30903, June 9, 1999]

§ 10.2 Definitions.

For purposes of this part:

(a) *Act* means the Commodity Exchange Act, as amended, 7 U.S.C. 1, *et seq.*;

(b) *Adjudicatory proceeding* means a judicial-type proceeding leading to the formulation of a final order;

(c) *Administrative Law Judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105 (provisions of the rules in this part which refer to Administrative Law Judges may be applicable to other Presiding Officers as well, as set forth in § 10.8);

(d) *Administrative Procedure Act* means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C. 551 through 559;

(e) *Commission* means the Commodity Futures Trading Commission;

(f) *Complaint* means any document initiating an adjudicatory proceeding, whether designated a complaint or an order for proceeding or otherwise;

(g) *Division of Enforcement* means that office in the Commission that prosecutes a complaint issued by the Commission;

(h) *Hearing* means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission;

(i) *Proceedings Clerk* means that member of the Commission's staff designated as such in the Commission's Office of Proceedings.

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(j) *Order* means the whole or any part of a final procedural or substantive disposition of a matter by the Commission or by the Presiding Officer in a matter other than rulemaking;

(k) *Party* includes a person or agency named or admitted as a party to a proceeding;

(l) *Person* includes an individual, partnership, corporation, association, exchange or other entity or organization;

(m) *Pleading* means the complaint, the answer to the complaint, any supplement or amendment thereto, and any reply that may be permitted to any answer, supplement or amendment;

(n) *Presiding Officer* means a member of the Commission, and Administrative Law Judge, or a hearing officer designated by the Commission to conduct a hearing on a specific matter, or the Commission itself, if it is to preside at or accept the introduction of evidence in a particular proceeding (provisions of the rules in this part which refer to Administrative Law Judges may be applicable to other Presiding Officers as well, as set forth in § 10.8);

(o) *Respondent* means a party to an adjudicatory proceeding against whom findings may be made or relief or remedial action may be taken.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54801, Oct. 26, 1995]

§ 10.3 Suspension, amendment, revocation and waiver of rules.

(a) These rules may, from time to time, be suspended, amended or revoked in whole or in part. Notice of such action will be published in the FEDERAL REGISTER.

(b) In the interest of expediting decision or to prevent undue hardship on any party or for other good cause the Commission may order the adoption of expedited procedures and may waive any rule in subparts A through H of this part in a particular case and may order proceedings in accordance with its direction upon a determination that no party will be prejudiced and that the ends of justice will be served. Reasonable notice shall be given to all parties of any action taken pursuant to this provision.

(c) The Presiding Officer, to expedite decision or to prevent undue hardship on any party, may waive any rule in subparts A through G of this part when neither party is prejudiced thereby. Reasonable notice shall be given to all parties of any action taken pursuant to this provision.

(d) Notwithstanding any provision of this part, the Commission may in any proceeding commenced pursuant to section 6(c) of the Act require a respondent to show cause why an order should not be entered against the respondent and may specify a day and place for the hearing not less than three days after service upon the respondent of the Commission's complaint and notice of hearing in such proceeding.

(Secs. 2(a), 6(b) and 8a, 42 Stat. 1001, as amended, 49 Stat. 1498, 1499, as amended 88 Stat.; 49 Stat. 1500, as amended, 88 Stat. 1392; 88 Stat. 1389, 1391; 7 U.S.C. 4a, 9 and 12a)

[41 FR 2511, Jan. 16, 1976, as amended at 44 FR 61327, Oct. 25, 1979; 59 FR 5701, Feb. 8, 1994]

§ 10.4 Business address; hours.

The Office of Proceedings is located at Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. It is open each day, except Saturdays, Sundays and legal public holidays from 8:15 a.m. to 4:45 p.m., eastern standard time or eastern daylight savings time, whichever is currently in effect in Washington, DC. If Commission personnel are present in the offices after 4:45 p.m., they may, at their discretion, accept documents for filing and serve the public in other matters within the scope of this part. Legal holidays include New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other legal holidays recognized by the Federal Government.

[41 FR 2511, Jan. 16, 1976, as amended at 41 FR 28260, July 9, 1976; 60 FR 54801, Oct. 26, 1995]

§ 10.5 Computation of time.

In computing any period of time prescribed by these rules or allowed by the Commission or the Presiding Officer, the day of the act, event, or default from which the designated period of