

## PART 12—RULES RELATING TO REPARATIONS

### Subpart A—General Information and Preliminary Consideration of Pleadings

- Sec.
- 12.1 Scope and applicability of rules of practice relating to reparations.
- 12.2 Definitions.
- 12.3 Business address; hours.
- 12.4 Suspension, amendment, revocation and waiver of rules.
- 12.5 Computation of time.
- 12.6 Extensions of time; adjournments; postponements.
- 12.7 Ex parte communications in reparation proceedings.
- 12.8 Separation of functions.
- 12.9 Practice before the Commission.
- 12.10 Service.
- 12.11 Formalities of filing of documents with the Proceedings Clerk.
- 12.12 Signature.
- 12.13 Complaint; election of procedure.
- 12.14 Withdrawal of complaint.
- 12.15 Notification of complaint.
- 12.16 Response to complaint.
- 12.17 Satisfaction of complaint.
- 12.18 Answer; election of procedure.
- 12.19 Counterclaim.
- 12.20 Response to counterclaim; reply; election of procedure.
- 12.21 Voluntary dismissal.
- 12.22 Default proceedings.
- 12.23 Setting aside of default.
- 12.24 Parallel proceedings.
- 12.25 Filing fees.
- 12.26 Commencement of a reparation proceeding.
- 12.27 Termination of consideration of pleadings.

### Subpart B—Discovery

- 12.30 Methods of discovery.
- 12.31 Production of documents and tangible items.
- 12.32 Depositions on written interrogatories.
- 12.33 Admissions.
- 12.34 Discovery by a decisionmaking official.
- 12.35 Consequences of a party's failure to comply with a discovery order.
- 12.36 Subpoenas to compel discovery.

### Subpart C—Rules Applicable to Voluntary Decisional Proceedings

- 12.100 Scope and applicability of rules.
- 12.101 Functions and responsibilities of the Judgment Officer.
- 12.102 Disqualification of Judgment Officer.
- 12.103 Filing of documents; subscription; service.

- 12.104 Amendments to pleadings; motions.
- 12.105 Submission of proof only in documentary or tangible form.
- 12.106 Final decision and order.

### Subpart D—Rules Applicable to Summary Decisional Proceedings

- 12.200 Scope and applicability of rules.
- 12.201 Functions and responsibilities of the Judgment Officer.
- 12.202 Disqualification of Judgment Officer.
- 12.203 Filing of documents; subscription; service.
- 12.204 Amended and supplemental pleadings.
- 12.205 Motions.
- 12.206 Pre-decision conferences.
- 12.207 Summary disposition.
- 12.208 Submissions of proof.
- 12.209 Oral testimony.
- 12.210 Initial decision.

### Subpart E—Rules Applicable to Formal Decisional Proceedings

- 12.300 Scope and applicability of rules.
- 12.301–12.302 [Reserved]
- 12.303 Pre-decision conferences.
- 12.304 Functions and responsibilities of the Administrative Law Judge.
- 12.305 Disqualification of Administrative Law Judge.
- 12.306 Filing of documents; subscription; service.
- 12.307 Amended and supplemental pleadings.
- 12.308 Motions.
- 12.309 Interlocutory review by the Commission.
- 12.310 Summary disposition.
- 12.311 Disposition of proceeding or issues without oral hearing.
- 12.312 Oral hearing.
- 12.313 Subpoenas for attendance at an oral hearing.
- 12.314 Initial decision.
- 12.315 Consequences of overstating damages claims not in excess of \$30,000.

### Subpart F—Commission Review of Decisions

- 12.400 Scope and applicability of rules.
- 12.401 Appeal to the Commission.
- 12.402 Appeal of disposition of less than all claims or parties in a proceeding.
- 12.403 Commission review on its own motion.
- 12.404 The record of proceedings.
- 12.405 Leave to adduce additional evidence.
- 12.406 Final decision of the Commission.
- 12.407 Satisfaction of reparation award; enforcement; sanctions.
- 12.408 Delegation of authority to the Deputy General Counsel for Opinions.

AUTHORITY: 7 U.S.C. 4a(j), 12(a)(5), and 18.

## § 12.1

## 17 CFR Ch. I (4-1-06 Edition)

SOURCE: 49 FR 6621, Feb. 22, 1984, unless otherwise noted.

### Subpart A—General Information and Preliminary Consideration of Pleadings

#### § 12.1 Scope and applicability of rules of practice relating to reparations.

(a) *Part 12 Reparation Rules.* These rules of practice are applicable to reparation applications filed pursuant to section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. section 18. The rules in this part shall be construed liberally so as to secure the just, speedy and inexpensive determination of the issues presented with full protection for the rights of all parties.

(b) *Other rules of practice.* Unless specifically made applicable, other Rules of Practice promulgated under the Commodity Exchange Act, as amended, shall not apply to reparation matters.

(c) *Applicability of these part 12 Reparation Rules.* These rules shall apply in their entirety to all reparation complaints and matters relating thereto.

[49 FR 6621, Feb. 22, 1984, as amended at 59 FR 9635, Mar. 1, 1994]

#### § 12.2 Definitions.

For purposes of this part:

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

*Administrative Law Judge* means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105;

*Commission* means the Commodity Futures Trading Commission;

*Commission decisional employee* means an employee or employees of the Commission who are or may reasonably be expected to be involved in the decision-making process in any proceeding, including, but not limited to: A Judgment Officer; members of the personal staffs of the Commissioners, but not the Commissioners themselves; members of the staffs of the Administrative Law Judges, but not an Administrative Law Judge; members of the staffs of the Judgment Officers; members of the Office of the General Counsel; members of the staff of the Office of Proceedings; and other Commission em-

ployees who may be assigned to hear or to participate in the decision of a particular matter.

*Complainant* means a person who, individually or jointly with others, has applied to the Commission for a reparation award pursuant to section 14(a) of the Act, but shall not include a cross claimant or any other type of third party claimant. The term “complainant” under these rules applies equally to two or more persons who have applied jointly for a reparation award;

*Complaint* means any document which constitutes an application for a reparation award pursuant to section 14(a) of the Act, regardless of whether it is denominated as such;

*Counterclaim* means an application for a reparation award by a respondent against a complainant which satisfies the requirements of §12.19. A counterclaim does not mean a cross claim or other type of third party claim;

*Director of the Office of Proceedings* means an employee of the Commission who serves as the administrative head of that Office, with responsibility and authority to assure that these part 12 Reparation Rules are administered in a manner which will effectuate the purposes of section 14(b) of the Act. The Director is authorized to convene meetings of all personnel in the Office of Proceedings, including Administrative Law Judges and their personally assigned law clerks. The Director shall have the authority to delegate his duties to administer §§12.15, 12.24, 12.26 and 12.27, and, shall have the authority to assign and, if necessary, reassign the duties of, and set reasonable standards for performance for, all personnel in the Office, including the Judgment Officers, but not including Administrative Law Judges and their personally assigned law clerks;

*Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include:

(1) A discussion, after consent has been obtained from all of the named parties, between a party and a Judgment Officer or Administrative Law Judge, or the staffs of the foregoing, pertaining solely to the possibility of