

## Commodity Futures Trading Commission

## § 12.26

### § 12.25 Filing fees.

(a) *Fees payable upon filing a complaint.* (1) A complainant who, in the complaint, has elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$50.00;

(2) A complainant who, in the complaint wherein the amount of damages claimed does not exceed \$30,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$125.00.

(3) A complainant who, in the complaint wherein the amount of damages claimed exceeds \$30,000, exclusive of interest and costs, has not elected the voluntary decisional procedure shall, at the time of filing the complaint, pay a filing fee of \$250.00.

(b) *Fees payable upon filing an answer.* (1) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the summary decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims does not exceed \$30,000) shall, at the time of filing the answer, pay a filing fee of \$75.00.

(2) If a complainant, in the complaint, has elected the voluntary decisional procedure, a respondent who, in his answer, elects the formal decisional procedure (available only where the amount of damages claimed in the complaint or as counterclaims exceeds \$30,000) shall, at the time of filing the answer, pay a filing fee of \$200.00.

(c) *Fees payable upon filing a reply.* In any case in which a counterclaim has been made, unless a complainant in the complaint, or the respondent in an answer, has elected the summary decisional procedure or the formal decisional procedure a complainant, who in his reply elects either of these procedures, shall, at the time of filing the reply, pay a filing fee of \$75.00 or \$200.00, respectively, depending whether the procedure elected by complainant is pursuant to subparts D or E.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 59 FR 9637, Mar. 1, 1994]

### § 12.26 Commencement of a reparation proceeding.

(a) *Commencement of voluntary decisional proceeding.* Where complainant and respondent in the complaint and answer have elected the voluntary decisional procedure pursuant to subpart C of these rules and the complainant has paid the filing fee required by § 12.25 of these rules, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart C of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B of these rules, within 50 days thereafter. A voluntary decisional proceeding commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgment Officer for a final decision.

(b) *Commencement of summary decisional proceeding.* Where the amount claimed as damages, exclusive of interest and costs, in the complaint or in counterclaim does not exceed \$30,000, and either a complainant or a respondent in the complaint, answer, or reply, has elected the summary decisional procedure pursuant to subpart D of these rules, and has paid the filing fee required by § 12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and all materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart D of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B of these rules, within 50 days thereafter. A summary decisional proceeding commences upon service of

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such notification. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to a Judgment Officer for disposition.

(c) *Commencement of formal decisional proceeding.* Where the amount claimed as damages in the complaint or as counterclaims exceeds \$30,000, exclusive of interest and costs, and either a complainant or a respondent in the complaint, answer or reply, has elected the formal decisional procedure pursuant to subpart E of these rules, and has paid the filing fee required by §12.25, the Director of the Office of Proceedings shall, if in his opinion the facts warrant taking such action, forward the pleadings and the materials of record to the Proceedings Clerk for a proceeding to be conducted in accordance with subpart E of these rules. The Proceedings Clerk shall forthwith notify the parties of such action. Such notification shall be accompanied by an order issued by the Proceedings Clerk requiring the parties to complete all discovery, as provided in subpart B, within 50 days thereafter. A formal decisional proceeding commences upon service of such notification and order. As soon as practicable after service of such notification, the Proceedings Clerk shall assign the case to an Administrative Law Judge for disposition.

[49 FR 6621, Feb. 22, 1984, as amended at 59 FR 9637, Mar. 1, 1994]

### § 12.27 Termination of consideration of pleadings.

If the Director of the Office of Proceedings should determine not to proceed in a manner set forth in §12.26 (a), (b), or (c), consideration of the complaint and the answer (and reply, if any) shall terminate, and no proceeding shall be held on the allegations in any such pleadings. Such termination shall be regarded by the Commission as without prejudice to the right of the parties to seek such alternative forms of relief as may be available to them. If the consideration of the pleadings should be terminated, the Proceedings Clerk shall immediately notify the parties to that effect by registered or certified mail. A determination by the Director not to proceed in the manner set forth in §12.26 (a), (b),

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or (c) of these rules is not subject to appeal pursuant to subpart F of these rules.

### Subpart B—Discovery

#### § 12.30 Methods of discovery.

(a) *In general.* Parties may obtain discovery by the following methods in accordance with the procedures and limitations set forth in the section indicated:

(1) Production of documents or other items (§ 12.31);

(2) Deposition on written interrogatories (§ 12.32);

(3) Admissions (§ 12.33).

(b) *Scope of discovery.* The scope of discovery is as follows:

(1) *Relevancy.* Except as provided below, discovery may be obtained regarding any matter not privileged, which is relevant to the subject matter in the pending proceeding, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible items, and the identity and location of persons having knowledge of any discoverable matters. Tax returns and personal bank account records shall not be discoverable, except upon motion by the party seeking discovery showing the need for disclosure of information contained therein, and that the same information could not be obtained through other means.

(2) *Protective orders.* Upon motion by a party or the person from whom discovery is sought, filed within twenty days after the objectionable discovery notice or request is served, and for good cause shown, the official presiding over discovery may issue any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of issues untimely or inappropriate to the proceeding, or the inappropriate disclosure of trade secrets or sensitive commercial or financial information. Relief through a protective order may include one or more of the following:

(i) That discovery not be had;

(ii) That discovery may be had only on specified terms and conditions;

(iii) That certain matters not be inquired into, or that the scope of the