

Commodity Futures Trading Commission

§ 8.26

(e) A declaration of any penalty imposed and the effective date of such penalty.

(Approved by the Office of Management and Budget under control number 3038-0022)

[43 FR 41950, Sept. 19, 1978, as amended at 46 FR 63036, Dec. 30, 1981]

§ 8.19 Appeal.

The rules of an exchange may permit a respondent to appeal promptly an adverse decision of a disciplinary committee in all or in certain classes of cases. Such rules may require a respondent's notice of appeal to be in writing and to specify the findings, conclusions, and/or penalty to which objection is taken. If the rules of an exchange permit appeal, they shall provide for the following:

(a) The exchange shall establish a board of appeals which shall be authorized to hear appeals of respondents. In addition, the rules of an exchange may provide that the board of appeals may, on its own initiative, order review of a decision by the disciplinary committee within a reasonable period of time after the decision has been rendered.

(b) No member of the board of appeals shall serve on an appeal or review panel if such member participated in any prior stage of the disciplinary proceeding or if he or any person or firm with which he is affiliated has a financial, personal, or other direct interest in the matter. The rules of an exchange may provide that the appeal or review proceeding may be conducted before all of the members of the board of appeals or a panel thereof. Except for good cause shown, the appeal or review shall be conducted solely on the record before the disciplinary committee, the written exceptions filed by the parties, and the oral or written arguments of the parties.

(c) Promptly following the appeal or review proceeding, the board of appeals shall issue a written decision and shall provide a copy to the respondent. The decision shall include a statement of findings and conclusions with respect to each charge or penalty reviewed, including the specific rules which the respondent was found to have violated by the disciplinary committee, and a dec-

laration of any penalty imposed and the effective date of such penalty.

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§ 8.20 Final decision.

Each exchange shall establish rules setting forth when a decision rendered pursuant to this subpart B shall become the final decision of such exchange.

Subpart C—Summary Actions

§ 8.25 Member responsibility actions.

An exchange may suspend at any time, or take other summary action against, a person subject to its jurisdiction upon a reasonable belief that such immediate action is necessary to protect the best interest of the marketplace.

§ 8.26 Procedure for member responsibility actions.

An action pursuant to § 8.25 shall be taken in accordance with an exchange procedure which provides for the following:

(a) The respondent shall, whenever practicable, be served with a notice before the action is taken. If prior notice is not practicable, the respondent shall be served with a notice at the earliest possible opportunity. The notice shall:

- (1) State the action,
- (2) Briefly state the reasons for the action, and
- (3) State the effective time and date and the duration of the action.

(b) The respondent shall have the right to be represented by legal counsel or any other representative of his choosing in all proceedings subsequent to the summary action taken pursuant to § 8.25.

(c) The respondent shall promptly be given opportunity for a subsequent hearing. The hearing shall be fair and shall be held before one or more persons authorized by the exchange to conduct hearings pursuant to this section. The hearing shall be conducted in accordance with the requirements set forth in §§ 8.17(a)(4)–(9) and (b).