

customer's account with such guarantor futures commission merchant on a fully-disclosed basis; and

(2) Transmit promptly for execution all customer and option customer orders to: (i) A carrying futures commission merchant; or (ii) a floor broker, if the introducing broker identifies its carrying futures commission merchant and that carrying futures commission merchant is also the clearing member with respect to the customer's or option customer's order.

(b) An introducing broker may not carry proprietary accounts, nor may an introducing broker carry accounts in foreign futures.

(c) An introducing broker may not accept any money, securities or property (or extend credit in lieu thereof) to margin, guarantee or secure any trades or contracts of customers or option customers, or any money, securities or property accruing as a result of such trades or contracts: *Provided, however*, That an introducing broker may deposit a check in a qualifying account or forward a check drawn by a customer or option customer if:

(1) The futures commission merchant carrying the customer's or option customer's account authorizes the introducing broker, in writing, to receive a check in the name of the futures commission merchant, and the introducing broker retains such written authorization in its files in accordance with §1.31;

(2) The check is payable to the futures commission merchant carrying the customer's or option customer's account;

(3) The check is deposited by the introducing broker, on the same day upon which it is received, in a bank or trust company located in the United States in a qualifying account, or the check is mailed or otherwise transmitted by the introducing broker to the futures commission merchant on the same day upon which it is received;

(4) For purposes of this paragraph (c), a qualifying account shall be deemed to be an account:

(i) Which is maintained in an account name which clearly identifies the funds therein as belonging to commodity or option customers of the futures com-

mission merchant carrying the customer's or option customer's account;

(ii) For which the bank or trust company restricts withdrawals to withdrawals by the carrying futures commission merchant;

(iii) For which the bank or trust company prohibits the introducing broker or anyone acting upon its behalf from withdrawing funds; and

(iv) For which the bank or trust company provides the futures commission merchant carrying the customer's or option customer's account with a written acknowledgment, which the futures commission merchant must retain in its files in accordance with §1.31, that it was informed that the funds deposited therein are those of commodity or option customers and are being held in accordance with the provisions of the Act and these regulations.

[48 FR 35291, Aug. 3, 1983, as amended at 57 FR 23143, June 2, 1992]

§1.58 Gross collection of exchange-set margins.

(a) Each futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant or for a foreign broker on an omnibus basis must collect, and each futures commission merchant and foreign broker for which an omnibus account is being carried must deposit, initial and maintenance margin on each position reported in accordance with §17.04 of this chapter at a level no less than that established for customer accounts by the rules of the applicable contract market.

(b) If the futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant or for a foreign broker on an omnibus basis allows a position to be margined as a spread position or as a hedged position in accordance with the rules of the applicable contract market, the carrying futures commission merchant must obtain and retain a written representation from the futures commission merchant or from the foreign broker for which the omnibus account

is being carried that each such position is entitled to be so margined.

[61 FR 19187, May 1, 1996]

§ 1.59 Activities of self-regulatory organization employees and governing members who possess material, non-public information.

(a) *Definitions.* For purposes of this section:

(1) *Self-regulatory organization* means “self-regulatory organization,” as defined in Commission regulation 1.3(ee), and includes the term “clearing organization,” as defined in Commission regulation 1.3(d).

(2) *Employee* means any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization.

(3) *Material information* means information which, if such information were publicly known, would be considered important by a reasonable person in deciding whether to trade a particular commodity interest on a contract market. As used in this section, “material information” includes, but is not limited to, information relating to present or anticipated cash, futures, or option positions, trading strategies, the financial condition of members of self-regulatory organizations or members of linked exchanges or their customers or option customers, or the regulatory actions or proposed regulatory actions of a self-regulatory organization or a linked exchange.

(4) *Non-public information* means information which has not been disseminated in a manner which makes it generally available to the trading public.

(5) *Linked exchange* means: (i) any board of trade, exchange or market outside the United States, its territories or possessions, which has an agreement with a contract market in the United States that permits positions in a commodity interest which have been established on one of the two markets to be liquidated on the other market; (ii) any board of trade, exchange or market outside the United States, its territories or possessions, the products of which are listed on a United States contract market or a trading facility thereof; (iii) any securities exchange, the products of which are held as margin in a commodity ac-

count or cleared by a securities clearing organization pursuant to a cross-margining arrangement with a futures clearing organization; or (iv) any clearing organization which clears the products of any of the foregoing markets.

(6) *Commodity interest* means any commodity futures or commodity option contract traded on or subject to the rules of a contract market or linked exchange, or cash commodities traded on or subject to the rules of a board of trade which has been designated as a contract market.

(7) *Related commodity interest* means any commodity interest which is traded on or subject to the rules of a contract market, linked exchange, or other board of trade, exchange or market, other than the self-regulatory organization by which a person is employed, and with respect to which:

(i) Such employing self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment between that other commodity interest and a commodity interest which is traded on or subject to the rules of the employing self-regulatory organization; or

(ii) Such other self-regulatory organization has recognized or established intermarket spread margins or other special margin treatment with another commodity interest as to which the person has access to material, non-public information.

(8) *Pooled investment vehicle* means a trading vehicle organized and operated as a commodity pool within regulation 4.10(d), and whose units of participation have been registered under the Securities Act of 1933, or a trading vehicle for which regulation 4.5 makes available relief from regulation as a commodity pool operator, *i.e.*, registered investment companies, insurance company separate accounts, bank trust funds, and certain pension plans.

(b) *Employees of self-regulatory organizations; Self-regulatory organization rules.* (1) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and Commission regulation 1.41 (or, pursuant to section 17(j) of the Act in the case of a registered futures