

member of any committee of a self-regulatory organization.

[58 FR 54973, Oct. 25, 1993]

**§ 1.60 Pending legal proceedings.**

(a) Every contract market shall submit to the Commission copies of the complaint, any dispositive or partially dispositive decision, any notice of appeal filed concerning such decisions and such further documents as the Commission may thereafter request filed in any material legal proceeding to which the contract market is a party or its property or assets is subject.

(b) Every futures commission merchant shall submit to the Commission copies of any dispositive or partially dispositive decision for which a notice of appeal has been filed, the notice of appeal and such further documents as the Commission may thereafter request filed in any material legal proceeding to which the futures commission merchant is a party or its property or assets is subjects.

(c) Every contract market shall submit to the Commission copies of the complaint, any dispositive or partially dispositive decision, any notice of appeal filed concerning such decisions and such further documents as the Commission may thereafter request filed in any material legal proceeding instituted against any officer, director, or other official of the contract market arising from conduct in such person's capacity as a contract market official and alleging violations of: (1) The act or any rule, regulation, or order thereunder; (2) the constitution, bylaws or rules of the contract market; or (3) the applicable provisions of state law relating to the duties of officers, directors, or other officials of business organizations.

(d) Every futures commission merchant shall submit to the Commission copies of any dispositive or partially dispositive decision concerning which a notice of appeal has been filed, the notice of appeal, and such further documents as the Commission may thereafter request filed in any material legal proceeding instituted against any person who is a principal of the futures commission merchant (as that term is defined in §3.1(a) of this chapter) arising

from conduct in such person's capacity as a principal of the futures commission merchant and alleging violations of: (1) The Act or any rule, regulation, or order thereunder; or (2) provisions of state law relating to a duty or obligation owed by such a principal.

(e) All documents required by this section to be submitted to the Commission shall be mailed via first-class or submitted by other more expeditious means to the Commission's headquarters office in Washington, DC, Attention: Office of the General Counsel. All documents required by this section to be submitted to the Commission as to matters pending on the effective date of the section (May 25, 1984), shall be mailed to the Commission within 45 days of that effective date. Thereafter, all complaints required by this section to be submitted to the Commission by contract markets shall be mailed to the Commission within 10 days after the initiation of the legal proceedings to which they relate, all decisions required to be submitted by contract markets shall be mailed within 10 days of their date of issuance, all notices of appeal required to be submitted by contract markets shall be mailed within 10 days of the filing or receipt by the contract market of the notice of appeal, and all decisions and notices of appeal required to be submitted by futures commission merchants shall be mailed within 10 days of the filing or receipt by the futures commission merchant of the relevant notice of appeal. For purposes of paragraph (a), (b), (c) and (d) of this rule, a "material legal proceeding" includes but is not limited to actions involving alleged violations of the Commodity Exchange Act or the Commission's regulations. However, a legal proceeding is not "material" for the purposes of this rule if the proceeding is not in a federal or state court or if the Commission is a party.

[49 FR 17750, Apr. 25, 1984]

**§ 1.61 Speculative position limits.**

(a) *Speculative limits on futures positions.* (1) For the purpose of preventing excessive speculation in any commodity under contracts of sale of such commodity for future delivery, arising

from those extraordinarily large positions which may cause sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, each contract market shall, for each separate type of contract for which delivery months are listed to trade, adopt and submit for Commission approval under §1.41 of this part and section 5a(a)(12)(A) of the Act, a bylaw, rule, regulation or resolution which shall limit the maximum net long and net short position which any one person may hold or control under contracts for future delivery of any commodity subject to the rules of such contract market. *Provided*, This section shall not apply to a contract market for which position limits are set forth in part 150 of this chapter; *And, provided further*, That nothing in this section shall be construed to prohibit a contract market from fixing different and separate position limits for different types of futures contracts based on the same commodity, different position limits for different futures, or for different delivery months, or from exempting positions which are normally known in the trade as "spreads, straddles or arbitrage" or from fixing limits which apply to such positions which are different from limits fixed for other positions.

(2) A contract market shall base its determination of levels for speculative limits on such factors that will accomplish the purposes of this section. As appropriate, these factors shall include position sizes customarily held by speculative traders on such market for a period of time selected by the contract market, which shall not be extraordinarily large relative to total open positions in the contract for such period. In addition to the above or upon a determination that the above standard is inappropriate for setting such limits, a contract market may base its determination on other factors which may include breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures market and cash market in the commodity underlying the futures contract.

(3) No bylaw, rule, regulation or resolution adopted pursuant to paragraph (a)(1) of this section shall apply to bona

fide hedging positions as defined by a contract market in accordance with §1.3(z)(1) of the Commission's regulations. *Provided*, That the contract market may limit bona fide hedging positions which it determines are not in accord with sound commercial practices or exceed an amount which may be established and liquidated in an orderly fashion.

(b) *Speculative limits on option positions*. (1) In order to accomplish the purposes expressed in paragraph (a)(1) of this rule, each contract market which trades option contracts pursuant to part 33 of this chapter shall for each put and call option adopt and submit for Commission approval under Rule 1.41 of this chapter and section 5a(a)(12)(A) of the Act a bylaw, rule, regulation or resolution which shall limit the maximum net long option position and net short option position which any one person may hold or control.

(2) No bylaw, rule, regulation or resolution adopted pursuant to paragraph (b)(1) of this section shall apply to positions held by commercial interests in the underlying commodity which are determined by a contract market to be bona fide hedging positions as defined by a contract market in accordance with §1.3(z)(1) of this chapter; *Provided*, That the contract market may limit bona fide hedging positions which it determines are not in accord with sound commercial practices or exceed an amount which may be established and liquidated in an orderly fashion.

(c) *Time of filing*. Boards of trade seeking designation as a contract market in options or futures shall submit rules, bylaws, regulations or resolutions pursuant to this section with their application for designation.

(d) *Additional information*. In addition to that information required to be submitted pursuant to paragraphs (a) and (b) of this section, each submission of a board of trade or contract market under this section shall include the following:

(1) A demonstration that such contract market has complied with the purpose and standards set forth in paragraph (a) of this section.

(2) Any bylaw, rule, regulation or resolution which provides for exemptions

from limits proposed under paragraphs (a) and (b) of this section, including an exemption for bona fide hedging.

(3) Bylaws, rules, regulations or resolutions which provide for aggregation of option and/or futures positions of traders in conformity with paragraph (g) of this section.

(4) A description of the method of enforcement of option and/or future position limits, which shall include a description of the procedures by which contract markets will determine hedging exemptions and the method of monitoring compliance with rules concerning bona fide hedging positions or any other exemptions.

(e) *Exemptions.* Speculative position limits adopted pursuant to this section shall not apply to any position acquired in good faith prior to the effective date of any bylaw, rule, regulation or resolution which specifies such limit or to a person that is registered as a futures commission merchant or as a floor broker under authority of the Act except to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person.

In addition to the express exemptions specified in this section, a contract market may provide and submit for Commission approval, such other exemptions from its position limits adopted pursuant to paragraphs (a) or (b) of this section, consistent with the purposes of this section.

(f) *Existing contract market limits.* Unless otherwise directed by the Commission, this rule shall not require a contract market to adopt or submit a bylaw, rule, regulation or resolution establishing speculative position limits if such contract market has previously adopted such a bylaw, rule, regulation or resolution which has been approved by the Commission pursuant to section 5a(a)(12)(A) of the Act, or which the contract market is required to enforce pursuant to Commission Rule 1.53.

(g) *Aggregation.* In determining whether any person has exceeded the limits established under paragraphs (a) and/or (b) of this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by

such person; such limits upon positions shall apply to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single person.

(h) *Justification of existing limits.* Each contract market shall file with the Commission within 90 days of a request by the Commission, or within such longer period as the Commission may specify in its request, a written statement which justifies the existing level of position limits set by the contract market and the general exemptions provided therefrom.

(i) *Manipulation and corners.* Nothing in this section shall be construed to affect any provisions of the Act relating to manipulation or corners, to relieve any contract market or its governing board from responsibility under section 5(4) of the Act to prevent manipulation and corners.

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

[46 FR 50945, Oct. 16, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 51 FR 17473, May 13, 1986; 59 FR 5526, Feb. 7, 1994]

**§ 1.62 Contract market requirement for floor broker and floor trader registration.**

(a)(1) Each contract market shall adopt, maintain in effect, and enforce rules which have become effective pursuant to section 5a(a)(12)(A) of the Act and § 1.41 and which provide that no person in or surrounding any pit, ring, post, or other place provided by such contract market for the meeting of persons similarly engaged may:

(i) Purchase or sell for any other person any commodity for future delivery, or any commodity option, on or subject to the rules of that contract market, unless such person is registered or has been granted a temporary license as a floor broker; or

(ii) Purchase or sell solely for such person's own account, any commodity for future delivery, or any commodity option, on or subject to the rules of that contract market, unless such person is registered or has been granted a temporary license as a floor trader, or has been granted a temporary license