

§ 1.21

therein are those of commodity or option customers of its clearing members and are being held in accordance with the provisions of the Act and these regulations.

(c) Each futures commission merchant shall treat and deal with the customer funds of a commodity customer or of an option customer as belonging to such commodity or option customer. All customer funds shall be separately accounted for, and shall not be commingled with the money, securities or property of a futures commission merchant or of any other person, or be used to secure or guarantee the trades, contracts or commodity options, or to secure or extend the credit, of any person other than the one for whom the same are held: *Provided, however,* That customer funds treated as belonging to the commodity or option customers of a futures commission merchant may for convenience be commingled and deposited in the same account or accounts with any bank or trust company, with another person registered as a futures commission merchant, or with a clearing organization, and that such share thereof as in the normal course of business is necessary to purchase, margin, guarantee, secure, transfer, adjust, or settle the trades, contracts or commodity options of such commodity or option customers or resulting market positions, with the clearing organization or with any other person registered as a futures commission merchant, may be withdrawn and applied to such purposes, including the payment of premiums to option grantors, commissions, brokerage, interest, taxes, storage and other fees and charges, lawfully accruing in connection with such trades, contracts or commodity options: *Provided, further,* That customer funds may be invested in instruments described in § 1.25.

(Approved by the Office of Management and Budget under control numbers 3038-0007, and 3038-0024)

[46 FR 54518, Nov. 3, 1981, as amended at 46 FR 63035, Dec. 30, 1981; 50 FR 36051, Sept. 5, 1985; 65 FR 78009, Dec. 13, 2000]

§ 1.21 Care of money and equities accruing to customers.

All money received directly or indirectly by, and all money and equities

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accruing to, a futures commission merchant from any clearing organization or from any clearing member or from any member of a contract market incident to or resulting from any trade, contract or commodity option made by or through such futures commission merchant on behalf of any commodity or option customer shall be considered as accruing to such commodity or option customer within the meaning of the Act and these regulations. Such money and equities shall be treated and dealt with as belonging to such commodity or option customer in accordance with the provisions of the Act and these regulations. Money and equities accruing in connection with commodity or option customers' open trades, contracts, or commodity options need not be separately credited to individual accounts but may be treated and dealt with as belonging undivided to all commodity or option customers having open trades, contracts, or commodity option positions which if closed would result in a credit to such commodity or option customers.

[46 FR 54519, Nov. 3, 1981]

§ 1.22 Use of customer funds restricted.

No futures commission merchant shall use, or permit the use of, the customer funds of one commodity and/or option customer to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such customer or option customer. Customer funds shall not be used to carry trades or positions of the same commodity and/or option customer other than in commodities or commodity options traded through the facilities of a contract market.

[47 FR 57007, Dec. 22, 1982]

§ 1.23 Interest of futures commission merchant in segregated funds; additions and withdrawals.

The provision in section 4d(2) of the Act and the provision in § 1.20(c), which prohibit the commingling of customer funds with the funds of a futures commission merchant, shall not be construed to prevent a futures commission