

Firms designated by the Tokyo Grain Exchange.

FR date and citation: February 23, 1993, 58 FR 10957; May 2, 1994, 59 FR 22506.

Firms designated by the MEFF Sociedad Rectora de Productos Financieros Derivados de Renta Fija ("MEFF Renta Fija").

FR date and citation: June 9, 1995, 60 FR 30466.

Firms designated by the New Zealand Futures and Options Exchange ("NZFOE").

FR date and citation: December 10, 1996, 61 FR 64989.

Firms designated by the MEFF Sociedad Rectora de Productos Financieros Derivados de Renta Variable ("MEFF Rental Variable.")

FR date and citation: April 8, 1997, 62 FR 16690.

[54 FR 809, Jan. 10, 1989, as amended at 54 FR 11182, Mar. 17, 1989; 54 FR 21604, 21609, 21614, and 21618, May 19, 1989; 55 FR 10614, Mar. 22, 1990; 55 FR 23909, June 13, 1990; 56 FR 14019, Apr. 5, 1991; 56 FR 66345, Dec. 23, 1991; 58 FR 10957, Feb. 23, 1993; 58 FR 19210, Apr. 13, 1993; 59 FR 22506, May 2, 1994; 60 FR 30466, June 9, 1995; 61 FR 64989, Dec. 10, 1996; 62 FR 8877, Feb. 27, 1997; 62 FR 10447-10450, Mar. 7, 1997; 62 FR 16690, Apr. 8, 1997; 64 FR 50251, Sept. 16, 1999]

PART 31—LEVERAGE TRANSACTIONS

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AUTHORITY: 7 U.S.C. 12a and 23, unless otherwise noted.

§§ 31.1-31.2 [Reserved]

§ 31.3 Fraud in connection with certain transactions in silver or gold bullion or bulk coins, or other commodities.

It shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in, or in connection with (1) an offer to make or the making of, any transaction for the purchase, sale or delivery of silver bullion, gold bullion, bulk silver coins, bulk gold coins, or any other commodity pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or pursuant to any contract, account, arrangement, scheme, or device that serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or (2) the maintenance or carrying of any such contract.

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§ 31.4

The provisions of this section shall not apply to any transaction expressly prohibited by section 19(a) of the Act.

(Secs. 2(a), 8a, and 19 of the Commodity Exchange Act and secs. 2 and 23 of Pub. L. 95-405 (92 Stat. 865, 870-871); 7 U.S.C. 2 and 12a)

[43 FR 58554, Dec. 15, 1978. Redesignated at 49 FR 5526, Feb. 13, 1984]

§ 31.4 Definitions.

For the purposes of this part:

(a)-(b) [Reserved]

(c) *Promotional material* includes:

(1) Any text of a standard oral presentation, or any communication for publication in any newspaper, magazine or similar medium or for broadcast over television, radio, or other electronic medium which is disseminated or directed to a leverage customer or prospective leverage customer;

(2) Any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to a leverage customer or prospective leverage customer; or

(3) Any other written literature or advice disseminated or directed to a leverage customer or prospective leverage customer for the purpose of soliciting the entry into a leverage contract;

(d) *Leverage customer* means any person who, directly or indirectly, enters into, purchases, sells, or otherwise acquires for value any interest in a leverage contract with, from or to a leverage transaction merchant: *Provided, however,* That an owner or holder of a proprietary leverage account as defined in paragraph (e) of this section shall not be deemed to be a customer within the meaning of §§ 31.11(a)-(j) and (1), 31.12 and 31.26, and such an owner or holder of such a proprietary leverage account shall otherwise be deemed to be a leverage customer within the meaning of all other sections of these rules.

(e) *Proprietary leverage account* means a leverage account carried on the books and records of an individual, a partnership, corporation or other type association (1) for one of the following persons, or (2) of which ten percent or more is owned by one of the following persons, or an aggregate of ten percent

or more of which is owned by more than one of the following persons:

(i) Such individual himself, or such partnership, corporation or association itself;

(ii) In the case of a partnership, a general partner in such partnership;

(iii) In the case of a limited partnership, a limited or special partner in such partnership whose duties include:

(A) The management of the partnership business or any part thereof,

(B) The handling of the trades of leverage customers or of the leverage customer funds of such partnership,

(C) The keeping of records pertaining to the trades of leverage customers or to the leverage customer funds of such partnership, or

(D) The signing or co-signing of checks or drafts on behalf of such partnership;

(iv) In the case of a corporation or association, an officer, director or owner of ten percent or more of the capital stock, of such organization;

(v) An employee of such individual, partnership, corporation or association whose duties include:

(A) The management of the business of such individual, partnership, corporation or association or any part thereof,

(B) The handling of the trades of leverage customers or of the leverage customer funds of such individual, partnership, corporation or association,

(C) The keeping of records pertaining to the trades of leverage customers or to the leverage customer funds of such individual, partnership, corporation or association, or

(D) The signing or co-signing of checks or drafts on behalf of such individual, partnership, corporation or association;

(vi) A spouse or minor dependent living in the same household of any of the foregoing persons;

(vii) A business affiliate that, directly or indirectly, controls such individual, partnership, corporation or association;

(viii) A business affiliate that, directly or indirectly, is controlled by or is under common control with, such individual, partnership, corporation or association.