

registrant pursuant to §3.50(b)(1) of this part, that an associated person of the registrant or an applicant for registration as an associated person may be subject to a statutory disqualification as set forth in section 8a(2) of the Act, it shall be unlawful for the registrant to permit such person to act in the capacity of an associated person of the registrant until the Commission determines that such person should nonetheless be registered.

(c) *Proceedings under subpart C.* Upon notification to the Commission by the registrant under paragraph (a) of this section, the Commission may promptly issue notice under §3.55 or §3.60 of this part, as appropriate, to suspend and revoke the registration of the associated person of the registrant or to deny the registration of the applicant for registration as an associated person of the registrant.

[49 FR 8223, Mar. 5, 1984, as amended at 57 FR 23155, June 2, 1992; 60 FR 49334, Sept. 25, 1995; 67 FR 62351, 62352, Oct. 7, 2002]

### Subpart E—Delegation and Reservation of Authority

#### §3.75 Delegation and reservation of authority.

(a) The Commission hereby delegates, until such time as it orders otherwise, the authority to perform all functions specified in subparts B through D to the persons authorized to perform them thereunder.

(b) Nothing in this subpart shall prevent the Commission from exercising the authority delegated therein.

(c) The Commission reserves to itself the decision in any case to proceed by order, upon notice and hearing, to deny, suspend, condition or restrict the registration of any person pursuant to sections 8a(2), 8a(3) and 8a(4) of the Act.

(d) Nothing in this part shall affect the authority of the Commission to institute a proceeding pursuant to section 6(c) of the Act.

(e) The Commission may, by order of delegation, authorize a futures association registered pursuant to section 17 of the Act to perform all or any portion of the registration functions under subparts B through D in accordance with rules or procedures adopted by such fu-

tures association and submitted to the Commission pursuant to section 17(j) of the Act and subject to the applicable provisions of the Act.

[49 FR 8224, Mar. 5, 1984, as amended at 57 FR 23155, June 2, 1992; 59 FR 5315, Feb. 4, 1994]

#### APPENDIX A TO PART 3—INTERPRETATIVE STATEMENT WITH RESPECT TO SECTION 8a(2)(C) AND (E) AND SECTION 8a(3)(J) AND (M) OF THE COMMODITY EXCHANGE ACT

##### *Section 8a(2) (C) and (E)*

The provisions of sections 8a(2)–8a(4) of the Commodity Exchange Act (“Act”) establish a system of statutory disqualifications pursuant to which the Commission may find an applicant or registrant unfit for registration and vest the Commission with wide discretion to deny, condition, suspend, restrict or revoke the registration of any person subject to one or more of the disqualifications set forth therein. The Commission recognizes that the full exercise of its authority under these provisions of the Act may have unintended results. In particular, the exercise of such authority may, in certain cases, impede the efficient enforcement of the Act and the various federal and state securities acts.

At this time, the Commission cannot anticipate all of the circumstances under which it may elect not to exercise its authority under sections 8a(2)–8a(4). Until the Commission has gained experience with these provisions of the Act, such determinations generally must be made on a case-by-case basis. Nonetheless, the Commission has identified two paragraphs of section 8a(2) of the Act which it has determined to interpret more narrowly than required.

*Section 8a(2)(C).* Section 8a(2) of the Act authorizes the Commission to deny, condition, suspend or restrict the registration of any person “upon notice, but without a hearing” and to revoke the registration of any person “with such hearing as may be appropriate,” if such person is subject to one or more of the disqualifications described in paragraphs (A)–(H). Section 8a(2)(C) authorizes the Commission to affect the registration of any person:

“if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction \* \* \* , including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, floor trader, commodity trading advisor, commodity pool operator, associated person of any registrant under the Act, securities broker, securities