

final decision is rendered, elect to have the matter governed by the provisions of this part 9, as amended.

[52 FR 25366, July 7, 1987, as amended at 59 FR 5701, Feb. 8, 1994]

§ 9.2 Definitions.

For purposes of this part:

(a) *Access denial action* means any proceeding other than a disciplinary action by an exchange that denies or limits the privileges of membership, but excludes any exchange action that solely limits the ability of a member of an exchange to participate in the internal corporate affairs of the exchange.

(b) *Disciplinary action* means any suspension, expulsion or other penalty (as defined in § 8.03(i) of this chapter) imposed on a member of an exchange by that exchange for violations of rules of the exchange, including summary actions.

(c) *Exchange* means any board of trade which has been designated as a contract market.

(d) *Exchange proceeding* means any formal or informal proceeding by an exchange which results in a disciplinary action, access denial action or other adverse action.

(e) *Mail* means properly addressed and postpaid first class mail, and includes overnight delivery service.

(f) *Member of an exchange* means any person who is admitted to membership or has been granted membership privileges on an exchange, any employee, officer, partner, director or affiliate of such member or person with membership privileges including any associated person, and any other person under the supervision or control of such member or person with membership privileges.

(g) *Other adverse action* and *adverse action* include any exchange action, other than an access denial action or disciplinary action, that adversely affects any person, whether or not a member of the exchange, but exclude any exchange action that solely involves the internal corporate affairs of the exchange.

(h) *Party* includes the person filing a notice of appeal or petition for stay who has been the subject of a disciplinary, access denial or other adverse action by an exchange; that exchange;

any person participating in a proceeding under this part pursuant to § 9.25; and the Division of Market Oversight and/or the Division of Clearing and Intermediary Oversight when participating in a proceeding under this part pursuant to § 9.26.

(i) *Record of the exchange proceeding* means all testimony, exhibits, papers and records produced at or filed in an exchange disciplinary or access denial proceeding or served on a party to that proceeding; all documents, minutes or other exchange records serving as a basis for or reflecting the findings, rationale and conclusions concerning the adverse action taken by an exchange; a transcript of any proceeding before any body of the exchange in connection with the exchange proceeding; and a copy of all exchange rules which form the basis for the exchange proceeding.

(j) *Rules of the exchange* means any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, or written and publicly available interpretation or stated policy of the exchange, or instrument corresponding thereto.

(k) *Summary action* means a disciplinary action resulting in the imposition of a penalty on a member of an exchange for violation of rules of the exchange authorized under the provisions of § 8.17(b) (penalty for impeding progress of hearing), § 8.25 (member responsibility action) or § 8.27 (penalty for violation of rules relating to decorum, attire, submission of records or similar activities) of this chapter.

[52 FR 25366, July 7, 1987; 52 FR 27286, July 20, 1987, as amended at 67 FR 62352, Oct. 7, 2002]

§ 9.3 Provisions referenced.

Except as otherwise provided in this part, the following provisions of the Commission's rules relating to reparations contained in part 12 of this chapter apply to this part: § 12.3 (Business address; hours); § 12.5 (Computation of time); § 12.6 (Extensions of time; adjournments; postponements); § 12.7 (Ex parte communications); and § 12.12 (Signature).

§ 9.4 Filing and service; official docket.

(a) *Filing with the Proceedings Clerk; proof of filing; proof of service.* Any document that is required by this part to be