

## Commodity Futures Trading Commission

## § 14.9

Commission to which he is a party, or found by the Commission (whether by consent, default, upon summary disposition or after hearing) in any administrative proceeding in which the Commission is a complainant and to which he is a party, to have committed, caused, or aided and abetted a violation of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations promulgated under any of those statutes;

(3) Found upon summary judgment or after trial by any court of competent jurisdiction in any action brought by the U.S. Securities and Exchange Commission to which he is a party, or found by the Securities and Exchange Commission, upon summary disposition or after hearing, in any administrative proceeding in which the Securities and Exchange Commission is a complainant and to which he is a party, to have committed, caused, or aided or abetted a violation of any provision of the federal securities laws (15 U.S.C. 77a to 80b-20) or of the rules and regulations adopted thereunder.

(b) *Petition to lift suspension.* Any person temporarily suspended from appearing and practicing before the Commission in accordance with paragraph (a) of this section may, within 30 days after service upon him of temporary suspension, petition the Commission to lift the temporary suspension. If no petition has been received by the Commission within 30 days after service of the order by mail the suspension shall become permanent.

(c) *Consideration of petition.* Within 30 days after the filing of the petition described in paragraph (b) of this section the Commission shall either lift the temporary suspension or set the matter down for hearing or both. After opportunity for hearing, the Commission may censure the petitioner or may disqualify the petitioner from appearing or practicing before the Commission for a period of time or permanently or may determine that no action is appropriate.

(d) *Hearing.* A showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (a) of this section, without more, may be a basis for censure or

disqualification; that showing having been made, the burden shall then be on the petitioner to show why he should not be censured or disqualified. A petitioner will not be heard to contest any findings against him or admissions made by him in the judicial or administrative proceedings upon which the proposed censure or disqualification is based. A petitioner who has consented to the entry of a permanent injunction as described in paragraph (a)(1) of this section without admitting the facts set forth in the complaint shall nevertheless be presumed for all purposes under this section to have been enjoined by reason of the misconduct alleged in the complaint.

### § 14.8 Lack of requisite qualifications, character and integrity.

In addition to those matters specifically referred to in §§14.4 through 14.7, the Commission may, after notice and opportunity for hearing in the matter, deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found by the Commission by a preponderance of the evidence:

- (a) Not to possess the requisite qualifications to represent others; or
- (b) To be lacking in character or integrity; or
- (c) To have engaged in unethical or improper unprofessional conduct either in the course of an adjudicatory, investigative, rulemaking or other proceeding before the Commission or otherwise.

### § 14.9 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the Commission who has been the subject of a conviction, suspension, disbarment, revocation, injunction or finding of the kind described in §§14.5 through 14.7, unless based on action instituted by the Commission, shall promptly file a copy of the relevant order, judgment or decree with the Secretariat of the Commission at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, together with any related opinion or statement of the

## § 14.10

## 17 CFR Ch. I (4–1–11 Edition)

agency or tribunal involved. Any person who has been the subject of administrative or judicial action of the kind described in §§ 14.5 through 14.7 and who has not filed a copy of the order, judgment or decree within thirty days after its entry shall for that reason alone be disqualified from appearing or practicing before the Commission until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way affect the operations of any other provision of this part.

[41 FR 28472, July 12, 1976, as amended at 60 FR 49335, Sept. 25, 1995]

### § 14.10 Reinstatement.

Any person who is disqualified from appearing or practicing before the Commission under any of the provisions of this part may at any time file an application of reinstatement and the applicant may, in the Commission's discretion, be afforded a hearing on the application. However, denial of the privilege of appearing or practicing before the Commission shall continue unless and until the applicant has been reinstated by order of the Commission.

## PART 15—REPORTS—GENERAL PROVISIONS

### Sec.

- 15.00 Definitions of terms used in parts 15 to 21 of this chapter.
- 15.01 Persons required to report.
- 15.02 Reporting forms.
- 15.03 Reporting levels.
- 15.04 [Reserved]
- 15.05 Designation of agent for foreign persons.
- 15.06 Delegations.

AUTHORITY: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by Title XIII of the Food, Conservation and Energy Act of 2008, Public Law 110–246, 122 Stat. 1624 (June 18, 2008).

### § 15.00 Definitions of terms used in parts 15 to 21 of this chapter.

As used in parts 15 to 21 of this chapter:

(a) *Cash or Spot*, when used in connection with any commodity, means the actual commodity as distinguished from a futures or options contract in such commodity.

(b) *Clearing member* means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a designated contract market, registered derivatives transaction execution facility, or registered entity under section 1a(29) of the Act.

(c) *Clearing organization* means the person or organization which acts as a medium for clearing transactions in commodities for future delivery or commodity option transactions, or for effecting settlements of contracts for future delivery or commodity option transactions, for and between members of any designated contract market, registered derivatives transaction execution facility or registered entity under section 1a(29) of the Act.

(d) *Compatible data processing media* means data processing media approved by the Commission or its designee.

(e) *Customer means* “customer” (as defined in § 1.3(k) of this chapter) and “options customer” (as defined in § 1.3(jj) of this chapter).

(f) *Customer trading program* means any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated with, a futures commission merchant, an introducing broker, a commodity trading advisor, a commodity pool operator, or other trader, or any of its officers, partners or employees, and which by agreement, recommendations, advice or otherwise, directly or indirectly controls trading done and positions held by any other person. The term includes, but is not limited to, arrangements where a program participant enters into an expressed or implied agreement not obtained from other customers and makes a minimum deposit in excess of that required of other customers for the purpose of receiving specific advice or recommendations which are not made available to other customers. The term includes any program which is of the character of, or is commonly known to the trade as, a managed account, guided account, discretionary account, commodity pool or partnership account.

(g) *Discretionary account* means a commodity futures or commodity option trading account for which buying