

(2) *By attorneys.* An attorney-at-law who is admitted to practice before the highest Court in any State or territory, or of the District of Columbia, who has not been suspended or disbarred from appearance and practice before the Commission in accordance with provisions of part 14 of this chapter may represent parties as an attorney in proceedings before the Commission.

(b) *Debarment of counsel or representative during the course of a proceeding.* (1) Whenever, while a proceeding is pending before him, a Judgment Officer or an Administrative Law Judge finds that a person acting as counsel or representative for any party to the proceeding is guilty of contemptuous conduct, such official may order that such person be precluded from further acting as counsel or representative in the proceeding. An immediate appeal to the Commission may be taken from any such order, pursuant to the provisions of §12.309, but the proceeding shall not be delayed or suspended pending disposition of the appeal; *Provided*, That the official may suspend the proceedings for a reasonable time for the purpose of enabling the party to obtain other counsel or representative.

(2) Whenever the Judgment Officer or Administrative Law Judge has issued an order precluding a person from further acting as counsel or representative in a proceeding, such official, within a reasonable time thereafter, shall submit to the Commission a report of the facts and circumstances surrounding the issuance of the order and shall recommend what action the Commission should take respecting the appearance of such person as counsel or representative in other proceedings before the Commission.

(c) *Withdrawal of representation.* Withdrawal from representation of a party shall be only by leave of the decision-making official (or the Commission) before whom the proceeding is then pending. Such leave to withdraw may be conditioned on the attorney's (or representative's) submission of an affidavit averring that the party represented has actual knowledge of the withdrawal, and such affidavit shall include the name and address of a successor counsel (or representative) or a statement that the represented party

has determined to proceed *pro se*, in which case, the statement shall include the address where that party can thereafter be served.

§ 12.10 Service.

(a) *General requirements—(1) When service is required; number of copies.* One copy of all motions, petitions or applications made in the course of a proceeding (unless made orally during a hearing), all proposed findings and conclusions (to the extent permitted by these rules), all notices of appeal, all briefs, and letters to the Commission, an employee thereof, or an Administrative Law Judge, shall be served by a party upon all other parties to the proceeding. This rule does not apply to a complaint filed pursuant to §12.13 of these rules, which shall only be filed with the Commission.

(2) *Filing with the Proceedings Clerk; proof of service.* All documents which are required to be served upon a party shall be filed concurrently with the Proceedings Clerk, and shall meet the requirements as to form prescribed by §§12.11 and 12.12 of this part. Unless otherwise provided in these rules, a document shall be filed by:

- (i) Delivering it in person;
- (ii) Mailing it by first-class or a more expeditious form of United States mail, or delivering it to a similar commercial package delivery service;
- (iii) Transmitting the documents via facsimile machine ("fax"); or
- (iv) Via electronic mail ("e-mail.")
- (v) Mailed documents must be addressed to: Proceedings Clerk, Office of Proceedings, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Faxed documents should be sent to (202) 418-5532 and e-mailed documents to (*PROC_Filings@cftc.gov*), directed to the Proceedings Clerk. Electronic filing and service in a given case shall be at the discretion of the Presiding Officer, with the parties' consent. Signed documents that are served by e-mail attachment must be in PDF or other non-alterable form. To be timely filed under this part, a document must be delivered; mailed by first-class or a more expeditious form of United States mail or a similar commercial package delivery service; or

faxed or e-mailed to the Proceedings Clerk within the time prescribed for filing. Proof of filing shall be made by attaching to the document to be filed an affidavit certifying that the attached document was either deposited in the mail or with the commercial package delivery service, with postage or delivery service fees prepaid, addressed to the Proceedings Clerk, Office of Proceedings, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581; or faxed or e-mailed to the Proceeding Clerk on the date specified in the affidavit. Proof of service of a document shall be made by filing with the Proceedings Clerk, simultaneously with the filing of the required document, an affidavit of service executed by any person 18 years of age or older or a certificate of service executed by an attorney-at-law qualified to practice before the Commission. The proof of service shall identify the persons served, state that service has been made, set forth the date of service, and recite the manner of service.

(3) *Service of orders and decisions.* A copy of all notices, rulings, opinions, and orders of the Proceedings Clerk, the Director of the Office of Proceedings, a Judgment Officer, Administrative Law Judge, the Deputy General Counsel for Opinions and Review or the Commission shall be served by the Proceedings Clerk on each of the parties. The Commission, in its discretion and with due consideration for the convenience of the parties, may serve the aforementioned documents to the parties by electronic means.

(b) *How service is made.* (1) Service shall be made by:

- (i) Personal service;
- (ii) First-class or a more expeditious form of United States mail or a similar commercial package delivery service;
- (iii) Fax; or
- (iv) E-mail in accordance with the conditions set forth in paragraph (a)(2) of this section.

(v) Service shall be complete at the time of personal service upon deposit in the mail or with a commercial package delivery service of a properly addressed document for which postage or delivery service fees have been prepaid; or upon transmission by fax or e-mail. Where service is effected by mail or a

commercial package delivery service (but not by fax or e-mail), the time within which the person served may respond thereto shall be increased by five (5) days. Signed documents that are served by e-mail attachment must be in PDF or other non-alterable form. For the purposes of this Rule, service of any document by the Proceedings Clerk upon the Commission shall be regarded as service by mail.

(2) [Reserved]

(c) *Designation of person to receive service.* The first document filed in a proceeding by or on behalf of any party shall state on the first page thereof the name and post office address of the person who is authorized to receive service for him of all documents filed in the proceeding. Thereafter, service of documents shall be made upon the person authorized unless service on a different authorized person or on the party himself is ordered by a Judgment Officer, Administrative Law Judge or the Commission, or unless the person authorized is changed by the party upon due notice to all other parties. Parties shall file and serve notification of any changes in the information provided pursuant to this subparagraph as soon as practicable after the change occurs.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 57 FR 20638, May 14, 1992; 59 FR 9636, Mar. 1, 1994; 60 FR 49335, Sept. 25, 1995; 73 FR 63360, Oct. 24, 2008]

§ 12.11 Formalities of filing of documents with the Proceedings Clerk.

(a) *Number of copies.* Unless otherwise specifically provided, or unless filed by fax or e-mail in accordance with the requirements of § 12.10(a)(2), an original and one conformed copy of all documents shall be filed with the Proceedings Clerk.

(b) *Title page.* All documents filed with the Proceedings Clerk must include at the head thereof, or on a title page, the name of the Commission, the title of the proceeding, the docket number (if one has yet been assigned by the Proceedings Clerk), the subject of the particular document and the name of the person on whose behalf the document is being filed. In the complaint the title of the proceeding shall