

§ 23.22 Prohibition against statutory disqualification in the case of an associated person of a swap dealer or major swap participant.

(a) *Definition.* For purposes of this section, the term “person” means an “associated person of a swap dealer or major swap participant” as defined in section 1a(4) of the Act and § 1.3(aa)(6) of this chapter, but does not include an individual employed in a clerical or ministerial capacity.

(b) *Fitness.* No swap dealer or major swap participant may permit a person who is subject to a statutory disqualification under section 8a(2) or 8a(3) of the Act to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knows, or in the exercise of reasonable care should know, of the statutory disqualification; *Provided, however,* that the prohibition set forth in this paragraph (b) shall not apply to any person listed as a principal or registered as an associated person of a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity pool operator, commodity trading advisor, or leverage transaction merchant, or any person registered as a floor broker or floor trader, notwithstanding that the person is subject to a disqualification from registration under section 8a(2) or 8a(3) of the Act.

(c) *Dual and multiple associations.* (1) A person who is already associated as an associated person of a swap dealer or major swap participant may become associated as an associated person of another swap dealer or major swap participant if the other swap dealer or major swap participant meets the requirements set forth in § 3.60(b)(2)(i)(A) of this chapter.

(2) Each swap dealer and major swap participant associated with such associated person shall supervise that associated person, and each swap dealer and major swap participant is jointly and severally responsible for the conduct of the associated person with respect to the:

- (i) Solicitation or acceptance of customer orders,
- (ii) Solicitation of funds, securities or property for a participation in a commodity pool,

(iii) Solicitation of a client’s or prospective client’s discretionary account,

(iv) Solicitation or acceptance of leverage customers’ orders for leverage transactions,

(v) Solicitation or acceptance of swaps, and

(vi) Associated person’s supervision of any person or persons engaged in any of the foregoing solicitations or acceptances, with respect to any customers common to it and any other swap dealer or major swap participant.

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§§ 23.23–23.40 [Reserved]

Subpart F—Reporting, Record-keeping, and Daily Trading Records Requirements for Swap Dealers and Major Swap Participants

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§ 23.200 Definitions.

For purposes of subpart F, the following terms shall be defined as provided.

(a) *Business trading unit* means any department, division, group, or personnel of a swap dealer or major swap participant or any of its affiliates, whether or not identified as such, that performs, or exercises supervisory authority over the performance of, any pricing (excluding price verification for risk management purposes), trading, sales, purchasing, marketing, advertising, solicitation, structuring, or brokerage activities on behalf of a registrant.

(b) *Clearing unit* means any department, division, group, or personnel of a registrant or any of its affiliates, whether or not identified as such, that performs any proprietary or customer clearing activities on behalf of a registrant.

(c) *Complaint* means any formal or informal complaint, grievance, criticism, or concern communicated to the swap dealer or major swap participant in any format relating to, arising from, or