

Commodity Futures Trading Commission

§ 1.64

Each self-regulatory organization must maintain and keep current the schedule required by this section, post the schedule in a public place designed to provide notice to members and otherwise ensure its availability to the general public.

(e) Each self-regulatory organization shall submit to the Commission within thirty days of the end of each calendar year a certified list of any persons who have been removed from its disciplinary committees, arbitration panels, oversight panels or governing board pursuant to the requirements of this regulation during the prior year.

(f) Whenever a self-regulatory organization finds by final decision that a person has committed a disciplinary offense and such finding makes such person ineligible to serve on that self-regulatory organization's disciplinary committees, arbitration panels, oversight panels or governing board, the self-regulatory organization shall inform the Commission of that finding and the length of the ineligibility in any notice it is required to provide to the Commission pursuant to either section 17(h)(1) of the Act or Commission regulation 9.11.

[55 FR 7890, Mar. 6, 1990, as amended at 58 FR 37653, July 13, 1993; 64 FR 23, Jan. 4, 1999]

§ 1.64 Composition of various self-regulatory organization governing boards and major disciplinary committees.

(a) *Definitions.* For purposes of this section:

(1) *Self-regulatory organization* means "self-regulatory organization" as defined in § 1.3(ee), not including a "clearing organization" as defined in § 1.3(d).

(2) *Major disciplinary committee* means a committee of persons who are authorized by a self-regulatory organization to conduct disciplinary hearings, to settle disciplinary charges, to impose disciplinary sanctions or to hear appeals thereof in cases involving any violation of the rules of the self-regulatory organization except those which:

- (i) Are related to:
 - (A) Decorum or attire,
 - (B) Financial requirements, or
 - (C) Reporting or recordkeeping; and,

(ii) Do not involve fraud, deceit or conversion.

(3) *Regular voting member of a governing board* means any person who is eligible to vote routinely on matters being considered by the board and excludes those members who are only eligible to vote in the case of a tie vote by the board.

(4) *Membership interest* (i) In the case of a contract market, each of the following will be considered a different membership interest:

- (A) Floor brokers,
- (B) Floor traders,
- (C) Futures commission merchants,
- (D) Producers, consumers, processors, distributors, and merchandisers of commodities traded on the particular contract market,
- (E) Participants in a variety of pits or principal groups of commodities traded on the particular contract market; and,

(F) Other market users or participants; except that with respect to paragraph (c)(2) of this section, a contract market may define membership interests according to the different pits or principal groups of commodities traded on the contract market.

(ii) In the case of a registered futures association, each of the following will be considered a different membership interest:

- (A) Futures commission merchants,
- (B) Introducing brokers,
- (C) Commodity pool operators,
- (D) Commodity trading advisors; and,
- (E) Associated persons, except that under paragraph (c)(3) of this section an associated person will be deemed to represent the same membership interest as its sponsor.

(b) Each self-regulatory organization must maintain in effect standards and procedures with respect to its governing board which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and § 1.41 or, when applicable to a registered futures association, pursuant to section 17(j) of the Act, that ensure:

- (1) That twenty percent or more of the regular voting members of the board are persons who:

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(i) Are knowledgeable of futures trading or financial regulation or are otherwise capable of contributing to governing board deliberations; and,

(ii) (A) Are not members of the self-regulatory organization,

(B) Are not currently salaried employees of the self-regulatory organization,

(C) Are not primarily performing services for the self-regulatory organization in a capacity other than as a member of the self-regulatory organization's governing board, or

(D) Are not officers, principals or employees of a firm which holds a membership at the self-regulatory organization either in its own name or through an employee on behalf of the firm;

(2) In the case of a contract market, that ten percent or more of the regular voting members of the governing board be comprised where applicable of persons representing farmers, producers, merchants or exporters of principal commodities underlying a commodity futures or commodity option traded on the contract market; and

(3) That the board's membership includes a diversity of membership interests. The self-regulatory organization must be able to demonstrate that the board membership fairly represents the diversity of interests at such self-regulatory organization and is otherwise consistent with this regulation's composition requirements;

(c) Each self-regulatory organization must maintain in effect rules with respect to its major disciplinary committees which have been submitted to the Commission pursuant to section 5a(a)(12)(A) of the Act and §1.41 or, when applicable to a registered futures association, pursuant to section 17(j) of the Act, that ensure:

(1) That at least one member of each major disciplinary committee or hearing panel thereof be a person who is not a member of the self-regulatory organization whenever such committee or panel is acting with respect to a disciplinary action in which:

(i) The subject of the action is a member of the self-regulatory organization's:

(A) Governing board, or

(B) Major disciplinary committee; or,

(ii) Any of the charged, alleged or adjudicated contract market rule violations involve:

(A) Manipulation or attempted manipulation of the price of a commodity, a futures contract or an option on a futures contract, or

(B) Conduct which directly results in financial harm to a non-member of the contract market;

(2) In the case of a contract market, that more than fifty percent of each major disciplinary committee or hearing panel thereof include persons representing membership interests other than that of the subject of the disciplinary proceeding being considered;

(3) In the case of a registered futures association, that each major disciplinary committee or hearing panel thereof include persons representing membership interests other than that of the subject of the disciplinary proceeding being considered; and,

(4) That each major disciplinary committee or hearing panel thereof include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of a committee's or the panel's responsibilities.

(d) Each self-regulatory organization must submit to the Commission within thirty days after each governing board election a list of the governing board's members, the membership interests they represent and how the composition of the governing board otherwise meets the requirements of §1.64(b) and the self-regulatory organization's implementing standards and procedures.

[58 FR 37654, July 13, 1993; 59 FR 5082, Feb. 3, 1994]

§ 1.65 Notice of bulk transfers and disclosure obligations to customers.

(a) *Notice and Disclosure to Customers.*

(1) Prior to transferring a customer account to another futures commission merchant or introducing broker other than at the request of the customer, a futures commission merchant or introducing broker must obtain the customer's specific consent to the transfer.

(2) If the customer account agreement contains a valid consent by the customer to prospective transfers of the account, the transferor futures