

### § 171.23

effective date prior to its receipt of an opposing party's response. Any party aggrieved by such expedited consideration may seek reconsideration within seven days of service of the decision.

#### § 171.23 Notice of appeal.

(a) *Time to file.* Any party aggrieved by the final decision of the National Futures Association in a disciplinary, membership denial or registration action may, within thirty days of the National Futures Association's service of the notice described in § 171.21, file a notice of appeal with the Proceedings Clerk. The filing of such a notice shall not stay the effective date of the decision.

(b) *Contents.* The notice of appeal shall consist of a brief statement indicating that the party is requesting Commission review of an action of the National Futures Association. It should identify:

(1) The name and address of the person appealing and, if represented, the name and address of his representative;

(2) The case name and docket number of the National Futures Association proceeding; and

(3) The date of the decision.

(c) *Filing fee.* Each notice of appeal must be accompanied by a nonrefundable filing fee of \$100. This amount may be paid by check, bank draft or money order, payable to the Commodity Futures Trading Commission.

(d) *Defective notices of appeal.* Notices of appeal that are untimely or not accompanied by the filing fee shall not be accepted by the Proceedings Clerk absent a showing, by motion, of excusable neglect.

#### § 171.24 Submission of the record.

Within thirty days after service of a notice of appeal, the National Futures Association shall file with the Proceedings Clerk two copies of the record of the proceeding (as defined by § 171.2(k)). The record shall be bound as a unit, chronologically indexed and tabbed, and certified as correct by a duly authorized official, agent or employee of the National Futures Association. The National Futures Association shall serve on the party appealing, in lieu of the record, a copy of the index of the record and a copy of

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any document in the record not previously served on the party appealing. If the party appealing objects to the materials included or excluded in preparing the record, he shall file his objections with his brief on appeal. The Commission may, at any time, direct that an omission or misstatement be corrected and, if necessary, that a supplemental record be prepared and filed.

#### § 171.25 Appeal brief.

(a) *Time to file.* Any person who has filed a notice of appeal in accordance with the provisions of § 171.23, shall perfect the appeal by filing an appeal brief with the Proceedings Clerk within thirty days after service of the record by the National Futures Association. The Commission may dismiss any appeal for which an appeal brief is not timely filed.

(b) *Contents.* Each appeal brief submitted to the Commission pursuant to this section shall include, in the order indicated:

(1) A statement of the issues presented for review;

(2) A statement of the case. The statement shall indicate briefly the nature of the case and include a full description of the action being challenged. There shall follow a clear and concise statement of all facts relevant to the consideration of the appeal with appropriate citations to the record;

(3) An argument. The argument shall contain the contentions of the appellant with respect to the issues presented and the reasons supporting those contentions. It shall cite specifically to the relevant authorities and to those parts of the record that support appellant's contentions; and

(4) A conclusion stating the precise relief sought.

(c) *Length of appeal brief.* Without prior leave of the Commission, the appeal brief may not exceed thirty five pages, exclusive of any table of contents, table of cases, index and appendix containing transcripts of testimony, exhibits, rules, regulations or similar materials.

#### § 171.26 Answering brief.

(a) *Time for filing answering brief.* Within thirty days after service of the