

Commodity Futures Trading Commission

§ 8.17

(c) The rules of an exchange may provide that if a respondent fails to request a hearing within the period of time stated in the notice he shall be deemed to have accepted the penalty.

(Approved by the Office of Management and Budget under control number 3038-0022)

[43 FR 41950, Sept. 19, 1978, as amended at 46 FR 63036, Dec. 30, 1981]

§ 8.15 Denial of charges and right to hearing.

In every instance where the respondent has requested a hearing on a charge which is denied, or on a penalty set by the disciplinary committee under § 8.14(a)(2), he shall be given an opportunity for a hearing in accordance with the requirements of § 8.17. The exchange rules may provide that, except for good cause, the hearing shall be concerned only with those charges denied and/or penalties set by the disciplinary committee under § 8.14(a)(2) for which a hearing has been requested.

§ 8.16 Settlement offers.

(a) The rules of an exchange may permit a respondent to submit a written offer of settlement to the disciplinary committee at any time after the investigation report is completed. The disciplinary committee may accept the offer of settlement, but may not alter its terms unless the respondent agrees.

(b) The rules of an exchange may provide that the disciplinary committee, in its discretion, may permit the respondent to accept a penalty without either admitting or denying the rule violations upon which the penalty is based.

(c) If an offer of settlement is accepted by the disciplinary committee, it shall issue a written decision specifying the rule violations it has reason to believe were committed and any penalty to be imposed. Where applicable, the decision shall also include a statement that the respondent has accepted the penalties imposed without either admitting or denying the rule violations.

(d) The respondent may withdraw his offer of settlement at any time before final acceptance by the disciplinary committee. If an offer is withdrawn after submission, or is rejected by the disciplinary committee, the respondent

shall not be deemed to have made any admissions by reason of the offer of settlement and shall not be otherwise prejudiced by having submitted the offer of settlement.

(Approved by the Office of Management and Budget under control number 3038-0022)

[43 FR 41950, Sept. 19, 1978, as amended at 46 FR 63036, Dec. 30, 1981]

§ 8.17 Hearing.

(a) The following minimum requirements shall apply to any hearing required by this subpart:

(1) The hearing shall be fair and shall be conducted before members of the disciplinary committee. The hearing may be conducted before all of the members of the disciplinary committee or a panel thereof, but no member of the disciplinary committee may serve on the committee or panel if he or any person or firm with which he is affiliated has a financial, personal, or other direct interest in the matter under consideration.

(2) The respondent shall be entitled in advance of the hearing to examine all books, documents, or other tangible evidence in the possession or under the control of the exchange which are to be relied upon by the enforcement staff in presenting the charges contained in the notice of charges or which are relevant to those charges.

(3) The hearing shall be promptly convened after reasonable notice to the respondent.

(4) The formal rules of evidence need not apply; nevertheless, the procedures for the hearing may not be so informal as to deny a fair hearing.

(5) The enforcement staff shall be a party to the hearing and shall present its case on those charges and penalties which are the subject of the hearing.

(6) The respondent shall be entitled to appear personally at the hearing.

(7) The respondent shall be entitled to cross-examine any persons appearing as witnesses at the hearing.

(8) The respondent shall be entitled to call witnesses and to present such evidence as may be relevant to the charges.

(9) The exchange shall require persons within its jurisdiction who are called as witnesses to appear at the hearing and to produce evidence. It