

## §9.9

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

### §9.9 Waiver of rules; delegation of authority.

(a) *Standards for waiver; notice to parties.* To prevent undue hardship on any party or for other good cause shown the Commission may waive any rule in this part in a particular case and may order proceedings in accordance with its direction upon a determination that no party will be prejudiced thereby and that the ends of justice will be served. Reasonable notice will be given to all parties of any action taken pursuant to this paragraph.

(b) *Delegation of authority.* (1) The Commission hereby delegates, until the Commission orders otherwise, to the General Counsel, or the General Counsel's designee, the authority:

(i) To waive or modify any of the requirements of §§9.20-9.25 and to waive or modify the requirements of the Commission's rules relating to reparations incorporated by §9.3 insofar as such requirements pertain to changes in time permitted for filing, and to the form, execution, service and filing of documents;

(ii) To enter orders under §§9.5, 9.6 and 9.7;

(iii) To decline to accept any notice of appeal, or petition for stay pending review, of matters excluded from this part by §§9.1(b), 9.2(a) and 9.2(b), and to so notify the appellant and the exchange;

(iv) To stay the effective date of a disciplinary action for a period of time, not to exceed four days, to enable the Commission to rule on a petition for stay filed under §9.24;

(v) To decline to accept any document which has not been timely filed or perfected, as specified in these rules;

(vi) To order the filing of the record of the exchange proceeding notwithstanding the submission of a motion under §9.21(b) that the Commission not accept a notice of appeal; and

(vii) To enter any order which will facilitate or expedite Commission review.

(2) Within seven days after service of a ruling issued pursuant to paragraph

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(b)(1) of this section, a party may file with the Proceedings Clerk a petition for Commission reconsideration of the ruling. Unless the Commission orders otherwise, the filing of a petition for reconsideration will not operate to stay the effective date of such ruling.

(3) The General Counsel or the General Counsel's designee may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (b)(1) of this section.

(4) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel under this section.

[52 FR 25366, July 7, 1987, as amended at 60 FR 54801, Oct. 26, 1995; 64 FR 46270, Aug. 25, 1999]

### Subpart B—Notice and Effective Date of Disciplinary Action or Access Denial Action

#### §9.10 [Reserved]

#### §9.11 Form, contents and delivery of notice of disciplinary or access denial action.

(a) *When required.* Whenever an exchange decision pursuant to which a disciplinary action or access denial action is to be imposed has become final, the exchange must, within thirty days thereafter, provide written notice of such action to the person against whom the action was taken and to the Commission: *Provided*, That the exchange is not required to notify the Commission of any summary action, as authorized under the provisions of §8.27 of this chapter, which results in the imposition of minor penalties for the violation of exchange rules relating to decorum or attire. No final disciplinary or access denial action may be made effective by the exchange except as provided in §9.12.

(b) *Contents of notice.* For purposes of this part, the written notice of a disciplinary action or access denial action may be either a copy of a written decision which accords with §8.16, §8.18, or §8.19(c) of this chapter (including copies of any materials incorporated by reference) or other written notice which must include:

(1) The name of the person against whom the disciplinary action or access denial action was taken;

(2) A statement of the reasons for the disciplinary action or access denial action together with a listing of any rules which the person who was the subject of the disciplinary action or access denial action was charged with having violated or which otherwise serve as the basis of the exchange action;

(3) A statement of the conclusions and findings made by the exchange with regard to each rule violation charged or, in the event of settlement, a statement specifying those rule violations which the exchange has reason to believe were committed;

(4) The terms of the disciplinary action or access denial action;

(5) The date on which the action was taken and the date the exchange intends to make the disciplinary or access denial action effective; and

(6) Except as otherwise provided in § 9.1(b), a statement informing the party subject to the disciplinary action or access denial action of the availability of Commission review of the exchange action pursuant to section 8c of the Act and this part.

(c) *Delivery and filing of the notice.* Delivery of the notice must be made either personally to the person who was the subject of the disciplinary action or access denial action or by mail to such person at that person's last known address. A copy of the notice must be filed on the same date with the Commission, either in person during normal business hours or by mail to: Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The notice filed with the Commission must additionally include the date on which the notice was delivered to the person disciplined or denied access and state whether delivery was personal or by mail.

(d) *Effect of delivery and filing by mail.* Filing by mail to the Commission and delivery by mail to the person disciplined or denied access will be complete upon deposit in the mail of a properly addressed and postpaid document. Where delivery to the person dis-

ciplined or denied access is effected by such mail, the time within which a notice of appeal or petition for stay may be filed will be increased by three days.

(e) *Certification.* Copies of the notice and the submission of any additional information provided pursuant to this section must be certified as true and correct by a duly authorized officer, agent or employee of the exchange.

[52 FR 25366, July 7, 1987, as amended at 60 FR 49334, Sept. 25, 1995; 67 FR 62352, Oct. 7, 2002]

#### § 9.12 Effective date of disciplinary or access denial action.

(a) *Effective date.* Any disciplinary or access denial action taken by an exchange will not become effective until at least fifteen days after the written notice prescribed by § 9.11 is delivered to the person disciplined or denied access; *Provided, however,* That the exchange may cause a disciplinary action to become effective prior to that time if:

(1) As authorized by § 8.25 of this chapter, the exchange reasonably believes, and so states in its written decision, that immediate action is necessary to protect the best interests of the marketplace; or

(2) As authorized by § 8.17(b) of this chapter, the exchange determines, and so states in its written decision, that the actions of a person who is within the exchange's jurisdiction have impeded the progress of a disciplinary hearing; or

(3) As authorized by § 8.27 of this chapter, the exchange determines that a person has violated exchange rules relating to decorum or attire, or timely submission of accurate records required for clearing or verifying each day's transactions or other similar activities; or

(4) The person against whom the action is taken has consented to the penalty to be imposed and to the timing of its effectiveness.

(b) *Notice of early effective date.* If the exchange determines in accordance with paragraph (a)(1) of this section that a disciplinary action will become effective prior to the expiration of fifteen days after written notice thereof, it must notify the person disciplined in