Commodity Futures Trading Commission

other related member of the immediate household of a member or employee, divest a financial interest that he or she is otherwise authorized to retain under this section.\textsuperscript{10}

\[57 \text{FR} \text{5940}, \text{Feb. 8, 2002, as amended at 67 \text{FR} 62353, Oct. 7, 2002}\]

§ 140.735–3 Non-governmental employment and other outside activity.

A Commission member or employee shall not accept employment or compensation from any person, exchange or clearinghouse subject to regulation by the Commission. For purposes of this section, a person subject to regulation by the Commission includes but is not limited to a contract market or clearinghouse or member thereof, a registered futures commission merchant, floor broker, commodity trading advisor, commodity pool operator or any person required to be registered in a fashion similar to any of the above or file reports under the Act or pursuant to any rule or regulation promulgated by the Commission.\textsuperscript{8}

\[58 \text{FR} \text{52658}, \text{Oct. 12, 1993}\]

§ 140.735–4 Receipt and disposition of foreign gifts and decorations.

(a) For purposes of this section only:

(1) Commission member or employee means any Commission member or any person employed by or who occupies an office or a position in the Commission; an expert or consultant under contract with the Commission, or in the case of an organization performing services under such contract, any individual involved in the performance of such service; and the spouse, unless the individual and his or her spouse are separated, and any dependent, as defined by section 152 of the Internal Revenue Code of 1984, of any such person.

(2) Foreign government means:

(A) Any unit of foreign governmental authority, including any foreign national, state, local, and municipal government;

(B) Any international or multinational organization whose membership is composed of any unit of foreign government described in paragraph (a)(2)(A) of this section; and

(C) Any agent or representative of any such unit or such organization, while acting as such.

(3) Gift means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government, except grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

(4) Decoration means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

(5) Minimal value means a retail value in the United States at the time of acceptance of $140 or less, except as redefined to reflect changes in the consumer price index at three year intervals by the Administrator of General Services pursuant to authority granted in 5 U.S.C. 7342(a)(5)(A).

(b) Commission members and employees shall not:

(1) Request or otherwise encourage the tender of a gift or decoration;

(2) Accept a gift of currency, except that which has an historical or numismatic value;

(3) Accept gifts of travel or gifts of expenses for travel, such as transportation, food and lodging, from foreign governments, other than those authorized in paragraph (c)(5) of this section; or

(4) Accept any gift or decoration, except as authorized by this section.

(c) Gifts which may be accepted:

(1) Commission members and employees may accept and retain gifts of minimal value tendered or received as a souvenir or mark of courtesy from a
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foreign government without further approval. If the value of a gift is uncertain, the recipient shall be responsible for establishing that it is of minimal value, as defined in this section. Documentary evidence may be required in support of the valuation.

(2) Commission members and employees may accept, on behalf of the United States, gifts of more than minimal value tendered or received from a foreign government when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. When a tangible gift of more than minimal value is accepted on behalf of the United States, it becomes the property of the United States.

(3) Commission members and employees may accept a gift of more than minimal value where such gift is in the nature of an educational scholarship or medical treatment.

(4) Within 60 days after accepting a tangible gift of more than minimal value, other than a gift described in paragraph (c)(5) of this section, a Commission member or employee shall file a statement with the Executive Director of the Commission which shall include the following information:

(A) The name and position of the Commission member or employee;
(B) A brief description of the gift and the circumstances justifying acceptance;
(C) The identity, if known, of the foreign government and the name and position of the individual who presented the gift;
(D) The date of acceptance;
(E) The estimated value in the United States of the gift at the time of acceptance; and
(F) The disposition or current location of the gift.

(5) Commission members and employees are authorized to accept from a foreign government gifts of travel or gifts of expenses for travel taking place entirely outside the United States, such as transportation, food and lodging, of more than minimal value if the acceptance is approved by the Executive Director, upon a finding that it is consistent with the interests of the Commission. Either prior to or within 30 days after accepting each gift of travel or gift of travel expenses pursuant to this paragraph, the Commission member or employee concerned shall file a statement with the Executive Director containing the following information:

(A) The name and position of the Commission member or employee;
(B) A brief description of the gift and the circumstances justifying acceptance;
(C) The identity, if known, of the foreign government and the name and position of the individual who presented the gift; and
(D) The date of acceptance.

(6) Not later than January 31 of each year the Executive Director shall compile a listing of all statements filed during the preceding year by Commission members and employees pursuant to paragraphs (c)(4) and (c)(5) of this section and shall transmit the listing to the Secretary of State.

(d) Commission members or employees may accept, retain and wear decorations tendered by a foreign government in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Executive Director. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within 60 days of acceptance, with the Executive Director for official use or forwarding to the Administrator of General Services for disposal in accordance with paragraph (g) of this section. Under normal circumstances, it can be expected that a Commission member or employee will be notified of the intent of a foreign government to award him or her or a spouse or dependent a decoration for outstanding or unusually meritorious service sufficiently in advance so that the approval required can be sought prior to its acceptance. A request for the approval of the Executive Director shall be submitted in writing, stating the nature of the decoration and the reason why it is being awarded. Whenever possible, the request should also be accompanied by a statement from the foreign government, preferably in
the form of the citation, which shows
the basis for the tender of the award,
whether it is in recognition of active
field service in time of combat oper-
ations or for other outstanding or un-
usually meritorious performance.
(e) Within 60 days after acceptance of
a tangible gift of more than minimal
value or a decoration for which the Ex-
ecutive Director has not given ap-
proval, a Commission member or em-
ployee shall:
(1) Deposit the gift or decoration for
disposal with the Executive Director; or
(2) Subject to the approval of the
Commission, upon the recommendation
of the Executive Director, deposit the
gift or decoration with the Commission
for official use.
A gift or decoration may be retained
for official use if the Commission de-
determines that it can be properly dis-
played in an area accessible to employ-
ees and members of the public. Within
30 days after termination of the official
use of a gift, the Executive Director
shall forward the gift to the Adminis-
trator of General Services in accord-
ance with paragraph (g) of this section.
(f) Whenever possible, gifts and deco-
rations that have been deposited with
the Executive Director for disposal
shall be returned to the donor. The Ex-
cutive Director, in coordination with
the Office of the General Counsel, shall
examine the circumstances sur-
rrounding the donation, assessing
whether any adverse effect on the for-
eign relations of the United States
might result from the return of the gift
or decoration to the donor. The appro-
priate Department of State officials
shall be consulted if a question of ad-
verse effect on United States foreign
relations arises.
(g) Gifts and decorations that have
not been returned to the donor, re-
tained for official use, or for which offi-
cial use has terminated, shall be for-
warded by the Executive Director to
the Administrator of General Services
for transfer, donation, or other disposal
in accordance with the provisions of
the Federal Property and Administra-
tive Services Act of 1949, as amended,
and 5 U.S.C. 7342.
(h) In accordance with 5 U.S.C.
7342(h), the U.S. Attorney General may
bring a civil action in any United
States district court against any Com-
mission member or employee who
knowingly solicits or accepts a gift
from a foreign government not con-
sent to by the Congress of the United
States in 5 U.S.C. 7342, or who fails to
deposit or report such gift as required
by 5 U.S.C. 7342. The court may assess
a penalty against such Commission
member or employee in any amount
not exceeding the retail value of the
gift improperly solicited or received
plus $5,000.
(i) A violation of the requirements
set forth in this section by a Commis-
sion employee may be cause for appro-
priate disciplinary action which may
be in addition to any penalty pre-
scribed by law.
(j) (1) The burden of proving minimal
value shall be on the recipient. In the
event of a dispute over the value of a
gift, the Executive Director shall ar-
range for an outside appraiser to deter-
mine whether the gift is of more or less
than minimal value.
(2) When requested by the Adminis-
trator of Government Services, the Ex-
cutive Director shall arrange for an
appraisal of a gift or decoration.
(k) No appropriated funds of the
Commission may be used to buy any
tangible gift of more than minimal
value for any foreign individual, unless
the gift has been approved by Congress.
[47 FR 24115, June 3, 1982. Redesignated at 58
FR 28368, Oct. 12, 1993; 63 FR 32733, June 16,
1998]
§ 140.735–5 Disclosure of information.
A Commission employee or former
employee shall not divulge, or cause or
allow to be divulged, confidential or
non-public commercial, economic or of-
ficial information to any unauthorized
person, or release such information in
advance of authorization for its re-
lease. Except as directed by the Com-
mission or its General Counsel as pro-
vided in these regulations, no Commis-
sion employee or former employee is

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