

## § 8.02

## 17 CFR Ch. I (4–1–12 Edition)

cases and in cases involving violations of rules regarding decorum, submission of records or other similar activities, and for adjudicating membership denial determinations. Nothing in this part shall be construed to prohibit an exchange from adopting additional rules and practices not inconsistent with those set forth herein.

### § 8.02 Implementing exchange rules.

(a) Each exchange shall submit to the Commission for its approval rules implementing the following regulations: §§ 8.11, 8.13, 8.15, 8.17, 8.18 and 8.20 of subpart B and §§ 8.26 and 8.28 of subpart C. Any such rule not previously submitted to the Commission shall not be put into effect prior to Commission approval.

(b) An exchange may adopt rules implementing any or all of the following regulations: §§ 8.10, 8.16 and 8.19 of subpart B and § 8.27 of subpart C. Each rule so adopted and not previously submitted to the Commission shall be submitted to the Commission for its approval and shall not be put into effect prior to Commission approval.

### § 8.03 Definitions.

For purposes of this part:

(a) *Board of appeals* means that body provided for in § 8.19.

(b) *Charge* or *charges* means any charge or charges contained in the notice of charges.

(c) *Disciplinary committee* means that body or bodies provided for in § 8.08.

(d) *Disciplinary procedure* means the rules of an exchange governing the investigation and adjudication of possible rule violations and the imposition of appropriate penalties under subpart B of this part.

(e) *Enforcement staff* means that body provided for in § 8.05.

(f) *Exchange* means any board of trade which has been designated as a contract market for one or more commodities pursuant to section 5 of the Act or to trade commodity options pursuant to part 33 of this chapter.

(g) *Investigation report* means the report required by § 8.07.

(h) *Notice of charges* means the notice required by § 8.11.

(i) *Penalty* means any restriction, limitation, censure, fine, expulsion,

suspension, revocation, reprimand, cease and desist order, sanction or any other disciplinary action for any amount or of any definite or indefinite period imposed upon any person within the disciplinary jurisdiction of an exchange upon a finding by the disciplinary committee that a violation has been committed or pursuant to the terms of a settlement agreement.

(j) *Person(s) within the jurisdiction of an exchange* means any exchange employee, staff member or official, any member or person with membership privileges or any person employed by or affiliated with a member or person with membership privileges, including any agent or associated person, and any other person under the supervision or control of the exchange or of any member.

(k) *Record of the proceeding* means all testimony, exhibits, papers and records produced at or filed in a disciplinary or summary proceeding or served on a respondent or an exchange.

(l) *Respondent* means any person named in a notice of charges who has been served with such notice or who is the subject of a summary action.

(m) *Rule(s) of an exchange* means any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy or instrument corresponding thereto.

(n) *Violation* means any violation within the disciplinary jurisdiction of the exchange.

[43 FR 41950, Sept. 19, 1978, as amended at 46 FR 54525, Nov. 3, 1981]

## Subpart B—Disciplinary Procedure

### § 8.05 Enforcement staff.

(a) Each exchange shall establish an adequate enforcement staff which shall be authorized by the exchange to initiate and conduct investigations, to prepare reports incident to such investigations and to prosecute possible rule violations within the disciplinary jurisdiction of the exchange. The enforcement staff shall consist of employees of the exchange and/or persons hired on a contract basis. It may not include either members of the exchange or persons whose interests conflict with enforcement duties. When

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carrying out any responsibility under this part 8 or any rule adopted pursuant thereto, a member of the enforcement staff may not operate under the direction or control of any person or persons with trading privileges.

(b) Each exchange is responsible for assuring the effective and diligent enforcement of all rules within its disciplinary jurisdiction, regardless of whether its enforcement staff consists of employees or persons hired on a contract basis.

### § 8.06 Investigations.

(a) Each exchange shall establish and maintain a disciplinary procedure which requires the enforcement staff of the exchange to conduct investigations of possible rule violations within the disciplinary jurisdiction of the exchange. Such an investigation shall be commenced:

(1) Upon the receipt of a request from the Commission, its Executive Director or his delegee, or

(2) Upon the discovery or receipt of information by the exchange which, in the judgment of the enforcement staff, indicates a possible basis for finding that a violation has occurred or will occur.

(b) Each enforcement staff investigation shall be completed within four months, unless there exists significant reason to extend it beyond such period. If for any reason the enforcement staff closes an investigation before determining whether a reasonable basis exists for finding that a violation has occurred, the staff shall fully set forth the reasons for so closing the investigation in its report.

### § 8.07 Investigation reports.

(a) The enforcement staff shall submit a written investigation report to the disciplinary committee of the exchange in every instance in which the enforcement staff has determined from surveillance or from an investigation that a reasonable basis exists for finding a violation. The investigation report shall include the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and a recommendation as to

whether the disciplinary committee should proceed with the matter.

(b) If after conducting an investigation the enforcement staff has determined that no reasonable basis exists for finding a violation, it shall prepare a written report including the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and, if applicable, any recommendation that the disciplinary committee issue a warning letter in accordance with paragraph (c) of this section. The report shall become part of the investigation file which thereafter may be closed.

(c) In addition to the action required to be taken under either paragraph (a) or (b) of this section, the rules of an exchange may authorize the enforcement staff to issue a warning letter to a person under investigation or to recommend that the disciplinary committee issue such a letter. A warning letter issued in accordance with this section is not a penalty or an indication that a finding of a violation has been made. A copy of such warning letter issued by the enforcement staff shall be included in the investigation report required by paragraph (a) or (b) of this section.

(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]

### § 8.08 Disciplinary committee.

Each exchange shall establish one or more disciplinary committees which shall be authorized by the exchange to determine whether violations have been committed, to accept offers of settlement and to set and impose appropriate penalties. Each such disciplinary committee shall consist of one or more members of the exchange or persons on the staff of the exchange; however, persons on the enforcement staff may not serve on a disciplinary committee.

### § 8.09 Review of investigation report.

The disciplinary committee shall promptly review each investigation report. In the event the disciplinary committee determines that additional investigation or evidence is needed, it