

Commodity Futures Trading Commission

§ 1.57

that additional financial information on all futures commission merchants is available from the Commodity Futures Trading Commission, and include a link to the Commodity Futures Trading Commission's Web page for financial data for futures commission merchants.

[43 FR 31890, July 24, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.55, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 1.56 Prohibition of guarantees against loss.

(a) [Reserved]

(b) No futures commission merchant or introducing broker may in any way represent that it will, with respect to any commodity interest in any account carried by the futures commission merchant for or on behalf of any person:

(1) Guarantee such person against loss;

(2) Limit the loss of such person; or

(3) Not call for or attempt to collect initial and maintenance margin as established by the rules of the applicable board of trade.

(c) No person may in any way represent that a futures commission merchant or introducing broker will engage in any of the acts or practices described in paragraph (b) of this section.

(d) This section shall not be construed to prevent a futures commission merchant or introducing broker from:

(1) Assuming or sharing in the losses resulting from an error or mishandling of an order; or

(2) Participating as a general partner in a commodity pool which is a limited partnership.

(e) This section shall not affect any guarantee entered into prior to January 28, 1982, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

[46 FR 62844, Dec. 29, 1981, as amended at 48 FR 35291, Aug. 3, 1983]

§ 1.57 Operations and activities of introducing brokers.

(a) Each introducing broker must:

(1) Open and carry each customer's account with a carrying futures com-

mission merchant on a fully-disclosed basis: *Provided, however,* That an introducing broker which has entered into a guarantee agreement with a futures commission merchant in accordance with the provisions of § 1.10(j) must open and carry such customer's account with such guarantor futures commission merchant on a fully-disclosed basis; and

(2) Transmit promptly for execution all customer orders to:

(i) A carrying futures commission merchant; or

(ii) A floor broker, if the introducing broker identifies its carrying futures commission merchant and that carrying futures commission merchant is also the clearing member with respect to the customer's order.

(b) An introducing broker may not carry proprietary accounts, nor may an introducing broker carry accounts in foreign futures.

(c) An introducing broker may not accept any money, securities or property (or extend credit in lieu thereof) to margin, guarantee or secure any trades or contracts of customers, or any money, securities or property accruing as a result of such trades or contracts: *Provided, however,* That an introducing broker may deposit a check in a qualifying account or forward a check drawn by a customer if:

(1) The futures commission merchant carrying the customer's account authorizes the introducing broker, in writing, to receive a check in the name of the futures commission merchant, and the introducing broker retains such written authorization in its files in accordance with § 1.31;

(2) The check is payable to the futures commission merchant carrying the customer's account;

(3) The check is deposited by the introducing broker, on the same day upon which it is received, in a bank or trust company located in the United States in a qualifying account, or the check is mailed or otherwise transmitted by the introducing broker to the futures commission merchant on the same day upon which it is received;

(4) For purposes of this paragraph (c), a qualifying account shall be deemed to be an account:

§ 1.58

(i) Which is maintained in an account name which clearly identifies the funds therein as belonging to customers of the futures commission merchant carrying the customer's account;

(ii) For which the bank or trust company restricts withdrawals to withdrawals by the carrying futures commission merchant;

(iii) For which the bank or trust company prohibits the introducing broker or anyone acting upon its behalf from withdrawing funds; and

(iv) For which the bank or trust company provides the futures commission merchant carrying the customer's account with a written acknowledgment, which the futures commission merchant must retain in its files in accordance with §1.31, that it was informed that the funds deposited therein are those of customers and are being held in accordance with the provisions of the Act and the regulations in this chapter.

[48 FR 35291, Aug. 3, 1983, as amended at 57 FR 23143, June 2, 1992; 77 FR 66330, Nov. 2, 2012]

§ 1.58 Gross collection of exchange-set margins.

(a) Each futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant or for a foreign broker on an omnibus basis must collect, and each futures commission merchant and foreign broker for which an omnibus account is being carried must deposit, initial and maintenance margin on each position reported in accordance with §17.04 of this chapter at a level no less than that established for customer accounts by the rules of the applicable contract market.

(b) If the futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant or for a foreign broker on an omnibus basis allows a position to be margined as a spread position or as a hedged position in accordance with the rules of the applicable contract market, the carrying futures commission merchant must obtain and retain a written representation from the futures commission merchant or from the foreign

17 CFR Ch. I (4-1-20 Edition)

broker for which the omnibus account is being carried that each such position is entitled to be so margined.

[61 FR 19187, May 1, 1996]

§ 1.59 Activities of self-regulatory organization employees, governing board members, committee members, and consultants.

(a) *Definitions.* For purposes of this section:

(1) *Self-regulatory organization* means a "self-regulatory organization," as defined in §1.3.

(2) *Governing board member* means a member, or functional equivalent thereof, of the board of governors of a self-regulatory organization.

(3) *Committee member* means a member, or functional equivalent thereof, of any committee of a self-regulatory organization.

(4) *Employee* means any person hired or otherwise employed on a salaried or contract basis by a self-regulatory organization, but does not include:

(i) Any governing board member compensated by a self-regulatory organization solely for governing board activities; or

(ii) Any committee member compensated by a self-regulatory organization solely for committee activities; or

(iii) Any consultant hired by a self-regulatory organization.

(5) *Material information* means information which, if such information were publicly known, would be considered important by a reasonable person in deciding whether to trade a particular commodity interest on a contract market or a swap execution facility, or to clear a swap contract through a derivatives clearing organization. As used in this section, "material information" includes, but is not limited to, information relating to present or anticipated cash positions, commodity interests, trading strategies, the financial condition of members of self-regulatory organizations or members of linked exchanges or their customers, or the regulatory actions or proposed regulatory actions of a self-regulatory organization or a linked exchange.

(6) *Non-public information* means information which has not been disseminated in a manner which makes it generally available to the trading public.