

(iii) Landing distance.

(4) Procedures established under special condition SC23.45(j), (k), and (l) that are related to the limitations and information required by special condition SC23.1583(h) and by this paragraph. These procedures must be in the form of guidance material, including any relevant limitations or information.

(5) An explanation of significant or unusual flight or ground handling characteristics of the airplane.

SC23.A Effects of contamination on natural laminar flow airfoils.

In the absence of specific requirements for airfoil contamination, airplane airfoil designs that have airfoil pressure gradient characteristics and smooth aerodynamic surfaces that may be capable of supporting natural laminar flow must comply with the following:

(a) It must be shown by tests, or analysis supported by tests, that the airplane complies with the requirements of §§ 23.141 through 23.207, 23.233, 23.251, 23.253 (and any changes made to these paragraphs by these special conditions) with any airfoil contamination that would normally be encountered in service and that would cause significant adverse effects on the handling qualities of the airplanes resulting from the loss of laminar flow.

(b) Significant performance degradations identified as resulting from the loss of laminar flow must be provided as part of the information required by special conditions SC23.1585 and SC23.1587.

Issued in Kansas City, Missouri on July 9, 1999.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Compliance With Commission Regulation 3.31 Requirements for Reporting Deficiencies, Inaccuracies, and Changes Resulting From Exchange Disciplinary and Access Denial Actions

AGENCY: Commodity Futures Trading Commission.

ACTION: Advisory.

SUMMARY: The Commodity Futures Trading Commission ("Commission") advises registrants and applicants for registrant status that they are relieved of

filing a Form 3-R, as required under Commission regulation 3.31, if the information to be reported is solely the result of an exchange disciplinary or access denial action. The Commission has recently delegated to the National Futures Association ("NFA") the duty to receive and to process exchange disciplinary and access denial action information filed by the exchanges in accordance with Commission Regulation 9.11. Thus, the NFA will possess the foregoing information that registrants and applicants for registrant status would otherwise be required to include in a Form 3-R.

EFFECTIVE DATE: July 23, 1999.

FOR FURTHER INFORMATION CONTACT:

Rachel F. Berdansky, Special Counsel, or Joshua R. Marlow, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission has published elsewhere today in the **Federal Register** an Advisory and a Notice and Order relating to the filing, processing, and maintenance of exchange disciplinary or access denial actions required under Regulation 9.11 ("Regulation 9.11 notices").¹ The Advisory, among other things, permits exchanges to file either electronic or written Regulation 9.11 notices with the NFA rather than filing these notices with the Commission. The Notice and Order accompanying the Advisory delegates to the NFA the duty to receive and to process disciplinary and access denial action information filed by exchanges pursuant to Regulation 9.11(a). As part of this delegation, the NFA will serve as the official custodian of records for exchange disciplinary and access denial actions.

Information contained in exchange Regulation 9.11 notices must be reported by registrants—and applicants awaiting registration—on Form 3-R, pursuant to Regulation 3.31. Regulation 3.31(a) requires an applicant or registrant as a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant to correct promptly any deficiency or

¹ Regulation 9.11(a) requires that whenever an exchange decision pursuant to which a disciplinary or access denial action is to be imposed has become final, the exchange must provide written notice of such action to the person against whom the action was taken and the Commission within 30 days thereafter.

inaccuracy in Form 7-R or Schedule D to Form 7-R which has rendered the information contained therein non-current or inaccurate. These corrections must be made on Form 3-R. Section (b) imposes a similar requirement on an applicant or registrant as a floor broker, floor trader, associated person, any person qualifying for temporary no-action under Part 1.66 of the Commission's regulations,² and each principal of a futures commission merchant, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant. These individuals must use Form 3-R to make changes to Form 8-R.

As the official custodian of records for exchange Regulation 9.11 filings, the NFA will now have disciplinary information currently required to be reported in a Form 3-R prior to an individual or entity subject to an exchange disciplinary or access denial action actually filing the form. Therefore, to avoid duplicative regulatory reporting, the Commission hereby advises all individuals and entities subject to Regulation 3.31 that they are relieved from Regulation 3.31 reporting obligations resulting from an exchange disciplinary or access denial action and reported by an exchange pursuant to a Regulation 9.11 notice.

II. Compliance With Regulation 3.31

The NFA has apprised the Commission that exchange Regulation 9.11 notices will be regularly reviewed by the NFA's registration processing group staff.³ This is the same staff

² Regulation 1.66 grants no-action relief to those floor traders granted trading privileges on a contract market on or before April 26, 1993 from the then-new registration requirements for floor traders under Regulation 3.11.

³ Pursuant to Section 8a(10) of the Commodity Exchange Act, the NFA has been delegated numerous registration functions by the Commission. Part 3 of Commission Regulations, 17 C.F.R. § 3 (1998), is dedicated to registration. Most registration functions were delegated to the NFA in 1983. 49 FR 35158 (August 3, 1983) ("NFA's registration rules . . . apply to all persons required to be registered under the Act (and not otherwise exempt by Commission rule or order) . . . [A]ll documents referred to in [Part 3] regulations will be filed with, submitted to or given by NFA at its Chicago office instead of the Commission.") Subsequent orders have added to, or clarified, this delegation. See 48 FR 51809 (November 14, 1983); 48 FR 8226 (March 5, 1984); 49 FR 39593 (October 9, 1984), amended by 49 FR 45418 (November 16, 1984); 50 FR 34885 (August 28, 1985); 51 FR 25929 (July 17, 1986); 51 FR 34490 (September 29, 1986); 54 FR 19594 (May 8, 1989); 54 FR 41133 (October 5, 1989); 58 FR 19657 (April 15, 1993); 59 FR 38957 (August 1, 1994); 62 FR 36050 (July 3, 1997); 63 FR 18821 (April 16, 1998); and 63 FR 63913 (November 17, 1998). An earlier Notice and Order delegated to the NFA limited registration functions with respect to introducing brokers and their associated persons. See 49 FR 15940 (April 13, 1983).

currently responsible for receiving and processing Form 3-Rs filed pursuant to Regulation 3.31. Exchange disciplinary information reported in Regulation 9.11 filings will be posted on the NFA's Background Affiliation Status Information Center ("BASIC") database.⁴ On a daily basis, the NFA will print copies of all entries made in BASIC. These copies will be forwarded to the registration processing group and treated as substitutes for Form 3-Rs. The registration processing group will then update the necessary registration records and the paper copy will be placed in the registrant's or potential registrant's file.

III. Conclusion

The information contained in a Form 3-R filed as a result of an exchange disciplinary or access denial action is identical to that included in an exchange Regulation 9.11 filing. Pursuant to the Commission's delegation to the NFA to receive and to process exchange Regulation 9.11 notices and to maintain a database of the information contained therein, the NFA will have timely access to exchange Regulation 9.11 notices. Therefore, the Commission, in order to avoid duplicative regulatory reporting, is permitting any individual or entity otherwise required under Regulation 3.31(a) or (b) to file a Form 3-R as a result of an exchange disciplinary or access denial action to forego this reporting obligation. The Commission emphasizes that this relief applies only with respect to exchange disciplinary or access denial actions. All other reporting obligations under Regulation 3.31 remain unchanged.

Issued in Washington, D.C. on July 19, 1999 by the Commission.

Jean A. Webb,

Secretary of the Commission.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 9

Performance of Certain Functions by the National Futures Association With Respect to Regulation 9.11

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

⁴ A description of BASIC and how exchange disciplinary data is posted on the system can be found in the Advisory and Notice and Order published elsewhere today in the *Federal Register*.

SUMMARY: Consistent with the Commodity Futures Trading Commission's ("Commission") efforts toward reducing the burden of regulatory reporting by exchanges and recognizing advances in electronic media technology, the Commission is delegating to the National Futures Association ("NFA") the duty to receive and to process exchange disciplinary and access denial action information, in accordance with procedures established by the Commission. As part of this delegation, the NFA shall serve as the official custodian of records for exchange disciplinary filings. The NFA additionally will be responsible for using the data collected to generate administrative reports for Commission oversight use.

EFFECTIVE DATE: July 23, 1999.

FOR FURTHER INFORMATION CONTACT: Rachel F. Berdansky, Special Counsel, or Joshua R. Marlow, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, telephone (202) 418-5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

Commission Regulation 9.11 was established in 1978 to carry out certain mandates of Section 8c of the Commodity Exchange Act ("Act").¹ Among other things, Section 8c of the Act requires exchanges to discipline members; to notify the disciplined individuals, the Commission, and the public of disciplinary actions; and grants the Commission the authority to review exchange disciplinary actions. Regulation 9.11 sets forth the manner in which an exchange is to provide that notice.²

In January 1991, the NFA created its Clearinghouse of Disciplinary Information ("CDI") database, a central

¹ 43 FR 59343 (December 20, 1978). Commission regulations referred to herein can be found at 17 C.F.R. § 9 (1998).

² Regulation 9.11(a) requires that whenever an exchange decision pursuant to which a disciplinary or access denial action is to be imposed has become final, the exchange must provide written notice of such action to the person against whom the action was taken and the Commission within 30 days thereafter. The contents to be included in the notice are set forth in Regulation 9.11(b). Regulation 9.11(c) specifies that notice must be delivered either in person or by mail to both the individual subject to the action and to the Commission. Notice filed with the Commission also must include the date on which notice was delivered to the individual and state whether delivery was in person or by mail. Pursuant to Regulation 9.11(d), filing by mail becomes complete upon deposit in the mail. Finally, Regulation 9.11(e) provides that a duly authorized officer, agent, or employee of the exchange must certify that the required notice is true and correct.

repository for information regarding disciplinary actions taken by the NFA, the Commission, and the exchanges. The need for a resource of this kind became evident following the 1989 joint Commission and Federal Bureau of Investigation undercover investigation of floor trading practices at the Chicago Board of Trade and the Chicago Mercantile Exchange. Members of the media found that they had to contact several different organizations to obtain disciplinary history and registration information regarding individuals allegedly involved in illegal trading practices.

CDI has since been replaced by a more versatile database called the Background Affiliation Status Information Center ("BASIC"). A primary reason for the NFA's switch to BASIC was to make information found in CDI available to the public on the Internet.³ Specifically, the public can access information pertaining to the types of violations committed, penalties imposed, the effective date of the action, and, in some cases, text from the exchange's decision.⁴ BASIC, which can be searched by NFA identification number, individual name or firm name, essentially replicates what was previously available to the public only by calling the NFA's toll-free telephone line.

One result from the creation of CDI and BASIC has been that since 1991, the exchanges have been filing disciplinary and access denial action notices ("Regulation 9.11 notices") in duplicate, once with the Commission pursuant to Regulation 9.11, and again with the NFA. Pursuant to ongoing discussions between the Joint Compliance Committee ("JCC"),⁵ the NFA, and the Commission, the exchanges and the NFA have requested Commission permission to allow the exchanges to file Regulation 9.11 notices solely with the NFA to reduce the exchanges' regulatory reporting obligations. Toward that end, the NFA has agreed to process all exchange Regulation 9.11 notices and to assume complete responsibility for maintaining a database of all

³ The Internet address for the NFA's BASIC system is <http://www.nfa.futures.org/BASIC/>.

⁴ BASIC contains all disciplinary actions taken by the NFA since its inception in 1982, all Commission disciplinary actions taken since 1975, and all disciplinary actions taken by exchanges since at least 1990.

⁵ The JCC was established in May 1989 to aid in the development of improved compliance systems through joint exchange efforts and information sharing among self-regulatory organizations. The JCC is comprised of senior compliance officials from all of the domestic futures exchanges and the NFA. Commission staff participate as observers.