

Commodity Futures Trading Commission

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(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the General Counsel believes it appropriate, the General Counsel or their designee may submit the matter to the Commission for its consideration.

(c) Within seven (7) days after service of a ruling issued pursuant to this §12.408, a party may file with the Commission a petition for reconsideration of the ruling. Unless the Commission orders otherwise, the filing of a petition for reconsideration shall not operate to stay the effective date of such ruling.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984; 49 FR 17750, Apr. 25, 1984, as amended at 57 FR 20638, May 14, 1992; 59 FR 9638, Mar. 1, 1994; 64 FR 43071, Aug. 9, 1999; 78 FR 1145, Jan. 8, 2013; 86 FR 64361, Nov. 18, 2021]

PART 13—PROCEDURES FOR PETITIONS FOR RULEMAKING

Sec.

13.1 Petition for issuance, amendment, or repeal of a rule.

13.2 [Reserved]

AUTHORITY: 7 U.S.C. 2(a)(12).

SOURCE: 84 FR 68789, Dec. 17, 2019, unless otherwise noted.

§13.1 Petition for issuance, amendment, or repeal of a rule.

Any person may file a petition with the Secretariat of the Commission, by mail or electronically through the Commission website, for the issuance, amendment or repeal of a rule of general application. The petition shall be directed to Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, and shall set forth the text of any final rule or amendment or shall specify the rule the repeal of which is sought. The petition shall further state the nature of the petitioner's interest and may state arguments in support of the issuance, amendment or repeal of the rule. The Secretariat shall acknowledge receipt of the petition, refer it to the Commission for such action as the Commission deems appropriate, and notify the petitioner of the action taken by the Commission. Except in affirming a prior denial or when the denial is self-explanatory,

notice of a denial in whole or in part of a petition shall be accompanied by a brief statement of the grounds of denial.

§ 13.2 [Reserved]

PART 14—RULES RELATING TO SUSPENSION OR DISBARMENT FROM APPEARANCE AND PRACTICE

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AUTHORITY: Pub. L. 93-463, sec. 101(a)(11), 88 Stat. 1391, 7 U.S.C. 4a(j).

SOURCE: 41 FR 28472, July 12, 1976, unless otherwise noted.

§ 14.1 Scope.

The rules of this part describe the circumstances under which persons may be denied, either temporarily or permanently, the privilege of appearing or practicing before the Commission as an attorney or accountant. An attorney may also be excluded from further participation in a particular adjudicatory proceeding in accordance with the provisions of §10.11(b) of this chapter or from further participation in a particular investigatory proceeding in accordance with the provisions of §11.7(c)(2) of this chapter.

§14.2 Definitions of appearance and practice.

(a) *Appearance.* For the purpose of this part, "appearance" refers to the representation of a person by another who appears in his behalf at any adjudicatory, investigatory or rulemaking proceeding conducted before the Commission, including but not limited to those proceedings encompassed in parts 10 through 13 of the Commission's rules.

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(b) *Practice.* For the purpose of this part, practicing before the Commission shall include but shall not be limited to:

(1) The preparation of any statement, opinion or other paper by any attorney or accountant filed with or submitted to the Commission on behalf of another person in or in connection with any application, notification, report or other document; and

(2) Transacting any other formal business with the Commission, on behalf of another person, in the capacity of an attorney or accountant.

§ 14.3 Hearings.

Hearings required or permitted to be held under provisions of this part shall be held before an Administrative Law Judge, utilizing the procedures established in the rules of practice (part 10) for adjudicatory proceedings. Any proceeding brought under provisions of this part shall, unless otherwise determined by the Commission, be prosecuted by the General Counsel of the Commission or by such attorneys in his office as he may assign.

§ 14.4 Violation of Commodity Exchange Act.

The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission, after notice of and opportunity for hearing in the matter, to have violated, caused, or aided and abetted any violation of the Commodity Exchange Act, as amended, 7 U.S.C. 1 *et seq.*, or the rules and regulations adopted thereunder.

§ 14.5 Criminal conviction.

Any person who after licensing or certification to practice his profession by any competent authority has been convicted of any felony or of a misdemeanor involving fraud or involving moral turpitude in matters related to the regulatory responsibilities of the Commission, and whose conviction has not been reversed by an appellate court, may not appear or practice before the Commission. A conviction within the meaning of this section shall be deemed to have occurred when the convicting court enters its judgment or order, regardless of whether an appeal is pending or could be taken, and includes a judgment on a plea of *nolo contendere*.

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ment or order, regardless of whether an appeal is pending or could be taken, and includes a judgment on a plea of *nolo contendere*.

§ 14.6 Disbarment or suspension by licensing authority.

Any attorney who has been suspended or disbarred by a Court of the United States or any state or territory or the District of Columbia and any person whose license to practice as an accountant has been revoked or suspended in any state or territory or the District of Columbia may not appear or practice before the Commission during the period when such suspension or revocation is in effect. A suspension or revocation shall be deemed to have occurred when the disbarring, suspending or revoking agency or tribunal enters its order, regardless of whether appeal is pending or could be taken, and includes a judgment or order on a plea of *nolo contendere* or the procedural equivalent of such a plea. For purposes of this section it shall be irrelevant that any attorney or accountant who has been suspended, disbarred, or otherwise disqualified from practice before a court or in a jurisdiction continues in professional good standing before other courts or in other jurisdictions.

§ 14.7 Finding of violation of Commodity Exchange Act or Federal securities laws in another proceeding.

(a) *Temporary suspension.* The Commission, with due regard to the public interest, and without preliminary hearing, may by order temporarily suspend from appearing or practicing before it any person who, on or after the effective date of this rule has been by name:

(1) Permanently enjoined by reason of his misconduct by any court of competent jurisdiction (i) whether by consent, default, upon summary judgment or after trial, in any action brought by the Commission based upon violations of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations adopted thereunder, or (ii) after trial or upon summary judgment in any action brought by the U.S. Securities and Exchange Commission based upon any violation of the federal securities laws (15 U.S.C. 77a to 80b-20)

or of rules and regulations adopted thereunder;

(2) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after trial) in any action brought by the Commission to which he is a party, or found by the Commission (whether by consent, default, upon summary disposition or after hearing) in any administrative proceeding in which the Commission is a complainant and to which he is a party, to have committed, caused, or aided and abetted a violation of any provision of the Commodity Exchange Act, as amended, or of the rules and regulations promulgated under any of those statutes;

(3) Found upon summary judgment or after trial by any court of competent jurisdiction in any action brought by the U.S. Securities and Exchange Commission to which he is a party, or found by the Securities and Exchange Commission, upon summary disposition or after hearing, in any administrative proceeding in which the Securities and Exchange Commission is a complainant and to which he is a party, to have committed, caused, or aided or abetted a violation of any provision of the federal securities laws (15 U.S.C. 77a to 80b-20) or of the rules and regulations adopted thereunder.

(b) *Petition to lift suspension.* Any person temporarily suspended from appearing and practicing before the Commission in accordance with paragraph (a) of this section may, within 30 days after service upon him of temporary suspension, petition the Commission to lift the temporary suspension. If no petition has been received by the Commission within 30 days after service of the order by mail the suspension shall become permanent.

(c) *Consideration of petition.* Within 30 days after the filing of the petition described in paragraph (b) of this section the Commission shall either lift the temporary suspension or set the matter down for hearing or both. After opportunity for hearing, the Commission may censure the petitioner or may disqualify the petitioner from appearing or practicing before the Commission for a period of time or permanently or may determine that no action is appropriate.

(d) *Hearing.* A showing that the petitioner has been enjoined or has been found to have committed, caused or aided or abetted violations as described in paragraph (a) of this section, without more, may be a basis for censure or disqualification; that showing having been made, the burden shall then be on the petitioner to show why he should not be censured or disqualified. A petitioner will not be heard to contest any findings against him or admissions made by him in the judicial or administrative proceedings upon which the proposed censure or disqualification is based. A petitioner who has consented to the entry of a permanent injunction as described in paragraph (a)(1) of this section without admitting the facts set forth in the complaint shall nevertheless be presumed for all purposes under this section to have been enjoined by reason of the misconduct alleged in the complaint.

§ 14.8 Lack of requisite qualifications, character and integrity.

In addition to those matters specifically referred to in §§14.4 through 14.7, the Commission may, after notice and opportunity for hearing in the matter, deny, temporarily or permanently, the privilege of appearing or practicing before it to any person who is found by the Commission by a preponderance of the evidence:

(a) Not to possess the requisite qualifications to represent others; or

(b) To be lacking in character or integrity; or

(c) To have engaged in unethical or improper professional conduct either in the course of any adjudicatory, investigative or rulemaking or other proceeding before the Commission or otherwise. With respect to the professional conduct of persons licensed to practice as accountants, "unethical or improper professional conduct" means:

(1) Intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional principles or standards; or

(2) Either of the following two types of negligent conduct:

(i) A single instance of highly unreasonable conduct that results in a violation of applicable professional principles or standards in circumstances in

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which an accountant knows, or should know, that heightened scrutiny is warranted.

(ii) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional principles or standards, which indicate a lack of competence to practice before the Commission.

[41 FR 28472, July 12, 1976, as amended at 80 FR 32857, June 10, 2015]

§ 14.9 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the Commission who has been the subject of a conviction, suspension, disbarment, revocation, injunction or finding of the kind described in §§14.5 through 14.7, unless based on action instituted by the Commission, shall promptly file a copy of the relevant order, judgment or decree with the Secretariat of the Commission at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, together with any related opinion or statement of the agency or tribunal involved. Any person who has been the subject of administrative or judicial action of the kind described in §§14.5 through 14.7 and who has not filed a copy of the order, judgment or decree within thirty days after its entry shall for that reason alone be disqualified from appearing or practicing before the Commission until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way affect the operations of any other provision of this part.

[41 FR 28472, July 12, 1976, as amended at 60 FR 49335, Sept. 25, 1995]

§ 14.10 Reinstatement.

Any person who is disqualified from appearing or practicing before the Commission under any of the provisions of this part may at any time file an application of reinstatement and the applicant may, in the Commission's discretion, be afforded a hearing on the application. However, denial of the privilege of appearing or practicing before the Commission shall continue unless and until the applicant has been reinstated by order of the Commission.

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PART 15—REPORTS—GENERAL PROVISIONS

Sec.

15.00 Definitions of terms used in parts 15 to 19, and 21 of this chapter.

15.01 Persons required to report.

15.02 Reporting forms.

15.03 Reporting levels.

15.04 Reportable trading volume level.

15.05 Designation of agent for foreign persons.

15.06 Delegations.

AUTHORITY: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010).

§ 15.00 Definitions of terms used in parts 15 to 19, and 21 of this chapter.

As used in parts 15 to 19, and 21 of this chapter:

(a) *Cash or Spot*, when used in connection with any commodity, means the actual commodity as distinguished from a futures or options contract in such commodity.

(b) *Clearing member* means any person who is a member of, or enjoys the privilege of clearing trades in his own name through, the clearing organization of a designated contract market, registered derivatives transaction execution facility, or registered entity under section 1a(29) of the Act.

(c) *Clearing organization* means the person or organization which acts as a medium for clearing transactions in commodities for future delivery or commodity option transactions, or for effecting settlements of contracts for future delivery or commodity option transactions, for and between members of any designated contract market, registered derivatives transaction execution facility or registered entity under section 1a(29) of the Act.

(d) *Compatible data processing media* means data processing media approved by the Commission or its designee.

(e) *Customer* means “customer” (as defined in §1.3 of this chapter) and “options customer” (as defined in §1.3 of this chapter).

(f) *Customer trading program* means any system of trading offered, sponsored, promoted, managed or in any other way supported by, or affiliated