

Commodity Futures Trading Comm.

§ 180.1

to consider a petition to stay the effective date of such a decision or a motion for similar relief;

(5) To decline to accept any document which has not been filed or perfected as specified in these rules;

(6) To determine motions seeking permission to participate in a proceeding under §171.27 and to establish the related briefing schedule;

(7) To establish briefing schedules under §171.28; and

(8) To enter any order which, in his judgment, will facilitate or expedite Commission review of a decision by the National Futures Association in a disciplinary, membership denial or registration action.

(b) Within seven days after service of a ruling issued pursuant to paragraph (a) of this section, a party may file with the Proceedings Clerk a petition for Commission reconsideration of the ruling. Unless the Commission orders otherwise, the filing of a petition for reconsideration will not operate to stay the effective date of such ruling.

(c) The General Counsel, or his designee, may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(d) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel, or his designee, under this section.

[55 FR 41068, Oct. 9, 1990, as amended at 64 FR 46271, Aug. 25, 1999; 78 FR 1145, Jan. 8, 2013]

PART 180—PROHIBITION AGAINST MANIPULATION

Sec.

180.1 Prohibition on the employment, or attempted employment, of manipulative and deceptive devices.

180.2 Prohibition on price manipulation.

AUTHORITY: 7 U.S.C. 6c(a), 9, 12(a)(5) and 15, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010); 5 U.S.C. 552 and 552(b), unless otherwise noted.

SOURCE: 76 FR 41410, July 14, 2011, unless otherwise noted.

§ 180.1 Prohibition on the employment, or attempted employment, of manipulative and deceptive devices.

(a) It shall be unlawful for any person, directly or indirectly, in connection with any swap, or contract of sale of any commodity in interstate commerce, or contract for future delivery on or subject to the rules of any registered entity, to intentionally or recklessly:

(1) Use or employ, or attempt to use or employ, any manipulative device, scheme, or artifice to defraud;

(2) Make, or attempt to make, any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statements made not untrue or misleading;

(3) Engage, or attempt to engage, in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person; or,

(4) Deliver or cause to be delivered, or attempt to deliver or cause to be delivered, for transmission through the mails or interstate commerce, by any means of communication whatsoever, a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact that such report is false, misleading or inaccurate. Notwithstanding the foregoing, no violation of this subsection shall exist where the person mistakenly transmits, in good faith, false or misleading or inaccurate information to a price reporting service.

(b) Nothing in this section shall be construed to require any person to disclose to another person nonpublic information that may be material to the market price, rate, or level of the commodity transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.

(c) Nothing in this section shall affect, or be construed to affect, the applicability of Commodity Exchange Act section 9(a)(2).

§ 180.2

§ 180.2 Prohibition on price manipulation.

It shall be unlawful for any person, directly or indirectly, to manipulate or attempt to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.

PART 190—BANKRUPTCY RULES

Subpart A—General Provisions

Sec.

- 190.00 Statutory authority, organization, core concepts, scope, and construction.
- 190.01 Definitions.
- 190.02 General.

Subpart B—Futures Commission Merchant as Debtor

- 190.03 Notices and proofs of claims.
- 190.04 Operation of the debtor's estate—customer property.
- 190.05 Operation of the debtor's estate—general.
- 190.06 Making and taking delivery under commodity contracts.
- 190.07 Transfers.
- 190.08 Calculation of funded net equity.
- 190.09 Allocation of property and allowance of claims.
- 190.10 Current records during business as usual.

Subpart C—Clearing Organization as Debtor

- 190.11 Scope and purpose of this subpart.
- 190.12 Required reports and records.
- 190.13 Prohibition on avoidance of transfers.
- 190.14 Operation of the estate of the debtor subsequent to the filing date.
- 190.15 Recovery and wind-down plans; default rules and procedures.
- 190.16 Delivery.
- 190.17 Calculation of net equity.
- 190.18 Treatment of property.
- 190.19 Support of daily settlement.

APPENDIX A TO PART 190—CUSTOMER PROOF OF CLAIM FORM

APPENDIX B TO PART 190—SPECIAL BANKRUPTCY DISTRIBUTIONS

AUTHORITY: 7 U.S.C. 1a, 2, 6c, 6d, 6g, 7a-1, 12, 12a, 19, and 24; 11 U.S.C. 362, 546, 548, 556, and 761-767, unless otherwise noted.

SOURCE: 86 FR 19421, Apr. 13, 2021, unless otherwise noted.

Subpart A—General Provisions

§ 190.00 Statutory authority, organization, core concepts, scope, and construction.

(a) *Statutory authority.* The Commission has adopted the regulations in this part pursuant to its authority under sections 8a(5) and 20 of the Act. Section 8a(5) provides general rulemaking authority to effectuate the provisions and accomplish the purposes of the Act. Section 20 provides that the Commission may, notwithstanding title 11 of the United States Code, adopt certain rules or regulations governing a proceeding involving a commodity broker that is a debtor under subchapter IV of chapter 7 of the Bankruptcy Code. Specifically, the Commission is authorized to adopt rules or regulations specifying:

(1) That certain cash, securities, or other property, or commodity contracts, are to be included in or excluded from customer property or member property;

(2) That certain cash, securities, or other property, or commodity contracts, are to be specifically identifiable to a particular customer in a particular capacity;

(3) The method by which the business of the commodity broker is to be conducted or liquidated after the date of the filing of the petition under chapter 7 of the Bankruptcy Code, including the payment and allocation of margin with respect to commodity contracts not specifically identifiable to a particular customer pending their orderly liquidation;

(4) Any persons to which customer property and commodity contracts may be transferred under section 766 of the Bankruptcy Code; and

(5) How a customer's net equity is to be determined.

(b) *Organization.* This part is organized into three subparts. This subpart contains general provisions applicable in all cases. Subpart B of this part contains provisions that apply when the debtor is a futures commission merchant (as that term is defined in the Act or Commission regulations). This includes acting as a foreign futures commission merchant, as defined in section 761(12) of the Bankruptcy Code,