

**NYBOT®**  
**DISCIPLINARY RULES**  
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## DISCIPLINARY RULES

### Rule 21.00. Definitions

For the purposes of this Chapter, the following terms shall have the following meanings:

#### (a) Emergency Event

The term "Emergency Event" shall mean, with respect to any Member:

(i) the filing of a petition, answer or other document, or the taking of any other action, by a Member with respect to itself, or against such Member, seeking a liquidation, arrangement, reorganization or other or similar relief under the provisions of the Federal Bankruptcy Act or of any other state or federal law for the relief of insolvent debtors;

(ii) the dissolution of such Member;

(iii) the insolvency (as defined under any applicable state or federal law) of such Member;

(iv) the failure of such Member to meet the applicable financial requirements of the Exchange, the Clearing Organization or any governmental agency or self-regulatory body;

(v) the failure of such Member to meet when due any Margin call issued by any Clearing Organization or other Person, the default by such Member under any Commodity Contracts on this or any other exchange, or the failure or inability for financial reasons of such Member to comply with any of his contracts; or

(vi) the imposition of any injunction or other restraint by any government agency, court or arbitrator which may affect the ability of such Member to perform its contracts or otherwise to engage in business.

#### (b) Financial Emergency

The term "Financial Emergency" shall mean, with respect to any Member, any situation in which the financial or operational condition of such Member, or the business conduct of such Member, is such that it would not be in the best interests of the marketplace for such Member to continue in business on the Exchange.

#### (c) Marketplace

The term "marketplace" shall mean the Exchange, its Members, or any market on which commodities underlying Commodity Contracts are traded.

#### (d) Membership Interest

The term "membership interest" shall mean a Person conducting business on or at the Exchange as a:

(i) floor broker;

(ii) floor trader;

(iii) FCM;

(iv) Producer, consumer, processor, distributor, and merchandiser of commodities traded on the Exchange and

(v) Such other market users or participants as there may be from time to time;

provided, however, that each Exchange Futures or Options Contract in which the foregoing Persons primarily trade or otherwise participate shall be considered a separate membership interest.

**(e) Respondent**

The term "Respondent" shall mean a Member or non-member market participant who is the subject of a disciplinary proceeding commenced in accordance with this Chapter.

**(f) Service**

The term "service" on any Person shall mean delivery in person, or by first class mail postage prepaid, or by facsimile message ("FAX") to, in the case of a member, an address or a FAX number on file with the Exchange in accordance with Rule 26.01(b) or, in the case of a non-member market participant, to the last known address or FAX number. Service shall be complete upon such delivery or facsimile transmission or upon mailing.

**Rule 21.01. Jurisdiction**

(a) The Compliance Department shall have the authority to initiate and conduct investigations and to prosecute Rule violations committed by the Exchange's Members and non-member market participants.

(b) Each Member shall file with the Membership Department a written notice designating an office within the County of New York for receiving service of documents. If a member shall fail to designate such an office, service at his or its address on file with the Exchange shall be good service, and delivery thereof shall be deemed to have occurred as of the date of such mailing.

**Rule 21.02. Compliance Staff — Powers and Duties**

(a) The Compliance staff of the Exchange shall consist of Exchange employees, including officers, and such other individuals as the Exchange may hire on a contract basis.

(b) The Compliance staff shall conduct investigations of possible violations of the Rules, prepare reports respecting such investigations, furnish such reports to the Business Conduct Committee and conduct the prosecution of such violations.

(c) The Compliance staff shall provide the Member or non-member market participant who or which is the subject of any investigation with a copy of the written report and an opportunity to submit written comments regarding the report no less than five (5) Business Days prior to distribution of the report to a subcommittee of the Business Conduct Committee. Any written comments received from the Member or non-member market participant shall either accompany distribution of the report to the subcommittee of the Business Conduct Committee or shall be furnished to the subcommittee at the time of its meeting, depending on the date on which the Member's or non-member market participant's comments are received by the Compliance staff.

(d) If, in any case, the Vice President concludes that a Rule violation may have occurred, he may:

(i) issue a warning letter to the Member or non-member market participant informing him that here may have been a Rule violation and that such continued activity may result in disciplinary sanctions; such warning letter is neither a penalty nor a finding of a violation; or

(ii) negotiate and enter into a written settlement agreement with the Member or non-member market participant, whereby the Member or non-member market participant, with or without admitting guilt, may agree to:

(1) a cease and desist order or a reprimand;

(2) a fine of up to ten thousand dollars (\$10,000) for each rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;

(3) a voluntary suspension of up to three (3) months for each violation alleged;

(4) expulsion; and/or

(5) as part of a suspension or expulsion, the term or condition that the Member may not be employed by another Member, or any combination thereof; or

(6) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and the issuance of a notice directing all Members to deny access to such non-member market participant to the Exchange's markets for such period of time;

provided, however, in any case in which it is concluded that the Member may have violated a Rule involving the execution of, or the failure to execute, a Customer transaction, the Vice President shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Member, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties. Any such written settlement shall be subject to the approval of a subcommittee of the Business Conduct Committee and shall become final and effective pursuant to Rule 21.16(a).

(e) Notwithstanding the provisions of paragraph (d) of this Rule, if in any case, the Vice President concludes that a violation of any trading card or order ticket record keeping rule may have occurred, the Vice President may impose a summary fine of no more than one thousand dollars (\$1,000) after one (1) warning letter has been issued to the Member for the same violation. The authority to impose such a summary fine does not limit the Vice President's authority to refer the matter to the BCC instead of imposing a summary fine. A Member shall have fifteen (15) calendar days to file with the Vice President a written request for review of the summary fine by the Business Conduct Committee. If no such written request is filed, a summary fine imposed in accordance with this paragraph shall become final and effective and payment shall become due and owing to the Exchange fifteen (15) calendar days after the Member receives the fine.

### **Rule 21.03. The Business Conduct Committee**

(a) The Business Conduct Committee shall have the power to direct that an investigation of any suspected violation of the Rules be conducted by the Compliance staff, pursuant to Rule 21.02, and shall have the authority to hear any matter referred to it by the Executive Floor Committee, provided, however, that any member of the Business Conduct Committee who is also a member of the Executive Floor Committee and participated in such matter pursuant to Rule 21.25, shall be disqualified from serving on any panel of the Business Conduct Committee hearing such matter.

(b) The Business Conduct Committee shall periodically receive and review the written reports concerning possible Rule violations reported by the Compliance staff pursuant to Rule 21.02(b). A subcommittee of the Business Conduct Committee shall be appointed by the Chairman of the Business Conduct Committee to conduct any review of a possible violation under this Rule. The subcommittee shall be comprised of no less than eight (8) individuals, such that three (3) are identified with the FCM/Trade membership interest, four (4) are identified with the Floor membership interest and one is not a Member. Five (5) subcommittee members shall constitute a quorum so long as there are in attendance at least two (2) members identified with the Floor membership interest and two members from the FCM/Trade membership or non-membership interests.

(c) If after initial review of an investigative report a subcommittee of the Business Conduct Committee concludes that a rule violation may have occurred, it shall allow the Member or non-member market participant an opportunity to present whatever evidence the Member or non-member market participant may have. Such a presentation shall be conducted informally with no transcript taken.

(d) In any case where the Business Conduct Committee concludes that a rule violation may have occurred, such Business Conduct Committee shall advise the Member or non-member market participant of that fact and may:

- (i) refer or return the matter to the Compliance staff with instructions for further action;
- (ii) enter into or approve a settlement agreement with said Member or non-member market participant which may provide for a penalty other than that recommended by the Compliance staff, subject to the limitations set forth in subparagraph (d)(iv) of this Rule;
- (iii) refer the matter to a formal hearing; or
- (iv) negotiate and enter into a written settlement agreement with the Member or non-member market participant, whereby the Member or non-member market participant, with or without admitting guilt, may agree to:
  - (1) a cease and desist order or a reprimand;
  - (2) a fine of up to twenty-five thousand dollars (\$25,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;
  - (3) a voluntary suspension of up to one (1) year for each Rule violation alleged;
  - (4) expulsion; and/or
  - (5) as part of a suspension or expulsion, the term or condition that the Member may not be employed by another Member as a floor employee, or any combination thereof; or
  - (6) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and the issuance of a notice directing all Members to deny access to such non-member market participant to the Exchange's markets for such period of time;

provided, however, in any case in which it is concluded that the Member may have violated a Rule involving the execution of, or the failure to execute, a Customer transaction, the Business Conduct Committee shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Member, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties.

#### **Rule 21.04. Power to Compel Testimony by Members and Production of Documents**

The President, the Board, the Vice President, the Compliance staff, any committee or subcommittee and any panel of any committee or subcommittee, engaged in any investigation of, examination into, or hearing or appeal involving any matter pursuant to the Rules shall have the power to summon any Member and any employee of any Member to appear before him or it, to give testimony under oath or in any other manner required by him or it and to produce any documents, books or records. A Firm so summoned shall appear by a partner, officer or responsible employee fully acquainted with the relevant facts. If any Member or any employee of any Member fails to obey any such summons or to give any such testimony or to produce any such documents, books or records, such failure shall constitute a violation of this Rule by such member and shall be reported to the Business Conduct Committee for appropriate action.

#### **Rule 21.05. Notice of Charges**

In any case in which a subcommittee of the Business Conduct Committee refers a matter to a formal hearing, the Compliance staff shall serve a Notice of Charges ("Notice") on the Respondent, the Chairman of the Business Conduct Committee and the Office of the General Counsel. Such Notice shall state:

- (a) the acts, practices or conduct in which the Respondent is alleged to have engaged;

(b) the Rule(s) which is alleged to have been violated as a result of such acts, practices or conduct;

(c) that the Respondent is entitled, upon written request filed with the Compliance staff and the Office of the General Counsel within twenty (20) days of service of the Notice, to a formal hearing on the charges;

(d) that the failure of the Respondent to request a hearing within twenty (20) days of service of the Notice, except for good cause shown, shall be deemed a waiver of his right to a hearing;

(e) that the failure of the Respondent to file an answer with the compliance staff and the Office of the General Counsel within twenty (20) days of service of the Notice shall be deemed an admission of all of the allegations contained in the Notice; and

(f) that the failure of the Respondent to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation.

**Rule 21.06. Answer; Request for Hearing; Failure to Answer or Deny Charges**

(a) The Respondent shall serve on the Compliance staff and the Office of the General Counsel a written Answer to the Notice of Charges and a written request for a hearing on the charges within twenty (20) days of the date of service of the Notice of Charges.

(b) The Respondent's failure to file an Answer within such twenty (20) days shall be deemed an admission of all of the allegations contained in the Notice;

(c) The Respondent's failure to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such allegation; and

(d) The Respondent's failure to request a hearing within such twenty (20) days shall be deemed a waiver of Respondent's right to a hearing.

**Rule 21.07. Reply**

The Compliance staff may serve on the Respondent and the Office of the General Counsel a Reply within five (5) days of the date of service of the Respondent's Answer. The reply must be limited to the matters set forth in the Answer.

**Rule 21.08. Selection of Hearing Panel**

(a) Formal hearings on any alleged Rule violation shall be conducted by a Hearing Panel selected by the Chairman of the Business Conduct Committee from the subcommittee of the Business Conduct Committee which did not receive and review the written report concerning such alleged violation as provided for in Rule 21.03 (the "Hearing Panel"). Subject to the provisions of Rule 21.03, paragraphs (b) and (c), the Chairman of the Business Conduct Committee, in his sole discretion, shall appoint a Hearing Panel comprised of either three (3) or five (5) members as follows:

(i) a panel of three (3) members shall consist of one (1) who is identified with the Floor membership interest, one (1) who is identified with the FCM/Trade membership interest and one (1) who is not a Member; or

(ii) a panel of five (5) members shall consist of two (2) who are identified with the Floor membership interest, two (2) who are identified with the FCM/Trade membership interest and one (1) who is not a Member.

(b) The Chairman of the Business Conduct Committee shall notify the Compliance staff and the Respondent of the names of the members selected to hear the matter at least fifteen (15) days prior to the hearing date.

(c) No member of the Hearing Panel shall hear a case in which that member has a direct financial, personal or other interest in the matter under consideration.

**Rule 21.09. Challenge to Members of the Hearing Panel**

Within ten (10) days after service on the Respondent of the names of the members of the Hearing Panel, the Respondent may challenge, in writing, any member of the Hearing Panel for cause. The merits of such challenge shall be finally decided by the Chairman of the Business Conduct Committee in his sole discretion. If said written challenge is not received within such ten (10) days, any such right to challenge is deemed waived.

**Rule 21.10. Hearing on Penalty in the Event of Failure to Deny Charges; Failure to Request Hearing Deemed Acceptance of Penalty**

In the event the Respondent fails to file an Answer or admits the allegations or fails to deny the allegations in support of a charge of a Rule violation contained in the Notice, the Hearing Panel shall find the Respondent guilty of each such violation and may impose a penalty for each such violation subject to the limitations set forth in Rule 21.13(b)(v). The Hearing Panel shall promptly notify the Respondent of any such penalty and of the Respondent's right to a hearing on the penalty within ten (10) days, or such longer period as the Hearing Panel may determine, after the imposition of such penalty. Failure to request a hearing on the penalty in a timely manner shall be deemed to be acceptance of the penalty.

**Rule 21.11. Settlement Prior to Commencement of Hearing**

Prior to the commencement of the hearing, the Hearing Panel may approve the entry into a settlement agreement with the Respondent, whereby the Respondent, with or without admitting guilt, may agree to:

- (a) a cease and desist order or a reprimand;
- (b) a fine of up to twenty-five thousand dollars (\$25,000) for each Rule violation alleged plus the monetary value of any benefit received as a result of the alleged violation;
- (c) a voluntary suspension of up to one (1) year for each Rule violation alleged;
- (d) expulsion; and/or
- (e) as part of a suspension or expulsion, the term or condition that the Respondent may not be employed by another Member as a floor employee, or any combination thereof; or
- (f) in the case of a non-member market participant, an order denying future access, either directly or indirectly, to any or all of the Exchange's markets for a specified period of time and directing all Members to deny access to such non-member market participant to the Exchange's markets;

provided, however, in any case in which it is concluded that the Respondent may have violated a Rule involving the execution of, or the failure to execute, a Customer transaction, the Hearing Panel shall make a specific finding on whether the Customer may have incurred any financial harm as a result of said violation and may negotiate and enter into a written settlement agreement whereby the Respondent, with or without admitting guilt, agrees to make restitution to the Customer in an amount equal to the financial harm which may have been incurred by such Customer in addition to any combination of the foregoing penalties.

**Rule 21.12. Hearing Procedures**

Each Hearing Panel shall determine the procedures to be followed in any hearing before it, except that the following shall apply in every case:

- (a) The prosecution shall be conducted by the Compliance staff.

(b) The Respondent shall be allowed to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.

(c) The Compliance staff and the Respondent shall deliver to each other and the Office of the General Counsel a statement listing the witnesses expected to be called and the documents expected to be introduced into evidence, together with copies of such documents, by such date prior to the hearing as the Hearing Panel may specify. Unless the Hearing Panel, in its discretion, waives compliance with this requirement, no witness may testify and no documentary evidence may be introduced into evidence unless listed in and, in the case of documents, furnished with such statement. On written request, the Compliance staff shall provide the Respondent with access to all books, documents or other tangible evidence in the possession or under the control of the Exchange which are to be relied upon by the Compliance staff or which are relevant to the allegations contained in the Notice of Charges.

(d) No formal rules of evidence shall apply, and the Hearing Panel shall be free to accept or reject any and all evidence it considers proper.

(e) It shall constitute a violation of the Rules for any person within the Exchange's jurisdiction to engage in conduct which may impede the progress of a hearing, and any such incident shall be reported to the Business Conduct Committee for appropriate action.

(f) *Ex Parte* contacts by any of the parties with members of the Hearing Panel shall not be permitted.

(g) A substantially verbatim record capable of being accurately transcribed shall be made of the proceedings, provided, however, that such record need not be transcribed, unless the transcript is requested by the Respondent or the CFTC or the decision is reviewed by the CFTC.

(h) The Notice of Charges, the Answer, the Reply, any stenographic transcript of the hearing, the documentary evidence and any other material presented to the Hearing Panel by either party with notice to the other shall constitute the record of the hearing.

(i) The burden of proof shall be on the prosecution. A finding of guilt shall be made by majority vote based on the weight of the evidence contained in the record of the hearing.

#### **Rule 21.13. Written Decision of Hearing Panel**

(a) If the Hearing Panel finds the Respondent not guilty of any Rule violation charged, it shall render a written decision to that effect, and the Respondent shall not be subject to any further proceedings with respect to the Rule violation charged. The written decision shall include:

- (i) a summary of the allegations contained in the Notice of Charges;
- (ii) a summary of the Answer;
- (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
- (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge.

(b) If the Hearing Panel finds the Respondent guilty of any Rule violation charged, it shall render a written decision to that effect. The written decision shall include:

- (i) a summary of the allegations contained in the Notice of Charges;
- (ii) a summary of the Answer;
- (iii) a brief summary of the evidence produced at the hearing or, where appropriate, incorporation by reference of the investigation report; and
- (iv) a statement of the findings and conclusions of the Hearing Panel with respect to each charge, including the specific Rule which the Respondent is found to have violated; provided, however, that

in any case in which the Respondent is found to have violated a Rule involving the execution of a Customer transaction, the Hearing Panel shall make a specific finding whether the Customer has incurred any financial harm as a result of said violation; and

(v) an order stating any penalty imposed and the effective date of such penalty; the penalty which may be imposed on the Respondent shall be one or more of the following:

(A) a cease and desist order or a reprimand;

(B) a fine of up to one hundred thousand dollars (\$100,000) for each Rule violation plus the monetary value of any benefit received as a result of the alleged violation;

(C) a suspension of up to one (1) year for each Rule violation;

(D) an expulsion from the Exchange; and/or

(E) as part of a suspension or expulsion, the term or condition that the Respondent may not be employed by another Member as a floor employee;

(F) in the case of a Respondent who is a non-member market participant, denial of future access, either directly or indirectly, to any or all of the Exchange's markets for such period as the Hearing Panel may determine.

(vi) in the case of a penalty imposed in accordance with subparagraph (b)(v)(F) of this Rule, an order directing the Exchange to issue a notice directing all Members to deny access to the Respondent to the Exchange's markets.

provided, however, in any case in which the Respondent is found guilty of having violated an Exchange Rule involving the execution of, or the failure to execute, a Customer transaction, an order that restitution be made to the Customer in an amount equal to the financial harm incurred by such Customer.

#### **Rule 21.14. Liability for Expenses**

Any Member who or which, after notice and opportunity for hearing, has been found to have violated any Rule or Clearing Organization Rule may, in the discretion of the Hearing Panel appointed in the matter, be required to pay to the Exchange an amount equal to any and all expenses incurred by the Exchange in connection with the prosecution of such violations, in addition to any penalty which may be imposed upon such Member by virtue of the violations found by the Hearing Panel.

#### **Rule 21.15. Expulsion of a Member; Permissible Appeal**

(a) Notwithstanding the provisions of Rule 21.16, a Respondent may appeal a decision of the Hearing Panel if that decision contains an order of expulsion. The Respondent's appeal is limited to the issue of whether or not the order of expulsion should be affirmed, reversed or modified.

(b) The Respondent's written Notice of Appeal must be served on the Compliance staff and the Office of the General Counsel within twenty (20) days after a copy of the Hearing Panel's written decision has been served on the Respondent. The Notice of Appeal must contain a written memorandum specifying the grounds for reversing the order of expulsion. In the event the Respondent does not appeal the order of expulsion within such twenty (20) days, the decision of the Hearing Panel shall be final.

(c) In the event the Respondent appeals the order of expulsion, the Office of the General Counsel shall promptly notify the Exchange's Board of Governors which shall appoint a subcommittee of the Board's members to hear and determine the appeal ("Appeals Committee") and the Chairman thereof. The Appeals Committee shall be no more than five (5) and no less than three (3) Board members, provided, however, that in any proceeding conducted under this Rule, more than fifty percent (50%) of the Appeals Committee shall be comprised of individuals representing membership interests other than that of the Respondent who is appealing the order of expulsion. Notwithstanding the foregoing, at least one (1)

member of the Appeals Committee shall be an individual who is not a member of the Exchange whenever the Appeals Committee is acting with respect to an appeal involving a possible Rule violation in which:

(i) the Respondent is a member of the Exchange's Board of Governors or of the Business Conduct Committee; or

(ii) any of the Rule violations for which the order of expulsion was imposed involves manipulation or attempted manipulation of the price of a Commodity Contract or conduct which directly results in financial harm to a non-member of the Exchange.

(d) No member of the Appeals Committee shall hear a case in which that member has a direct financial, personal or other interest in the matter under consideration. The Respondent may challenge any member of the Appeals Committee for cause; provided, however, that if any such challenge is not received in writing by the General Counsel's Office within ten (10) days after service on the Respondent of the names of the members of the Appeals Committee, any such challenge shall be waived. The merits of any such challenge shall be finally decided by the Chairman of the Board in his sole discretion.

(e) Within fifteen (15) days of the date of service of the Notice of Appeal and the accompanying memorandum, the Compliance staff may serve on the Respondent and file with the Office of the General Counsel a written Memorandum in Opposition to the Appeal.

(f) Within ten (10) days of the date of service of the Memorandum in Opposition to the Appeal, the Respondent may serve on the Office of the General Counsel and the Compliance staff a Reply Memorandum. The Reply memorandum must be limited to the matters set forth in the Memorandum in Opposition.

(g) The Office of the General Counsel shall furnish a copy of the record of the hearing to each member of the Appeals Committee.

(h) Not less than ten (10) days prior to the hearing, the Chairman of the Appeals Committee shall give written notice to the Compliance staff and the Respondent of the date, time and place of the hearing.

(i) Promptly following the hearing, the Appeals Committee shall by majority vote determine whether or not the order of expulsion should be affirmed, reversed or modified. The Appeals Committee shall render a written decision reflecting its determination. Said written decision shall include a statement of findings and conclusions with respect to its determination, the specific Rule(s) the Respondent was found to have violated and the effective date of the decision.

#### **Rule 21.16. Effective Date of Penalties**

(a) If a Member enters into a settlement agreement with the Compliance staff, the terms of which have been approved by a subcommittee of the Business Conduct Committee or a Hearing Panel, any penalty included as a part of such settlement agreement shall become final and effective on the date that the subcommittee or Hearing Panel approves such settlement agreement.

(b) Any decision (including any penalty) by a Hearing Panel shall be the final decision of the Exchange and shall become effective fifteen (15) days, or such longer time as the Hearing Panel may specify, after a copy of the written decision of the Hearing Panel has been served on the Respondent and delivered to the Commission unless such decision is appealed as provided in Rule 21.15; provided, however, that, in any case where the Respondent has consented to the action taken and to the timing of its effectiveness, the Hearing Panel may cause the decision involving any disciplinary action (including any penalty) to become effective prior to the fifteen (15) day period.

(c) If a Respondent appeals an order of expulsion in accordance with Rule 21.15, none of the penalties imposed by the Hearing Panel shall become effective until the decision of the Appeals Committee concerning the order of expulsion becomes final and effective. Any decision by an Appeals Committee and the other penalties imposed by the Hearing Panel shall be the final decision of the

Exchange and shall become effective fifteen (15) days, or such longer time as the Appeals Committee may specify, after a copy of the written decision of the Appeals Committee has been served on the Respondent and delivered to the CFTC; provided, however, that, in any case (i) where the decision imposes a penalty pursuant to Rule 21.12(e), or (ii) where the Respondent has consented to the action taken and to the timing of its effectiveness, the Appeals Committee may cause the decision involving any disciplinary action (including any penalty) to become effective prior to the fifteen (15) day period.

(d) Any fine imposed by a Hearing Panel shall be due and payable on the effective date of the decision imposing such fine, or on such later date as the Hearing Panel or, in the case of an appeal of an order of expulsion, the Appeals Committee may specify.

(e) If a Member fails to pay any fine imposed by the Hearing Panel on or before the date on which such fine becomes due and payable, such Member shall be suspended automatically without further action by the Exchange and shall remain suspended until such fine is paid in full and the Member is reinstated as provided in Rule 21.35; provided, however, that on written application received prior to such date, the Hearing Panel, in its sole discretion, may postpone the date when payment is due.

(f) If a Member suspended pursuant to paragraph (e) of this Rule shall fail to pay any fine which was the basis for such suspension within thirty (30) days following the effective date of such suspension:

(i) the Member shall be expelled automatically without further action by the Exchange; and

(ii) the Membership sold and the proceeds paid and applied as provided in Rule 21.36;

provided, however, that on written application received prior to the expiration of such thirty (30) day period, the Hearing Panel, in its sole discretion, may extend such period.

#### **Rule 21.17. Extension of Time Limits**

(a) Any time limit provided for in Rules 21.05, 21.06, 21.07, 21.08, 21.09, 21.10 and 21.12 may be extended by mutual consent of the parties, by the Chairman of the Business Conduct Committee, or, if a Hearing Panel has been appointed, by the Chairman of the Hearing Panel.

(b) Any time limit provided for in Rule 21.15 may be extended by mutual consent of the parties, by the Chairman of the Hearing Panel which imposed the order of expulsion, or, if the Appeals Committee has been appointed, by the Chairman of the Appeals Committee.

**Rule 21.18. RESERVED.**

**Rule 21.19. RESERVED.**

**Rule 21.20. RESERVED.**

**Rule 21.21. RESERVED.**

**Rule 21.22. RESERVED.**

**Rule 21.23. RESERVED.**

**Rule 21.24. RESERVED.**

#### **Rule 21.25. Floor Committee Summary Action**

(a) *Imposition of Fines and Removal from Premises*

Any member of the Floor Committee or the Executive Floor Committee may summarily impose a fine of not more than five thousand dollars (\$5,000) for each violation of any Rule regarding decorum or attire or regarding the timely submission of accurate reports, records or other similar matters required for clearing or verifying each day's transactions and ten thousand dollars (\$10,000) for a violation of paragraph (b)(i)(A)15; provided however, that a fine issued for a violation of paragraph (b)(i)(B) of this Rule shall not be less than two hundred fifty dollars (\$250). No member of the Floor Committee or

Executive Floor Committee shall issue a fine in any matter in which that Committee member has a direct financial, personal, or other interest. For purposes of the preceding sentence, a member shall be deemed to have a direct financial, personal or other interest in any matter in which a member with whom he is associated has a direct financial, personal or other interest.

The Caller may summarily impose a fine of not more than one thousand dollars (\$1,000) for each violation of good order of the call.

Any fine issued under this Rule shall be due and payable, and shall be deemed imposed, fifteen calendar days after notice of such action is given to the Member, unless a review of such fines has been requested pursuant to the Rules. Any Member who refuses to sign or initial a floor fine notice shall automatically forfeit his right to request review of such fine.

In addition to being subject to sanctions for engaging in trading violations as set forth in this Rule, an individual who violates paragraph (b)(i)(A)(15) may be summarily removed from the Exchange premises by any three members of the Floor Committee for the remainder of the trading day, or such shorter period of time as such members may determine.

*(b) Conduct Subject to Summary Action*

It shall be a violation of the Rules regarding decorum, attire, or timely submission of accurate records for a Member to engage in the following practices:

**(i) Decorum:**

The conduct enumerated below, if committed on the Trading Floor, on premises occupied by the Exchange, or in the building in which such premises are located is deemed a breach of decorum and is prohibited. In addition, the conduct specified in paragraph (A)(15) hereof, if committed in the area immediately surrounding any building in which the Exchange occupies premises is deemed a breach of decorum and is prohibited if such conduct relates to, or impacts upon, the business of the Exchange.

*A. Conduct:*

1. Running on the Trading Floor or adjacent corridors.
2. The use of profane, vulgar or indecorous language.
3. Smoking, eating or drinking, except in areas specifically designated by the Exchange.
4. Leaving or throwing refuse on the furniture, fixtures or floor.
5. Sitting on the cabinets, desks or floor.
6. Placing of wearing apparel on booths, furniture, fixtures or floor.
7. The defacing or damaging of walls or other facilities.
8. The use of telephone cords longer than six feet or encroaching upon the access to any ring.
9. Failure to wear required identification badges.
10. Betting or offering to bet or presenting offers to others to bet.
11. Carrying firearms, mace or other toxic substance.
12. Possession of an unsealed bottle(s) or container(s) of alcohol (which shall include beer, wine or liquor) or a controlled substance.
13. Standing on any object on the trading floor unless specifically authorized by the Executive Floor Committee.
14. Failure to have appropriate clerical assistance for clearing or verifying each day's transaction.

15. Acts which interfere with the personal comfort or safety of others.
16. Blocking the entry to or exit from a trading ring or pit.
17. The use of cellular telephones or any other type of wireless communication device on the trading floor.
18. Leaving a spot in a Trading Ring in a disruptive manner, which conduct shall be known as "Charging."
19. Otherwise causing a disruption in the marketplace.
20. Any threatening, abusive, harassing or intimidating speech or conduct.

*B. Trading Practices:*

1. offering into bids.
2. offering over existing offers.
3. bidding into offers.
4. bidding under existing bid.
5. improperly approaching the market.
6. otherwise causing a disruption in the market place.
7. causing an incorrect price to be disseminated by the Exchange.
8. bidding, offering or executing a trade after a suspension of trading has been declared.
9. bidding, offering or executing a trade (i) in any delivery month during an opening or closing call after the caller has declared trading in such delivery month to have ended, or (ii) in any contract during an opening or closing call after the caller has declared trading to be closed.
10. failing to conform to the procedures set forth in Rule 4.19 concerning the proper execution of a cross trade.
11. renegeing a bid or offer after; acceptance by another floor member.
12. in the Cotton No. 2, FCOJ, Financials and Index Contracts trading rings, showing two hands and failing to trade ten (10) contracts.
13. in the FCOJ trading ring, failing to state a quantity and not taking a minimum of ten (10) contracts.

(ii) **Attire:** Fail to conform to the Exchange mandatory forms of dress and appearance.

A. For purposes of this Rule, the following forms of dress and appearance are mandatory.

1. All males must wear conventional collared business shirts, dress pants, socks and conventional footwear, which shall include black walking shoes.
2. All females must wear appropriate business attire, which shall include dresses, skirts, dress pants and blouses, socks, stockings and conventional footwear, which shall include black walking shoes.
3. Personal attire and appearance must be clean, neat and presentable.
4. The business shirt requirement is suspended from Memorial Day to Labor Day during which time non-business shirts with soft or ribbed-knit collars may be worn.

B. The following forms of dress and appearance are not in conformity with Paragraph A of this section:

1. Clothing that is dirty, frayed, torn, badly wrinkled, ill-fitting, or which distracts from business atmosphere.
2. Pants shall not include: dungarees; jeans; jean-look-alikes; denim jeans of any color: fatigues; tie dyes; mid-calf; sweatpants; shorts; harem; spandex pants; or tight-fitting or stretch pants and leggings.
3. Collared business shirts and blouses shall not include; golf shirts; soft or ribbed-knit collars; tee shirts; athletic shirts; sweatshirts; turtlenecks for males; tank tops; midriffs; halters.
4. Conventional footwear shall not include: sneakers; sandals; thongs; slippers; athletic shoes and any shoes that have been altered or modified so as to increase an individual's height except in the case where a Floor Committee member determines that such alteration or modification is necessary to accommodate a physical disability.
5. Dresses and skirts shall not include: denim of any kind; culottes; skorts; split skirts; shorts; inappropriate length detracting from a business atmosphere.
6. Wearing of hats, head scarves or bandannas except those required by religious observance, except when exempted by the Executive Floor Committee.
7. A general unkempt or ungroomed personal appearance or attire which does not lend itself to the proper business atmosphere.

(iii) **Timely Submission of Reports and Record:** A failure to timely submit accurate reports or records or other similar matters required for clearing or verifying a day's transactions is prohibited. The failure of a TIPS® clerk to timely enter trade data in accordance with Floor Trading Rule 4.32 shall give rise to the issuance of a summary sanction, in accordance with the following schedule, against the Member whose trade data is not timely entered.

1st Occurrence	\$100
2nd Occurrence within a 12 month period	\$500
3rd Occurrence within a 12 month period	1,000
4th Occurrence	Referral to the BCC

*(c) Request for Review of Floor Fines*

A review of any fine imposed for a violation of paragraph (b) of this Rule may be initiated at the request of the Member so fined or by the Chairman of the Executive Floor Committee, provided, however, that if the Member fined initiates the request for a review in accordance with subparagraph (i) hereof, the review shall be conducted pursuant to subparagraph (i) and not subparagraph (ii). The procedures to initiate a review are as follows:

(i) If initiated by a Member so fined, a written request for review must be given to the Vice President of Market Regulation within seven (7) Business Days after the date such fine is imposed along with a written statement setting forth in reasonable detail the factual and/or other basis for the appeal; the names of witnesses that the Member will seek to present; a description of documents that the Member will seek to present in support of the appeal; and if the Member is to be represented by counsel or other representative, the name and address of such counsel or representative. In the event such request is not made within seven (7) business days, all rights to request a review shall be waived and the fine imposed shall become final.

(ii) If initiated by the Chairman of the Executive Floor Committee, the decision to review shall be made within seven (7) Business Days of the date the fine was imposed. In the event such decision is not made within such seven (7) Business Days, the fine imposed shall become final. In the event a decision to review a fine has been initiated by the Chairman, the fined Member and the Committee

member who imposed the fine shall be so notified in writing along with a statement setting forth the basis for conducting such review. The Member so fined shall have seven (7) Business Days from receipt of such notice to file an answer or other written statement setting forth the Member's position regarding the fine; a description of any witnesses that the Member will seek to present; and a statement as to whether the Member will be represented by counsel or other person and the name and address of such counsel or other person.

(iii) The Exchange shall provide the Member with a list of witnesses who may be called and copies of any documents that may be presented at the hearing in support of the fine within seven (7) Business Days following receipt of a request for review under paragraph (i) or seven (7) Business Days following the issuance of a notice of review pursuant to paragraph (ii).

*(d) Procedures for Review of Floor Fines*

(i) **Panel Appointment:** The Vice President of Market Regulation shall promptly forward the request for review of any fine to the Chairman of the Floor Committee. The Chairman shall designate a Panel of no less than three Committee members, a majority of which shall have not been present at the trading ring at the time of the alleged violation. Any review of a fine issued for a violation of paragraph (b)(i)(B)(6) or (b)(i)(A)(15) of this Rule and any review of a fine initiated by the Chairman of the Executive Floor Committee shall be conducted by a Panel comprised exclusively of members of the Executive Floor Committee. The Chairman of the Executive Floor Committee shall designate a Panel of no less than three (3) Committee members, a majority of which shall have not been present at the trading ring at the time of the alleged violation.

Each Panel shall be comprised of members from at least three (3) trading rings. No panel member shall hear or decide any matter in which that member has a direct financial, personal or other interest.

Any objection to a member appointed to a Panel shall be made in writing by the Member to the Committee Chairman who appointed the Panel within three (3) Business Days of being advised of such appointment and must include the basis for such objection. The Committee Chairman shall then determine whether changes in the composition of the Panel are appropriate and, if so, shall make such changes.

(ii) **Review Procedure:** Each Panel shall determine the procedures to be followed in any hearing conducted by it except that the following shall apply in each case:

(A) The case in support of the floor fine shall be presented by the Floor Committee member who issued the fine or by the Compliance staff.

(B) The fined Member shall be allowed to be represented by legal counsel or any other representative of his choosing, and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.

(C) On written request to the Secretary, the Exchange shall provide the Member access to all books, documents and other tangible evidence in the possession of the Exchange that are relevant to the fine being reviewed.

(D) No formal rules of evidence shall apply, and the panel shall be free to accept or reject any and all evidence it considers proper.

(E) A record of the proceeding, either verbatim or capable of being transcribed into verbatim form, shall be made, provided, however, that such record need not be transcribed unless the Member so requests or the Exchange so determines.

(F) The Panel shall have all the power to compel testimony and production of documents as set forth in Rule 21.04.

(iii) **Sanctions and Decision of Panel:** The Panel may affirm, rescind or modify any such fine imposed in whole or in part.

(A) A modification of such fine imposed may include, among other things, an increase up to the maximum amount permitted in paragraph (a) of this Rule for each violation.

(B) In addition, for each violation of paragraph (b)(i)(A)15, the Panel may deny access to the Trading Floor for up to five (5) Business Days.

(C) Promptly following any hearing the Panel shall render a written decision based on the weight of the evidence contained in the record of the proceeding and shall provide a copy of the decision to the Member. The decision shall include (i) a summary of the charges; (ii) a summary of the answer or other response of the Member; (iii) a brief summary of the evidence produced at the hearing; (iv) a statement of findings and conclusions with respect to each charge, including the specific rules found to have been violated; and (v) a declaration of any penalty imposed and the effective date of such penalty.

Any action taken by a Panel under this Rule shall become effective and final fifteen (15) calendar days after notice of the action taken is given to the Member. The decision of the Panel shall constitute the final action of the Exchange.

(e) Any matter may be referred to the Compliance staff for investigation, provided, however, that any member of the Floor Committee or of the Executive Floor Committee who has participated in such matter pursuant to Rule 21.25 shall be disqualified from serving on any panel of the Business Conduct Committee hearing such matter.

#### **Rule 21.26. Executive Floor Committee Summary Action**

(a) If at any time, the Executive Floor Committee or any Senior Officer of the Exchange determines that the continued presence of a Member or Clerk on the Trading Floor, in the Write-up Room or other Exchange premises presents an imminent threat to the safety or well-being of Exchange Members or employees or is disruptive to the orderly operation of the Exchange, the Executive Floor Committee or such Senior Officer may suspend, or take any other action against such Member or Clerk as it may deem necessary or appropriate to protect the best interest of the marketplace. The powers of the Executive Floor Committee pursuant to this Rule may be delegated to a subcommittee consisting of at least three (3) members of the Executive Floor Committee as the Chairman of the Committee may decide in his sole discretion.

(b) Except as provided hereafter, any action taken pursuant to paragraph (a) of this Rule shall be taken after notice to the Member or Clerk against whom the action is taken and an opportunity for such Member or Clerk to be heard. Such notice shall state (i) the situation which is believed may give rise to the need for action by the Executive Floor Committee and (ii) the date, time and place of the hearing to be held before the Executive Floor Committee.

(c) Notwithstanding the provisions of paragraph (b) hereof, action may be taken pursuant to paragraph (a) of this Rule without giving prior notice and opportunity to be heard if (i) such Member or Clerk shall have waived such notice and/or opportunity or (ii) the Executive Floor Committee, in its sole discretion, shall determine that (A) the furnishing of notice and/or opportunity to be heard before taking such action is not practicable under the circumstances and (B) there is reason to believe that immediate action is necessary to protect the best interests of the marketplace. In any case in which action is taken without prior notice and/or opportunity to be heard, the Exchange shall promptly give the Member or Clerk written notice (i) stating the action taken, (ii) briefly stating the reasons for the action, (iii) stating the effective time, date and duration of the action and (iv) advising the Member or Clerk of the right to a hearing with respect to the matter. Any hearing requested by the Member or Clerk shall be conducted no later than the second Business Day following receipt of a request for such hearing by the Exchange.

(d) Prior to commencement of any hearing conducted pursuant to this Rule, the Exchange shall advise the Member or Clerk who is the subject of the proceeding as to the names of each member of the Executive Floor Committee or subcommittee that will hear the matter. Any objection to such a member hearing the matter shall be made promptly in writing to the Chairman of the Executive Floor Committee and shall include the basis for such objection. The Chairman of the Committee shall rule on all such objections.

(e) At any hearing conducted under this Rule, the Executive Floor Committee shall determine the procedures to be followed, except that the following shall apply in every case: (i) at the hearing, the Compliance staff shall present such evidence and considerations as may tend to show that the continued presence of the Member or Clerk on Exchange premises presents a threat to the safety or well-being of Exchange Members or employees or is disruptive to the orderly operation of the Exchange; (ii) the Member or Clerk shall be allowed to appear personally and/or to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses; (iii) the formal rules of evidence shall not apply, and the Executive Floor Committee shall be free to accept or reject any and all evidence as it considers proper; and (iv) a substantially verbatim record capable of being transcribed shall be made of the proceeding, provided, however, that such record need not be transcribed unless the Member or Clerk requests or the Exchange so determines.

(f) Within two (2) Business Days following the conclusion of any hearing, the Executive Floor Committee shall render a written decision based on the weight of the evidence contained in the record of the hearing and shall provide a copy of the decision to the Member or Clerk. The decision shall include: (i) a description of any action taken before the hearing; (ii) the reasons for any action taken before the hearing; (iii) a brief summary of the evidence produced at the hearing; (iv) the findings and conclusions of the hearing body; (v) a determination that any action previously taken should be affirmed, modified or reversed; (vi) a declaration of any action to be taken pursuant to the determination made in clause (v) of this paragraph, (vii) the effective date and duration of such action and (viii) the date upon which such decision becomes final. Notwithstanding the foregoing, the hearing body may take action pursuant to this Rule prior to the rendering of the written decision, if such hearing body, in its sole discretion, deems it necessary or appropriate to do so.

(g) Any action taken by the Executive Floor Committee under this Rule shall become effective and final fifteen days after notice of the action taken is given to the Member or Clerk, or such other time as the Committee may specify, provided, however, that the Executive Floor Committee reasonably believes, and so states in its written decision, that action at or within such other time is necessary to protect the best interests of the marketplace. The decision of the Executive Floor Committee shall constitute the final decision of the Exchange.

#### **Rule 21.27. Duty to Report**

If an Emergency Event shall occur with respect to any Member, such Member shall advise the Exchange of the occurrence thereof by the fastest available means of communication and shall immediately deliver written notice to the Exchange specifying (a) the nature of such Emergency Event, (b) the time when such Emergency Event occurred, and (c) whether such Member consents to a summary suspension pursuant to this Rule and Rule 21.28 and, if so, whether such Member waives a hearing with respect thereto, and whether such Member consents to a term of suspension to the effect that he may not be employed by another Member as a floor employee.

#### **Rule 21.28. Summary Suspension**

In the event that a Member advises the Exchange as provided in Rule 21.27 and consents to a summary suspension, either orally or in writing, the President shall immediately suspend such Member in accordance with the terms of such consent.

**Rule 21.29. Action of Executive Committee**

If at any time, the Executive Committee, in its sole discretion, determines that there is a substantial question as to whether a Financial Emergency exists with respect to any Member, the Executive Committee may suspend, or take any other action against such Member, any Member conferring privileges on such Member, any Member enjoying privileges through such Member, and/or any Members guaranteed by such Member, as it may deem necessary or appropriate to protect the best interests of the marketplace. The Executive Committee may take such action against any Member regardless of whether or not such Member has advised the Exchange of the occurrence of an Emergency Event pursuant to Rule 21.27, and whether or not such Member has consented to a suspension or waived a hearing.

**Rule 21.30. Notice to Member**

(a) Any notice given to a Member before action is taken against him pursuant to Rule 21.29 shall state:

(i) the Financial Emergency or other situation which it is believed may give rise to the need for action by the Executive Committee; and

(ii) the date, time and place of the hearing to be held before the Executive Committee.

(b) Any notice given to a Member after action has been taken against him pursuant to Rule 21.29 shall:

(i) state the action taken;

(ii) briefly state the reasons for the action; and

(iii) state the effective time, date and duration of the action.

**Rule 21.31. Hearing**

At any hearing conducted under this Rule, the Executive Committee shall determine the procedures to be followed, except that the following shall apply in every case:

(i) The case in support of the summary action shall be presented by the President, who may be represented by legal counsel.

(ii) The Member shall be allowed to be represented by legal counsel or any other representative of his choosing and, either personally or through such representative, to present witnesses and documentary evidence and to cross-examine witnesses.

(iii) No formal rules of evidence shall apply, and the Executive Committee shall be free to accept or reject any and all evidence it considers proper.

(iv) A stenographic transcript shall be made of the proceedings.

(v) The notice of the hearing, the stenographic transcript, the documentary evidence and any other material presented to the Executive Committee by either party with notice to the other shall constitute the record of the hearing.

**Rule 21.32. Decision**

(a) Promptly following any hearing pursuant to Rule 21.31, the Executive Committee shall render a written decision based on the weight of the evidence contained in the record of the hearing and shall provide a copy of the decision to the Member. The decision shall include:

(i) a description of any action taken without a hearing;

(ii) the reasons for any action taken without a hearing;

- (iii) a brief summary of the evidence produced at the hearing;
- (iv) the findings and conclusions of the hearing body;
- (v) a determination that any action previously taken should be affirmed, modified or reversed; and
- (vi) a declaration of any action to be taken pursuant to the determination made in subparagraph (v) of this Rule, the effective date and duration of such action and the date upon which such decision becomes final.

Notwithstanding the foregoing, the Executive Committee may take action pursuant to Rule 21.29 prior to the rendering of the written decision, if the Executive Committee in its sole discretion deems it necessary or appropriate to do so.

(b) In any case where a member is suspended, or action is otherwise taken against a member pursuant to Rules 21.27, 21.28, 21.29 and 21.32, the Exchange shall immediately announce the same on the floor of the Exchange.

(c) Any action taken by the Executive Committee under Rule 21.29 shall become effective and final fifteen (15) days after notice of the action taken is given to the Member, or such other time as the Committee may specify, provided that the Executive Committee reasonably believes, and so states in its written decision, that action at or within such other time is necessary to protect the best interests of the marketplace. The decision of the Executive Committee shall not be subject to appeal.

#### **Rule 21.33. Obligations of Insolvent Member**

An insolvent Member shall within thirty (30) days from the date of his failure, present to the President a sworn statement of his business affairs as they existed at the time of his failure.

#### **Rule 21.34. Obligations of Creditors of Suspended Member**

(a) Unless the Executive Committee shall direct otherwise, all Commodity Contracts traded on this Exchange made with or carried for a Member suspended under this Chapter shall be closed by the other party thereto or the party carrying the same in the open market within three (3) business hours after the announcement of said Member's suspension on the floor of the Exchange.

(b) Any Member closing such contracts shall promptly notify the suspended Member of the time and price at which such contracts were closed, which price shall be the basis of settlement between the parties.

(c) The three (3) business hours during which contracts must be closed shall not include any period during which the provisions of the Rules restricting fluctuations in prices would prevent such closing.

(d) Any Member holding any Allowable Claim against the suspended Member shall deliver to the President, within ten (10) days after the announcement of the suspension on the floor of the Exchange, a Claim Notice listing in reasonable detail all such Allowable Claims. Failure to present such a Claim Notice within said period shall, in addition to any penalties which may be imposed for violating this Rule, bar such Member from participating in any proceeds resulting from any sale of any Membership of the suspended Member.

#### **Rule 21.35. Reinstatement of Suspended Member**

(a) Any suspended Member whose Membership has not been sold pursuant to this Chapter may apply for reinstatement at any time.

(b) When a Member applies for reinstatement, he shall furnish the President with a list of all creditors, a statement of the amounts owing, the nature of the settlement in each case, and such other information as the President may require.

(c) Upon satisfying the requirements of subparagraph (b) of this Rule, the suspended Member shall thereafter comply with Rules 2.05, 2.06, 2.07 and 2.08.

(d) Written notice of the time and place of the meeting of the Board at which the application for reinstatement is to be considered shall be sent to the applicant and to the membership at least five days prior to such meeting.

(e) At the meeting of the Board held to consider the application for reinstatement, the Board shall vote by ballot on such Member's application, taking into consideration the conditions for denial set forth in Rule 2.10 and such other factors it deems relevant. The vote of a majority of those present and voting will be required to reinstate the suspended Member; except that, if such suspended Member failed to advise the Exchange pursuant to Rule 21.37 of any Emergency Event with respect to such Member, the vote of two-thirds of those present and voting will be required to reinstate the suspended Member.

(f) If any Member suspended pursuant to this Chapter is not reinstated within one (1) year after having been suspended, the Board may order any Memberships of said Member sold; provided, however, that the Board may, in its discretion and by two-thirds vote of those present and voting, extend said one-year period.

**Rule 21.36. Sale of Membership—Procedure**

(a) Whenever a sale of any Membership of any Member is conducted by the Exchange pursuant to the Rules, a written notice of such sale stating the date and time of such sale shall be sent to the membership and such Member at least ten (10) days prior to such sale.

(b) All sales shall be made by the President on the floor of the Exchange to the highest bidder at open outcry. The Exchange shall be bound to bid at the highest bid then registered with the Exchange. The Exchange or any Member thereof may, at such sale, purchase any such Membership and may thereafter sell or dispose of the same in any manner provided for in the Rules.

(c) Payment for such membership shall be made to the Exchange by an Official Teller's check or similar instrument issued by a bank or such other financial institution acceptable to the Exchange.

The sale of a Membership under this Rule shall be final and binding and shall not be subject to challenge. The proceeds of any such sale shall be paid and applied in accordance with Rule 1.24.

**Rule 21.37. Establishment of Valid Claim**

(a) The President shall furnish to any suspended Member and to all Claimants copies of any Claim notices filed pursuant to this Chapter and shall specify a date (which may be extended from time to time by the President) by which the suspended Member and/or any such Claimant may challenge any such Claims.

(b) If any party fails to notify the President on or before the date specified in paragraph (a) of this Rule of any dispute to any Claim, that party shall be deemed to have waived all rights to dispute the validity of such Claim.

(c) The validity of all Claims shall be determined by the Arbitration Committee. In the event any Claim is disputed, the Arbitration Committee shall proceed as though the disputing party had demanded arbitration, and shall determine whether and to what extent such Claim is valid and to what extent the Claimant is entitled to participate in the proceeds of sale of any Memberships; provided, however, that the disputing party shall pay the fee prescribed in the Arbitration Rules. The Arbitration Rules of the Exchange shall apply to such proceedings, except to the extent the Arbitration Committee may decide otherwise.

**Rule 21.38. Members Must Notify Exchange of Claims Against Members**

(a) If any Member holds an Allowable Claim against any other Member which, in the case of an Allowable Claim against an individual exceeds \$10,000 or, in the case of an Allowable Claim against a Member Firm, exceeds \$100,000, which such other Member has failed to pay when due, the Member holding such Claim, shall immediately notify the Exchange in writing of the fact of such failure. For purposes of this Rule, a Claim shall be deemed to arise on the first date that the Claimant has the right to receive payment (without regard to any extension of time granted by the Claimant) from such other Member, whether or not any demand for such payment is made.

(b) Any Member who does not notify the Exchange as provided in paragraph (a) of this Rule shall forfeit all rights under such Claim to share in the proceeds of any sale of any Membership of such other Member and shall be subject to disciplinary proceedings.

**Rule 21.39. Death of Member**

When a Member dies, the Executive Committee may order his Membership sold and the proceeds paid and applied as provided in Rule 21.36.

**Rule 21.40. Interest in Property of Expelled Members**

All Memberships in the Exchange held by any Person expelled from Membership in the Exchange shall, upon such expulsion, terminate.

**Rule 21.41. Partnership with Suspended Member**

(a) No Member shall be allowed to take or have as a partner any suspended Member during the term of his or its suspension, or any expelled Member, or any insolvent Person or, except with the prior approval of the Board, any person who may have previously been a Member of this Exchange and against whom any Member may hold a Claim arising from Transactions made on the Exchange during the time of such membership.

(b) Whenever it shall appear to the Board that a Member has formed a partnership or that a partnership exists which is not in the best interests of the marketplace, the Board may require the dissolution of such partnership.

**Rule 21.42. Publication and Written Notice of Disciplinary Actions**

(a) A brief summary of the disposition of each investigation by the President or the Business Conduct Committee, each hearing, each appeal, and each imposition of any penalty, shall be kept permanently in the Member's file. The record of any hearing, together with all of the papers, including the final decision on any appeal, shall be retained for a period of five (5) years and then destroyed.

(b) All proceedings conducted by or before the President, the Floor Committee, the Business Conduct Committee, the Appeals Committee and the Executive Committee pursuant to this Chapter shall be confidential and shall not be disclosed to any Person except:

- (i) as required by law or by the Rules;
- (ii) in any action or proceeding brought by or against the Exchange;
- (iii) as may be determined from time to time by the Board.

(c) In any case where:

(i) a Member enters into any settlement agreement with the Business Conduct Committee (or any subcommittee thereof) or with the President which settlement agreement is approved by the Business Conduct Committee (or any subcommittee thereof); or

(ii) the Business Conduct Committee (or any subcommittee thereof) renders a decision finding a Member guilty of any Rule violation which is not timely appealed; or

(iii) the Appeals Committee renders a decision affirming a decision finding a Member guilty of any Rule violation; or

(iv) the Executive Committee or the President takes action or renders a decision against a Member pursuant to this Chapter;

the Exchange shall notify the membership and make public its findings and the reason for its action, including any action taken or penalty ordered, but shall not disclose the evidence thereof, except to the Member in question and to the CFTC. For purposes of this paragraph (c), the term "make public" shall include, in the discretion of the President, disclosure of such findings and the reasons for the action to the news media, provided, however, that any decision or settlement agreement based on rule violations or charges related to, or arising from, Transactions on or subject to the Rules of the Exchange, which result in an expulsion, suspension, or a fine which equals or exceeds the maximum fine which may be imposed by the Business Conduct Committee pursuant to Rule 21.02 or \$25,000, whichever is less, shall be disclosed to the news media.

(d) Written notice of any suspension, expulsion, disciplinary action or denial of access shall be given to the Commission and to the person who is suspended, expelled, disciplined or denied access within thirty days of the date such action becomes final, which notice shall include the reasons for the action in the form and manner the Commission prescribes.

(e) In any case in which:

(i) a Member enters into any settlement agreement with the Business Conduct Committee (or any subcommittee thereof) or with the President which settlement agreement is approved by the Business Conduct Committee (or any subcommittee thereof); or

(ii) the Business Conduct Committee (or any subcommittee thereof) renders a decision finding a Member guilty of any Rule violation which is not timely appealed; or

(iii) the Appeals Committee renders a decision affirming a decision finding a Member guilty of any Rule violation;

for a violation of the Rules involving the execution of, or the failure to execute, a Customer Transaction which results in financial harm to such Customer, the Exchange shall promptly inform the FCM identified on the records of the Exchange or the Clearing Organization as having cleared such Transaction. Upon such notification, the FCM shall promptly inform the person identified on its records as the owner of the account for which the Transaction was executed of the disciplinary action and the principal facts thereof.

## **RESOLUTIONS**

### **No. 2. Summary Action by Ring Supervisors**

RESOLVED, that the Board of Governors hereby authorizes Ring Supervisors, acting as agent for the Floor Committee, to issue summary sanctions against anyone who blocks a Member's entry to or exit from a trading ring.

### **No. 3. Summary Action by Security and Floor Operations Staff**

RESOLVED, that the Board of Governors hereby authorizes any employee of the Exchange's Security Department, Senior Staff and Thomas Greene, Senior Vice President, Floor Operations, James Garrity, Assistant Vice President, Floor Operations, and Michael Farrell, Manager, Floor Operations and any replacement thereof acting as agent for the Floor Committee to issue summary sanctions for the following violations listed in Rule 21.25(b)(i)(A), provided, however, that the violation is witnessed by said individuals:

1. Running on the trading floor or adjacent corridors;
2. Smoking, eating or drinking, except in areas specifically designated by the Exchange;

3. Leaving or throwing refuse on the furniture, fixtures or floor;
4. Sitting on cabinets, desks or floor;
5. The defacing or damaging of walls or other facilities; and
6. Failure to wear required identification badges.
7. Failure to conform to the mandatory forms of dress and appearance.

**No. 5. Summary Action Fine Schedule**

RESOLVED, that the Board of Governors hereby establishes the following schedule of minimum sanctions to be imposed pursuant to Rule 21.25:

For Non-Conformity to Dress Code (Rule 21.25(b)(ii)) and Breach of Decorum (Rule 26.25(b)(i)(A)):

First Offense	Minimum \$100
Second Offense within six months	Minimum \$250
Third Offense within six months	Minimum \$500
Fourth Offense within six months	Mandatory Review by Executive Floor Committee

For a Trade Practice Violation [Rule 21.25(b)(i)(B)]:

First Offense	Minimum \$250
Second Offense within six months	Minimum \$500
Third Offense within six months	Minimum \$1000
Fourth Offense within six months	Mandatory Review by Executive Floor Committee