

other property that was, in connection with the Member's dealings in futures or option contracts (whether or not any of those dealings was effected on the Market) entrusted to or received by the Member, or an agent of the Member:

(aa) for on behalf of the claimant or any other person; or

(bb) because a Member was trustee of the money or other property,

the Fidelity Fund shall be applied for the purpose of compensating the claimant to the extent that that pecuniary loss cannot be compensated by recourse to the Member's resources.

- (b) The Board in its absolute discretion may disallow a claim against the Fidelity Fund in respect of an Introducing Broker Member or a Local Member where the claimant was aware, or in the opinion of the Board ought reasonably to have been aware, that the Member was not permitted to trade on behalf of other persons, or was not permitted to receive or hold money or property on behalf of other persons.
- (c) The Board may in assessing the amount payable to the claimant rely on the advice of the receiver, statutory manager, official assignee, provisional liquidator, liquidator or similar officer (as the case may be) of the Member, as to the amount, or maximum amount which will, or is likely to, be payable to that claimant out of the assets of the Member available for distribution to creditors.
- (d) Except as otherwise provided in this clause and clause 45.20, the aggregate amount that may be paid for the purpose of compensating pecuniary loss in accordance with this clause 45.12 in respect of any Member shall not exceed the sum of One Hundred Thousand Dollars (\$100,000) or the amount then in the Fidelity Fund, whichever is the lesser. Any amount that is paid from the Fidelity Fund shall, to the extent to which it is subsequently repaid to the Fund, be disregarded.
- (e) If the Board, having regard to the ascertained or contingent liabilities of the Fidelity Fund, considers that the assets of the Fund so permit, it may apply out of the Fund such sums in excess of the amount limited by or under this Article as the Board, in its absolute discretion, thinks fit in or towards compensating persons who have suffered pecuniary loss and would but for such limitation be entitled to compensation in accordance with this clause.

#### Claims Against the Fidelity Fund

- 45.13 (a) Subject to the provisions of this Article, a person who suffers pecuniary loss of the nature referred to in clause 39.12 shall be entitled to claim compensation from the Fidelity Fund.
- (b) A person shall not have a claim against the Fidelity Fund in respect of pecuniary loss in relation to money or other property suffered after the money or property has, in the due course of