

- (b) When making a call for a margin, the Public Broker shall stipulate the period within which payment must be made or Approved Securities lodged. The period stipulated shall be the minimum period reasonably necessary, taking into account the circumstances of the client at the time the obligation arises.
- (c) Payment of a margin or lodgment of cover must be made within the time stipulated, time being of the essence.
- (d) A Public Broker shall maintain for a period of not less than two years internal records showing such particulars of all margin calls made by the Public Broker as are prescribed by the Business Conduct Committee from time to time.

34.4 (a) Where a client is in default by failing to pay a call or lodge Approved Securities or to comply with its cash settlement obligations, a Public Broker has the right to close out all or any existing Client Contracts or other futures or option positions held by the Public Broker on account of the client, without further notice to the client.

- (b) The time within which that right is exercised, and the extent to which it is exercised, shall be at the discretion of the Public Broker. The Public Broker shall not be liable to the client for any failure or delay in exercising that right.
- (c) Any adjustment by way of profit or loss arising from the closing out, together with all interest and charges incurred, shall be settled between the Public Broker and the client.

34.5 Cover for a margin liability of a client shall be retained until such time as the liability is extinguished. If the liability is not extinguished, the cover may be realised and the proceeds applied against the liability.

34.6 The following securities are the Approved Securities for the purposes of these Rules:

- (a) a guarantee in favour of the Dealer concerned issued by a registered bank, or any other guarantee approved by the Business Conduct Committee;
- (b) New Zealand government or local authority securities;
- (c) gold bearing an assay mark approved by the Business Conduct Committee;
- (d) silver bearing an assay mark approved by the Business Conduct Committee;
- (e) bills of exchange accepted or endorsed by a registered bank;
- (f) shares or debentures listed on a recognised stock exchange approved by the Business Conduct Committee;
- (g) such other securities or credit facilities as may be approved by the Business Conduct Committee from time to time;

provided that in the case of a security which is not transferable merely by delivery it is accompanied by the requisite form of transfer duly executed.

35. DEALING RECORDS

35.1 An Exchange Broker shall maintain for a period of not less than two years internal records showing such particulars in respect of instructions received from clients and of trades executed on its own account or for clients as are prescribed by the Business Conduct Committee from time to time.

35.2 An Exchange Broker shall assign a unique identifier of at least one character to each client to identify the client in the Exchange Broker's dealing records.

35.3 An Exchange Broker shall provide each client on a daily basis with written confirmation of each transaction executed for that client.

35.4 A Public Broker shall provide each client with a written monthly open position and current account statement in the prescribed form within five business days of the end of each calendar month.

35.5 An Exchange Broker shall, where it has been authorised in writing by a client to operate a discretionary account on behalf of that client, maintain full and complete records of each exercise of that discretionary authority, showing details of the Contract and the date and time each transaction is effected.

36. EXCESSIVE TRADING

36.1 An Exchange Broker shall not effect transactions with or for a client for whom the Exchange Broker operates a discretionary account unnecessarily, with unnecessary frequency, or in excessive size. In considering whether an account has been excessively traded:

- (a) regard will be had to all the circumstances of the operation of the account and whether the trades, either individually or taken as a whole, could reasonably have been regarded as being made in the client's best interests;
- (b) other factors which will be taken into account include:
 - (i) the frequency and size of the trades;
 - (ii) the cost to the client in relation to the profit made or loss suffered;
 - (iii) the proportion of day, or day and overnight, trades;
 - (iv) the duration of positions held;
 - (v) the trading life of the account;
 - (vi) the instructions and objectives of the client;
 - (vii) the market conditions;
 - (viii) whether the liquidated positions are re-established;
 - (ix) which Contracts are traded;
 - (x) the rates of commission on each Contract.

37. INSIDER TRADING

37.1 An Exchange Broker shall not trade on behalf of:

- (a) a director, partner or employee of another Dealer; or
 - (b) a person with which any director, partner or employee of another Dealer is connected;
- unless the Exchange Broker has:

- (i) obtained a written consent from that other Dealer consenting to such director, partner, employee or person (as the case may be) trading in Contracts, and specifying any terms and conditions of such consent; and
- (ii) provided a copy of such written consent to the Business Conduct Committee and received confirmation of receipt of the same from the Business Conduct Committee; and
- (iii) attached a copy of such written consent to the signed Client Acknowledgement held by the Exchange Broker.

38. ADVERTISING AND PUBLISHING RULES

38.1 An Exchange Broker shall not issue or disseminate, or permit the issue or dissemination of, any advertisement or unsolicited business communication in writing, in respect of its Business, which: