

- (a) is false or misleading; or
- (b) is likely to be prejudicial to the public image of the Exchange; or
- (c) has been disapproved, or is of a class that has been disapproved, by the Business Conduct Committee by notice in writing to the Exchange Broker concerned or to Exchange Brokers generally.

39. TRADING ON OTHER EXCHANGES

39.1 Where an Exchange Broker trades or proposes to trade in Contracts on another exchange in consequence of an order received from a client, if the Exchange Broker:

- (a) is a member of that other exchange, it shall comply with the business rules of that other exchange in relation to such transactions;
- (b) is not a member of that other exchange, it shall transmit orders relating to such transactions:
 - (i) in the case of an Introducing Broker, to a Public Broker; and
 - (ii) in the case of a Public Broker, to a member of that other exchange;
 for execution in accordance with the business rules of that other exchange.

39.2 Where a Public Broker trades in Contracts on another exchange in consequence of an order received from a client:

- (a) if the business rules of the other exchange include provisions requiring the calling of initial margins (or the equivalent thereof) and/or variation margins (or the equivalent thereof), the Public Broker shall call margins from the client in accordance with those provisions, regardless of whether or not the Public Broker is a member of that other exchange, and shall not be obliged to comply with Rule 34 in respect of any of the relevant Contracts;
- (b) if the business rules of the other exchange do not include provisions requiring the calling either of initial margins (or the equivalent thereof), or of variation margins (or the equivalent thereof), the Public Broker shall call variation margins except to the extent that any initial margin paid, or cover provided, by the client exceeds the client's variation margin liability.

SECTION 7—ARBITRATION

40. JURISDICTION

40.1 The Business Conduct Committee may refer any dispute to arbitration under these Rules following an application made under Rule 41 provided that the dispute:

- (a) is between a Dealer and any other Dealer or, with the consent of the client, a client of the Dealer;
- (b) subject to Rule 40.2, arises in connection with the Business of the Dealer; and
- (c) subject to Rule 40.3, arises out of an act or omission which is alleged to have occurred within one year preceding the date of the reference.

40.2 The reference may, with the consent of the parties, include any matter incidental to the dispute which is conveniently dealt with at the same time.

40.3 The Business Conduct Committee may refer a dispute to arbitration under these Rules if the act or omission occurred outside the one year period if it considers it just and equitable to do so after taking into account any representations made by the parties in accordance with Rules 41.2 and 41.3.

40.4 Neither the Business Conduct Committee, its members or agents, nor the arbitrator, shall be liable to any person for any act or omission in connection with any proceedings under this Section of these Rules, other than, in the case of the arbitrator, an act done in bad faith.

41. APPLICATION FOR A REFERENCE

41.1 Before applying for a dispute to be referred to arbitration under these Rules, a person (the "claimant") shall first give seven days' notice to the other party (the "respondent", which expression includes each and every respondent as appropriate) of its intention to make such an application.

41.2 A claimant shall apply for a dispute to be referred to arbitration under these Rules by:

- (a) notice in writing to the Business Conduct Committee and the respondent containing the following information:
 - (i) the date of service of the notice referred to in Rule 41.1;
 - (ii) the name and address of the claimant and the respondent;
 - (iii) full particulars of the matter or matters in dispute;
 - (iv) the amount of the claim;
 - (v) confirmation that the application is made within one year of the date of the act or omission giving rise to the dispute, or, if outside that period, giving full reasons for the delay in making the reference;
 - (vi) if the claim does not exceed \$25,000, whether the claimant consents to the dispute being determined on the written statements of the parties; and
- (b) payment of a deposit of \$5,000 in respect of costs which may be payable by the claimant pursuant to Rule 45.

41.3 Within fourteen days of receipt of the notice referred to in Rule 41.2, the respondent shall give to the Business Conduct Committee and the claimant notice in writing:

- (a) responding to the claimant's particulars of the matter or matters in dispute;
- (b) giving particulars of any counterclaim by the respondent which arises from the act or transaction which is the subject of the dispute;
- (c) consenting to the reference being made or, if the respondent objects to the reference being made, the grounds for such objection;
- (d) if appropriate, replying to the reasons for the delay in making the application; and
- (e) if the claim does not exceed \$25,000, whether the respondent consents to the dispute being determined on the written statements of the parties.

41.4 A Dealer shall consent to a reference to arbitration unless it satisfies the Business Conduct Committee that it has reasonable grounds for refusing to do so. In considering whether a refusal by a Dealer to submit to arbitration is reasonable, the Business Conduct Committee will take into account any representations made by the claimant and the Dealer and all other relevant circumstances including:

- (a) the nature and size of the dispute;
- (b) whether the dispute affects parties other than the claimant and the respondent;
- (c) any other obligations upon the Dealer to submit to arbitration; and