

NEW RULES AND REGULATIONS ON FUTURES TRADING

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Pursuant to Sec. 7 of the Revised Securities Act (BP No. 178) and the provisions of Sec. 3 of Presidential Decree No. 902-A, as amended, the following revised rules and regulations governing futures exchanges, futures brokers and persons associated with them, futures associations, fund managers, trading advisors and other matters concerning the futures industry are hereby promulgated.

Institutions supervised by the Bangko Sentral ng Pilipinas shall be governed primarily by the applicable rules and regulations promulgated by the Bangko Sentral on futures contracts supplemented by the provisions of these rules.

Nothing in these rules shall be construed as amending the rules and regulations adopted by the Bangko Sentral ng Pilipinas on derivatives and foreign exchange transactions in pursuance of the provisions of its Charter and other banking laws.

TITLE I

DEFINITION

SECTION 1. Definition of Terms. — For purposes of these rules, the following definition of terms shall apply:

- a. "Commission" shall refer to the Securities and Exchange Commission.
- b. "Futures Exchange" or "Contract Market" shall refer to any corporation authorized by the Commission to operate as such, the members of which are engaged in the business of purchasing and selling futures contract for the account of other persons, including the market place and the market facilities maintained by such Exchange.
- c. "Futures Contract" shall refer to:
 1. an agreement to buy and sell a specified quantity and grade of commodity at a future date at a price established at the floor of the Exchange, or
 2. an agreement to buy or sell foreign currency or foreign interest notes at a future date, where on the expiration date instead of delivery there shall be cash settlement.
- d. "Commodity" shall refer to agricultural or mineral products or financial instruments that may be the subject of futures contract. They shall include coconut products, soybean, rice, corn, wheat, sugar, coffee and other goods, articles, financial instruments, foreign currency, indices, interest rate-linked instruments, options or similar instruments as may from time to time be determined by the Commission.
- e. "Future Delivery" shall refer to a commitment to deliver a specific commodity on a specified future delivery date.
- f. "Member of a Contract Market" shall refer to persons owning or holding membership seat in a contract market. Exchange seats are only for those who will actually engage in the futures broking business. Those who will trade exclusively for their own personal account should buy a "locals" right.
- g. "Futures Broker" shall refer to a corporation, which must be registered and licensed as such and is engaged in soliciting or in accepting orders for the purchase or sale of any futures contract traded in the Philippine market. In

connection with such solicitation or acceptance of orders, it shall collect margins in the form of money.

h. "Locals" shall refer to an individual who is duly authorized by the Exchange to trade exclusively for his own personal account.

i. "Trading Advisor" shall refer to any person duly licensed by the Commission (1) who for an advisory fee is engaged in the business of advising others, either directly or through circulars, reports; publications or writings, as to the value of commodities and as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or, (2) who for compensation and as part of a regular business, issues or promulgates, analyses or reports concerning futures market, except (a) any bank or trust company (b) any journalist, reporter, columnist or editor, lawyer, accountant or teacher, (c) the publisher of any bonafide newspaper, news, business or financial publication of general and regular circulation, including their employees (d) any contract market and (e) such other person not within the intent of this definition as the Commission may specify by rule, regulation or order; provided, that the furnishing of such service by the foregoing persons is solely incidental to the conduct of their business or profession.

j. "Fund Manager" shall refer to any person engaged in a business which is of the nature of pooled funds, investment trust or similar form of enterprise, and who, in connection therewith, solicits, accepts or receives from others, money for the sole purpose of trading in any futures contract.

k. "Clearing House" shall refer to the central agency through which transactions of members of a futures exchange are cleared and guaranteed and settlements effected.

l. "Margin" shall refer to the amount of money equivalent to a certain percentage of the total contract value without which a customer cannot trade.

m. "Futures Association" shall refer to an association composed of duly registered and licensed futures brokers, locals, fund managers, trading advisors and other persons whom the Commission may designate as eligible for membership in such association.

n. "Foreign Principal" shall refer to a clearing member of a foreign futures Exchange who (1) signs a contract (in a form approved by the Commission) with a local broker regarding the transmittal of local orders for execution in foreign futures Exchange, and (2) guarantees contracts with clearing members of other foreign futures Exchange or any agent thereof for the local broker to directly trade with such clearing members.

o. "Branch Office" shall refer to any office duly licensed by the Commission other than the principal office of any local broker established for the purpose of solicitation or acceptance of futures contracts.

TITLE II

FUTURES EXCHANGES

SECTION 2. Requirements for Registration and Licensing of Futures Exchanges. — An applicant for registration and licensing as a futures Exchange shall satisfy the following requirements:

a. The Exchange shall have complied with the following minimum requirements of a self-regulatory organization (SRO):

1. Qualification/Guidelines in the acceptance of membership to ensure financial soundness, responsibility and integrity of its member brokers.
2. Table of organizational structure, a clear set of guidelines and policies on the hiring and termination of key personnel, and a set of rules for their qualifications to ensure professionalism in the proposed Exchange.

3. Business Conduct Rules.
 4. Trading rules and procedure and regulatory measure in the prevention of trading abuses.
 5. Uniform accounting system, record keeping procedure and other system requirements to maintain adequate audit trails.
 6. Surveillance, compliance and enforcement system to include the following:
 - a. audit and surveillance procedure for financial health of brokerage houses;
 - b. audit and surveillance procedure for sales and trading practices.
 7. Investigation and Disciplinary Procedures.
 8. Customers Protection Program/System of Settlement of Disputes.
 9. Internal and market risk management financial risk assessment mechanism.
 10. Procedures and Guidelines in the event of its suspension or liquidation or any of its members.
- b. The Exchange shall have non-brokers who will constitute at least 1/3 of the membership of its Board of Directors. The President must also be a non-broker.
 - c. The Exchange shall have adequate facilities, financial and managerial capabilities, expertise and integrity to undertake the activities of a Futures Exchange.
 - d. The Exchange must provide a public gallery where customers can see trading prices on a real time basis; and must be able to come up with adequate measures to assure transparency of all prices/transactions. Likewise, its electronic, trade system shall be hooked up with regulatory bodies to give them direct access to information.
 - e. The Exchange shall be located at a place where efficient and sufficient communication system is available that will allow the public to monitor and transact futures contract on a real time-basis with the assurance of swift confirmation of their transactions. In addition, the Exchange, with prior approval of the Commission, reserves the right to relocate from time to time as it sees fit to continue serving the needs of the trading and hedging public in futures contract in the most efficient manner possible.
 - f. If necessary, the Exchange shall require that warehouses be accessible for its surveillance and monitoring and also by the Commission or its authorized representatives.
 - g. The operation of the Exchange will promote public interest.

Applicants for licensing as Futures Exchange shall submit to the Commission an application in the prescribed form together with such documents as may be required. In case the application is denied, the applicant shall be afforded an opportunity for a hearing before the Commission. Any application that is approved shall include an undertaking that the Exchange shall advise prospective marketing participants that any obligation arising out of the futures trading contract shall not carry any implied assurance of the provision of foreign exchange either by the Bangko Sentral ng Pilipinas or the banking system.

SECTION 3. Other Requirements. — Each domestic Futures Exchange shall:

- a. Furnish the Commission copies of its rules and regulations, and resolutions of its governing board and committees which shall contain provisions:
 1. Instituting a screening process to ensure that only fit and proper applicants are admitted.
 2. Preventing dissemination by the Exchange or any member thereof of false or misleading reports concerning

crop or market information or conditions that will affect the price of any commodity traded therein.

3. Preventing price manipulation and cornering of any commodity by the brokers or fund managers in the Exchange.

4. Requiring the operators of commodity warehouse to keep records, submit reports and permit visitations as the Commission may require.

5. Requiring the party making delivery of any commodity to furnish a written notice of the delivery date at least three (3) business days prior to such delivery date to the party obligated under the contract to accept delivery.

6. Requiring that all commodity Exchange contracts shall include a provision for the delivery of commodities of grades conforming to standards promulgated by the Exchange and approved by the Commission.

7. Requiring that receipts issued under the Warehouse Receipts Law be accepted in satisfaction of any approved futures contract.

8. Providing minimum financial standards for futures brokers who are members of such contract market and which have been approved by the Commission.

9. Relating to terms and conditions in contracts of sale or purchase to be executed in it or subject to its rules or relating to other trading requirements.

10. Permitting the delivery of any commodity of such grade or grades, at such point or points and such quality and locational price differential as will tend to prevent or minimize price manipulation, market congestion, or the abnormal movement of such commodity.

11. Providing a fair and equitable procedure through arbitration or otherwise for the settlement of customer's claims against any member or employee of the Exchange.

12. Imposing penalties for inactive members.

13. Providing educational courses for the investing public and broker members and conducting training and testing facilities for broker sales representatives. The curriculum shall be subject to approval of the Commission.

14. Making available a complete list of accredited brokers/members and requiring brokers to make available complete list of sales representatives.

a. Submit such reports as may be required by the Commission.

b. All Rules and Regulations or any amendment thereto adopted by the Exchange shall be submitted to the Commission for prior approval.

c. Keep for a period of five (5) years or longer if the Commission so directs, all books, records and minutes of its proceedings and that of its governing board and committees and make them available for inspection by the Commission during business hours.

15. Providing a Fidelity Fund/Surety Bond to protect the investing public against brokers bankruptcy or fraud.

16. Providing a rule advising prospective investors that any obligation arising out of the futures trading contracts shall not carry any implied assurance of the provision of foreign exchange either by the Bangko Sentral or the banking system.

SECTION 4. Application for designation. — Any domestic futures Exchange desiring to be designated as a contract market shall apply to the Commission for such designation and accompany the same with a showing that

it complies with the above conditions and with a sufficient assurance that it will continue to comply with the above requirements. In the event of a refusal to designate as a contract market any commodity futures Exchange that has applied therefor, such Exchange shall be afforded an opportunity for a hearing before the Commission.

SECTION 5. Disciplinary Action. — The failure or refusal of any Futures Exchange to comply with any of these rules or any Order of the Commission shall, after due notice and hearing, be valid cause for suspension for a period not to exceed twelve (12) months or revocation of the designation of such Exchange as a contract market.

The Commission is also authorized to suspend for a period not to exceed twelve (12) months or to revoke the designation of any Exchange as a contract market upon a showing that such Exchange is not enforcing or has not enforced its rules of procedure which were made a condition of its designation.

Finally, if the public interest so requires, the Commission may summarily suspend trading in any futures contracts on any domestic contract market for a period not exceeding thirty (30) days or may summarily suspend all trading of any Futures Exchange for a period of more than thirty (30) days but not exceeding ninety (90) days;

SECTION 6. Withdrawal of Designation as a Contract Market. — Any Futures Exchange that has been designated as a contract Market may voluntarily apply for the withdrawal of such designation by giving written notice to the Commission requesting that its designation as a contract Market be withdrawn, which notice shall be served at least ninety (90) days prior to the date designated therein as the date when the withdrawal of such designation shall take effect.

The Exchange concerned can thereafter be designated again as a Contract Market by applying to the Commission in the manner herein provided for an original application.

SECTION 7. Publication of Data on Operation of Contract Markets. — The Commission may take such investigation as it may deem necessary to ascertain the facts regarding the operations of Futures Exchanges and other persons subject to the provisions of Presidential Decree No. 902-A, as amended, the Revised Securities Act (BP. No. 178) or these rules, and may publish from time to time, in its discretion, the result of such investigation and such statistical information gathered therefrom as it may deem of interest to the public, except data and information which would separately disclose the business transaction of any person and trade secrets or names of customers.

TITLE III

CLEARING HOUSE

SECTION 8. Qualification/Requirement of Clearing House. — No applicant Clearing House shall be registered unless it can be shown that it has complied with the following requirements:

- a. Shall be an independent and credible institution, preferably a reputable bank, acceptable to the market and the Commission.
- b. Shall be prepared to confirm any transaction upon the request of brokers or their customers.
- c. Shall specify, identify and implement jointly with the Exchange the following: initial margin deposit required per contract, margin call (intraday) level, mandatory cut-loss level; and collect and maintain buffer margin deposits of brokers members.

TITLE IV

FUTURES ASSOCIATION

SECTION 9. Qualification of Futures Association.

- a. No applicant association shall be registered as futures association unless the Commission finds that:

1. The rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect the public interest, and to remove impediments to the mechanism of free and open futures trading;
2. The rules of the association provide that its members and persons associated with its members be appropriately disciplined by expulsion, suspension, fine, censure, or being suspended or barred from being associated with all members, or any fitting penalty, for violation of its rules;
3. The rules of the association provide a fair and orderly procedure with respect to the discipline of members and persons associated with members and the denial of membership to any person associated with members or the barring of any person from being associated with a member; and
4. Such association is in the public interest and that it will be able to comply with the rules and regulations of the Commission.

b. Any duly licensed local futures broker or its foreign principal or any other person whom the Commission may designate as eligible for membership, may become a member of such association except such as may be excluded pursuant to the provision of paragraphs (a) and (b) of this rule.

1. Except with the approval or at the discretion of the Commission in cases in which the Commission finds it appropriate in the public interest, no person shall be continued in membership if such person (1) has been and is suspended from being associated with any member of such contract market, for violation of any rules or for conduct inconsistent with just and equitable principles of trade, or (2) is subject to a disciplinary order of the Commission or (3) has associated with any person who is known to have been excluded from membership in the association.
2. Except with the approval of the Commission, no person shall become a member nor shall become associated with a member unless such person is qualified to become a member or such person associated with a member is qualified with respect to the training, experience and other qualifications.

SECTION 10. Registration of Futures Association. — Any association of persons may be registered with the Commission as a futures association by filing with the Commission, for review and approval of, its articles of incorporation and by-laws accompanied by the following documents:

- a. copies of its existing rules and regulations affecting the members;
- b. a written undertaking to furnish the Commission copies of any amendment to the rules and regulations of the association forthwith upon their adoption, and
- c. Other documents and/or information that the Commission may require in the public interest.

SECTION 11. Disciplinary action against any member of a registered association subject to review. — If any registered association takes any disciplinary action against any member thereof or any person associated with such member or denies admission to any person seeking membership therein, or bars any person from being associated with a member, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby, filed within thirty (30) days after such action has been taken or longer as the Commission may determine.

If after due notice and hearing, the Commission finds that any penalty imposed upon a member or person associated with a member is excessive, having due regard to public interest, the Commission shall, by an order, cancel, reduce or require the remission of such penalty.

In any proceeding to review the denial of membership in a registered futures association or the barring of any

person from being associated with a member, if the Commission, after appropriate notice and hearing, determine that the specific grounds on which such denial or bar are based on fact and are valid the Commission shall by order, dismiss the proceedings, otherwise, the Commission shall by order, set aside the action of the association and require it to admit the applicant to membership therein or to permit such person to be associated with a member.

SECTION 12. Abrogation and Amendment of Rules of Registered Association. — The Commission may, by rules and regulations or by order, abrogate, amend, alter or supplement any rule or regulation of registered futures association if, after due notice and hearing it finds that such abrogation, amendment, alteration or supplement is necessary or appropriate in the public interest.

SECTION 13. Revocation or suspension of Registration of Registered Association; Removal of Officer. — The Commission may, after due notice and hearing, order the suspension for a period of not exceeding twelve (12) months or the revocation of the registration of a registered futures association, if the Commission finds that such association has violated any provision of this Title or any rules or regulations hereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes, of these rules.

The Commission may also, after appropriate notice and hearing suspend for a period not exceeding twelve (12) months or expel from a registered futures association any member thereof, or to suspend for a period not exceeding twelve (12) months or to bar any person from being associated with a member thereof, if the Commission finds that such member or person has violated any provisions of or rule under this Title, or effected any transaction for any other person, and has reason to believe, was violating with respect to such transaction any provision of or rule under this Title; or the Commission may, by order, remove from office any officer or director of such association who; the Commission finds, has willfully failed to enforce the rules of the association or has willfully abused his authority.

SECTION 14. Revocation of a Registered Association. — A registered futures association may petition for the revocation of its registration by filing with the Commission an application for the purpose in the ascribed form.

TITLE V

FUTURES BROKERS, FUND MANAGERS, TRADING ADVISORS AND PERSONS-ASSOCIATED WITH FUTURES BROKERS

SECTION 15. Registration and Licensing of Futures Brokers. —

a. No person shall be allowed to act as futures broker in soliciting orders for delivery subject to the rules of any Contract Market, unless such person or firm shall have been registered with and licensed by the Commission.

Any person desiring to register as futures broker may do so by submitting an application in quadruplicate sworn to by the person or authorized officer of the applicant firm, embodying the following information:

1. Name, business address and telephone/fax number/s of the applicant;
2. The names and addresses of the directors or persons performing similar functions, and the chief executive, financial and accounting officers, chosen or to be chosen;
3. The name and postal/business address of the applicant/s foreign principal, which may have proprietary interest in the local broker to the extent allowed by law;
4. The foreign principal shall submit a certificate of good standing in the Contract Market or Futures Exchange in which it is a member;
5. The futures contract or contracts the applicant proposes to deal in and a listing of the terms and conditions of

the contract or contracts;

6. If the orders are to be executed through a foreign based Contract Market, a brief description of how client/s orders are or will be executed and the procedure for settling with the foreign principal on payments of margins. Liquidations of contract and other claims of the foreign based exchange, clearing those and/or the applicant's foreign principal;

7. A statement of the experience and competence in futures trading of the managing officer or officers of the applicant firm;

8. The names, address and telephone number of three (3) references who are Filipino citizens of good standing in the respective communities in which they live; and

9. Any such other information as the Commission may require.

b. The application shall be submitted to the Commission with the following documents:

1. Contract between the applicant and its foreign principal regarding the handling of the transactions of the local broker in connection with the commodities trading in the foreign Futures Exchange where the former does business with the following salient features:

a. Information as to the percentage of ownership of the foreign principal in the capital stock of the applicant, if any;

b. Names of directors, officers or person performing similar functions, of the foreign principal working or intending to work for the applicant, if any;

c. Maximum amount the foreign principal will commit as advances for margin deposit and liquidation loss payments, in the foreign Futures Exchange concerned in behalf of the local broker;

d. Provisions for the extension of credit facilities, business guidance and technical services to the local broker by the foreign principal;

e. Guarantee on the part of the foreign principal that all orders concerning futures received from the local broker shall be deemed cancelled and not executed unless the foreign principal informs the local broker in writing of the confirmation of any order executed not later than 7:00 p.m. for day trading order and 7:00 a.m. for night trading orders, Philippine time;

f. The foreign principal shall give a written authority to the local broker and the Securities and Exchange Commission, to verify from the foreign Futures Exchange the execution of orders from the local broker;

g. The foreign principal shall guarantee that it will furnish the local broker a duly signed list of executed orders monthly within the first fifteen (15) days of the following month, which could be subject to inspection by duly authorized representatives of the Commission and the customers of the local broker, during reasonable hours on any business day;

h. The foreign principal must guarantee that all outstanding positions of customers of the local broker must be serviced by or through the foreign principal inspite of the abrupt termination of contract between the foreign principal and local broker for any reason whatsoever; and

i. Provision empowering the Commission to amend, modify, or otherwise alter the trading agreement or contract in order to insure the protection of the investing public.

2. Board Resolution of the foreign principal and the broker authorizing their respective representatives to sign any contract.

3. Proof of membership of the applicant or applicants foreign principal in the Futures Exchange or Contract

Market where the applicant proposes to deal in, and contracts if any, with clearing members of other Futures Exchanges or any agent thereof acceptable to the Commission, for the applicant to directly trade with such clearing members.

4. Bio-data and signed passport pictures of the directors and principal officers of the applicant firm.
5. A copy of the rules and regulations of the Contract Market or Futures Exchange which will govern the contracts which the applicant proposes to deal in, if such contract is foreign based.
6. Board resolution of the applicant designating a responsible Filipino officer and a resident to be one of the signatories in all checks and other instruments of similar nature, duly acknowledged by all banks concerned.
7. Copy of the pro-forma customers agreement the applicant is using or proposes to use in the conduct of its business.
8. A cash or continuing surety bond (with no automatic termination) in the amount of P5,000,000.00 executed by a duly authorized surety company acceptable to the Commission. Together with the bond, the bonding company should also furnish the following clearance form. Supreme Court, Regional Trial Court where the company's principal office is located, Office of the Insurance Commission Form No. 1 of the bonding company, and authority (Adm. Order) to act as surety.
9. The latest audited financial statements of the applicant firms and its foreign principal and a bank certification of the cash balance of the applicant firm as of date of application, together with a copy of the monthly bank statement of the company for the immediate preceding six (6) months.
10. Other documents and/or information that may be required by the Commission.

Upon filing of the application for registration, the Commission shall issue a Notice and Order of the fact of such filing which shall be immediately published by the Commission, at the expense of the applicant, in two (2) newspapers of general circulation in the Philippines, once a week for two (2) consecutive weeks, reciting that an application for registration to operate as futures merchant/broker has been filed with it, and that the aforesaid registration statement as well as the papers attached thereto, are open to inspection during business hours, or any business day; by interested parties and copies thereof, photostatic or otherwise, may be furnished upon request to any interested party at such reasonable charges as the Commission may prescribe.

Any interested party may file an opposition to the registration within ten (10) days from the last day of publication thereof.

SECTION 16. Financial and Bond requirements for Futures Brokers. — No person desiring to act as futures brokers shall be registered and licensed unless it has a minimum paid-up capital of TEN MILLION (Php10,000,000.00) PESOS, of which at least TWO MILLION (Php2,000,000.00) PESOS is the cash operating capital, a surety bond of FIVE MILLION (Php5,000,000.00) PESOS in favor of the Commission, issued by a reputable bonding company acceptable to the Commission to secure the payment of any loss or damage suffered by the clients by reason of any failure on the part of the broker or its agents to comply with any provision of existing laws, rules and regulations governing the same; a buffer margin or 2% of the outstanding contract whichever is higher deposited with the Clearing House; Fidelity Fund and a toll per contract to be charged by the Exchange.

In the course of its operations as broker, it shall maintain an unimpaired paid-up capital of at least TEN MILLION (Php10,000,000.00) PESOS provided there shall be cash operating capital of at least TWO MILLION (Php2,000,000.00) PESOS and provided finally, that its net assets must not be less than twenty percentum (20%)

of its total liabilities.

The Commission may prescribe from time to time a higher amount or percentage should it deem necessary for the protection of investors.

For purposes of these rules, the term net assets shall mean total assets excluding.

- fixed assets, net of total accumulated depreciation;
- advances to or receivable from affiliates, subsidiaries, directors, officers and employees;
- acquisition value of Exchange membership, and
- total liabilities shall include all liabilities.

If the Commission finds it necessary or appropriate in the public interest or for the protection of investors, additional capital must be infused to comply with the requirements of this Rule.

Provided, further that the Commission may from time to time require the posting of an additional bond by futures commission merchants, brokers and the foreign principal/s in an amount sufficient to meet possible claims against them, taking into account the volume of margin deposits held by them.

SECTION 17. Issuance of License. — If the Commission is satisfied that the applicant is qualified and competent to engage in the futures brokerage business it shall register/license the applicant to act as such.

Every license issued hereunder shall expire on the thirty first of December of each year and will be renewed upon written applications and payment of filing fee as herein provided. Applications for renewal must be filed with the Commission not less than thirty (30) days nor more than sixty (60) days before the first day of the ensuing year, otherwise they shall be treated as original applications.

Any futures broker intending to open a branch office anywhere in the Philippines must file an application therefor. If the Commission finds that the applicant has complied with the requirements under these Rules; including the payment of filing fee, the Commission shall approve said application by issuing a corresponding license which shall be co-terminus with the term of the head office.

SECTION 18. Revocation of Brokers Salesman's Registration. — Registration/licensing under these Rules and regulations may be refused, or any registration/license granted may be revoked, by the Commission if, after reasonable notice and hearing, the applicant/registrant has been found to have committed any of the following:

- a. has violated any provision of these rules and regulations or of the Revised Securities Act; or
- b. has made any material false statement in the application for registration; or
- c. has been guilty of any fraudulent act in connection with any sale of futures contract or has been or is engaged is about to engage in any purchase or sale of contract which is fraudulent or in violation of the existing laws, rules and regulations; or
- d. has demonstrated its unworthiness to transact the business of broker/trader/salesman.

In case of charges against a salesman, notice thereof shall also be given the broker employing such salesman and the broker shall be sanctioned likewise for the act of its salesman/agent.

Pending hearing, the Commission shall have the power to order the suspension of such broker's or salesman's/trader's license; Provided that such order shall state the cause of such suspension.

Until the entry of a final order, the suspension of license, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after such notice.

The Order of the Commission revoking the registration/license as herein above provided, together with findings, shall be entered in the Register of Brokers, Salesmen. The suspension or revocation; of the registration/license of a broker shall automatically suspend or revoke the license of all its salesmen.

SECTION 19. Licensing of Person Associated with Futures Brokers. — It shall be unlawful for any person to be associated with any futures brokers as an officer or employee (or any person occupying a similar status or performing similar functions) in any capacity which involves (a) the solicitation or acceptance of customers orders other than in a clerical capacity or (b) the supervision of any person or persons so engaged unless such person shall have been registered/licensed by the Commission and such license shall not have expired nor been suspended or revoked, and it shall be unlawful for any futures commission merchant to knowingly permit such person to become or remain associated with him in such capacity.

Any person desiring to be registered/licensed under this rule may do so by submitting an application to the Commission in the prescribed form together with the affidavit of two individuals of unimpeachable reputation in the communities where they reside attesting to the applicant's good moral character. Only sales representatives who abide by the Exchange's Code of Conduct shall be licensed. No applicant may be registered/licensed under this Rule unless the Commission is satisfied that he is qualified for the position for which he is seeking registration.

Provided however, that no person who is associated with a futures broker or with an agent of a futures broker as an associated person may be simultaneously associated with any other agent of futures brokers or with any other agent of a futures brokers as an associated person.

Provided, further that brokers shall not employ fund managers in the company.

Brokers shall take full responsibility for the actions and representations made by their sales representatives.

SECTION 20. Licensing Futures Trading Advisors and Fund Managers.

a. It shall be unlawful for any futures trading advisor or fund manager, unless registered/licensed under this Rule, to make use of the mails or any means of communication usual in commerce in connection with the business as such fund manager; Provided that the provisions of this Rule shall not apply to any commodity trading advisor, who during the course of the preceding twelve (12) months, has not furnished futures trading advice to more than fifteen (15) persons who does not hold himself out generally to the public as a futures trading advisor.

b. Any futures trading advisor or fund manager, or any person who contemplates becoming either one, may register under this Rule by filing an application with the Commission, sworn to by the person or authorized officer of the applicant firm embodying the following information:

1. Name, business address and telephone number/s of the applicant;
2. The names and postal/business address of each principal of the fund manager/trading advisor;
3. The name and postal/business address of the brokers through which the fund will execute its trade or with which the client will be required to maintain his accounts;
4. A statement of the experience and competence in futures trading of the managing officer who will make trading decisions in the fund; and
5. The names, addresses and telephone number/s of three (3) references who are Filipino citizens of good

standing in the respective communities in which they live.

c. The application shall be submitted to the Commission with the following supporting documents:

1. A brief description of the trading program or modus operandi on how the fund will be operated/advice will be given;
2. Bio-data and signed passport pictures of the fund manager, trading advisor, and other officers of the applicant for the past five (5) years;
3. Copies of the pro-forma clients trading agreement that the applicant is using in the conduct of its trading agreement that the applicant is using or proposes to use in the conduct of its business;
4. Copies of the pro-forma risk disclosure statement in English and Pilipino that the applicant is using or proposes to use in the conduct of its business;
5. A cash or surety bond in the amount of P5,000,000.00 executed by a duly authorized surety company acceptable to the Securities and Exchange Commission. Together with the bond, the bonding company should also furnish the Commission the following clearances from: the Supreme Court, the Regional Trial Court where the company's principal office is located, the Office of the Insurance Commission (OIC) Form No. 1 of the Bonding Company, and Authority (Administrative Order) to act as surety.

The Commission may from time to time prescribe a higher surety bond should it deem necessary for the protection of investors;

6. Other documents and/or information that may be required depending on the necessity thereof for the protection of public investors in the form acceptable to the Commission.

Upon filing of the application for registration, the Commission shall issue a Notice and Order of the fact of such filing which shall be immediately published by the Commission at the expense of the registrant, in two (2) newspapers of general circulation in the Philippines, once a week for two (2) consecutive weeks.

Any interested party may file an opposition to the registration within ten (10) days from the last day of publication thereof.

Upon the payment of the filing fee as hereinafter provided, and if the Commission is satisfied that the applicant is qualified and competent to act as trading advisor and fund manager, it shall approve the application and issue the corresponding license to such applicant.

Every license issued hereunder shall expire on the thirty-first of December in each year, but new license for the succeeding year shall be issued upon written application and upon payment of filing fees without filing of further statements unless specifically required by the Commission. Applications for renewal shall be made in not less than thirty (30) days or more than sixty (60) days before the first day of the ensuing year, otherwise, they shall be considered new applications.

SECTION 21. Qualifying Examination. — All persons applying for registration for the first time shall: (1) attend a futures training course/seminar and (2) successfully pass the written examination to be conducted by the Commission or any deputized agency.

Upon the written application of registered/licensed broker, and generally satisfactory showing of their good character, and having paid the fee prescribed herein, the Commission shall register/license them as salesman of such broker. Such registration/license shall cease upon the termination of employment of such salesman by such broker.

SECTION 22. Handling of Money, Securities and Property by Futures Broker. — Any person registered and licensed as a futures broker shall treat all monies received by such person or margin, guarantee or secure the trade or contracts of any customer of such person, or accruing to such customer; as the result of such trades or contracts, as belonging to such customer. Such money shall be deposited in a bank account (denominated Customers Account), and shall together with the securities and property shall be separately accounted for, and shall not be commingled with the funds of such broker or to be used to margin or guarantee the trades and contracts, or to secure or extend the credit of any customer or person other than the one for whom the same are held.

Provided, however, that such money of the customers of such futures broker may, for convenience, be commingled and deposited in the same Customer's Account with any bank or trust company or with the clearing house of such Contract Market, and that such share thereof of the individual customers as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust or settle the contracts or trades of such customer or resulting market positions with the clearing house of such contract market or with any member of such market and may be withdrawn and applied to such purposes, including the payment of commissions, brokerage fees, interests, taxes, storage and other charges lawfully accruing in connection with such contracts and trades.

Provided, further that at all times, the total cash on hand and in bank of the commodity futures broker must not be less than the sum of the customer's free deposit (including customer's gains and a cash working capital of Php2,000,000.00 or a higher amount to be prescribed by the Commission from time to time in the public interest.

Provided, finally, that the withdrawals of customers free deposits must be paid within two (2) business days upon demand any time during banking hours.

SECTION 23. Records Required to be Maintained, Reports to be Submitted, Documentation and Accounting Procedures.

- a. Every Contract Market and clearing house authorized to operate in the Philippines shall maintain daily records of total volume traded, margin deficiencies and such other records or reports that may be required by the Commission and by the Exchange.
- b. Futures Brokers shall maintain (a) daily trading records of each customer and shall keep books and records pertaining to such transactions and positions. House accounts are allowed but subject to special Exchange accounting procedures. (b) In case an Order is executed on or under the rules of a foreign based Contract Market, the broker concerned must have on hand proof of execution of such order. For each Customer's Account, the broker shall require the customer to execute risk disclosure statement in English and Filipino to be signed in the presence of the responsible authorized officer of the broker to the effect that he is aware of the risks involved in commodity futures trading, a signed copy of which shall be kept in the principal office of the corporation subject to the inspection by duly authorized representatives of the Commission.
- c. Brokers shall be required to voice-record all trading activities.
- d. Brokers monthly account statements to clients shall be mandatory.
- e. Trading advisors and fund managers registered/licensed under these rules shall maintain books and records and file such reports on their transactions containing as far as applicable the same information contained in the reports required to be submitted by the brokers.
- f. Within sixty (60) days after the closing of the fiscal/calendar year and within sixty (60) days after the semi-annual closing of the books, every member of a Futures Exchange and every broker who transacts business

in futures through the medium of such member shall file with the Commission a statement report of his financial condition as of the last day of the next preceding period in the manner prescribed by the Commission.

The annual as well as the semi-annual financial reports or statements shall be certified by an independent certified public accountant.

g. All of the reports required to be maintained under this Rule shall be kept for a period of at least five (5) years and shall be open to inspection by representatives of the Commission even without the approval of the broker/member.

h. The Commission shall be notified of any disciplinary action taken against any Exchange member.

i. The Commission shall be notified by Exchange members who fail to meet a margin call.

j. Brokers shall notify the Commission of external auditor chosen, and in cases where auditor is changed.

k. Documentation shall be standardized by the Exchange to achieve an efficient monitoring and auditing process.

l. Accounting procedures, reports and systems shall be standardized for easy and efficient audit.

SECTION 24. Penalty for Late Filing of Report. — Failure to submit the reports mentioned in Sec. 23 on time will result the imposition of fines in accordance with the following schedule of fines:

a. For reports required to be submitted annually and semi-annually:

Basic Fine Minimum Fine per Report to be imposed

1st violation

Php10,000.00 Php200.00

2nd violation

Php20,000.00 Php400.00

3rd violation and subsequent violations

Php50,000.00 Php1,000.00

b. For reports to be submitted weekly and monthly flat rate of Php1,000.00 plus an amount not exceeding Php200.00 for every day of delay.

The Commission may from time to time prescribe a higher amount to ensure compliance with reportorial requirements.

TITLE VI

LOCALS

SECTION 25. Requirements for Locals. — Locals must undergo an Exchange interview process prior to trading determine viability and loss tolerance. The Exchange shall impose a maximum trading limit for each local member. Locals shall not be allowed to trade, manage, or handle clients funds and must trade exclusively for their own account. Local rights are transferable, subject to the conditions of the Exchange.

TITLE VII

MARGIN AND DEPOSIT REQUIREMENTS

SECTION 26. Initial Deposit. — There must be an initial deposit of not less than Php300,000.00 to open an account before any customer can place an order.

SECTION 27. Margin Requirements. — The margin of each futures contract must not be less than the minimum margin set by the Commission in accordance with these Rules. However, the broker may require a higher margin than what the Commission requires. The Exchange shall inform the Commission of any increase in margin requirement. Gross margin shall be imposed on all accounts. Interest shall be paid by the Clearing House on all gross margin deposits. All brokers shall require a minimum initial margin of 5% on all futures products.

Brokers are not allowed to loan their clients the margin required by the Exchange.

TITLE VIII

CUSTOMERS

SECTION 28. Requirements.

- a. Customers must attend Exchange sponsored seminar before trading is allowed. Experienced clients may send their authorized representatives on their behalf;
- b. Customers must undergo a broker interview process prior to trading to determine suitability and loss tolerance;
- c. Customers must trade his/her own account.

SECTION 29. Rights. — Customers have among others the following rights:

- a. To rescind a contract agreement with a broker house if the broker and/or his salesperson are unlicensed, has violated the discretionary trading rules, or is unauthorized;
- b. To have recourse to fidelity fund/surety bond in the event of broker bankruptcy or fraud;
- c. To inspect books and records relative to his investments during regular business hours; and
- d. To request for a copy of financial statements of the company.

TITLE IX

PROHIBITED ACTS

SECTION 30. Prohibited Acts. — It shall be unlawful for any person:

- a. To engage in any futures transaction, to solicit, accept orders, or act as a conduit, without being duly authorized by either the Commission or the Futures Exchange under the existing rules. Transactions entered into or traded by unlicensed or unauthorized person are null and void.
- b. To establish any office or place of business anywhere in the Philippines for the purpose of soliciting or accepting any orders for the purchase or sale of any commodity for future delivery, or for making or offering to make any such contracts or for conducting any dealings in futures contract if such orders, contracts or dealings are executed or consummated otherwise than by or through a member of a Contract Market.

- c. To represent himself falsely to be a member of a Contract Market, or the representative or agent of a member, or to be a future commission merchant or futures brokers registered under these Rules, or the agent of a registered futures commission merchant, in soliciting or handling any order or contracts for the purchase or sale of any commodity, for future delivery, or to represent falsely in connection with the handling of any such order or contract that the same is to be or has been executed on or through any member of any contract market.
- d. To make use of discretionary account except for licensed fund managers.
- e. To open or maintain in-house accounts. Only stockholders and owners of the brokerage house are allowed to open such accounts.
- f. To receive checks in behalf of clients.

SECTION 31. Excessive Speculation. — To minimize or prevent sudden fluctuation in the price of any futures contract, the Commission by Order may delegate to contract market (a) a maximum price fluctuation; (b) amount of trading, whether buying or selling; (c) positions which may be held by any person under futures contracts and (d) delivery dates, except on bona fide hedging transactions.

SECTION 32. Fraudulent Transactions. — It shall be unlawful for any person authorized to engage in futures contracts to execute the following transactions which are considered fraudulent:

- a. Futures contracts for the purpose of cheating, defrauding or deceiving any person in connection with hedging any transaction, determining price basis, or delivering any commodity futures;
- b. To execute cross sales if this is done outside the floor of the exchange and not in accordance with the rules of the Exchange; and
- c. To bucket such order, to fill such order by offset against the order, or orders of any other person or wilfully and knowingly and without the prior consent of such person to become the buyer in respect to any selling order of such person or the seller in respect to any buying order of such person.

SECTION 33. Prohibition Against Trading Advisors and Fund Managers. — It shall be unlawful for a trading advisor or fund manager to engage in any futures transaction which operates as a fraud or deceit upon any client or participant, or to misrepresent that he has been sponsored, endorsed, recommended or licensed by the Commission.

SECTION 34. Other Prohibited Transactions. — It shall be unlawful for any person to offer to enter into, or confirm the execution of, any transaction involving any commodity, which may be used for (1) hedging any transaction in such commodity or the products or by-products thereof; (2) determining the price basis of any such transact in such commodity; or (3) delivering any such commodity, sold or shipped, or received for the fulfillment thereof:

- a. if such transaction is of the character of, or is commonly known to the trade as, a "wash sale", "cross sale" or "accommodation trade" or is "fictitious sale", or
- b. if such transaction is used to cause any price to be reported, registered, or recorded which is not a true and bona fide price.

SECTION 35. Prohibition Against Certain Foreign Currency Contract. — Unless licensed by the Commission, it shall be unlawful for any person to engage in, or solicit or accept orders or act as conduit, or make or enter into any foreign currency contract which is in the form of a futures contract. A foreign currency contract shall be considered a futures contract if:

- a. only a margin is paid on the contract;
- b. on the expiry date or delivery date, the full value of the contract is not paid;
- c. delivery of foreign currency is not intended but only a cash settlement is made to liquidate the contract; or
- d. the contract is not settled on the day it is taken but instead is rolled over from day to day.

SECTION 36. Procedure and Penalties in Case of Violation by Person other than Contract Markets. — Whenever it shall appear to the Commission that any person (other than a contract market) is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity for future delivery on or subject to the rules of any contract market, or has willfully made any false or misleading statement of a material fact in any registration application or any report filed with the Commission under these Rules, or willfully omitted to state in any such application or report any material fact required to be stated therein, or otherwise violating or has violated any of these Rules it may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein, a notice of hearing specifying a day and place not less than ten (10) days after service thereof, requiring such person to show cause why an order should not be made prohibiting him from trading on or subject to the rules of any Contract Market and directing that all Contract Market refuse trading privileges to such person.

Upon evidence received, the Commission may prohibit such persons from trading on or subject to the rules of any Contract Market and require all Contract Markets to refuse such person all trading privileges thereon for such period as may be specified in the order, and may assess such person a fine of not less than P10,000.00 nor more than P50,000.00 for each violation plus not more than P1,000.00 for each day of continuing violation.

The Commission may furthermore, without the necessity of a prior hearing make and enter an order directing that such person shall cease and desist from the act or acts complained of. Such cease and desist order shall be confidential until after the fine mentioned in the preceding paragraph shall have been imposed.

In determining the amount of the fine assessed hereunder, the Commission shall consider, in the case of the person whose primary business involves the use of the futures market, the appropriateness of such penalty to the size of the business of the person charged, the extent of such person's liability to continue in business, and the gravity of the violation; and in the case of a person whose primary business does not involve the use of futures market, the appropriateness of such penalty to the net worth of the person charged and the gravity of the violation.

If any Contract Market is not enforcing or has not enforced its rules of governance made a condition of its designation, or if any Contract Market, or any director, officer, agent or employee thereof otherwise is violating or has violated any of these Rules, the Commission, may upon notice and hearing make and enter an order directing that such Contract Market, director, officer, agent or employee shall cease and desist from such violation and assess a fine of not less than P10,000.00 nor more than P50,000.00 for each violation plus not more than P1,000.00 for each day of continuing violation.

SECTION 37. Who May Take Action Against Violators. — The Commission shall have the power to enjoin any act or practice constituting a violation of any provision of these Rules or any of its Orders in connection therewith or enforce compliance with the same.

TITLE X

FUTURES EXCHANGE FEES

SECTION 38. Filing Fees. — The filing fees to be paid to the Commission shall be as follows:

Application for renewal of license as Contract Market Php50,000.00

Application for registration or renewal of license as commodity futures broker Php5,000.00

Application to open branch office of commodity futures broker or renewal thereof Php10,000.00

Registration/Licensing of salesman and trading advisors Php1,000.00

Examination fee for commodity futures salesmen and trading advisors Php200.00

Petition to amend Order authorizing commodity futures broker to operate Php10,000.00

Application for registration/renewal as fund manager or trading advisors Php10,000.00

These fees may be subject to change from time to time as the Commission may see fit.

SECTION 39. Additional Fees of Exchanges. — In addition to the filing fees prescribed in Section 38 of these Rules, every Futures Exchange shall pay to the Commission, on or before March fifteen of each calendar year, a fee in such amount as the Commission by rule shall prescribe, but not more than one-hundredth of one per centum of the aggregate amount of the sales of futures contract transacted on such Exchange during the preceding calendar year, for the privilege of doing business during the preceding calendar year or any part thereof.

TITLE XI

EFFECTIVITY

SECTION 40. These Rules and Regulations shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation in the Philippines.

Adopted: 09 July 1999

(SGD.) PERFECTO R. YASAY, JR.
Chairman

(SGD.) FE ELOISA C. GLORIA
(SGD.) EDIJER A. MARTINEZ
(SGD.) ROSALINDA U. CASIGURAN
(SGD.) DANILO L CONCEPCION
Associate Commissioners

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