

[SEC, July 09, 1999]

NEW RULES AND REGULATIONS ON FUTURES TRADING

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