

2022 Initial Futures Ethics Training Outline

Introduction

The provisions of Section 4p(b) of the Commodity Exchange Act (Act) (7 U.S.C. 6p(b) (1994)) set forth requirement regarding training of Registrants as to their responsibilities to the public. This section of the Act requires the Commodity Futures Trading Commission (CFTC) to issue regulations requiring new Registrants to attend ethics training sessions within six months of registration and periodically thereafter. The CFTC, in its Statement of Acceptable Practices (Statement), states: “The awareness and maintenance of professional ethical standards are essential elements of a Registrant’s fitness. Further, the use of ethics training programs is relevant to a Registrant’s maintenance of adequate supervision, a requirement under Rule 166.3”.

The Statement is intended to serve as a “safe harbor” concerning acceptable procedures for Intermediaries regarding fitness and supervision of Registrants. The Statement lists the following topics to be addressed in training programs for this purpose:

1. An explanation of the applicable laws and regulations, and the rules of self-regulatory organizations or contract markets and registered derivatives transaction execution facilities;
2. The Registrant’s obligation to the public to observe just and equitable principles of trade;
3. How to act honestly and fairly and with due skill, care and diligence in the best interest of customers and the integrity of the markets;
4. How to establish effective supervisory systems and internal controls;
5. Obtaining and assessing the financial situation and investment experience of customers;
6. Disclosure of material information to customers;
7. Avoidance, proper disclosure and handling of conflicts of interest.

Exchange Analytics Initial Ethics Program

All topics required by the CFTC's Statement of Acceptable Practices are addressed in Exchange Analytics' Initial Ethics training program. Exchange Analytics was originally authorized to provide ethics training by the Commodity Futures Trading Commission in 1995. The program is designed to take approximately 100 to 120 minutes to complete.

The course outline is as follows:

1. Introduction
 - a. Training Responsibilities
 - b. Purpose of Course
2. Industry Structure & Rules
 - a. The CFTC and the NFA
 - b. The Exchanges
 - c. Registration Categories
 - d. Proficiency Requirements
 - e. NFA Bylaw 1101
 - f. COVID-19 Relief
3. Supervisory Systems & Internal Controls
 - a. Supervision
 - b. Internal Controls
 - c. The Compliance Department and the CCO
 - d. Reporting Breaches
 - e. Whistleblowers
 - f. Protecting Customer Information & Privacy
 - g. Identity Theft & Cybersecurity
4. Acting Honestly & Fairly; Customer Finances & Investment Experience
 - a. Code of Ethics
 - b. Know Your Customer
 - c. Suitability
 - d. Collecting and Evaluating Customer Information
 - e. Eligible Contract Participants
 - f. Anti-Money Laundering
 - g. Beneficial Ownership
 - h. Risk Management & Ownership Control

- i. Customer Margins
5. Customer Disclosures
- a. Risk Disclosures (Futures, Options, Cleared Swaps)
 - b. Firm-Specific Risk Disclosure
 - c. Web Posting
 - d. Annual Update and Retention Requirements
 - e. Customer Account Funding & Segregation of Funds
 - f. Promotional Material
 - g. Disclaimers
 - h. Misrepresentation
 - i. Recordkeeping
 - j. Oral Communications
6. Avoidance & Disclosure of Conflicts of Interest
- a. Understanding Conflicts of Interest
 - b. Managing Potential Conflicts
7. Observing Just & Equitable Principle of Trade
- a. Who May Place Orders
 - b. Discretionary Trading Authority
 - c. Unauthorized Trading
 - d. Broker Discretion
 - e. Order Execution & Errors
 - f. Best Execution & Liquidations
 - g. Trading Recommendations
 - h. Fiduciary Duty
 - i. Commissions
 - j. Trading Ahead/Churning
 - k. Bunched Orders/Suspense Accounts
 - l. Average Pricing Systems
 - m. Automated Order Routing/High-Frequency Trading
 - n. Avoiding Ethical Dilemmas
 - o. Fraud
 - p. Manipulation/Insider Trading/Disruptive Practices
 - q. Pre-Arranged Trading
 - r. Wash Sales
 - s. Block Trades & EFRPs
 - t. Position Limits
 - u. Ownership & Controls
 - v. Deliveries

- w. Option Exercises and Assignments
 - x. Trading Practices & General Offenses
 - y. False Statements
8. Case Studies (Examination of questionable conduct and ethical dilemmas with commentary from the perspectives of an associated person, a compliance officer and an attorney.)
9. Final Quiz

Training Provider Qualifications

(Supplied by Exchange Analytics)

In its Interpretative Notice on Compliance Rule 2-9: Ethics Training Requirements, the National Futures Association states that 1) “Each Member should ensure that its selected provider is qualified and obtain proof that the provider has completed relevant proficiency testing and has three years of relevant industry experience, or similar experience;” and 2) that “Firms should only use providers that they reasonably in good faith believe are not subject to any investigations or bars from registration.” To address those requirements, Exchange Analytics presents the following information on the individuals who prepared this course material:

Marc Nagel serves as an advisor to Exchange Analytics and was the primary course author. Mr. Nagel recently retired as Chief Operating Officer and Chief Compliance Officer of a clearing Futures Commission Merchant. He serves on the Futures Commission Merchant Advisory Committee of the National Futures Association and on the Advisory Board of the IIT- Chicago Kent College of Law Futures and Derivatives Conference. Mr. Nagel is employed as a futures industry compliance consultant and expert witness. He is a licensed CPA and attorney, admitted to the State of Illinois Supreme Court, the U.S. District Court for the Northern District of Illinois, and the U.S. Tax Court. Mr. Nagel is a registered Floor Broker and has held various Exchange memberships since 1979. Mr. Nagel received his BS in Accountancy and CPA from the University of Illinois and his JD from IIT/Chicago Kent College of Law. Mr. Nagel (NFA ID 0194163) is not subject to any investigations or bars from registration. He has no regulatory actions or other disciplinary history.

Joseph Adamczyk served as a co-author. Prior to his affiliation with Exchange Analytics, he served as the Chief Compliance Officer for Options Clearing Corporation (OCC). Mr. Adamczyk oversaw the firm's compliance risk monitoring and governance programs, advised the board of directors and staff on compliance and regulatory requirements, and interacted with federal regulators on compliance, risk, and examination matters. Before joining OCC, Mr. Adamczyk worked at CME Group where he served as the Managing Director & Associate General Counsel overseeing the company's non-U.S. legal staff and activities. In this role, he interacted with regulators from around the globe. He also handled CME Group's interactions with U.S. regulators and other authorities on cybersecurity and technology controls, requirements, cyber incident response, and examinations. At CME Group, Mr. Adamczyk also served as the Global Head of Investigations and Enforcement in the Market Regulation Department. In that role, he oversaw teams responsible for monitoring, investigating, and enforcing the CME Group exchanges' trade practice rules and other requirements. Mr. Adamczyk received his MBA from the University of Chicago, law degree from Loyola University Chicago School of Law, and undergraduate degree from DePaul University. He has no regulatory actions or other disciplinary history.