

2022 Periodic Futures Ethics (Institutional)

Course Outline and Provider Qualifications

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 Periodic Ethics Program

All topics required by the CFTC's Statement of Acceptable Practices are addressed in Exchange Analytics' Initial Ethics training program. This Periodic course is considered to be a "refresher" course, whereby certain timely topics are explored. Exchange Analytics was originally authorized to provide ethics training by the Commodity Futures Trading Commission in 1995. The program is designed to take approximately 45 minutes to complete.

The course outline is as follows:

- I. Industry Structure and Rules
 - a. CFTC and the NFA
 - b. Mandatory Membership in NFA
 - c. NFA Bylaw 1101
 - d. NFA Membership Requirements
 - e. Exchange Jurisdiction and Industry Obligations

- II. Supervisory Systems and Internal Controls
 - a. Supervision
 - b. Internal Controls – Three Lines of Defense
 - c. Chief Compliance Officer
 - d. The Compliance Department
 - e. Procedures for Reporting Breaches

- III. Act Honestly and Fairly
 - a. Code of Ethics
 - b. Privacy Policy
 - i. CFTC
 - ii. Other Jurisdictions
 - c. Identity Theft
 - d. Cybersecurity

- IV. The Customer Relationship
 - a. Know Your Customer
 - b. Annual Update
 - c. Anti-money Laundering
 - d. The Five Pillars of an AML Compliance Program
 - e. Beneficial Ownership
 - f. Risk Management and Ownership and Control
 - g. Customer Margins

- V. Customer Disclosures
 - a. Risk Disclosures
 - i. Futures
 - ii. Options
 - iii. Virtual Currencies
 - b. Negative Interest Rates and Contract Pricing
 - c. Promotional Material

- d. Recordkeeping
- e. Record Retention

VI. Avoid Conflicts of Interest

- a. Conflicts of Interest
 - i. FCMs and Large IBs
 - ii. Small IBs
- b. External Business Conduct Standards – Swap Dealer
- c. How to avoid Ethical Dilemmas

VII. Just and Equitable Principles of Trade (Part 1)

- a. Anti-Fraud and Anti-Manipulation Provisions
- b. Insider Trading / Misappropriated Information
- c. Disruptive Trading Practices
- d. Spoofing
- e. Disruptive Trading Practices – Rules
- f. CME Rule 575
- g. Prohibited Orders
- h. ICE Futures U.S. Rule 4.02
- i. Pre-Opening
- j. CME Group – Trading Practices
- k. Pre-Arranged Trading
- l. Consent and Disclosure
- m. Simultaneous Buy and Sell Orders for Different Beneficial Owners

VIII. Just and Equitable Principles of Trade (Part 2)

- a. Wash Sales
- b. Bunched Orders
- c. Suspense Accounts
- d. Errors
- e. Block Trades
- f. Exchange for Related Positions
- g. Position Limits
- h. Automated Trading Systems and High-Frequency Trading
- i. Deployment of Automated Trading Systems
- j. Accessing the Markets
- k. Trading Practices

IX. Case Study

X. Quiz

Training Provider Qualifications

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 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.