§ 9.12 Effective date of disciplinary or access denial action.

(a) Effective date. Any disciplinary or access denial action taken by an exchange will not become effective until at least fifteen days after the written notice prescribed by § 9.11 is delivered to the person disciplined or denied access; Provided, however, That the exchange may cause a disciplinary action to become effective prior to that time if:

(1) As permitted by part 37, appendix B, Core Principle 2, paragraph (a)(14) of this chapter or part 38, appendix B, Core Principle 13, paragraph (a)(7) of this chapter (emergency disciplinary actions), the exchange reasonably believes, and so states in its written decision, that immediate action is necessary to protect the best interests of the marketplace; or

(2) As permitted by part 37, appendix B, Core Principle 2, paragraph (a)(10)(vi) of this chapter or part 38, appendix B, Core Principle 13, paragraph (a)(4) of this chapter (hearings), the exchange determines, and so states in its written decision, that the actions of a person who is within the exchange’s jurisdiction has impeded the progress of a disciplinary hearing; or

(3) As permitted by part 37, appendix B, Core Principle 2, paragraph (a)(13) of this chapter (summary fines for violations of rules regarding timely submission of records) or part 38, appendix B, Core Principle 13, paragraph (a)(6) of this chapter (summary fines for violations of rules regarding timely submission of records, decorum, or other similar activities), the exchange determines that a person has violated exchange rules relating to decorum or attire, or timely submission of accurate records required for clearing or verifying each day’s transactions or other similar activities; or

(4) The person against whom the action is taken has consented to the penalty to be imposed and to the timing of its effectiveness.

(b) Notice of early effective date. If the exchange determines in accordance with paragraph (a)(1) of this section that a disciplinary action will become effective prior to the expiration of fifteen days after written notice thereof, it must notify the person disciplined in writing, either personally or by email to the person’s last known email address, stating the reasons for the determination. The exchange must also immediately notify the Commission by email to secretary@cftc.gov. Where notice is delivered by email, the time within which the person so notified may file a petition for stay pursuant to § 9.24(a)(2) will be increased by one day.

13. Revise § 9.13 to read as follows:

§ 9.13 Publication of notice.

Whenever an exchange suspends, expels or otherwise disciplines, or denies any person access to the exchange, it must make public its findings by disclosing at least the information contained in the notice required by § 9.11(b). An exchange must make such findings public as soon as the disciplinary action or access denial action becomes effective in accordance with the provisions of § 9.12 by posting a notice on its website to which its members and the public regularly have access. Such notice must be maintained and readily available on the exchange’s website.

14. In § 9.24, revise paragraph (a)(2) to read as follows:

§ 9.24 Petition for stay pending review.

(a) * * *

(2) Within ten days after a notice of summary action has been delivered in accordance with § 9.12(b) to a person who is the subject of a summary action permitted by part 37, appendix B, Core Principle 2, paragraph (a)(14) of this chapter or part 38, appendix B, Core Principle 13, paragraph (a)(7) of this chapter (emergency disciplinary actions), that person may petition the Commission to stay the effectiveness of the summary action pending completion of the exchange proceeding.

* * * * * *

15. Revise § 9.31 to read as follows:

§ 9.31 Commission review of disciplinary or access denial action on its own motion.

(a) Request for additional information. Where a person disciplined or denied access has not appealed the exchange decision to the Commission, upon review of the notice specified in § 9.11, the Division of Market Oversight or the Division of Swap Dealer and Intermediary Oversight may request that the exchange file with the Division the record of the exchange proceeding, or designated portions of the record, a brief statement of the evidence and testimony adduced to support the exchange’s findings that a rule or rules of the exchange were violated and such recordings, transcripts and other documents applicable to the particular exchange proceeding as the Division may specify. The exchange must promptly advise the person who is the subject of the disciplinary or access denial action of the Division’s request. Within thirty days after service of the Division’s request, the exchange must file the information requested with the Division in the manner requested by the Division and, upon request, deliver that information to the person who is the subject of the disciplinary or access denial action. Delivery to the person who is the subject of the disciplinary or access denial action must be in the manner prescribed by § 9.11(c). A person subject to the disciplinary action or access denial action requesting a copy of the information furnished to the Division must, if the exchange rules so provide, agree to pay the exchange reasonable fees for printing the copy.

(b) Review on motion of the Commission. The Commission may institute review of an exchange disciplinary or access denial action on its own motion. Other than in extraordinary circumstances, such review will be initiated within 180 days after the NFA has received the notice of exchange action provided for in § 9.11. If the Commission should institute review on its own motion, it will issue an order permitting the person who is the subject of the disciplinary or access denial action an opportunity to file an appropriate submission, and the exchange an opportunity to file a reply thereto.

Issued in Washington, DC, on January 9, 2018, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Technical Amendments to Rules on Registration and Review of Exchange Disciplinary, Access Denial or Other Adverse Actions—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz and Behnam voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2018–00467 Filed 1–11–18; 8:45 am]

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17 CFR Part 9

Performance of Certain Functions by the National Futures Association With Respect to the Receipt and Processing of Exchange Disciplinary and Access Denial Action Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order; delegation of authority.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or
was first established in 1978 to carry out and access denial actions. Section 9.11 that sets forth the notice requirements ("Final Part 9 Rules"), including § 9.11, rules that update its 17 CFR part 9 rules. The Commission, and the public of disciplined individuals, the discipline members and to notify the Commission with access to the BASIC system so that the Commission can fulfill this obligation by continuing to develop it as necessary to comply with the terms of the Notice and Order. The Commission deems necessary to fulfill its regulatory and oversight responsibilities.

C. BASIC Maintenance

The NFA must provide the Commission with access to the BASIC system so that the Commission can diligently carry out its legislative mandate. This includes access to a Management Report that includes the following for each disciplinary or access denial action:

- Name of Contributor (i.e., an exchange, the NFA, or the Commission);
- Name of Respondent;

III. Authority

Pursuant to section 8a(10) of the Act, the Commission has issued numerous orders authorizing the NFA to perform various portions of the Commission’s registration functions and responsibilities under the Act. In this connection, the Commission has previously issued orders authorizing the

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1 43 FR 59343 (Dec. 20, 1978).
2 64 FR 39913 (July 23, 1999).
3 Id. at 39915.
4 The NFA’s BASIC system allows the public to access disciplinary information contributed by the NFA, CFTC, DCMs, and SEFs pertaining to the types of violations committed, penalties imposed, the effective date of the action, and summary of the disciplinary action. The BASIC system enables the public to conduct a search by NFA identification number, individual name, or firm name.
5 The Final Part 9 Rules amend the definition of "exchange" in § 9.2 to include SEFs in addition to DCMs.
6 7 U.S.C. 12a(10) (2014). Further, CEA section 17(o) provides that the Commission may require a registered futures association ("RFA") to perform Commission registration functions in accordance with the Act and the RFA’s rules. 7 U.S.C. 21(o) (2014).
The NFA is authorized to perform all functions specified herein until such time as the Commission orders otherwise. Nothing in this Notice and Order shall affect the Commission’s oversight authority of exchange disciplinary programs. The Commission is retaining all of its oversight authority, including its authority to review and to modify exchange disciplinary actions and to take enforcement or other remedial action against exchanges for noncompliance with § 9.11. The NFA may submit to the Commission for clarification any specific matters that have been delegated to it, and Commission staff will be available to discuss with NFA staff issues relating to implementation of this Notice and Order.

Issued in Washington, DC, on January 9, 2018, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

Appendix to Performance of Certain Functions by the National Futures Association With Respect to Regulation 9.11—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz and Behnam voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2018–00468 Filed 1–11–18; 8:45 am]

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DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

18 CFR Parts 250 and 385
[Docket No. RM18–4–000; Order No. 839]

Civil Monetary Penalty Inflation Adjustments

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a final rule to amend its regulations governing the maximum civil monetary penalties assessable for violations of statutes, rules, and orders within the Commission’s jurisdiction. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended most recently by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires the Commission to issue this final rule.

DATES: This final rule is effective January 12, 2018.


SUPPLEMENTARY INFORMATION:

Order No. 839

Final Rule

1. In this final rule, the Federal Energy Regulatory Commission (Commission) is complying with its statutory obligation to amend the civil monetary penalties provided by law for matters within the agency’s jurisdiction.

Background

2. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act), required the head of each federal agency to issue a rule by July 2016 adjusting for inflation each “civil monetary penalty” provided by law within the agency’s jurisdiction and to make further inflation adjustments on an annual basis every January 15 thereafter.

II. Discussion

3. The 2015 Adjustment Act defines a civil monetary penalty as any penalty, fine, or other sanction that: (A)(i) Is for a specific monetary amount as provided by federal law; or (ii) has a maximum amount provided for by federal law; (B) is assessed or enforced by an agency pursuant to federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts. This

7 See 49 FR 39593 (Oct. 9, 1984).
9 See 54 FR 19556 (May 8, 1989).
10 See 51 FR 34490 (Sep. 29, 1986).
11 See 56 FR 19657 (Apr. 15, 1993).
12 See 75 FR 53530 (Sep. 10, 2010).