

Cantor Futures Exchange, L.P.
Rule Amendment Submission 2017-02
May 5, 2017

1. The text of the rule changes to the Rulebook of Cantor Futures Exchange, L.P. (“CX” or “Exchange”) is attached. Additions are underlined and deletions are stricken through. These amendments have been approved by Cantor Futures Exchange, L.P. Capitalized terms, unless otherwise defined herein shall possess the meaning(s) ascribed in the Cantor Futures Exchange, L.P. Rulebook.
2. The proposed effective date is ten business days after receipt by the Commodity Futures Trading Commission of this submission.
3. Attached, please find a certification that: (1) these rules comply with the Commodity Exchange Act, and the Commission’s regulations thereunder; and (2) concurrent with this submission, Cantor Futures Exchange, L.P. posted on its website: (i) a notice of pending certification of the rule submissions with the Commission; and (ii) a copy of this submission.
4. A concise explanation and analysis of the operation, purpose, and effect of the amended rules appear below.
5. There were no opposing views expressed regarding these amended rules.

CONCISE EXPLANATION AND ANALYSIS OF THE OPERATION, PURPOSE, AND
EFFECT OF THE CERTIFIED RULE AND ITS COMPLIANCE WITH APPLICABLE
PROVISIONS OF THE ACT, INCLUDING CORE PRINCIPLES AND THE COMMISSION’S
REGULATIONS THEREUNDER

Pursuant to Commission Rule 40.6(a)(7)(vi), the following is a concise explanation and analysis of the operation, purpose, and effect of the amended rules.

CX is deleting Rule III-6 and amending CX rule VII-18 to clarify the use and operation of summary authority to deny access by any Participant or Authorized Trader to the exchange. CX Rule III-6 empowers the Board of Directors of the Exchange to suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant or its Authorized Traders if such action is in the “best interests” of the Exchange. This provision is intended only to be used in instances requiring immediate action, such as to preserve the integrity of the Trading System, or of the market. CX has never invoked this authority.

Upon reexamination of the text of the rule, CX is concerned that the applicability and procedures of Rule III-6 might be misunderstood or misapplied in light of its broad language. Accordingly, CX is deleting Rule III-6 and is amending CX Rule VII-18 to make clear that the rule intends that any summary action to deny access should be taken only in instances where immediacy of exchange action is vital; for example, to address issues relating to the integrity of the operation of the Trading System. Therefore, any summary action taken under this rule, as clarified by the amendment, is of limited duration and may not be used to deny or limit access indefinitely. The amendments make clear that the respondent in a summary action under Rule III-6 has the same full due process rights of appeal as in any disciplinary action. CX Rule VII-18 is being amended to lodge such summary authority with the Compliance Director's Designees, in addition to the Compliance Director in recognition of the anticipated immediacy necessary in certain summary denial of access situations. Such Designees may include, for example, in the absence of the Compliance Director, the supervisor of the control desk. Finally, Rule VII-18 is being amended explicitly to refer to the applicability of the appeal procedures of Rule VII-16, to which clarifying technical and conforming amendments are also being made.

CX's reexamination of Rule III-6 was occasioned by another exchange's citation of CX Rule III-6 as precedent for its rule change.¹ That exchange, which like CX lists for trading binary options using a direct participant model, stated that it was adopting a summary denial of access rule that stands apart from the exchange's disciplinary procedures because, like a Futures Commission Merchant ("FCM"), it wished greater discretion in terminating trading privileges. The exchange noted that FCMs "may restrict access or terminate its relationship with a client in its discretion, without client recourse for disputing or reinstating his/her account or trading privileges." In citing CX Rule III-6 as precedent, the other exchange clearly misapprehends the intent and operation of CX Rule III-6.

To be clear, CX rejects any notion that it may terminate a participant's access on an informal or discretionary basis as may a FCM. To the contrary, CX views the requirements of open access under CFTC Rule 38.151(c) as precluding a limitation on access except for disciplinary, emergency or similar reasons. It has always interpreted its own Rule III-6 in this manner and is amending its rules so that market participants will have no confusion--CX exercises its summary access denial authority only in instances where immediacy of action is necessary, such access denials are of limited duration, and the access limitation operates within the larger disciplinary process, with full due process rights.

Accordingly, CX is deleting Rule III-6 and is amending Rule VII-18. As amended, CX Rule VII-18 makes clear that the Compliance Director or the director's designees may summarily deny access to a Participant when such an action is in the "best interests" of the exchange. This phrase is intended to empower the Compliance Director or the director's designees to respond to any activity or conduct that threatens a fundamental interest of the Exchange or the markets that it operates, including, among other things, serious harm to the market's physical infrastructure, to the operations of the market, or to the reputation of the Exchange. Without limitation, examples may include a Participant or Authorized Trader hacking any of the Exchange's electronic systems or acting in a manner that would compromise the integrity of those systems; failing to

¹ See, certification to Commodity Futures Trading Commission of rule 3.6 by NADEX, at <http://www.cftc.gov/filings/orgrules/rule041017nadexdem001.pdf> ("NADEX Certification").

abide by fundamental norms of trading, such as refusing to assist exchange personnel in resolving out-trades or providing necessary trade information; misusing confidential trading information of others; or obstructing an Exchange investigation.

CX has considered the Core Principles and Rules thereunder, specifically, Core Principle (2) “Compliance with Rules.” These amendments clarify the operation of the Exchange’s self-regulatory authority and operation. We believe that some confusion may have been created by others as to the intended scope and use of former Rule III-6. The amendments to Rule VII-18 make clear that summary denial of access is to be used to address disciplinary, market emergency or similar purposes. They are not similar to the discretion that a FCM may exercise in accepting or rejecting customers. Moreover, CX’s summary access denials are of limited duration and the respondent has full appeal rights. Accordingly, Rule VII-18 as currently drafted, and as amended, is fully in accord with the open access requirements of Core Principle (2) and CFTC Rule 38.151, which apply to designated contract markets. CX believes that in addition to meeting the minimum requirements imposed by Core Principle (2) and CFTC Rule 38.151, the provisions of CX Rule VII-18 provides CX market participants with important procedural and substantive safeguards.

Finally, in order to clarify these matters, including providing examples of conduct that might require denial of access in the best interest of the Exchange, CX is also certifying an FAQ. The text of the FAQ restates the information in this certification, in a different format. The FAQ complies with the Commodity Exchange Act and the CFTC’s rules thereunder for the same reasons as discussed herein.

CERTIFICATIONS PURSUANT TO SECTION 5c OF THE COMMODITY EXCHANGE
ACT, 7 U.S.C. §7A-2 AND COMMODITY FUTURES TRADING COMMISSION RULE 40.6,
17 C.F.R. §40.6

I hereby certify that:

- (1) the amended Rules above comply with the Commodity Exchange Act, and the Commodity Futures Trading Commission's regulations thereunder; and
- (2) concurrent with this submission, Cantor Futures Exchange, L.P. posted on its website: (a) a notice of pending certification of the above Rules with the Commission; and (b) a copy of this submission.



By: GREG BUCHBERGER

Title: CRO

Date: May 5, 2017

Attachment —Rule Amendment

(Additions are underlined, deletions are struck through)

1. Rule III-6 is removed and reserved:

III-6. Reserved Limitations of Trading Privileges

- (a) ~~Notwithstanding anything in Rule III-3 to the contrary, the Exchange may at any time suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of any Participant or Authorized Trader if, in the sole discretion of the Board of Directors, such action is in the best interests of the Exchange.~~
- (b) ~~Any such sanction imposed on a Participant or Authorized Trader pursuant to Rule III-6(a) may be appealed by such Participant or Authorized Trader, in accordance with the provisions of Chapter VII; provided, however, that such sanction shall continue in effect during the appeal.~~
- (c) ~~Notwithstanding the generality of Rule III-6(a) or Rule III-6(b), upon the suspension or revocation of a Participant's status as a Participant of the Clearinghouse, the Trading Privileges of a Participant and its Authorized Traders shall automatically be suspended or revoked, as the case may be, by the Exchange.~~

2. Rule VII-16 is amended to read as follows:

VII-16. Appeal from Disciplinary Panel Decision, Summary Impositions of Fines and Other Summary Actions

- (a) Each respondent found by the Disciplinary Panel to have violated a Rule of the Exchange or a provision of Applicable Law or who is subject to any summary fine imposed pursuant to Rule VII-17 or any summary action imposed pursuant to Rule VII-17 may appeal the decision within 20 Business Days of receiving the order of the disciplinary proceedings or the notice of summary action, as the case may be, by filing a notice of appeal with the Compliance Director. While an appeal is pending, the effect of the order of disciplinary proceedings or the summary action (including any sanctions, remedies or costs imposed thereby) shall be suspended;

provided however, any summary sanction entered under Rule VII-18 shall continue in effect during the appeal.

(b) * * * * *

(g) The Appeals Panel will only consider on appeal the record before the Disciplinary Panel or, in the case of a summary action, the record considered by the Compliance Director or the Compliance Director's Designee, the notice of appeal, the briefs filed in support and opposition of the appeal, and any oral arguments of the parties. The Appeals Panel may only consider new evidence when the Appeals Panel is satisfied that good cause exists on why the evidence was not introduced during the disciplinary proceeding or when imposing the summary action.

(h) * * * * *

(i) Arbitrary, capricious, or an abuse of the discretion of the Disciplinary Panel, ~~or~~ the Compliance Director, or the Compliance Director's Designee, as the case may be;

(ii) * * * * *

3. Rule VII-18 is amended to read as follows:

VII-18. Summary Suspensions and Other Summary Actions

(a) Notwithstanding anything in the Rules of the Exchange to the contrary, the Compliance Director or the Compliance Director's Designee, upon a good faith determination that there are substantial reasons to believe that such immediate action is necessary to protect the public or the best interests of the Exchange, may order that any party be denied access to the Trading System or the Exchange, or summarily suspend, revoke, limit, condition, restrict or qualify the Trading Privileges of a Participant or Authorized Trader, and may take other summary action against any Participant or Authorized Trader in accordance with the Rules of the Exchange; *provided, however,* that the Compliance Director or the Compliance Director's Designee in issuing an order denying access, may permit such party to enter Orders solely for the purpose of liquidating the Open Contract Positions of such Participant while the applicable suspension, limitation, condition, restriction or qualification of access is in effect.

(b) Promptly after an order is issued pursuant to paragraph (a), the party shall be informed of the action taken, the reasons for the action, the effective date and duration of the action. The party shall also be informed of his or her right to appeal the action under Rule VII-16. Whenever practicable, the Compliance Department, acting on behalf of the Compliance Director, shall provide such notice prior to taking the action.

(c) Unless timely notice of appeal is filed pursuant to Rule VII-16, the summary action will become final upon the expiration of 20 Business Days after the notice of action is served on the respondent.

(d) At the request of the Exchange or the Clearinghouse, a respondent against whom a summary action is brought pursuant to this Rule VII-18 must provide books and records over which the respondent has access or control and must furnish information to, or appear or testify before, the Exchange or the Clearinghouse in connection with the enforcement of any Rule of the Exchange or Rule of the Clearinghouse.

(e) A respondent whose Trading Privileges are suspended, limited, conditioned, restricted or qualified pursuant to this Rule VII-18 may apply for reinstatement by filing with the Compliance Department a written request stating the applicant's reasons for seeking reinstatement. The Exchange will not consider a respondent's request for reinstatement if the respondent (i) persists in the conduct which was the subject of the order denying access; (ii) owes any fines, fees, charges or costs to the Exchange, (iii) continues to fail to appear at disciplinary proceedings without good cause or (iv) continues to impede the progress of disciplinary proceedings.

(f) Within a reasonable period after the filing of a request for reinstatement, the Appeals Panel will conduct a hearing to consider the request. At the hearing for reinstatement, the respondent will present its, his or her case supporting the reinstatement and the Compliance Department, acting on behalf of the Compliance Director may, in its discretion, present its case opposing or supporting the reinstatement and each may present relevant and admissible evidence and facts and call, examine witnesses. At the hearing for reinstatement, the Exchange may require any Participant or any Authorized Trader to appear as witnesses and produce evidence if the Appeals Panel determines that the evidence is relevant.

(g) As promptly as reasonably possible after a reinstatement hearing, the Appeals Panel will issue an order reinstating, denying the reinstatement, or placing conditions on the reinstatement of the Trading Privileges, or association with a Participant, of the respondent. The order will include a brief summary of the evidence introduced at the reinstatement hearing; and, if applicable, findings of fact and conclusions not contained in the Appeals Panel's initial order issued pursuant to Rule VII-16. The Appeals Panel's order may not be appealed.

(h) Any decision to deny access pursuant to paragraph (a) shall not remain in effect for more than 60 days unless the Compliance Director or the Compliance Director's Designee, upon further consideration of the circumstances giving rise to the order denying access, issues a separate order denying access for an additional period of time, not to exceed 60 days. The party must be notified thereof prior to issuance of the second order, unless prior notice is impracticable. Such notice must meet the standards provided in paragraph (b). At any time, a party subject to an action under this Rule VII-18, may petition the Compliance Director or the Compliance Director's Designee to reconsider an access denial pursuant to this Rule based upon materially changed circumstances.

Frequently Asked Questions Summary Denial of Access

Thank you for your interest in trading on Cantor Exchange (“CX”). Below are some questions that are frequently asked regarding trading on CX.

When might CX take summary action to deny access to a party?

CX may take summary action to deny, condition or limit a party’s access to the Trading System or to the Exchange when such action is in the best interests of the public or the Exchange. The Exchange may take action to summarily limit or deny access in response to any activity or conduct that threatens a fundamental interest of the Exchange or the markets that it operates, including, among other things, serious harm to the market’s physical infrastructure, to the operations of the market, or to the reputation of the Exchange. Without limitation, examples may include a Participant or Authorized Trader hacking any of the Exchange’s electronic systems or acting in a manner that would compromise the integrity of those systems; failing to abide by fundamental norms of trading, such as refusing to assist exchange personnel in resolving out-trades or providing necessary trade information; misusing confidential trading information of others; or obstructing an Exchange investigation.

Is a summary denial of action permanent?

No. A summary denial of access is limited to 60 days, and can be renewed for another 60 days. Permanent revocation of Trading Privileges cannot occur under summary procedures.

Will I be notified of the grounds for a summary action?

Yes. A notice is provided soon after a summary denial of access has been issued, or if practicable, before. The notice details the reason for the action, the duration, and notifies the recipient of the right to appeal and the appeal process.

Can a summary denial of access be reversed?

Yes, either through the appeal process or through a request to the Exchange to reconsider based upon changed circumstances.

Who decides to invoke a summary denial of access?

The Compliance Director or the Compliance Director’s Designee.

May CX deny access to a Participant without cause, simply as a matter of its discretion or for business reasons?

No. As is clear from the answers to these FAQs, CX does not interpret its rule as providing it unfettered discretion to deny a party access. Denial of access is a serious disciplinary matter and will be used only to address serious threats of harm to the public, the market or to the Exchange.