

## Chapter 32

# Financial Requirements; Cash Grain

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## Chapter 32

# Financial Requirements; Cash Grain

### Requirements

**3200.00 Established By Finance Committee And Board Of Directors.** Financial requirements for all members shall be established based on recommendations of the Finance Committee and approved by the Board of Directors. When used in this rule, the word "member" refers to the business unit guaranteeing and represented by a member, whether an employee, officer, or partner, and also refers to an individual member who is doing business as a sole proprietor.

- Notes:
1. The financial requirements of this Chapter apply only to those members engaged exclusively in cash market transactions on this KCBT. A member engaged in any futures transaction, other than as a customer of an FCM, must comply with the financial requirements of Chapter 13.
  2. The financial and reporting requirements do not apply to members whose trades are guaranteed by another member; in that event these rules or Chapter 13, as appropriate, apply to the guarantor.

### Financial Statement

**3205.00 Financial Statement.** All members shall submit to the KCBT an annual financial statement, and at least one (1) additional financial statement during the following fiscal year, in such form as the Finance Committee may prescribe. All financial statements must be submitted in a manner acceptable to the KCBT. The Finance Committee may, in its discretion, require lesser or no financial information from members whose trades are guaranteed by another member filing financial statements and/or from inactive members who conduct no cash grain business. However, if inactive members are not filing financial statements as described above, they may not transact any business until they file the appropriate statement and meet applicable standards.

**3205.01 Annual Financial Statement.** The annual financial statement shall be submitted to the KCBT on or before one hundred twenty (120) days after the end of the business year. Such annual statement shall be based on an examination made by and be accompanied by an opinion of an independent certified public accountant.

**3205.02 Additional Financial Statement.** The additional financial statement shall be as of a date six (6) months subsequent to the end of the business year. Such additional statement shall be submitted within ninety (90) days from the date of the additional financial statement.

**3205.03 Certification.** The annual statement and the additional financial statement shall be certified by an officer, partner, or sole owner of the firm.

**3205.04 Further Financial Information.** The Finance Committee can require additional financial statements as are necessary.

**3205.05 Extension Of Time To File.** Upon request, for good cause shown, the Finance Committee can extend the time for the filing of an annual or additional financial statement.

**3206.00 Letter Of Credit; Bond.** In lieu of submission of a financial statement accompanied by an opinion of an independent certified public accountant as required by this Chapter, the Finance Committee may accept an irrevocable letter of credit or a performance bond, in form, amount, and from a bank or insurance company acceptable to the Finance Committee.

**3207.00 Notice Of Net Worth Reduction.** Members must immediately notify the Finance Committee of any material reduction of net worth, including in such reduction, the incurring of a contingent liability which would materially affect capital should such liability become fixed. A reduction in net worth of twenty percent (20%) or more, shall be deemed "material". Such notice must be in writing and signed by an executive of the member firm or by a member representing such firm or corporation. Failure to give such notice shall be considered an act detrimental to the interest and welfare of the KCBT.

### **Insolvency; Failure To Pay Obligations**

**3210.00 Finance Committee; Threat Of Insolvency.** When the Finance Committee, from a preliminary investigation or otherwise, has reason to suspect that any member is threatened with insolvency, it shall cooperate with such member, in any feasible manner not contrary to the rules and regulations to save such member from open and judicial bankruptcy. When this is not practicable, the Committee shall then take such other action as will in its judgment assist in securing a prompt, efficient, and economical administration of the member's assets for the bankrupt, as well as for the members of the KCBT and the customers of such bankrupt who are creditors. Nothing herein, however, shall authorize such Committee to bind the KCBT to any pecuniary obligation.

**3211.00 Complaint.** Where a member fails or refuses to perform a KCBT contract with or pay obligations arising out of such contracts to another member, the defaulting member, on complaint to the Business Conduct Committee by the other member, shall be suspended, after hearing in accordance with Chapter 33 until the contract is performed or the debt is satisfied. Registered firms and corporations shall be deemed members under this rule. If the member alleged to be in default denies the default, such member shall be entitled to have the claim arbitrated. If the claim is admitted or established by final arbitration award, the defaulting member shall be suspended until such member has satisfied and discharged all debts owing to members on KCBT contracts. Application for reinstatement shall allege, under oath, that all such debts have been discharged, and notice of such application shall be posted on the bulletin board fifteen (15) business days prior to the hearing of such application.

Note: See Rules 192.00-197.00 for reinstatement procedure.

**3212.00 Notice Of Insolvency By Member.** A member who fails to perform contracts or is insolvent, or who is a partner in a member firm or who is registered for a corporation, which fails to perform its contracts or is insolvent, shall immediately inform the Secretary in writing that the member, firm, or corporation is unable to meet its engagements, and prompt notice thereof shall be given to the stockholders. The member shall thereby become suspended from membership until, after having settled with the member's, the firm's, or corporation's creditors, such member has been reinstated by the Board of Directors, with the approval of the Business Conduct Committee.

Note: See Rules 192.00-197.00 for reinstatement procedure.

**3213.00 Knowledge Of Insolvency By Member.** When any member knowing themselves, the firm in which the member is a partner, or the corporation of which the member is an executive officer, to be in an insolvent condition shall make any contract on such member's own account or on account of such firm or corporation, the member shall be suspended or expelled at the discretion of the Business Conduct Committee; or, when any member knowing themselves, the firm in which the member is a partner, or the corporation of which the member is an executive officer, to be in an insolvent condition shall accept on such member's own account, or on account of any such firm or corporation, any money, security, or securities as margins from any customer on any trade(s) made under the rules of the KCBT, such member shall be suspended or expelled at the discretion of the Business Conduct Committee.

Note: The action of the Business Conduct Committee may be appealed to the Board of Directors. See Chapter 33.

**3214.00 Business Conduct Committee Action.** Whenever the Business Conduct Committee has been advised by the Finance Committee or the Board of Directors of the Clearing Corporation that a member, firm, or corporation is in such financial condition that such member, firm, or corporation cannot be permitted to continue in business with safety to such member's or entity's creditors or to the KCBT, the Business Conduct Committee may announce the suspension of such member, firm, or corporation.

Note: The action of the Business Conduct Committee may be appealed to the Board of Directors. See Chapter 33.

**3215.00 Hearing.** A hearing before the Business Conduct Committee pursuant to Chapter 33 shall be conducted prior to the suspension or other disciplinary action set forth by Rules 3210.00, 3211.00, 3212.00, 3213.00, and 3214.00, unless immediate action is necessary to protect the best interest of the marketplace. In that event, a hearing shall be permitted subsequent to the suspension in accordance with Chapter 33. The suspension announced shall continue until the member has been reinstated as provided in Rules 192.00-197.00

**3216.00 Member's Duties On Suspension.** Every member suspended under the provisions of this chapter shall immediately afford every facility required by the Business Conduct Committee for the investigation of the member's affairs, and shall, after the announcement of the suspension, file with the Secretary a written statement covering all information required by the Business Conduct Committee, including a complete list of such member's creditors and the amount owing to each.

**3217.00 Closing Contracts.** When announcement is made of a suspension of a member, firm, or corporation pursuant to the rules, members having KCBT contracts with the member, firm, or corporation may proceed to close the same on the KCBT or in the best available market, except insofar as the By-laws and resolutions of the Clearing Corporation are applicable and provide the method of closing. Should a contract not be closed, as above provided, the price of settlement shall be fixed by the Board of Directors.

**3218.00 Suspended Member Subject To Discipline.** A member suspended under the provisions of these rules may be proceeded against by the Business Conduct Committee for any offense committed by such member either before or after the announcement of suspension, in all respects as if such member were not under suspension.