
Exchange Advisory

TO: Eris Exchange Market Participants

FROM: Eris Exchange Control Center and Market Regulation Department

ADVISORY: #13-04

DATE: May 3, 2013

SUBJECT: Amendments to Eris Exchange Rules 404 and 408

Background

This Exchange Advisory serves to notify Participants of Eris Exchange, LLC (“Eris Exchange” or “Exchange”) that:

- I. The Exchange is amending Eris Exchange Rule 404 (Minimum Financial and Related Reporting Requirements) and Rule 408 (Treatment of Customer Funds and Securities).
- II. The Exchange has filed a notification with the Commodity Futures Trading Commission to amend Exchange Rules 404 and 408. **The Amendments will be effective May 20, 2013.**

The Exchange has amended Rule 404 to clarify the entities to which the Rule applies. Pursuant to Eris Exchange Rule 101, the definition of Participant includes a Futures Commission Merchant, Introducing Broker, or Clearing Firm. The Exchange has amended Rule 404 to reiterate that such entities fall within the scope of the term Participant.

Similarly, the Exchange has amended Rules 404 and 408 to clarify the rules, regulations, and applicable law with which a Participant must comply. The Exchange has also amended Rule 404 to require a Participant to provide concurrently to Eris Exchange any notice or report the Participant is required to file with the Commission pursuant to Regulation §1.10.

The Amendments, as well as the text of the amended Rules, including all additions and deletions are set forth in Attachments A and B.

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ATTACHMENT A

RULE 404. Minimum Financial and Related Reporting Requirements

- (a) Each Participant, ~~which includes each Clearing Firm~~, that is registered with any Government Agency, including the CFTC and the U.S. Securities and Exchange Commission, or a Self-Regulatory Organization shall comply with ~~CFTC Regulation §1.17, applicable Clearing House Rules and other the provisions of~~ Applicable Law, including but not limited to the rules and regulations such Government Agency imposes on a Participant, which includes each Clearing Firm, relating to minimum financial and related reporting and recordkeeping requirements. Upon request by the Exchange, Participant shall produce such records related to this Rule 404(a).
- (b) A copy of any notice or written report that a Participant, ~~which includes an FCM, IB or any Clearing Firm~~, is required to file with the CFTC pursuant to CFTC Regulations §1.10 and §1.12 shall be concurrently provided to the Exchange.
- (c) The Exchange conducts surveillance related Rule 404.
- (d) A Participant ~~that~~ violates ~~the aforementioned~~ any provision of Applicable Law (including CFTC Regulations) shall be deemed to have violated this Rule 404.

RULE 408. Treatment of Customer Funds and Securities

Each Participant that is required to be registered with any Government Agency, including the CFTC and the U.S. Securities and Exchange Commission, or Self-Regulatory Organization shall comply with the provisions of Applicable Law, including but not limited to the rules and regulations such Government Agency imposes on a Participant relating to the treatment of Customer funds and the maintenance of books and records with respect thereto. Specifically, each Clearing Firm must comply with the regulations of the applicable Government Agency and the rules of the Clearing House, including, but not limited to rules related to the protection of customer funds, including the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures and related recordkeeping. ~~This includes, but is not limited to CFTC Regulations 1.20(a) and 1.25.~~ The Exchange conducts surveillance related this Rule 408, including through its membership in the Joint Audit Committee. Any Participant that violates any of the aforementioned CFTC Regulations, ~~Clearing House Rules, and other Applicable Law~~ shall be deemed to have violated this Rule 408.

ATTACHMENT B

RULE 404. Minimum Financial and Related Reporting Requirements

- (a) Each Participant, which includes each Clearing Firm, that is registered with any Government Agency, including the CFTC and the U.S. Securities and Exchange Commission, or a Self-Regulatory Organization shall comply with CFTC Regulation §1.17, applicable Clearing House Rules and other Applicable Law, including but not limited to the rules and regulations such Government Agency imposes on a Participant, which includes each Clearing Firm, relating to minimum financial and related reporting and recordkeeping requirements. Upon request by the Exchange, Participant shall produce such records related to this Rule 404(a).
- (b) A copy of any notice or written report that a Participant, which includes an FCM, IB or any Clearing Firm, is required to file with the CFTC pursuant to CFTC Regulations §1.10 and §1.12 shall be concurrently provided to the Exchange.
- (c) The Exchange conducts surveillance related Rule 404.
- (d) A Participant that violates any provision of Applicable Law (including CFTC Regulations) shall be deemed to have violated this Rule 404.

RULE 408. Treatment of Customer Funds and Securities

Each Participant that is required to be registered with any Government Agency, including the CFTC and the U.S. Securities and Exchange Commission, or Self-Regulatory Organization shall comply with the provisions of Applicable Law, including but not limited to the rules and regulations such Government Agency imposes on a Participant relating to the treatment of Customer funds and the maintenance of books and records with respect thereto. Specifically, each Clearing Firm must comply with the regulations of the applicable Government Agency and the rules of the Clearing House, including, but not limited to rules related to the protection of customer funds, including the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures and related recordkeeping. This includes, but is not limited to CFTC Regulations 1.20(a) and 1.25. The Exchange conducts surveillance related this Rule 408, including through its membership in the Joint Audit Committee. Any Participant that violates any of the aforementioned CFTC Regulations, Clearing House Rules, and other Applicable Law shall be deemed to have violated this Rule 408.