

NZFOE BULLETIN

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NZFOE Bulletin No: 009/01
From: NZFOE Limited
Date of Issue: 23 July 2001
To: All Dealers

BUSINESS CONDUCT COMMITTEE

CLIENT FUNDS ACCOUNT PROVISIONS

The purpose of this Bulletin is to advise all Dealers who hold client monies in a Client Funds Account that it is appropriate to bring to their clients' attention the fact that the Clients' Funds Account may not afford individual clients absolute protection.

All Dealers dealing with the public are required to provide a copy of this Bulletin to their clients directly, or alternatively include a copy of the Bulletin as soon as possible when next issuing clients their monthly statement.

Dealers dealing with the public are required to sign the attached form and return it to Dean Crowle, Compliance Officer by no later than Friday, 24 August 2001.

The purpose of a Client Funds Account is to segregate client funds from the Dealer's House funds and thus insulate clients' funds from liabilities arising from proprietary trading. A Dealer's Client Funds Account monies CANNOT be applied to satisfy margin liabilities for a Dealer's own trading or other business liabilities of the Dealer not relating to client dealings.

Sections 9, 10, 11, 12 and 13 of the Futures Industry (Client Funds) Regulations 1990 detail the Client Funds Account provisions for Futures Dealers which are reflected and supported by the Business Rules of the NZFOE. SFE Clearing rules require that clients' monies be segregated at the Clearing House level and they are not permitted to be used to meet any default on the House Clearing Account of a Clearing Participant.

It should be highlighted that individual client accounts are not separated from each other as all clients' funds are co-mingled into the one client fund account.

Further, clients' funds account provisions may not insulate an individual client's funds from default in the Clients Funds Account. Such default may arise from any other client's trading. Assets in the accounts of non-defaulting clients are potentially at risk, even though they did not cause the default. The Dealer has the right to apply all clients' monies held to meet the default in its Clients' Funds Account. SFE Clearing has the right to apply all monies in its Client Funds Account (or House Clearing Account) to meet any liabilities in the Client Funds Account.

The Business Rules of the NZFOE however have recently been amended so that the Dealer holding the defaulting Clients' Funds Account which has suffered a default, is required to "top up" the Clients' Funds Account within 5 clear business days where the client account has a deficiency arising from a failure of a defaulting client to meet margin liabilities. Thus, the Dealer's monies will be applied to satisfy a default in its Clients' Funds Account. Such monies may not be sufficient to cover the whole default in the event that the Dealer itself becomes insolvent as a result of the client default or for other reasons including losses on its own trading.

DEAN CROWLE
COMPLIANCE OFFICER

23 JULY 2001

Mr. Dean Crowle
Compliance Officer
New Zealand Futures & Options Exchange
PO Box 6734
AUCKLAND 1036

(Facsimile: +64-9-309-8817)

(Date)

Dear Mr. Crowle

RE: DISTRIBUTION OF BULLETIN NO. 009/01
“CLIENTS’ FUNDS ACCOUNT PROVISIONS”

Please be advised, that on behalf of _____
(name of Dealer dealing with the public) I acknowledge receipt of Bulletin No. 009/01 (“the
Bulletin”) regarding Clients’ Funds Account Provisions.

As requested, I advise the above Dealer has instigated a programme to provide its clients with a copy
of the Bulletin as follows *(please specify as appropriate)*

- the above Dealer will copy and mail the Bulletin to clients directly; or
- the above Dealer will include a copy of the Bulletin when next giving its client monthly
statement details; or
- the above Dealer shall provide the Bulletin to clients by other means, as specified below:

Furthermore I acknowledge that any new Clients of the Dealer will be provided a copy of the
Bulletin as part of account opening procedures.

I acknowledge that the Compliance Department may review the above specified programme as part
of its compliance inspection procedures.

(Authorised Signatory for the Dealer)

(Date)