

out of the no-entry zones. Notification will be made by the U.S. Coast Guard via notice to mariners, Sanctuary radio announcements, press releases, press conferences, and with assistance by the U.S. Coast Guard and Sanctuary staff on the water within the area. This rule is effective upon filing at the Office of the Federal Register.

Executive Order 12866

The Office of Management and Budget (OMB) has concurred that this rule is not significant within the meaning of section 3(f) of Executive Order 12866.

Executive Order 12612

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

Because this rule is not required to be issued with prior notice and opportunity for public comment by 5 U.S.C. 553 or by any other law, it is not subject to the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* As such, a regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act

This rule does not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

Dated: June 26, 2003.

Ted I. Lillestolen,

Captain/NOAA, Associate Deputy Assistant Administrator, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is granting an exemption to firms designated by the ASX Futures Exchange Party Limited ("ASXF") from the application of certain of the

Commission's foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, which permits persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought.

EFFECTIVE DATE: July 1, 2003.

FOR FURTHER INFORMATION CONTACT:

Lawrence B. Patent, Esq., Deputy Director, Susan A. Elliott, Esq., Staff Attorney, or Andrew V. Chapin, Esq., Staff Attorney, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.10 Exempting Firms Designated by the ASX Futures Exchange Party Limited ("ASXF") From the Application of Certain of the Foreign Futures and Option Rules the Later of the Date of Publication of the Order Herein in the **Federal Register** or After Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein; and Granting Expanded Relief for Otherwise Permitted Transactions on all non-U.S. exchanges where ASXF Firms are authorized by Exchange Regulations to Conduct Futures Business for Customers, Subject to Certain Conditions.

Commission rules governing the offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade to customers located in the U.S. are contained in part 30 of the Commission's rules.¹ These rules include requirements for intermediaries with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures, that are generally comparable to those applicable to transactions on U.S. markets.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to customers located in the U.S., the

Commission, among other things, considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the Commission determined to permit persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements under part 30 of the Commission's rules based upon substituted compliance with the regulatory requirements of the foreign jurisdiction.

Appendix A to part 30, "Interpretative Statement With Respect to the Commission's Exemptive Authority Under 30.10 of Its Rules" ("Appendix A"), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive relief pursuant to Rule 30.10.² These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons that solicit and accept customer orders; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an "as needed" basis to information essential to maintaining standards of customer and market protection within the U.S.

Moreover, the Commission specifically stated in adopting Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) Submit to jurisdiction in the U.S. by designating an agent for service of process in the U.S. with respect to transactions subject to part 30 and filing a copy of the agency agreement with the National Futures Association ("NFA"); (2) agree to provide access to their books and records in the U.S. to Commission and Department of Justice representatives; and (3) notify NFA of the commencement of business in the U.S.³

¹ Commission rules referred to herein are found at 17 CFR Ch. I (2002).

² 52 FR 28990, 29001 (August 5, 1987).

³ 52 FR 28980, 28981 and 29002.