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COMMODITY FUTURES TRADING COMMISSION**17 CFR Part 30****Foreign Futures and Foreign Options Transactions****AGENCY:** Commodity Futures Trading Commission.**ACTION:** Final rules.

SUMMARY: The Commodity Futures Trading Commission (the "Commission" or "CFTC") is adopting amendments to Rule 30.5, which provides an exemption from registration for firms located outside the U.S. that, with regard to foreign futures and options, are acting in a capacity that requires registration, other than registration as a futures commission merchant. The amendments being adopted herein are necessary to facilitate the ongoing program of converting from a paper-based registration system to online registration. Currently, pursuant to Rule 30.5, firms that qualify for the exemption under the rule must file a petition for exemption with the National Futures Association and designate an agent for service of process in the U.S. The amendments being adopted herein facilitate the electronic submission of petitions for exemptions under Rule 30.5 through the online registration system and are technical in nature.

EFFECTIVE DATE: July 8, 2003.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Deputy Director, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5439.

SUPPLEMENTARY INFORMATION:**I. Background**

Commission Rule 30.5 provides an exemption from the registration requirement for any person located outside the U.S. who is required to be registered with the Commission under part 30 of the Commission's rules, other than a person required to register as a futures commission merchant ("FCM")—i.e., an introducing broker ("IB"), commodity pool operator ("CPO"), or commodity trading advisor ("CTA").¹ Pursuant to Rule 30.5, any

person seeking exemption from registration under the rule must designate an agent for service of process in the U.S. and submit a petition for exemption to the National Futures Association ("NFA"). The designated agent must be the FCM located in the U.S. through which business is done, any registered futures association (currently NFA is the only registered futures association), or any person located in the U.S. in the business of providing services as an agent for service of process.

In June 2002, NFA implemented an electronic online registration system ("ORS") to replace a paper-based registration system. As part of the ongoing program of updating the registration process, NFA has submitted to the Commission for its approval, pursuant to Section 17(j) of the Commodity Exchange Act (the "Act"),² amendments to NFA registration rules that would require applicants seeking exemption pursuant Commission Rule 30.5 to file such petitions electronically through ORS. On July 1, 2003, the Commission approved these amendments to the NFA registration rules.

The addition of the Rule 30.5 exemption to NFA's ORS should streamline the exemption process and provide a quicker and easier way for persons to provide NFA with the required information and enable NFA to process this information more efficiently and confirm exemption from registration pursuant to Rule 30.5 more quickly. Additionally, information on persons exempt from registration pursuant to Rule 30.5 should be more readily accessible by the public, NFA, and the Commission.

II. The Rule Amendments

Under the ORS, persons submitting a petition for exemption from registration pursuant to Rule 30.5 will file a Form 7-R. When a person indicates that it wishes to process a Part 30 exemption application, the ORS will follow the applicable "path" of the online Form 7-R, requiring the person to submit the information required by Rule 30.5. Currently, Rule 30.5 does not require a petition for exemption to be completed on a particular form, but instead requires the petition to be in writing and sets forth the information that must be included in the petition. The Commission is amending Rule 30.5 to make clear that a petition for exemption must be filed on a Form 7-R completed in accordance with the instructions therein.

Current Rule 30.5 provides the postal address where the petition should be submitted to NFA. As the petition will now be submitted through the ORS, it is unnecessary to include the postal address in the rule.

III. Related Matters**A. Regulatory Flexibility Act**

The Regulatory Flexibility Act ("RFA")³ requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments being adopted herein will not place any additional burdens since all persons seeking the exemption provided for pursuant to Rule 30.5 are already subject to the filing requirements of Rule 30.5. To the contrary, the amendments will help to streamline and simplify the current exemption procedures. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to Section 3(a) of the RFA⁴ that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")⁵ imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The rule amendments do not require a new collection of information on the part of any entities subject to the proposed rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that these rule amendments will not impose any new reporting or recordkeeping requirements. The Commission has submitted hard copies of how the new Form 7-R path will appear in the electronic registration system to the Office of Management and Budget.

C. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and

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

² 7 U.S.C. 1 *et seq.* (2000).

³ 5 U.S.C. 601 *et seq.*

⁴ 5 U.S.C. 605(b).

⁵ 44 U.S.C. 3501 *et seq.*