

public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

These amendments are intended to facilitate a streamlined exemption process that would result in quicker processing of petitions. The Commission is considering the costs and benefits of these rules in light of the specific provisions of section 15(a) of the Act:

1. *Protection of market participants and the public.* While the amendments are expected to lessen the burden imposed upon persons submitting petitions for exemption, they do not affect the requirements to qualify for the exemption. Accordingly, they should have no effect on the Commission's ability to protect market participants and the public.

2. *Efficiency and competition.* The amendments are expected to benefit efficiency and competition by more quickly facilitating entry into the industry and by enabling information to be collected and made available in a more timely manner.

3. *Financial integrity of futures markets and price discovery.* The amendments should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the futures and options markets.

4. *Sound risk management practices.* The amendments being adopted herein should have no effect on the risk management practices of the futures and options industry.

5. *Other public interest considerations.* The amendments, in facilitating the ongoing program of building an online registration system, are expected to result in a system that is easier to use and more efficient in its processing exemption applications. Additionally, the system should permit more information about persons exempt from registration pursuant to Rule 30.5 be readily accessible by the public more quickly.

After considering these factors, the Commission has determined to adopt the amendments discussed above.

#### D. Administrative Procedure Act

The Commission has determined that the amendments discussed herein relate solely to agency organization, procedure, and practice. Accordingly, the provisions of the Administrative Procedure Act that generally require notice of proposed rulemaking and that provide other opportunities for public participation are not applicable.<sup>6</sup> The Commission further finds that, because the amendments relieve a restriction, in so far as they provide for a process that will make the submission of a petition for exemption under Rule 30.5, and the subsequent confirmation of such exemption, quicker and more efficient, and the amendments have no adverse effect upon a member of the public, there is good cause to make it effective less than thirty days after publication in the *Federal Register*.<sup>7</sup>

#### List of Subjects in 17 CFR Part 30

Commodity futures, consumer protection, fraud.

■ For the reasons discussed in the foregoing, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

#### PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

■ 1. The authority citation for Part 30 is revised to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 6, 6c, and 12a, unless otherwise noted.

■ 2. Section 30.5 is amended as follows:

- a. By revising the introductory text;
- b. By revising paragraph (a);
- c. By revising paragraph (b); and
- d. By removing paragraph (e).

The revisions read as follows:

#### § 30.5 Alternative procedures for non-domestic persons.

Any person not located in the United States, its territories or possessions, who is required in accordance with the provisions of this part to be registered with the Commission, other than a person required to be registered as a futures commission merchant, may apply for an exemption from registration under this part by filing with the National Futures Association a Form 7-R completed and filed in accordance with the instructions thereto and designating an agent for service of process, as specified below. A person who receives confirmation of an exemption pursuant to this section must engage in all transactions subject to regulation under Part 30 through a registered futures commission merchant

or a foreign broker who has received confirmation of an exemption pursuant to § 30.10 in accordance with the provisions of § 30.3(b).

(a) *Agent for service of process.* Any person who seeks exemption from registration under this part shall enter into a written agency agreement with the futures commission merchant located in the United States through which business is done, with any registered futures association, or any other person located in the United States in the business of providing services as an agent for service of process, pursuant to which agreement such futures commission merchant or other person is authorized to serve as the agent of such person for purposes of accepting delivery and service of communications issued by or on behalf of the Commission, U.S. Department of Justice, any self-regulatory organization, or any foreign futures or foreign options customer. If the written agency agreement is entered into with any person other than the futures commission merchant through which business is done, the futures commission merchant or foreign broker who has received confirmation of an exemption pursuant to § 30.10 with whom business is conducted must be expressly identified in such agency agreement. Service or delivery of any communication issued by or on behalf of the Commission, U.S. Department of Justice, any self-regulatory organization or any foreign futures or foreign options customer, pursuant to such agreement, shall constitute valid and effective service or delivery upon such person. Unless otherwise specified by the Commission, the agreement required by this section shall be filed with the National Futures Association. For the purposes of this section, the term "communication" includes any summons, complaint, order, subpoena, request for information, or notice, as well as any other written document or correspondence relating to any activities of such person subject to regulation under this part.

(b) *Termination of agreement.* Whenever the agreement referred to in paragraph (a) of this section is terminated or is otherwise no longer in effect, the futures commission merchant or any other person that is party to the agreement shall immediately notify the National Futures Association and the futures commission merchant through which business is done, as appropriate. Upon notice, a futures commission merchant shall not accept from the person that has entered into such agreement any order, other than liquidating order(s), for, or on behalf of

<sup>6</sup> 5 U.S.C. 553(b)(3)(A).

<sup>7</sup> See 5 U.S.C. 553(d).