

written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on September 25, 2003.

**Paul J. Sheridan,**

*Acting Manager, Air Traffic Division, Central Region.*

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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:** By this Order, the Commodity Futures Trading Commission ("Commission") is consolidating and updating the relief set forth in prior orders issued pursuant to Commission Rule 30.10 regarding the offer and sale of foreign futures and options contracts to customers located in the U.S. by firms located in the U.K. to reflect the substitution of the Financial Services Authority for various U.K. regulatory and self-regulatory organizations.

**EFFECTIVE DATE:** October 10, 2003.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The Commission has issued the following Order:

#### Order Substituting the Financial Services Authority as the Sole Regulatory Authority in the United Kingdom in Prior Commission Orders and Amending Certain Terms and Conditions

##### *Existing Rule 30.10 Relief*

In 1989, the Commission issued a series of orders pursuant to Rule 30.10 authorizing certain firms located in the

U.K. to conduct brokerage activities for U.S. customers on certain non-U.S. exchanges without having to register with the Commission as a futures commission merchant or otherwise comply with certain other requirements set forth in Parts 1 and 30 of the Commission's rules.<sup>1</sup> The Orders were issued to the Securities Investment Board ("SIB"), the Investment Management Regulatory Organisation ("IMRO"), the Association of Futures Brokers and Dealers ("AFBD"), and The Securities Association ("TSA").<sup>2</sup> The U.K. Rule 30.10 Orders applied to brokerage activities on or subject to the rules of Recognized Investment Exchanges ("RIES") in the U.K. or any non-U.S. exchange designated by the SIB as an investment exchange (referred to as Designated Investment Exchanges or "DIEs") undertaken by firms authorized to conduct investment business in the U.K. from a location in the U.K.

Since 1989, the Commission has amended and supplemented the U.K. 30.10 Orders to reflect changes in the U.K. regulatory structure, clarify the terms and conditions set forth therein, and provide related relief. First, effective April 1, 1991, the TSA and AFBD merged to form the SFA. Accordingly, the Commission issued an order acknowledging the substitution of SFA as a party to several ongoing information sharing and financial intermediary recognition arrangements entered into with the AFBD, TSA and SIB pursuant to Part 30 of the Commissions' rules.<sup>3</sup> In particular, the Commission acknowledged that all confirmations of Rule 30.10 relief previously extended to AFBD and TSA firms remained effective with respect to such firms in their capacity as members of SFA.<sup>4</sup>

<sup>1</sup> Commission rules referred to herein are found at 17 CFR Ch. I (2003). Rule 30.10 permits a person affected by the requirements contained in Part 30 of the Commission's rules to petition the Commission for an exemption from such requirements. Appendix A to the Part 30 rules provides an interpretative statement that clarifies that a foreign regulator or self-regulatory organization ("SRO") can petition the Commission under Rule 30.10 for an order to permit regulatees or members to conduct business from locations outside the U.S. for U.S. persons on non-U.S. exchanges without registering as a futures commission merchant under the Commodity Exchange Act ("Act"), based upon the person's substituted compliance with a foreign regulatory structure found comparable to that administered by the Commission under the Act.

<sup>2</sup> 54 FR 21599 (May 9, 1989) (SIB); 54 FR 21604 (May 19, 1989) (AFBD); 54 FR 21609 (May 19, 1989) (TSA); 54 FR 21614 (May 19, 1989) (IMRO) (along with the SFA Order, collectively, the "U.K. Rule 30.10 Orders").

<sup>3</sup> 56 FR 14017 (April 5, 1991).

<sup>4</sup> *Id.* at 14018.

Second, in 1992, the Commission issued an order commonly referred to as the Limited Marketing Order.<sup>5</sup> The Limited Marketing Order permits firms that have received confirmation of Rule 30.10 relief, without prior notice to the Commission, to engage in limited marketing conduct with respect to foreign futures or option contracts within the U.S. through their employees or other representatives, subject to the terms and conditions set forth therein. As part of the Limited Marketing Order, the Commission confirmed that the relief set forth therein applied to those firms having received confirmation of relief under the Rule 30.10 orders issued to the SIB, SFA and IMRO.

Third, in 1997, the Commission clarified the procedures set forth in prior Rule 30.10 Orders applicable to the treatment of customer funds for transactions occurring on or subject to the rules of a board of trade located outside the jurisdiction of the recipient of the Rule 30.10 Order. In doing so, the Commission interpreted prior Rule 30.10 Orders to require firms having received confirmation of Rule 30.10 relief to comply with requirements consistent with the secured amount requirement applicable to futures commission merchants as set forth in Rule 30.7.<sup>6</sup> Specifically, the Commission interpreted Rule 30.7 to require each FCM and Rule 30.10 firm to: (a) obtain and retain in its files an acknowledgment from the depository maintaining customer funds or property that the depositor was informed that such money or property was held on behalf of foreign futures and foreign options customer funds in accordance with Rule 30.7; and (b) take appropriate action (*i.e.*, set aside funds in a "mirror" account) in the event that it became aware that foreign futures and foreign options customer funds were not being held in the appropriate manner. With respect to the U.K., the Commission clarified the procedures with which SFA and IMRO members should comply

<sup>5</sup> 57 FR 49644 (November 3, 1992). In 1994, the Commission expanded the category of persons to whom qualified firms may direct limited marketing conduct. 59 FR 42156 (August 17, 1994).

<sup>6</sup> Rule 30.7 requires FCMs who accept money, securities or property from foreign futures and foreign options customers to maintain in a separate account or accounts, such money, securities or property in an amount at least sufficient to cover or satisfy all of its current obligations to those customers. The separate account or accounts must be maintained under an account name that clearly identifies the funds as belonging to foreign futures and foreign options customers at a depository that meets the requirements of Rule 30.7(c).