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.

[FR Doc. 03–25748 Filed 10–9–03; 8:45 am]

BILLING CODE 4910–13–M

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: Lawrence B. Patent, Esq., Deputy Director, or Andrew V. Chapin, Esq., Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC, 20581. Telephone: (202) 418–5430. E-mail: *lpatent@cftc.gov* or *achapin@cftc.gov*, respectively.

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.[1] 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'').[2] 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.[3] 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.[4]

Second, in 1992, the Commission issued an order commonly referred to as the Limited Marketing Order.[5] 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.[6] 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

[1] 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.

[2] 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'').

[3] 56 FR 14017 (April 5, 1991).

[4] *Id.* at 14018.

[5] 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).

[6] 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).

when dealing on behalf of U.S. customers on a DIE.[7]

Fourth, in 2000, the Commission further clarified the procedures applicable to the treatment of customer funds by FCMs and Rule 30.10 firms. In new Appendix B to Part 30[8] and an order amending prior Rule 30.10 orders,[9] the Commission revised its prior interpretation of the Rule 30.7 secured amount requirement. In particular, the Commission stated that, subject to an additional disclosure requirement, the Rule 30.7 acknowledgment only applies to the maintenance of the account or accounts containing foreign futures and foreign options customer funds by the initial depository, and not to the manner in which any subsequent depository holds or subsequently transmits those funds. Only if an FCM or Rule 30.10 firm fails to receive the required acknowledgment from the initial depository or provide the necessary disclosure statement, must it then set aside funds with an acceptable depository and receive from such depository the required acknowledgment. With respect to the U.K., the Commission clarified the procedures with which SFA and IMRO members should comply when dealing on behalf of U.S. customers on a DIE.[10]

Information Sharing

Prior to the issuance of the U.K. Rule 30.10 Orders, the Commission entered into the Financial Information Sharing Memorandum of Understanding (''FISMOU'') with, among others, SIB, AFBD, TSA and IMRO.[11] In order to facilitate the exchange of information related to the U.K. Rule 30.10 Orders, the Commission subsequently entered into the ''Addendum dated May 15, 1989 to Financial Information Sharing Memorandum of Understanding'' (''Addendum'') with, among others, SIB, AFBD, TSA and IMRO.[12] The Commission and SIB also exchanged letters, referred to as the Side Letter and the Note to the Side Letter, regarding the continued application of a separate information sharing arrangement between U.S. and U.K. regulators entered into originally in 1986.[13]

Recent Changes to the U.K. Regulatory Structure

On December 1, 2001, pursuant to the Financial Services and Markets Act 2000 (''2000 Act''), the Financial Services Authority (''FSA''), as the successor organization to SIB,[14] assumed its role as the single U.K. regulator directly responsible for the regulation of investment business, including the offer and sale of commodity futures and options. Prior to the enactment of the 2000 Act, the responsibility for supervising commodity futures markets and intermediaries rested with FSA and certain SROs, including the SFA and IMRO. Pursuant to the 1986 Financial Services Act (''FSAct''), FSA regulated the U.K. financial markets and established general standards for investor protection. The SROs conferred the status of authorization for intermediaries and promulgated general fitness standards, financial requirements, sales practice rules and rules designed to ensure the integrity of the market. With the enactment of the 2000 Act, the responsibility for each of these tasks has been assumed by FSA as the single supervisory authority, the U.K. SROs have been wound up, and the members of these now-defunct organizations are deemed to have been authorized by FSA. In addition, the FSA Handbook replaces all prior rules and regulations regarding firm conduct and operations. In light of its new regulatory role, FSA has requested that the Commission amend the U.K. 30.10 Orders to reflect this change in regulatory oversight.

Recent Changes Under the Commodity Futures Modernization Act

The Commission notes that the Commodity Futures Modernization Act[15] amended the Act to provide the Commission greater regulatory flexibility to streamline and eliminate unnecessary regulation for the entities regulated under the Act. With this in mind, Commission staff has reviewed the Commission Orders issued pursuant to Rule 30.10. As part of this review, Commission staff has discussed with each Rule 30.10 Order recipient how best to update, if necessary, the information contained in the Order, whether some or all of the terms and conditions of the order continue to be necessary, and whether new conditions may be required based upon developments in the relevant jurisdiction.

In response to Commission staff's discussion with it, FSA has requested further that the Commission amend certain terms and conditions set forth within the U.K. Rule 30.10 Orders.[16] Specifically, FSA requested the following changes:

1. *Risk Disclosure.* Subsequent to the Commission issuing the U.K. Rule 30.10 Orders, it adopted Appendix A to Rule 1.55(c).[17] In doing so, the Commission noted that the generic risk disclosure statement set forth in Appendix A may be used in lieu of the statements required by Commission Rules 1.55, Rule 33.7 and the special bankruptcy disclosures of Commission Rule 190.1(c).[18] The Commission determined further that all firms operating pursuant to confirmed Rule 30.10 relief may elect to use the generic risk disclosure statement or the risk disclosure statements mandated by Commission Rules 1.55 and 33.7 and applicable Commission orders, as appropriate.[19] FSA has provided DCIO with the written disclosures required to be provided to prospective customers pursuant to FSA conduct of business rules and DCIO has determined that such disclosures track the language set forth in the generic risk disclosure statement. Accordingly, FSA requested that the Commission exempt firms designated by FSA from compliance with the Commission's risk disclosure requirements as they apply to transactions under Part 30.

2. *Segregation of Customer Funds.* At the time that the Commission issued the U.K. Rule 30.10 Orders, U.S. customers were not permitted to opt out of segregation. Accordingly, each U.K. firm receiving

[7] 62 FR 10447 (March 7, 1997) (SFA); 62 FR 10449 (March 7, 1997) (IMRO).

[8] 65 FR 60558 (October 11, 2000).

[9] 65 FR 60560 (October 11, 2000) (referred to herein as the ''Supplemental Client Money Order'').

[10] 65 FR at 60563–64.

[11] Dated September 1, 1988.

[12] *See, e.g.,* 54 FR 21604, 21607–08.

[13] *See, e.g.,* 54 FR 21604, 21608. The Side Letter and Note to the Side Letter referred to the 1986 Memorandum of Understanding Between the United States Securities and Exchange Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Securities and between the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures (dated September 23, 1986), as supplemented by the Memorandum Relating to US/UK MOU (dated November 22, 1988), and superseded by the Memorandum of Understanding on Mutual Assistance and the Exchange of Information Between United States Securities and Exchange Commission and Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry and the Securities and Investment Board (dated September 25, 1991) (collectively, the ''US/UK MOU''). After the 1991 update to the US/UK MOU, the SIB and CFTC exchanged letters confirming the continued applicability of the Side Letter and the Note to the Side Letter. *See* Letters exchanged by Wendy L. Gramm, Chairman, Commission, and Sir David Walker, Chairman, SIB, dated September 25, 1991.

[14] In 1977, SIB's name was formally changed to FSA as a first step to unite banking supervision and investment services regulation under one body. In 1998, banking supervision was transferred to FSA from the Bank of England.

[15] Pub. L. 106–554, 114 Stat. 2763 (December 21, 2000).

[16] *See* Letter from Michael Folger, Director of Conduct of Business Standards, FSA, to Jane Kang Thorpe, Director for the Division of Clearing and Intermediary Oversight, dated July 24, 2003 (''July 24 Letter''). As part of its policy to promote more transparency to the activities of the Commission and to permit affected parties to voice their support or concerns, the July 24 Letter was posted on the Commission's Web site and interested parties were provided a two-week period to submit any comments. No comments were received.

[17] 59 FR 34376 (July 5, 1994).

[18] *Id.* 34378.

[19] *Id.* 34379.

confirmation of relief was required to consent to refuse U.S. customers the option of not segregating funds notwithstanding relevant provisions of the U.K. regulatory system.[20] The Act recently was amended, however, to permit intermediaries conducting business on a derivatives transaction execution facility (''DTEF'') to offer any customer that is an eligible contract participant (''ECP'') the right to opt out of segregation for any transactions entered into on the DTEF. Pursuant to this authority, the Commission adopted Rule 1.68, which permits a DTEF to adopt rules allowing futures commission merchants (''FCMs'') to offer certain sophisticated customers the right to elect not to have funds, that are being carried by the FCM for purposes of margining, guaranteeing, or securing the customers' trades on or through a DTEF, separately accounted for and segregated.[21] Given that the bulk of foreign futures and options activity undertaken by U.S. persons is conducted by sophisticated customers, FSA requested that the Commission authorize U.K. firms to permit U.S. customers that are ECPs to opt out of segregation with respect to those foreign futures and options transactions entered into pursuant to the revised Order.

3. *Bank Undertakings.* Currently, each U.K. firm using an approved bank undertaking to meet any part of its financial resources requirement is subject to a notification requirement should the value of customer funds segregated on behalf of U.S. customers exceed a specified multiple of the firm's minimum financial requirement. If such an event were to occur, the firm consents to notify FSA on its quarterly financial statement to FSA, or at such other times as may be specified by FSA, the value of funds required to be segregated on behalf of U.S. customers. This notification requirement was designed to take into account the impact of bank undertakings in the context of the Commission's minimum financial resource requirement for futures commission merchants (*i.e.*, four percent of segregated funds). FSA has represented that the European Union's Capital Adequacy Directive forbids certain regulated financial institutions, including firms authorized by FSA to conduct futures business and hold customer funds, from using bank undertakings. Accordingly, FSA requested that the Commission eliminate the notification requirement for firms using an approved bank undertaking.

4. *Regulated Markets.* Currently, the scope of the U.K. Rule 30.10 Orders is limited to foreign futures and options traded on a Recognized Investment Exchange (''RIE'') or a Designated Investment Exchange (''DIE''). As part of the European Union's (''E.U.'s'') attempt to create a single marketplace among all member states, the Investment Services Directive applicable to all E.U. members created a category of markets known as a Regulated Market. A Regulated Market is an exchange organized and operating from within one of the E.U. member states that has been recognized by the E.U. as meeting certain standards for financial integrity and customer protection. With the exception of the London Metal Exchange, the International Petroleum Exchange and EDX London, all U.K. exchanges that are RIEs are now also Regulated Markets within the meaning of the Investment Services Directive. Non-U.K. Regulated Markets have been progressively removed from the category of DIEs because they are exempt from the requirement to be authorized in order to conduct investment business in the U.K. The DIE classification presently includes only non-U.K., non-E.U. markets recognized by FSA. Accordingly, FSA has requested that the Commission expand the scope of the revised Order to include transactions executed on or subject to the rules of RIEs, DIEs, and Regulated Markets, subject to the existing limitation that an exempt firm may not intermediate transactions on behalf of U.S. customers on U.S. exchanges.

Upon consideration of the foregoing, the Commission has determined to consolidate and amend the Orders into a single Order restating the terms and conditions for relief as requested by FSA. Accordingly, the Commission hereby:

(1) Acknowledges that:

(a) Pursuant to the Financial Services and Markets Act 2000, FSA has succeeded the SIB, SFA and IMRO as the relevant U.K. regulatory organization for the supervision of commodity futures and options transactions conducted within the U.K.;

(b) Firms authorized under the Financial Services act 1986 are now authorized to carry on designated investment business under the Financial Services and Markets Act 2000;

(c) Provisions made under the Financial Services Act of 1986 have been replaced by generally equivalent provisions of the FSA Handbook for rules and guidance under the Financial Services and Markets Act 2000;

(d) All confirmations of Rule 30.10 relief previously extended and then in effect by Commission staff or the National Futures Association (''NFA'')[22] to SIB, SFA and IMRO firms remain effective with respect to such firms in their capacity as new regulatees of FSA;

(e) The Financial Information Sharing Memorandum of Understanding and related information-sharing arrangements remain applicable, and that firms authorized to carry on designated investment business by FSA shall be entitled to all of the benefits, subject to the remaining parties' performance of their respective responsibilities, including compliance with the Side Letter and Note to the Side Letter; and

(f) The relief set forth previously in the Limited Marketing Orders and the Supplemental Client Money Order remains effective with respect to each firm that has received confirmation of Rule 30.10 relief pursuant to this Order; and

(2) Confirms that the relief granted pursuant to this Order extends to brokerage activities conducted on or subject to the rules of an RIE, DIE or Regulated Market, but does not extend to rules or regulations relating to trading, directly or indirectly, on U.S. contract markets or derivatives transaction execution facilities; and

(3) Revokes the relief set forth in Orders dated May 19, 1989 and April 5, 1991, issued previously to the now-defunct SIB (54 FR 21599), IMRO (54 FR 21614), and SFA (56 FR 14017).

In connection with the Rule 30.10 relief previously granted to the U.K. regulatory and self-regulatory organizations, Commission staff has issued certain no-action letters regarding the treatment of customer funds attributable to trading on the LME.[23] In light of the changes to the U.K. regulatory program, the Commission believes that it is appropriate to amend these letters by substituting all prior references to AFBD and SFA with FSA.

Based upon the Commission's prior determination to issue relief under Rule 30.10, the information provided to the Commission by FSA describing the recent changes to the U.K. regulatory framework, and the recommendation of Commission staff, the Commission has concluded that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A thereof, generally have been satisfied and that compliance with applicable U.K. law and FSA rules may be substituted for compliance with those sections of the Act and rules thereunder more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission by FSA as eligible for the relief granted herein from:

—Registration with the Commission for firms and for firm representatives;

—The separate account requirements contained in Commission Rule 30.7, 17 CFR 30.7;

—The requirement in Commission Rule 30.6(a) and (d), 17 CFR 30.6(a) and

[20] The Part 30 Orders mandated compliance with Rule 30.7's secured amount requirement or foreign equivalent. The secured amount requirement set forth in Rule 30.7, and described more fully in Appendix B to Part 30, is similar to the segregation requirement set forth in Section 4d of the Act and rules promulgated thereunder.

[21] 66 FR 20740 (April 25, 2001). At the time of the rulemaking, the Commission determined to defer its decision whether to extend the choice to opt out of segregation to ECPs trading on designated contract markets, but noted that it may reconsider the issue in the future. *Id.* at 20743.

[22] *See infra* n.37.

[23] *See* Letter from Andrea Corcoran, Director, Division of Trading and Markets, to the Hon. Christopher J. Sharples, Chairman, AFBD, dated October 10, 1989; Letter from Andrea Corcoran, Director, Division, to A.R.G. Frase, AFBD, dated June 19, 1990; Letter from Andrea Corcoran, Director, Division of Trading and Markets, to Phillip Thorpe, Chief Executive, AFBD, and Chief Designate, SFA, dated April 1, 1991; Letter from John C. Lawton, Acting Director, Division of Trading and Markets, to Alan Whiting, Executive Director for Regulation and Compliance, LME, dated April 3, 2000.

(d), that firms provide customers located in the U.S. with the risk disclosure statements in Commission Rule 1.55(b), 17 CFR 1.55(b) and Commission Rule 33.7, 17 CFR 33.7, or as otherwise approved under Commission Rule 1.55(c), 17 CFR 1.55(c);

—Those sections of Part 1 of the Commission's financial rules that apply to foreign futures and options sold in the U.S. as set forth in Part 30; and

—Those sections of Part 1 of the Commission's rules relating to books and records which apply to transactions subject to Part 30,

based upon substituted compliance by such persons with the applicable statutes and regulations in effect in the U.K.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing persons in U.K. who would be exempted hereunder provides:

(1) A system of qualification or authorization of firms who deal in transactions subject top regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about authorized firms and persons who act on behalf of such firms.

(2) Financial requirements for firms including, without limitation, a requirement that all firms immediately notify FSA if the firms' adjusted net capital falls below a specified level and daily mark-to-market settlement and/or accounting procedures;

(3) A system for the protection of assets of appropriate customers that is designed to preclude the use of such customer assets to satisfy house obligations and requires separate accounting for such assets, augmented by a compensation scheme designed to compensate customers whose assets are segregated and who have suffered a loss as a result of fraud and/or insolvency of a firm;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, monthly customer account statements, customers' segregation records, accounting records for customer and proprietary trades and discretionary account documentation;

(5) Sales practice standards for firms and persons acting on their behalf that include, for example, a requirement that authorized persons know their customers, required disclosures to prospective customers and prohibitions on misleading advertising and improper trading activities;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, an affirmative surveillance program designed to detect trading activities that take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission and FSA and the availability of related mechanisms for sharing monitoring information with the Commission on an ''as needed'' basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures products subject to regulation in U.K., position data, data on firms' standing to do business and financial condition, and for cooperating with the Commission and NFA in inquiries, compliance matters, investigations and enforcement proceedings.

This Order does not provide an exemption from any provision of the Act or rules thereunder not specified herein, for example, without limitation, the antifraud provision in Rule 30.9. Moreover, the relief granted is limited to brokerage activities undertaken on behalf of customers located in the U.S. with respect to transactions on or subject to the rules of an RIE, DIE, or a regulated Market for products that customers located in the U.S. may trade.[24] The relief does not extend to rules relating to trading, directly or indirectly, on U.S. exchanges. For example, a firm trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.[25] Similarly, if such a firm were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.[26] The relief herein is inapplicable where the firm solicits or accepts orders from customers located in the U.S. for transactions on U.S. markets.[27] In that case, the firm must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The FSA must present in writing to the Commission that:

(a) Each firm of which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in the U.K.; such firm is engaged in business with customers in the U.K. as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under Section 89a(2) of the Act, 7 U.S.C. § 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or the NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) It will provide the Commission with prompt notice of all material changes to the relevant laws in the U.K., or any rules promulgated thereunder;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than U.K. customers under all relevant provisions of U.K. law; and

(e) It will cooperate with the Commission in connection with information sharing pursuant to the FISMOU.

(2) Each firm seeking relief hereunder must represent in writing that it:

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (*e.g.*, banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identify and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Acknowledges that it can be required by FSA to provide to FSA immediate access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in the U.K. and that FSA will cooperate in providing access to such books and records in accordance with the FISMOU;

(d) Consents that all futures and options transactions with respect to customers located in the U.S. will be made on or subject to the rules of an RIE, DIE located outside the U.S., or Regulated Market, and will be undertaken consistent with the Financial Services and Markets Act 2000 and the rules and guidance set forth in the FSA Handbook;

(e) Has no principal, or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified from directly applying to do business in the U.S. under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2);

(f) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices, and consents to notify customers located in the U.S. of the availability of such a program; provided, however, that the firm may require its customers resident in the U.S. to execute the consent attached hereto as

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[24] *See, e.g.,* Sections 2(a)(1)(C) and (D) of the Commodity Exchange Act.

[25] *See, e.g.,* 17 CFR Part 18 (2000).

[26] *See, e.g.,* 17 CFR Parts 17 and 21 (2000).

[27] *See, also*, CFTC Interpretative Letter 03–28 [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,559 (July 25, 2003) (no-action letter permitting a specific foreiign entity that has previously been granted exemption from registration by a Commission order issued under Rule 30.10 in connection with foreign futures and options to also act as an introducing broker with respect to trades executed on U.S. markets for U.S. institutional customers without registering as an introducing broker).

Exhibit A concerning the exhaustion of certain mediation or conciliation procedures made available by FSA prior to bringing an NFA arbitration proceeding; and provided further, that the firm must undertake to provide the customer with information concerning how to commence such procedures and documentation of the commencement of such procedures pursuant to the consent attached hereto as Exhibit A;

(g) Consents to refuse those customers resident in the U.S. that do not satisfy the criteria for being an Eligible Contract Participant, as defined in section 1a(12) of the Commodity Exchange Act, 7 U.S.C. 1a(12), the option of not segregating funds notwithstanding relevant provisions of the U.K. regulatory system;

(h) Consents to provide all customers resident in the U.S. no less stringent regulatory protection than U.K. customers under all relevant provisions of U.K. law; and

(i) Undertakes to comply with the applicable provisions of U.K. law and FSA rules and guidance that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted.

As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.[28] Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its findings that the standards for relief set forth in Commission Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied. In addition, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to the public interest, or other circumstances to not warrant continuation of the exemptive relief granted therein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm or otherwise restrict, the exemptive relief granted, as appropriate on its own motion.

■ Accordingly, 17 CFR part 30 is amended as follows:

[28] 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualify firms.

PART 30—FOREIGN FUTURES AND OPTIONS TRANSACTIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6, 6c and 12a, unless otherwise noted.

■ 2. Appendix C to part 30 is amended by:

■ A. Removing the entries for:

Firms designated by the Securities and Investment Board;

Firms designated by the Association of Futures Brokers and Dealers;

Firms designated by the Securities Association; and

Firms designated by the Investment Management Regulatory Organization

■ B. Adding the following entry at the end of the appendix:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain of the Part 30 Rules Pursuant to § 30.10

* * * * *

Firms designated by the Financial Services Authority (''FSA'').

FR date and citation: October 10, 2003, [insert FR citation].

Issued in Washington, DC, on September 30, 2003.

Jean A. Webb,

Secretary of the Commission.

Note: The following Exhibit A will not appear in the Code of Federal Regulations.

Exhibit A—Form of Consent

In the event that a dispute arises between you, _____, and _____ with respect to transactions subject to Part 30 of the Commodity Futures Trading Commission's Rules, various forums may be available for resolving the dispute, including courts of competent jurisdiction in the United States and United Kingdom and arbitration programs made available both in the United States and United Kingdom.

In the event you wish to initiate an arbitration proceeding against the firm to resolve such dispute under the applicable rules of the National Futures Association (''NFA'') in the United States, you hereby consent that you will first commence conciliation in accordance with such procedures as may be made available by the relevant United Kingdom regulator, details of which are provided to you herewith. The outcome of such United Kingdom conciliation is non binding. You may subsequently accept this resolution, or you may proceed either to binding arbitration under the rules of the relevant United Kingdom regulator or to binding arbitration in the United States under the rules of NFA. If you accept the conciliated resolution or elect to proceed to arbitration, or to any other form of binding resolution, under the rules of the relevant United Kingdom regulator or foreign exchange, you will be precluded from subsequently initiating an arbitration proceeding at NFA.

You may initiate an NFA arbitration proceeding upon receipt of documentation from the relevant United Kingdom regulator:

(i) Evidencing completion of the conciliation process and reminding you of your right of access to NFA's arbitration proceeding, or

(ii) Representing that more than nine months have elapsed since you commenced the conciliation process and that such process is not yet complete and reminding you of your right of access to NFA's arbitration proceeding.

The documentation referred to above must be presented to NFA at the time you initiate the NFA arbitration proceeding. NFA will exercise its discretion not to accept your demand for arbitration in the absence of such documentation.

By signing this consent, you are not waiving any other rights to any other legal remedies available under law.

_____

Customer Signature

_____

Date

[FR Doc. 03–25298 Filed 10–9–03; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–232F]

RIN 1117–AA70

Controlled Substances Registration and Reregistration Application Fees

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This final rule establishes the fee schedule for DEA registration and reregistration fees relating to the registration and control of the manufacture, distribution and the dispensing of controlled substances. DEA is required to adequately recover necessary costs associated with the Diversion Control Program (DCP) as mandated by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993.

EFFECTIVE DATE: December 1, 2003. The new fee schedule will be in effect for all new applications postmarked on or after December 1, 2003 and for all renewal applications postmarked on or after December 1, 2003.

FOR FURTHER INFORMATION CONTACT: Patricia M. Good, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7297.