MESL also expects to contract with NFA to operate its trade practice surveillance program. This responsibility would entail conducting investigations and prosecuting the resulting disciplinary actions.

II. Request for Comments

Any person interested in submitting written data, views, or arguments on the proposal to designate MESL should submit their views and comments by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to *secretary@cftc.gov.* The Divisions seek comment on all aspects of MESL's application for designation as a new contract market. Reference should be made to MESL's application for designation as a contract market in Illinois Waterway and St. Louis Harbor barge rate futures contracts. Copies of each contract's proposed terms and conditions are available for inspection at the Office of the Secretariat at the above address. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

Other materials submitted by MESL may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552), except to the extent that they are entitled to confidential treatment pursuant to 17 CFR 145.5 or 145.9. Requests for copies of such materials should be made to the Freedom of Information, Privacy and Sunshine Act compliance staff of the Office of the Secretariat at the Commission headquarters in accordance with 17 CFR 145.7 and 145.8.

Issued in Washington, DC, on January 21, 2000.

Alan L. Seifert,

Deputy Director.

[FR Doc. 00–2116 Filed 1–31–00; 8:45 am]

BILLING CODE 6351–01–U

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, February 4, 2000.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: SURVEILLANCE MATTERS.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–2217 Filed 1–28–00; 1:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, February 11, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–2218 Filed 1–28–00 1:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, February 18, 2000.

PLACE: 1155 21st St., NW, Washington DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–2219 Filed 1–28–00; 1:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting; Notice

AGENCY HOLDING THE MEETING: COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, February 25, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: SURVEILLANCE MATTERS.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–2220 Filed 1–28–00; 1:23 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–ZA08

Average Price Calculations by Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Advisory.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is issuing guidance concerning the circumstances in which a futures commission merchant (''FCM'') may calculate for and confirm to its customers an average price when multiple prices are received on an order or series of orders. The Commission has determined that if prerequisite conditions specified in this advisory are met, an FCM may calculate an average price for its affected customers whether the contracts involved are traded on domestic or non-domestic exchanges.

EFFECTIVE DATE: February 1, 2000.

FOR FURTHER INFORMATION CONTACT: David Taylor, (202) 418–5488.

ADVISORY:

I. Introduction and Background

On September 15, 1999, the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') Division of Trading and Markets (''Division'') received a written request from the Futures Industry Association (''FHA'') Law and Compliance Division for guidance from the Commission regarding whether a futures commission merchant (''FCM'') may calculate an average price for its customers in situations when multiple prices are received on an order or series of orders involving contracts traded on domestic as well as non-domestic exchanges.

The CFTC has permitted the use of average prices in the futures industry since 1992. On April 10, 1992, the

Division permitted the Chicago Mercantile Exchange (''CME'') to make effective without Commission approval CME Rule 553, which enabled an FCM to confirm to its customers an average price calculated by the Exchange when multiple prices were received on an order or series of orders for the FCM's customers. On June 10, 1992, the Division permitted the Chicago Board of Trade (''CBI'') to make effective without Commission approval a similar average price order provision (CBT Rule 421.03). Under these rules, a domestic exchange has been responsible for calculating the average prices for contracts executed on that exchange, and the FCM involved has confirmed these prices to the appropriate customers.

On May 26, 1995, the Division issued a non-action letter (''No-Action Letter'') that permits an FCM to calculate and confirm average prices to its customers for trades executed on non-domestic exchanges (CFTC No-Action Letter No. 95–59, CCH Comm. Fut. L. Rep. ¶ 26,434, 1995 WL 389299 (C.F.T.C)). Where non-domestic exchanges are involved, the No-Action Letter permits the FCM itself, subject to certain conditions, to calculate the average price and then confirm it to its customers.

Certain FCMs have recently expressed an interest in having the flexibility to calculate average prices for contracts executed on both domestic and non-domestic exchanges. Although some FCMs will still prefer to use the exchange calculations, other FCMs have developed the necessary systems to support the average price calculations for contracts executed on non-domestic exchanges. These FCMs would prefer to apply their systems for all contracts for which average price calculations would be appropriate.[1] These firms have indicated that this flexibility would increase efficiencies by allowing them to apply a consistent operational function for average pricing on both domestic and non-domestic exchanges.

II. Prerequisite Conditions for FCM Calculation of Average Prices

The Commission believes that it would be acceptable to allow flexibility for FCMs to calculate and confirm average prices involving contracts traded on domestic as well as non-domestic exchanges, provided that certain prerequisite conditions were met. The applicable conditions would be as follows:

1. The customer has requested average price reporting.[2]
2. Average price reporting in accordance with this Advisory is permitted under the rules of the domestic exchange involved or not prohibited under the rules of the foreign exchange involved.
3. Each individual trade is submitted and cleared by the relevant clearing organization at the executed price.
4. The FCM calculates and confirms to its customers the weighted mathematical average price.[3]
5. The FCM possess the records to support the calculations and the allocations to customer accounts, maintains them in accounts, maintains them in accordance with Commission Regulation 1.31, and makes them available for inspection by affected customers on request.
6. The FCM identifies each trade to which an average price is assigned as having an average price on each confirmation statement and monthly statement on which the trade is reported to the customer pursuant to Commission Regulation 1.33.[4]
7. The FCM's proprietary trades are not averaged with customer trades subject to average price calculations.[5]

The Commission believes that these conditions provide reasonable safeguards that support permitting an FCM to perform average price calculations. The Commission further believes that these conditions should be applied consistently for the calculation of trades executed on both domestic and non-domestic exchanges.

III. Conclusion

Average prices have been in use for several years and in certain instances can be more informative and understandable to customers than providing different and multiple prices. Permitting FCMs to calculate and confirm average prices to customers effectively permits alternative operational procedures to achieve the same results. It also furthers the Commission's stated goal of reducing the regulatory burden on the domestic futures industry, in order to permit it to compete freely in the global futures marketplace, whenever this can be done without undermining the purposes of and the safeguards provided by the Commodity Exchange Act and the Commission's regulations.

Accordingly, the Commission has determined that where all of the prerequisite conditions specified above are met, FCMs may, if they choose, calculate average prices for and confirm average prices to their affected customers, whether the contracts involved are executed on domestic or non-domestic exchanges.

Issued in Washington, D.C., on January 20, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–1907 Filed 1–31–00; 8:45 am]

BILLING CODE–6351–01–M

[1] As specified in current exchange rules regarding average pricing, an order or series of orders executed during a Regular Trading Hours Session or matched during an electronic trading session at more than one price may be averaged if each order is for the same account or group of accounts and for the same commodity and month for futures, or for the same commodity, month, put/call and strike price for options. APS treatment may apply to multiple accounts that are part of a managed account program or other common investment program, or to individual discretionary accounts. It may also be applied to individual non-discretionary accounts, but prices for one of these accounts may not be averaged with those of other non-discretionary accounts.

[2] Under Commission Regulation 1.35(a–1) and Appendix C [¶ 2211C], it will continue to be impermissible to bunch an order of a customer who has not requested average pricing with other orders in a bunched order for which the specified allocation designator or allocation method is average pricing.

[3] As currently required for average price calculations made by exchanges, the weighted mathematical average price is to be computed by: (a) multiplying the number of contracts purchased or sold at each execution price by that price, (b) adding the results together, and (c) dividing by the total number of contracts. For a series of orders, the average price may be computed based on the average price of each order in that series. As in current practice, FCMs are permitted to confirm to customers either the actual average price or the average price rounded to the next price increment. In the latter case, the FCM must round the average price up to the next price increment for a buy order or down to the next price increment for a sell order, and pay any residual thus created to the customer, thus placing that customer in the same position as if the actual average price had been confirmed to him or her. APS calculations can produce prices that do not conform to whole cent increments, and in such cases amounts less than one cent may be retained by the FCM. Although disclosure to customers concerning how average prices are calculated was required when use of average prices was first permitted in 1992 as noted above, FIA has represented to the Commission that such disclosures are no longer needed because average pricing has become familiar to futures industry customers. Accordingly, the Commission will no longer require an FCM to provide such disclosures to its customers, but notes that an FCM should provide such information upon a customer's request.

[4] Where an FCM makes it own average price calculations as set forth above, the FCM will no longer be required to indicate average price treatment on order tickets or electronic trading system entries, since in that event the clearing house will no longer be involved, and since the simple arithmetic calculation of an average price does not implicate any on-floor or electronic trading system trade practice.

[5] In situations where the FCM participates on its own behalf in a collective vehicle such as a hedge fund, and trades of the collective vehicle are included in average pricing involving customers of the FCM, the Commission will not regard the FCM as having violated the prohibition on averaging proprietary trades with customer trades so long as the FCM owns less than 10% of the collective vehicle (see Commission Regulation 1.3(y)).