

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, April 4, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

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

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03-6449 Filed 3-13-03; 8:45 am]

**BILLING CODE 6351-01-P-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, April 11, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC., 9th floor conference.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**FOR MORE INFORMATION CONTACT:** Jean A. Webb, 202-418-5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03-6450 Filed 3-13-03; 3:07 pm]

**BILLING CODE 6351-01-P-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, April 18, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th floor of conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance matters.

**FOR MORE INFORMATION CONTACT:** Jean A. Webb, 202-418-5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03-6451 Filed 3-13-03; 3:07 pm]

**BILLING CODE 6351-01-P-M**

**COMMODITY FUTURES TRADING COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 11 a.m., Friday, April 25, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC 9th floor conference room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED.** Surveillance matters.

**FOR MORE INFORMATION CONTACT:** Jean A. Webb, 202-418-5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03-6452 Filed 3-13-03; 3:07 pm]

**BILLING CODE 6351-01-P-M**

**COMMODITY FUTURES TRADING COMMISSION****Review by the National Futures Association of Disclosure Documents Required To Be Filed by Commodity Pool Operators for Publicly-Offered Commodity Pools**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice and order.

**SUMMARY:** The Commodity Futures Trading Commission (the "Commission") is authorizing the National Futures Association ("NFA") to conduct reviews of Disclosure Documents required to be filed with the Commission by commodity pool operators ("CPOs") for publicly-offered commodity pools.

**EFFECTIVE DATE:** March 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kevin P. Walek, Assistant Director, Audit and Financial Review Section, or Michael A. Piracci, Attorney Advisor, 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) 418-5430.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Commission previously has authorized NFA to perform many functions that, until that time, were performed by Commission staff. These functions include: The processing of applications for registration of intermediaries and floor traders under the Commodity Exchange Act (the "Act");<sup>1</sup> the processing of notices of eligibility for certain exemptions from registration as a CPO and commodity trading advisor ("CTA"); the review of

certain Disclosure Documents required to be filed by CPOs and CTAs pursuant to Commission rules,<sup>2</sup> and the review of annual financial reports required to be filed by CPOs.<sup>3</sup>

In 1997, the Commission authorized NFA to receive and review Disclosure Documents required to be filed with the Commission by CPOs, pursuant to Commission rule 4.26(d), with regard to "privately offered" commodity pools.<sup>4</sup> In December 2002, the Commission noted that, with regard to this area of authorization, as well as others, NFA has exercised its authority with particular proficiency. Additionally, the Commission noted that, as a result of authorizing NFA to perform such functions, Commission staff have been able to devote resources to other aspects of the Commission's regulatory mission.<sup>5</sup>

In December 2002, concurrently with authorizing NFA to review annual financial reports filed by CPOs, the Commission made certain amendments to part 4 of its rules<sup>6</sup> so as to, among other things, make clear that Disclosure Documents with regard to privately offered commodity pools need only be filed with NFA and need not also be filed with the Commission.<sup>7</sup> Additionally, the commission amended rule 4.26(d) by adding paragraph (d)(3) to make clear that Disclosure Documents, and any amendments to such Disclosure Documents, required to be filed by CPOs with regard to publicly-offered commodity pools must be filed with the Commission.<sup>8</sup>

As the Commission noted in December 2002, the futures industry is continually expanding and transforming itself and as the industry changes and evolves, the Commission must also change and evolve, reassessing the manner in which it allocates its resources.<sup>9</sup> Accordingly, the Commission has now determined that NFA should be authorized to receive and review Disclosure Documents of publicly-offered commodity pools. Specifically, by this order, the

<sup>2</sup> See 62 FR 52088 (Oct. 6, 1997).

<sup>3</sup> See 67 FR 77470 (Dec. 18, 2002).

<sup>4</sup> See note 2 *supra*. Pursuant to Commission rule 4.24(d)(3)(i), "privately offered" commodity pools are those offered pursuant to section 4(2) of the Securities Act of 1933, as amended (15 U.S.C. 77d(2)), or pursuant to Regulation D thereunder (17 CFR 230.501 *et seq.*). As discussed herein, "publicly-offered" commodity pools are pools not offered pursuant to section 4(2) of the Securities Act of 1933 or pursuant to Regulation D.

<sup>5</sup> 67 FR at 77470.

<sup>6</sup> Commission rules referred to herein may be found at 17 CFR ch. I (2002).

<sup>7</sup> 67 FR 77409 (Dec. 18, 2002).

<sup>8</sup> *Id.*

<sup>9</sup> 67 FR at 77470.

<sup>1</sup> 17 U.S.C. 1 *et seq.* (2000). See, e.g., 48 FR 35158 (Aug. 3, 1983) (introducing brokers and associated persons thereof); 49 FR 39593 (Oct. 9, 1984) (futures commission merchants, commodity pool operators, commodity trading advisors, and associated persons thereof); 51 FR 34490 (Sep. 29, 1986) (floor brokers); 58 FR 19657 (Apr. 15, 1993) (floor traders).

Commission is authorizing NFA to review Disclosure Documents that CPOs are required to submit pursuant to rule 4.26(d)(3). In final rules being published elsewhere in the **Federal Register**, the Commission is amending rule 4.26(d) so as to make clear that CPOs need only file such Disclosure Documents with NFA and need not also file them with the Commission.

## II. Authority

Section 4n(3)(A) of the Act provides, among other things, that each CPO shall "file such reports in such form and manner as may be prescribed by the Commission." The Commission also notes that, in amending the Act through passage of the Commodity Futures Modernization Act of 2000 (the "CFMA"),<sup>10</sup> Congress intended, as evidenced in section 2 of the CFMA, to transform the role of the Commission from that of a frontline regulator to that of an oversight regulator of the futures industry. Moreover, section 125 of the CFMA required the Commission to conduct a study of the Act and the Commission's rules and orders governing the conduct of registrants under the Act, identifying, among other things, regulatory functions the Commission performs that can be delegated to a registered futures association.<sup>11</sup> Additionally, the Commission notes that NFA, as a registered futures association, is obligated to establish a program for the protection of customers and customer funds and to prevent fraudulent acts and practices.<sup>12</sup>

## III. Maintenance of and Access to Disclosure Document Filings

The Commission has also determined to authorize NFA to maintain and serve as official custodian of record for the Disclosure Documents filed by CPOs with regard to publicly-offered pools, as required under rule 4.26(d). This determination is based upon NFA's representations regarding procedures for maintaining and safeguarding all such records, in connection with NFA's assumption of the responsibilities for the activities referenced above. In maintaining the Commission's records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it by the Commission in existing or future orders or regulations. In this regard, NFA shall

also implement such additional procedures (or modify existing procedures) as are acceptable to the Commission and as are necessary: (1) To ensure the security and integrity of the records in NFA's custody; (2) to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission orders or rules; (3) to facilitate disclosure of public or nonpublic information in those records when permitted by Commission orders or rules and to keep logs as required by the Commission concerning disclosure of nonpublic information; and (4) to otherwise safeguard the confidentiality of the records.

## IV. Conclusion and Order

For the reasons discussed above, and pursuant to its authority under the Act, the Commission has determined to authorize NFA to receive and review Disclosure Documents filed by CPOs pursuant to rule 4.26(d) with regard to publicly-offered commodity pools. In addition, the Commission has determined to authorize NFA to maintain and to serve as the official custodian of such records.

These determinations are based upon: (1) The Congressional intent that the Commission be permitted to determine the best manner in which to oversee CPOs; (2) the Congressional intent that a registered futures association, where appropriate, assume responsibility under the Act for regulatory functions the Commission has deemed unnecessary to retain; and (3) NFA's representation and demonstration of its willingness and ability to administer the required regulatory functions in accordance with the standards established by the Act, the Commission's regulations and orders promulgated thereunder, any supplemental direction established by the Commission or Commission staff, and relevant case law, and to provide the Commission with whatever information, reports, summaries, or records the Commission may determine are necessary for effective oversight of NFA's administration of the functions delegated herein, or for the Commission to fulfill its role of regulatory oversight of the futures markets.

This order does not authorize NFA to accept or act upon requests for exemption from the requirements of rule 4.26(d). Moreover, NFA is not authorized to issue any interpretations, "no-action" positions, or exemptions with respect to the requirements of rule 4.26(d).

NFA is authorized to perform all functions specified in this order until

the Commission orders otherwise. Nothing in this order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matter regarding the functions delegated to it by this order. Nothing in this order affects the applicability of any previous orders issued by the Commission.

Issued in Washington, DC, on March 10, 2003, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03-6178 Filed 3-14-03; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0150]

#### Federal Acquisition Regulation; Information Collection; Small Disadvantaged Business Procurement Credits

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0150).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Small Business Procurement Credit Programs. This OMB clearance expires on June 30, 2003.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate

<sup>10</sup> Pub. L. No. 106-554, 114 Stat. 2763 (codified as amended in scattered sections of 7 U.S.C.).

<sup>11</sup> A copy of the study may be viewed on the Commission's Web site at: [www.cftc.gov/files/opa/opaintermediarystudy.pdf](http://www.cftc.gov/files/opa/opaintermediarystudy.pdf).

<sup>12</sup> See Commission rule 170.5; see also section 17(b)(7) of the Act.