antidumping duties, all unliquidated entries of pure magnesium from Canada entered, or withdrawn from warehouse, for consumption on or after August 1, 2000, the effective date of the revocation of the order. The Department has further instructed CBP to refund with interest any estimated duties collected with respect to unliquidated entries of pure magnesium entered, or withdrawn from warehouse, for consumption on or after August 1, 2000, in accordance with section 778 of the Act.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i) of the Act, as amended and 19 CFR 351.213(d)(4).

Dated: January 26, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 05–1957 Filed 2–1–05; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed withdrawal of staff interpretation.

SUMMARY: Section 4d(a)(2) of the Commodity Exchange Act (''CEA'') and related Commission regulations (hereinafter collectively referred to as ''segregation requirements'') require that, among other things, all funds deposited with a futures commission merchant (''FCM'') to purchase, margin, guarantee, or secure futures or commodity options transactions and all accruals thereon (''customer funds'' or ''customer margin'') be accounted for separately, be held for the benefit of customers and deposited under an account name that clearly identifies them as such, and not be commingled with the FCM's own funds,[1] Further, the Division of Clearing and Intermediary Oversight (''Division'') has construed these provisions to prohibit any impediments or restrictions upon an FCM's ability to obtain immediate access to customer funds.

In 1984, the Division of Trading and Markets (''T&M,'' predecessor to the Division) issued an interpretation, Financial and Segregation Interpretation No. 10 (''Interpretation No. 10''), to address whether, and the circumstances under which, the use of bank custodial accounts (otherwise known as ''safekeeping accounts'' or ''third-party custodial accounts'') to maintain customer funds would be consistent with the segregation requirements of the CEA.[2] At the time, investment companies registered under the Investment Company Act of 1940 (the ''Investment Company Act'') (''RICs'') were generally barred from using any FCM or futures clearinghouse as a custodian of fund assets and, thus, third-party custodial accounts were the only permissible means available to RICs to use the risk management tools available through the futures markets.[3] With Interpretation No. 10, T&M took the position that customer funds held in third-party custodial accounts could be deemed properly segregated for purposes of Section 4d(a)(2), provided that certain terms and conditions designed to ensure FCMs' immediate and unimpeded access to the funds were met.

Today, RICs are, for the most part, no longer prohibited from depositing customer margin directly with FCMs and thus may engage in futures trading generally in the same manner as other futures customers. This, coupled with the fact that third-party custodial accounts may present not insignificant regulatory concerns, as well as costs and burdens for market participants, leads the Division to believe that Interpretation No. 10 is no longer necessary or justified, except in certain limited circumstances. In this notice, the Division is inviting comments concerning Interpretation No. 10 and specifically, whether Interpretation No. 10 should be withdrawn.

DATES: Comments must be received on or before April 4, 2005.

ADDRESSES: Comments should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5521, by e-mail to *secretary@cftc.gov,* or electronically by accessing *http://www.regulations.gov.* Reference should be made to ''Proposed Withdrawal of Interpretation No. 10.''

FOR FURTHER INFORMATION CONTACT: Carlene S. Kim, Senior Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5613.

SUPPLEMENTAL INFORMATION:

I. Interpretation No. 10

Section 4d(a)(2) of the CEA and related Commission regulations require that, among other things, all funds deposited with an FCM to purchase, margin, guarantee, or secure futures or commodity options transactions and all accruals thereon, be accounted for separately by the FCM and deposited under an account name that clearly identifies them as such, not be commingled with the FCM's own funds, and be held for the benefit of customers.[4] The segregation requirements are intended to prevent an FCM from using customer property to margin the trades of other customers or of the FCM itself. Further, the Division has interpreted the segregation requirements to preclude any impediments or restrictions on the FCM's ability to obtain the immediate access to customer funds.[5] The immediate and unfettered access requirement avoids potential delay or interruption in securing required margin payments that, in times of significant market disruption or otherwise, could magnify the impact of such market

[1] 7 U.S.C. 6d(a)(2). The Commission segregation requirements are set forth in Regulations 1.20–1.30, 132 and 1.36 [17 CFR 1.20–1.30, 1.32 and 1.36].

[2] *See* Financial and Segregation Interpretation No. 10, Treatment of Funds Deposited in Safekeeping Accounts, Comm. Fut. L. Rep. (CCH) ¶ 7120 (May 23, 1984).

[3] Until immediately prior to the issuance of Interpretation No. 10, the Department of Labor (''DOL'') viewed customer margin as client assets for purposes of the custody requirements and certain other fiduciary provisions of the Employee Retirement Income Security Act of 1974 (''ERISA'') [29 U.S.C. 1001–1461], requiring separate safekeeping of such assets. Since then, and currently, DOL subscribes to the view that such assets are not client assets for purposes of ERISA.

[4] U.S.C. 6(d)(a)2).

[5] *See also,* note 16, Interpretation No. 10, citing Administrative Determination No. 29 of the Commodity Exchange Authority, the Commission's predecessor agency, dated September 28, 1937, which stated in pertinent part that ''the deposit, by a futures commission merchant, of customer funds * * * under conditions whereby such funds would not be subject to withdrawal upon demand would be repugnant to the spirit and purpose of the Commodity Exchange Act. All funds deposited in a bank should in all cases be subject to withdrawal on demand.''

disruption and impair the liquidity of other FCMs and clearinghouses.

At the time that T&M issued Interpretation No. 10, institutional participation in the futures market was on the rise. Certain of these institutional participants—including pension plans and RICs—sought to use bank custodial accounts to hold margin under circumstances that raised questions about whether the accounts would be deemed properly segregated for purposes of Section 4d(a)(2) of the CEA. For example, RICs were prohibited from using FCMs and futures clearinghouses as custodians of their assets.[6] They were, however, permitted (but not required) to maintain a bank custodial account under the name of an FCM to hold initial margin under an arrangement whereby the FCM would be permitted to dispose of the funds in the account upon default by the investment company in making a required margin payment.[7]

In view of the fact that RICs were barred from depositing customer funds directly with an FCM or a futures clearinghouse, and that third-party custodial arrangements represented their sole means of utilizing the risk management tools offered by the futures markets, T&M issued Interpretation No. 10 to allow third-party custodial accounts to be deemed properly segregated within the meaning of Section 4d(a)(2) of the CEA, under conditions designed to ensure that FCMs have immediate and unfettered access to customer funds in the third-party custodial accounts.[8] Specifically, an FCM could consider funds maintained in a third-party bank custodial account to be properly segregated if: (i) The account were maintained in the name of the FCM carrying the account, for the benefit of the customer; (ii) the FCM could liquidate open positions if the account became undermargined or went into deficit, without obtaining permission from a third party custodian of the account; (iii) the FCM could withdraw funds from the account upon demand with no right of the customer (or its fiduciary) to stop, interrupt or otherwise interfere with such withdrawal and the customer (and its fiduciary) could not withdraw or otherwise have access to the funds in the account except through the FCM; (iv) the account would not be located in a bank which was an affiliate or fiduciary of the customer; and (v) any release of funds to the customer from the account would be preceded by a notice to and consent of the carrying FCM.

II. Developments Concerning Interpretation No. 10

Today RICs may directly deposit customer margin with FCMs and futures clearing houses and thus participate in futures trading generally in the same manner as other futures customers. In 1996 the SEC adopted rule 17f–6, which permits, but does not require a RIC to maintain its assets with an FCM in connection with futures transactions effected on U.S. and foreign exchanges, provided that the FCM is not an affiliate of the RIC.[9] As a result, Interpretation No. 10 is no longer necessary in most cases for RICs to participate in the futures market.

This, considered together with the potentially significant supervisory risks associated with the use of third-party accounts in connection with futures trading, make it necessary and appropriate to consider the withdrawal of Interpretation No. 10. Specifically, third-party custodial accounts continue to raise concerns about potential systemic liquidity risks which could result from any potential diversion of FCM capital to cover undermargined customer accounts, which would otherwise be available for use in the marketplace. These risks may be heightened in times of market volatility when liquidity is most critical. In addition, initial margin requirements typically rise during such periods, creating additional stress on FCM resources.

In addition, the holding of customer margin in any such account has and continues to present both some uncertainty as to the treatment of funds in the event of an FCM insolvency,[10] and some potential for funds to be inadvertently released from the account without the prior knowledge or consent of the FCM.[11] For these reasons, the Division solicits comments on whether Interpretation No. 10 should be withdrawn, except in the following limited circumstance. Specifically, an FCM would be permitted to rely on Interpretation No. 10 to the extent that it is not eligible to hold RIC assets under SEC rule 17f–6.[12] The Division believes that retaining the application of Interpretation No. 10 in this limited circumstance would be appropriate because to do otherwise would require a RIC that clears through an FCM that is its affiliate (or an affiliate of its adviser) to alter existing clearing arrangements with potentially undue disruption and cost.

The Division notes that the withdrawal of Interpretation No. 10 would not forbid the use of such accounts but, rather, would mean that funds in such accounts would not be deemed properly segregated under Section 4d(a)(2) and therefore could not be included in an FCM's required daily computation of total customer amount of customer funds on deposit in segregated accounts.

III. Request for Comments.

The Division is requesting comments on whether withdrawal of Interpretation No. 10 would have any adverse impact on institutional customers, such as pension plans or RICs, or their ability to participate in the futures market and

[6] *See* Section 17(f) of the Investment Company Act, 15 U.S.C. 80a–17(f). At that time (but no longer), under Section 17(f) and related rules RICs were generally permitted to maintain their assets only in the custody of a bank, a member of a national securities exchange, or a national securities depository. FCMs and futures clearinghouses did not fall within one of these categories. In this regard, the SEC did not adopt the position taken by DOL, which did not view customer margin as client assets for purposes of the custody requirements and certain other fiduciary provisions of the ERISA.

[7] This relief was available pursuant to SEC staff no-action letters and exemptive orders. Other conditions to the relief required that prior to directing any disposition of funds, the FCM represent that all conditions precedent to its right to direct disposition have been satisfied. In addition, the RIC, when it had the right to receive variation payment from an FCM, was required to promptly demand such payment. *See, e.g.,* Prudential-Bache IncomeVertible Plus Fund, Inc., SEC No-Action Letter (Nov. 20, 1985), available at 1985 SEC No-Act. LEXIS 2782.

[8] While specifically directed to the third-party accounts of pension plans and RICs, the views expressed in the interpretation applied equally to any other customer of an FCM (*e.g.,* an insurance company). See Interpretation No. 10, Comm. Fut. L. Rep. (CCH) ¶ 7120, note 1.

[9] Investment Company Act Rule 17f–6(b)(3) [17 CFR 270.17f–6(b)(3)]. Specifically, a RIC may not place fund assets with an FCM that is an affiliate of the fund or its adviser. Other conditions in the rule provide that the manner in which an FCM maintains fund assets must be governed by a written contract and any gains on fund transactions must be maintained with the carrying FCM only in de minimis amounts.

[10] The Division's position is that third-party custodial accounts are subject to the U.S. Bankruptcy Code and applicable provision in the CEA, which provide that customer assets relating to futures transactions generally have priority over other creditors' claims, and are subject to distribution based on each customer's pro data share of the available customer property. 11 U.S.C. 766; Commission rule 190.18 [17 CFR 190.08]. However, this issue has not been judicially determined.

[11] *See also* Staff Advisory entitled ''Responsibilities of Futures Commission Merchants and Relevant Depositories with Respect to Third Party Custodial Accounts'' (July 25, 1996) (''Advisory)'', available at *http://www.cftc.gov/opa/press96/opa37–96.htm.* The Advisory addressed certain third-party custodial practices and arrangements that appeared to be, or could be implemented in a manner that is, inconsistent with the terms and conditions of Interpretation No. 10.

[12] As discussed above, under Rule 17f–6, a RIC may not deposit fund assets with any FCM that is an affiliate of the fund or its adviser.

whether there are any legal or prudential considerations that support the use by institutional customers of third-party custodial accounts in effecting futures transactions. In addition, the Division is seeking comments on the costs and expenses incurred by FCMs, including financing and potential opportunity costs, in connection with maintaining third-party accounts relative to regular customer accounts. Finally, the Division would expect that any withdrawal of Interpretation No. 10 would be made effective not less than six months following the publication of a final notice. The Division seeks comment on whether the six-month time period is appropriate and sufficient for FCMs and banks to make the necessary adjustments with respect to third-party custodial arrangements.

Dated: January 27, 2005.

By the Division of Clearing and Intermediary Oversight.

James L. Carley,

Director, Division of Clearing and Intermediary Oversight.

[FR Doc. 05–1907 Filed 2–1–05; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its Learn and Serve America (hereinafter ''LSA'') Grant Applications. These applications are used by current and prospective grantees to apply for funds to support K–12 School-Based Formula, Competitive and Indian Tribe and Territory Set-aside programs; Community-Based programs; and Higher Education programs. Completion of the grant application is required to be considered for or obtain grant funding support from LSA.

Copies of the information collection requests can be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 4, 2005.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through the Corporation's e-mail address system to Mr. Mark Abbott at *mabbott@cns.gov.*

(2) By fax to: (202) 565–2787, Attention Mark Abbott.

(3) By mail sent to: Corporation for National and Community Service, Learn and Serve America, 9th Floor, Attention Mark Abbott, 1201 New York Avenue, NW, Washington, DC 20525.

(4) By hand delivery or by courier to the Corporation's mailroom at Room 6010 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Abbott, (202) 606–5000, ext. 120.

SUPPLEMENTARY INFORMATION:

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submissions of responses).

I. Background

The Learn and Serve America Grant Application is completed by applicant organizations interested in managing a service-learning program directly or administering grant funds to other eligible organizations to manage service-learning programs. The application is completed electronically using eGrants, the Corporation's Web-based grants management system.

The Corporation seeks to renew and revise the current applications. When revised, the application will update eGrants instructions to reflect the new, Web-based user interface for eGrants; shorten background information on Learn and Serve America and clarify guidance on development of program performance measures. The application will otherwise be used in the same manner as the existing application. The Corporation will continue using the current application until the revised application is approved by OMB.

II. Current Action

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Learn and Serve America Grant Applications.

OMB Numbers: 3045–0045 for Learn and Serve America School and Community-Based Application Instructions and 3045–0046 for Learn and Serve America Higher Education Instructions.

Agency Number: SF 424–NSSC.

Affected Public: Current/prospective recipients of Learn and Serve America Grants.

Total Respondents: 600. (400 for 3045–0045 and 200 for 3045–0046)

Frequency: Annually, with exceptions.

Average Time Per Response: 12 hours for first time respondents and 5 hours for revisions (3045–0045 and –0046); 6 hours for Continuation grantees and 2 hours for revisions.

Estimated Total Burden Hours: 10,200 New grantees (2045–0045 & 0046); 1200 Total Burden Hours for Continuing grantees.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 27, 2005.

Mark Abbott,

Associate Director for Grants Management, Learn and Serve America.

[FR Doc. 05–1932 Filed 2–1–05; 8:45 am]

BILLING CODE 6050–$$–P