

8. The Commission's interpretation of the Rule 30.7 secured amount requirement will apply to all regulated activities with all new and existing foreign futures and foreign options customers as of October 11, 2000. The Commission's interpretation does not alter any other requirement set forth in Rule 30.7 or any other section of Part 30.

Dated: Issued in Washington, D.C. on October 5, 2000.

Jean A. Webb,

Secretary of the Commission.

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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:** The Commodity Futures Trading Commission ("Commission" or "CFTC") is amending the orders issued pursuant to Rule 30.10 to the New Zealand Futures and Options Exchange, the Montreal Exchange, the Sydney Futures Exchange, the U.K. Securities and Futures Authority, the U.K. Investment Management Regulatory Organisation Limited, and the Singapore Exchange Derivatives Trading Limited. The amendment reflects the Commission's revised interpretation of the Rule 30.7 foreign futures or foreign options secured amount requirement ("secured amount requirement") as it applies to both futures commission merchants ("FCMs") and certain foreign firms exempt from such registration. Specifically, the Commission has determined to revise its interpretation of Rule 30.7 to clarify the obligations of an FCM or a firm exempt from FCM registration in accordance with Rule 30.10 concerning the treatment of funds of foreign futures or foreign options customers under Rule 30.7. The Commission's revised interpretation of the secured amount requirement is set out in a revised appendix issued concurrently with this release and published elsewhere in today's **Federal Register**.

**EFFECTIVE DATE:** October 11, 2000.

#### FOR FURTHER INFORMATION CONTACT:

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

#### Order Amending Prior Orders Issued Pursuant to Rule 30.10 to the New Zealand Futures and Options Exchange, the Montreal Exchange, the Sydney Futures Exchange, the U.K. Securities and Futures Authority, the U.K. Investment Management Regulatory Organisation Limited, and the Singapore Exchange Derivatives Trading Limited

##### I. Background

Part 30 of the Commission's rules sets forth rules governing foreign futures<sup>1</sup> and foreign option<sup>2</sup> transactions. Under Rule 30.10, the Commission may exempt a foreign firm acting in the capacity of a futures commission merchant ("FCM") from registration under the Commodity Exchange Act ("Act") and compliance with certain Commission rules based upon the firm's compliance with comparable regulatory requirements imposed by the firm's home-country regulator or self-regulatory organization ("SRO").<sup>3</sup> Once the Commission determines that the foreign jurisdiction's regulatory structure offers comparable regulatory oversight, the Commission may issue an Order granting general relief subject to certain conditions.<sup>4</sup> Firms seeking confirmation of relief (referred to herein as "Rule 30.10 firms") must make certain representations set forth in the Rule 30.10 Order issued to the regulator or SRO from the firm's home country.<sup>5</sup>

<sup>1</sup> "Foreign futures" as defined in Part 30 means "any contract for the purchase or sale of any commodity for future delivery made, or to be made, on or subject to the rules of any foreign board of trade." Rule 30.1(a). Commission rules referred to herein are found at 17 CFR Ch. I (2000).

<sup>2</sup> "Foreign option" as defined in Part 30 means "any transaction or agreement which is or is held out to be of the character of, or is commonly known to the trade as, an 'option,' 'privilege,' 'indemnity,' 'bid,' 'offer,' 'put,' 'call,' 'advance guaranty,' or 'decline guaranty,' made or to be made on or subject to the rules of any foreign board of trade." Rule 30.1(b).

<sup>3</sup> The specific elements examined by the Commission in evaluating whether the particular foreign regulatory program provides a basis for issuing an order pursuant to Rule 30.10 are set forth in Appendix A to Part 30. See 52 FR 28990, 29001 (August 5, 1987).

<sup>4</sup> These conditions require the regulator or SRO responsible for monitoring the compliance of the firm with the regulatory requirements described in the Rule 30.10 petition to make certain representations regarding the fitness of each firm seeking to receive confirmation of Rule 30.10 relief, the protections to be afforded to U.S. Customers, and the exchange of information with the Commission. See 62 FR 47792, 47793, n.7 (September 11, 1997).

<sup>5</sup> For a list of representations typically required of each Rule 30.10 firm, see 62 FR 47792, 47793, n.8.

In certain cases, where a foreign regulator or SRO has requested that firms subject to its jurisdiction to be granted broader relief to engage in transaction on exchanges other than in its home jurisdiction (referred to herein as "expanded relief"), the relief has been granted where the relevant authority has represented that it will monitor its firms for compliance with the terms of the order in connection with such offshore transactions.<sup>6</sup> Although Rule 30.10 orders generally exempt foreign intermediaries from compliance with the secured amount requirement under Rule 30.7, firms seeking confirmation of the expanded relief must represent that, with respect to transactions entered into on behalf of U.S. customers on any non-U.S. exchange located outside their home country, they will treat U.S. customer funds in a manner consistent with the provisions of Rule 30.7.

The orders granting expanded relief require Rule 30.10 firms to either set aside funds constituting the secured amount requirement in a separate account: (1) As set forth in the relevant order for expanded relief (see below), (2) as set forth in Rule 30.7 (treating those funds in the manner prescribed by that rule), or (3) in compliance with either of the above procedures, with the amount required to be segregated under local law to be substituted for the secured amount. The alternative secured amount requirement described within each order for expanded relief states, in relevant part:

The separate account or accounts referred to [herein] may be deemed a good secured amount depository only if the [firm] obtains and retains in its files for the period required by applicable law and [exchange or SRO] rules, a written acknowledgment from such separate account depository that:

<sup>6</sup> The Commission has issued orders granting expanded relief to the U.K. Investment Management Regulatory Organisation ("IMRO") 62 FR 10449 (March 7, 1997), the U.K. Securities and Futures Association ("SFA") 62 FR 10447 (March 7, 1997), New Zealand Futures and Options Exchange ("NZFOE"), 61 FR 64985 (December 10, 1996), the Montreal Exchange, 62 FR 8875 (February 27, 1997) and the Sydney Futures Exchange ("SFE"), 62 FR 10445 (March 7, 1997). In addition, the Commission has authorized members of the Singapore International Monetary Exchange, now known as the Singapore Exchange Derivatives Trading Limited ("SGX-DT"), to solicit and accept orders from U.S. customers for otherwise permitted transactions on Eurex Deutschland, 64 FR 50248 (September 16, 1999). Although applicants for Rule 30.10 orders generally have obtained relief from transactions entered into from within their home country before seeking expanded relief applicable to transactions entered into on an exchange located outside their borders, e.g., IMRO, the Commission has combined the two forms of relief into one single order, e.g., NZFOE.

- It was informed that such money, securities or property are held for or on behalf of customers of the [firm]; and
- It will ensure that such money, securities or property will be held and treated in accordance with the provisions of this paragraph; and, *provided further, that the [firm] assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the [firm] has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described [herein].* (emphasis added)

In other words, the Commission required each Rule 30.10 firm with expanded relief to perform an inquiry before customer funds were sent to another intermediary, and to take appropriate action (*i.e.*, set aside funds in a "mirror" account) in the event that it became aware of facts leading it to conclude that U.S. customer funds were not being handled consistent with this requirement by any intermediary or exchange clearing organization beyond the initial depository. The Commission further stated that "[the secured amount] requirement [set forth herein] is intended to ensure that funds provided by U.S. customers for foreign futures and options transactions, whether held at a U.S. FCM under Rule 30.7(c) or a firm exempted from registration as an FCM under CFTC Rule 30.10, will receive equivalent protection at all intermediaries and exchange clearing organizations."<sup>7</sup>

## II. Amendment

Upon further analysis and reconsideration of this matter, the Commission has determined to revise its interpretation of the secured amount requirement set forth in Rule 30.7 and the orders for expanded relief. As set forth in Appendix B to Part issued concurrently with this order, the Commission believes that existing written risk disclosures provide foreign futures and foreign options customers with notice that the treatment of customer funds outside the U.S. may differ from the treatment of customer funds inside the U.S. The Commission also believes that the initial depository's ability to identify customer funds affords foreign futures and foreign options customers a measure of protection in the event that the intermediating firm becomes insolvent. Accordingly, the Commission believes that the Rule 30.7 acknowledgment required of certain Rule 30.10 firms should apply only to the maintenance of the account or accounts containing

foreign futures and foreign options customer funds by the initial depository.

Appendix B provides that FCMs and certain Rule 30.10 firms need not maintain mirror accounts, provided that they obtain from the initial depository the acknowledgment described in Rule 30.7 and that they furnish a written disclosure statement to customers concerning treatment of customer funds by other jurisdictions set forth either in Rule 1.55(b)(7) or paragraphs 6 and 8 of Appendix A to Rule 1.55(c), or in a comparable disclosure statement prescribed by the firm's home country regulator. The Commission believes that Rule 30.10 firms transacting business for foreign futures and foreign option customers outside of the firms' jurisdictions should be able to operate in a similar fashion. Accordingly, if a Rule 30.10 firm operating pursuant to an order for expanded relief receives from the initial depository the acknowledgment described in Rule 30.7 and furnishes to foreign futures and foreign option customers the written disclosure statement set forth either in Rule 1.55(b)(7) or paragraphs 6 and 8 of Appendix A to Rule 1.55(c), or a comparable disclosure statement prescribed by its home country regulator, then it may include all funds maintained in the account or accounts in calculating its secured amount requirement. Should a Rule 30.10 firm fail to receive from the initial depository the required acknowledgment or to furnish the required risk disclosure, then it must set aside funds with an acceptable depository and receive from such depository the required acknowledgment.

## III. Conclusion and Order

The Commission has determined to revise its interpretation of the secured amount requirement. For drafting purposes, the Commission has determined to amend the alternative secured amount requirement set forth in prior Rule 30.10 orders for expanded relief to track as closely as possible the language of Rule 30.7. In addition, the Commission is adding to each order the requirement that each Rule 30.10 firm furnish to each foreign futures and foreign option customer a risk disclosure statement containing the language set forth either in Rule 1.55(b)(7) or paragraphs 6 and 8 of Appendix A to Rule 1.55(c), or a comparable disclosure statement prescribed by the firm's home country regulator. For the sake of clarity, the Commission also is deleting from each order granting expanded relief the footnote describing the obligation to

perform an inquiry with respect to depositories beyond the initial depository and, if necessary, to set aside funds. These amendments are made to the following orders:

### NZFOE (61 FR 64988-89)

The text of paragraphs describing the secured amount requirement is amended to read:

II. Each Dealer seeking rule 30.10 relief hereunder must apply in writing whereby it:

\* \* \* \* \*

K. With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange other than the NZFOE and the SFE<sup>20</sup> [footnote unchanged], whether by the Dealer directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, complies with paragraphs 1 or 2 below:

1.a. Must maintain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its current obligations to U.S. customers denominated as the foreign futures or foreign options secured amount;

\* \* \* \* \*

e. Each Member must obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgment from a depository identified in paragraph d.(1)-(4) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations.

f. Each Member must provide each foreign futures and foreign options customer with one of the written disclosure statements in (1), (2) or (3) below:

(1) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

<sup>7</sup> For the most recent order, see 64 FR 50248, 50251, n.19 (SGX-DT).

(2) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade

OR

(3) A comparable disclosure statement prescribed by the NZFOE; or

2. Must comply with the terms and procedures of paragraph 1, with the amount required to be segregated under NZFOE rules and New Zealand laws to be substituted for the secured amount requirement as set forth in paragraph 1.<sup>21</sup> [formerly footnote 22]

\* \* \* \* \*

For the sake of clarity, the Commission notes that language similar to the following HAS BEEN STRICKEN from each order, using the NZFOE order as an example:

1. \* \* \*

*e. The separate account or accounts referred to in paragraph 1.a. may be deemed to be a good secured amount depository only if the Dealer obtains and retains in its files for the period required by Exchange rules, a written acknowledgment from such separate account depository that:*

*(1) It was informed that such money, securities or property are held for or on behalf of customers of the Dealer; and*

*(2) It will ensure that such money, securities or property will be held and treated at all times effectively in accordance with the provisions of this paragraph; and, provided further, that the Dealer assures itself that such separate account depository will not pass on such money, securities, or property to any other depository unless the Dealer has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in this paragraph 1 herein;<sup>21</sup> [footnote 21 deleted]*

2. Must set aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission rule 30.7, 17 CFR 30.7 (2000), and treat those funds in the manner described by that rule.

\* \* \* \* \*

### **The Montreal Exchange (62 FR 8875, 8876)**

The text of paragraphs describing the secured amount requirement is amended to read:

Accordingly, the expanded relief permitted Montreal Exchange Member firms to engage in foreign futures and [foreign] options transactions for U.S. customers other than on the Montreal Exchange under this Supplemental Order will be contingent upon compliance by the Exchange Member firm with the following additional conditions:

\* \* \* \* \*

(6) With respect to transactions effected on any non-U.S. futures and options exchange on behalf of U.S. customers, whether by the Montreal Exchange Member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, complies with paragraph 1 below:

1.a. Must maintain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its current obligations to U.S. customers denominated as the foreign futures or foreign options secured amount;

\* \* \* \* \*

e. Each Member must obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgement from a depository identified in paragraph d.(1)–(4) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations.

f. Each Member must provide each foreign futures and foreign options customers with one of the written disclosure statements in (1), (2) or (3) below:

(1) Foreign futures transactions involve executing and clearing trades on a foreign, exchange. This is the case even if the foreign exchange is formally “linked” to a domestic exchange whereby a trade executed on exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, refunds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

(2) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(3) A comparable disclosure statement prescribed by the Exchange; or

\* \* \* \* \*

### **SFE (62 FR 10445, 1044)**

The text of paragraphs describing the secured amount requirement is amended to read:

Accordingly, the Commission has determined to clarify that the relief set forth in the expanded relief authorized pursuant to the 1993 Order is applicable only if the Exchange Member firm complies with the following procedures, which are consistent with the requirements applicable to commission registered FCMs concerning the protection of customer funds under the provisions of [Rule 30.7]: [footnote 6 unchanged]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange other than the NZFOE<sup>7</sup> [footnote 7 unchanged] and the SFE, whether by the SFE member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the SFE member complies with paragraphs a or b below:

a.(1) Must maintain in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

\* \* \* \* \*

(5) Each member must obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgement from a depository identified in paragraph (4)(a)–(d) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and

are being held in accordance with the provision of these regulations.

(6) Each member must provide each foreign futures and foreign options customer with one of the written disclosure statements in (a), (b) or (c) below:

(a) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

(b) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(c) A comparable disclosure statement prescribed by SFE; or

b. Complies with the terms and procedures of paragraph a, except that the amount required to be segregated under SFE rules and Australian laws may be substituted for

the secured amount requirement as set forth in such paragraphs.<sup>8</sup> [formerly footnote 9]

\* \* \* \* \*

#### SFA (62 FR 10448, 10449)

The text of paragraphs describing the secured amount requirement is amended to read:

Accordingly, the Commission has determined to clarify that the relief authorized in its Original Order with respect to transactions on [an exchange other than a U.K. Recognized Investment Exchange] is applicable only if an SFA member firm complies with the following procedures, which are consistent with the requirements applicable to Commission registered futures commission merchants ("FCMs") concerning the protection of customer funds under the provisions of [Rule 30.7]:<sup>6</sup> [footnote 6 unchanged]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange which is a DIE, whether by the SFA Member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the SFA member complies with paragraphs a or b below:

a.(1) Maintains in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

\* \* \* \* \*

(5) Each member must obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgment from a depository identified in paragraph (4)(a)-(d) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations.

(6) Each member must provide each foreign futures and foreign options customer with one of the written disclosure statements in (a), (b) or (c) below:

(a) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally "linked" to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds

received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

(b) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(c) A comparable disclosure statement prescribed by SFA; or

b. Complies with the terms and procedures of paragraph a, except that the amount required to be segregated under SFA rules and United Kingdom laws may be substituted for the secured amount requirement as set forth in paragraph a.<sup>8</sup> [formerly footnote 9]

\* \* \* \* \*

#### IMRO (62 FR 10449, 10450)

The text of paragraphs describing the secured amount requirement is amended to read:

Accordingly, the Commission has determined to clarify that the relief authorized in its Original Order with respect to transactions on [an exchange other than a U.K. Recognized Investment Exchange] is applicable only if an IMRO member firm complies with the following procedures, which are consistent with the requirements applicable to Commission registered futures commission merchants ("FCMs") concerning the protection of customer funds under the provisions of [Rule 30.7]:<sup>6</sup> [footnote 6 unchanged]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange which is a DIE, whether by the IMRO Member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the IMRO member complies with paragraphs a or b below:

a.(1) Maintains in a separate account or accounts money, securities and property in

an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

\* \* \* \* \*

(5) Each member must obtain and retain in its files for the period required by applicable law and IMRO rules an acknowledgment from a depository identified in paragraph (4)(a)–(d) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations.

(6) Each member must provide each foreign futures and foreign options customer with one of the written disclosure statements in (a), (b) or (c) below:

(a) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally “linked” to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution, delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

(b) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular

transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(c) A comparable disclosure statement prescribed by IMRO.

b. Complies with the terms and procedures of paragraph a, except that the amount required to be segregated under IMRO rules and United Kingdom laws may be substituted for the secured amount requirement as set forth in paragraph a.7 [formerly footnote 8]

\* \* \* \* \*

#### SGX-DT (64 FR 50248, 50250–51)

The text of paragraphs describing the secured amount requirement is amended to read:

The expanded Rule 30.10 relief provided under this Supplemental Order, however, is contingent upon SGX-DT’s and SGX-DT Member’s compliance with certain conditions below.

\* \* \* \* \*

(5) With respect to transactions effected on Eurex on behalf of U.S. customers, whether by the SGX-DT Member directly as a clearing member of Eurex or through the intermediation of one or more intermediaries, the SGX-DT Member complies with paragraphs 1 or 2 below:

1.a. Must remain in a separate account or accounts money, securities and property in an amount at least sufficient to cover or satisfy all of its current obligations to U.S. customers denominated as the foreign futures or foreign options secured amount;

\* \* \* \* \*

e. Each Member must obtain and retain in its files for the period required by applicable law and Exchange rules an acknowledgment from a depository identified in paragraph d.(1)–(4) above that the depository was informed that such money, securities or property are held for or on behalf of foreign futures and foreign options customers and are being held in accordance with the provision of these regulations.

f. Each Member must provide each foreign futures and foreign options customer with one of the written disclosure statements in (1), (2) or (3) below:

(1) Foreign futures transactions involve executing and clearing trades on a foreign exchange. This is the case even if the foreign exchange is formally “linked” to a domestic exchange whereby a trade executed on one exchange liquidates or establishes a position on the other exchange. No domestic organization regulates the activities of a foreign exchange, including the execution,

delivery and clearing of transactions on such exchange, and no domestic regulator has the power to compel enforcement of the rules of the foreign exchange or the laws of the foreign country. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs. For these reasons, customers who trade on foreign exchanges may not be afforded certain of the protections which apply to domestic transactions, including the right to use alternative dispute resolution. In particular, funds received from customers to margin foreign futures transactions may not be provided the same protections as funds received to margin futures transactions on domestic exchanges. Before you trade, you should familiarize yourself with the foreign rules which will apply to your particular transaction.

OR

(2) You should familiarize yourself with the protections accorded money or property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specified legislation or local rules. In some jurisdictions, property which has been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. You local regulatory authority will be unable to compel the enforcement of the rules of the regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the firm with which you deal for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

OR

(3) A comparable disclosure statement prescribed by SGX-DT.

2. Complies with the terms and procedures of paragraph 1, except that the amount required to be segregated under SGX-DT rules and Singapore law may be substituted for the secured amount requirement as set forth in paragraph 1.

\* \* \* \* \*

Issued in Washington, DC on October 5, 2000.

Jean A. Webb,

*Secretary of the Commission.*

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