

word “itself” with the word “themselves”.

2. On page 27620, in the first column, in the 42nd line, add a period followed by two spaces between “airport”) and “DOT’s”.

3. On page 27651, in the first column, in the 11th line, replace “382.5” with “382.7.”

4. On the same page, in the second column, in the 27th line, replace “382.5” with “382.7.”

5. On page 27654, in the first column, in the 29th and the 30th lines, delete the first word “would” from the phrase “if doing so would not result” so it reads “if doing so would result”.

6. On the same page in the same column, in the 34th line, delete the word “should” from the phrase “service would should allow” so it reads “service would allow”.

7. On page 27665, in the first column, in the 35th and the 36th lines, revise the phrase “mall carrier use the same airport” so it reads “Small carriers using the same airport. \* \* \*”

8. On the same page, in the same column, in the 50th line, delete the word “a” that was between the words “the” and “present” so the phrase reads “the present value”.

#### B. Corrections to the Final Rule

#### List of Subjects in 14 CFR Part 382

Air carriers, Consumer protection, Individuals with disabilities, Reporting and recordkeeping requirements.

■ Accordingly, 14 CFR Part 382 is corrected by making the following correcting amendments:

#### PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL; STOWAGE OF WHEELCHAIRS, OTHER MOBILITY AIDS, AND OTHER ASSISTIVE DEVICES

■ 1. The authority citation for Part 382 continues to read as follows:

Authority: 49 U.S.C. 41705.

■ 2. In § 382.7, revise paragraph (f) to read as the follows:

#### § 382.7 To whom do the provisions of this Part apply?

\* \* \* \* \*

(f) If you are an indirect carrier, §§ 382.1 through 382.15 of this Part apply to you. §§ 382.17 through 382.157 of this Part do not apply to you except insofar as provided by § 382.11(b).

\* \* \* \* \*

■ 3. In § 382.11, revise paragraph (b) to read as the follows:

#### § 382.11 What is the general nondiscrimination requirement of this Part?

\* \* \* \* \*

(b) As an indirect carrier, you must comply with §§ 382.17 through 382.157 of this Part when providing facilities or services to passengers that would have otherwise been provided by a direct air carrier.

■ 4. In § 382.23, revise the last sentence of paragraph (d) to read as the follows:

#### § 382.23 May carriers require a passenger with a disability to provide a medical certificate?

\* \* \* \* \*

(d) \* \* \* If the results of this medical review demonstrate that the passenger, notwithstanding the medical certificate, is likely to be unable to complete the flight without requiring extraordinary medical assistance (e.g., the passenger has apparent significant difficulty in breathing, appears to be in substantial pain, etc.) or would pose a direct threat to the health or safety of other persons on the flight, you may take an action otherwise prohibited under § 382.21(a) of this Part.

■ 5. In § 382.27, revise paragraph (a) to read as the follows:

#### § 382.27 May a carrier require a passenger with a disability to provide advance notice in order to obtain certain specific services in connection with a flight?

(a) Except as provided in paragraph (b) of this section and §§ 382.133(c)(4) and (5) and 382.133 (d)(5) and (6), as a carrier you must not require a passenger with a disability to provide advance notice in order to obtain services or accommodations required by this Part.

\* \* \* \* \*

#### § 382.51 [Amended]

■ 6. In § 382.51, amend the last sentence of paragraph (b) by replacing the word “part” with “Part”.

■ 7. In § 382.111, revise the first sentence of paragraph (e) and revise paragraph (f) to read as the follows:

#### § 382.111 What services must carriers provide to passengers with a disability on board the aircraft?

\* \* \* \* \*

(e) Assistance in stowing and retrieving carry-on items, including mobility aids and other assistive devices stowed in the cabin (*see also* 382.91(d)).

(f) Effective communication with passengers who have vision impairments or who are deaf or hard-of-hearing, so that these passengers have prompt access to information the carrier provides to other passengers (e.g. weather, on-board services, flight

delays, connecting gates at the next airport).

■ 8. In § 382.151, revise paragraph (a) and amend paragraph (c)(1) by adding the phrase “to do so” after the phrase “provide the passenger a means” to read as follows:

#### § 382.151 What are the requirements for providing Complaints Resolution Officials?

(a) As a carrier providing service using aircraft with 19 or more passenger seats, you must designate one or more CROs.

\* \* \* \* \*

■ 9. In § 382.153, revise the introductory text to read as the follows:

#### § 382.153 What actions do CROs take on complaints?

When a complaint is made directly to a CRO for a carrier providing service using aircraft with 19 or more passenger seats, the CRO must promptly take dispositive action as follows:

\* \* \* \* \*

■ 10. In § 382.155, revise paragraph (a) by eliminating the reference to scheduled and nonscheduled services so the pertinent language reads as follows:

#### § 382.155 How must carriers respond to written complaints?

(a) As a carrier providing service using aircraft with 19 or more passenger seats, you must respond to written complaints received by any means (e.g., letter, fax, e-mail, electronic instant message) concerning matters covered buy this Part.

\* \* \* \* \*

Issued on July 21, 2010 at Washington, DC, under authority delegated in 49 CFR 1.57(j).

Robert S. Rivkin,  
General Counsel.

[FR Doc. 2010-18531 Filed 7-29-10; 8:45 am]

BILLING CODE 4910-9X-P

#### DEPARTMENT OF COMMERCE

#### Bureau of Industry and Security

#### 15 CFR Parts 732, 736, 740, and 748

[Docket No. 080215200-91321-01]

RIN 0694-AE27

#### Foreign Direct Products of U.S. Technology

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) clarifies the scope of the

“direct product rule” set forth in the Export Administration Regulations (EAR). Under the EAR’s “direct product rule,” foreign-made items that are located outside of the United States; subject to national security controls under the EAR; the direct product of U.S.-origin software or technology that requires a written assurance as a supporting document for a license or as a pre-condition for use of License Exception Technology and Software, Restricted (TSR); and are being reexported to a destination in a country of national security concern or a terrorist supporting country, are subject to the EAR and require an export license or license exception. This rule also makes parallel revisions or clarifications to written assurances required under License Exception TSR (Technology and Software Restricted), information required on the license application for national security controlled technology, and the instructional steps in the EAR that provide guidance on how to apply the direct product rule.

**DATES:** *Effective Date:* This rule is effective July 30, 2010.

**ADDRESSES:** Although this rule is in final form, written comments may be submitted via <http://www.regulations.gov>; by e-mail directly to BIS at [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov); in hardcopy to U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th and Pennsylvania Ave., NW., Room H-2705, Washington, DC 20230; or by fax to (202) 482-3355. Please insert “0694-AE27” in the subject line of the written comments.

**FOR FURTHER INFORMATION CONTACT:** Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, at (202) 482-2440 or by e-mail: [sccook@bis.doc.gov](mailto:sccook@bis.doc.gov).

Comments regarding the collections of information associated with this rule, including suggestions for reducing the burden, should be sent to OMB Desk Officer, New Executive Office Building, Washington, DC 20503, Attention: Jasmeet Seehra, or by e-mail to [Jasmeet\\_K\\_Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov), or by fax to (202) 395-7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Direct Product Rule**

Items subject to the Export Administration Regulations (EAR) include items located in the United States, wherever they are produced;

items of “U.S. origin,” that is, those produced in the United States, wherever they are located; and certain foreign produced items, including items subject to the EAR only on the basis of the “direct product rule.” The “direct product rule” is found in General Prohibition No. 3, section 736.2(b)(3) of the EAR, and in section 734.3(a)(4). Under the “direct product rule” as amended, foreign-made items are subject to the EAR and require an export license or license exception, if such items are:

- Located outside of the United States;
- Subject to national security controls under the EAR;
- The direct product of U.S.-origin software or technology that requires a written assurance as a supporting document for a license or as a pre-condition for use of License Exception Technology and Software, Restricted (TSR); and
- Being reexported to a destination in Country Group D:1 and E:1 of Supplement No. 1 to part 740.

As discussed in section 732.2(f), it is necessary to determine whether an item is potentially subject to the “direct product rule” only with regard to foreign-produced items located in foreign countries.

This final rule changes the “direct product rule” as it is codified in the EAR, by expanding the country scope of the rule from Country Group D:1 and Cuba to Country Group D:1 and E:1 (Cuba, Iran, North Korea, Sudan, and Syria). This change is being made to bring the “direct product rule” into harmony with the policies the United States maintains against terrorist supporting countries in Country Group E:1.

##### **Part 732—Steps for Using the EAR**

This rule amends section 732.2, “Steps Regarding Scope of the EAR,” by revising paragraph (f)(1)(i) in “Step 6: Foreign-made items produced with certain U.S. technology for export to specified destinations,” specifically paragraph (f)(1)(i) and amending section 732.3, “Steps Regarding the Ten General Prohibitions,” by revising paragraph (f)(1)(ii) “Step 11: Foreign-produced direct product” to expand the country scope of these steps to include all the countries in Country Group E:1, namely, Cuba, Iran, North Korea, Sudan, and Syria. Because this part of the EAR is merely guidance, it will not affect the paperwork burden of the public.

##### **License Exception TSR (Technology and Software Restricted)**

A “License Exception” is an authorization contained in part 740 of the EAR that allows export or reexport under stated conditions of items subject to the EAR that would otherwise require a license under the provisions of the EAR. License Exception TSR, found in section 740.6 of the EAR, authorizes exports and reexports of certain technology and software to destinations in Country Group B of Supplement No. 1 to part 740 of the EAR. Eligible technology and software are those that require a license for national security reasons only, and are identified by “TSR—Yes” in Export Control Classification Numbers (ECCNs) on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). Prior to using this license exception, a written assurance as described in section 740.6 of the EAR must be obtained from the consignee. This assurance is required as a preventative measure against diversion or release of U.S.-origin technology, a national security-controlled foreign direct product of such technology, and a national security-controlled foreign direct product of a plant or manufacturing equipment made from such technology to Cuba or countries with which the U.S. has national security concerns and nationals thereof. This rule expands the country scope covered by this assurance to include all the countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. License Exception TSR is subject to the restrictions of section 740.2 of the EAR that apply to all license exceptions in part 740 of the EAR. This revision will have no effect on the paperwork burden of exporters using License Exception TSR.

##### **License Applications for Shipments That Include U.S.-Origin Technology**

In addition to the instructions contained in Supplement No. 1 to part 748 that describe how to submit an application to BIS, section 748.9 and Supplement No. 2 to part 748 of the EAR set out requirements that license applicants must address for certain items or types of transactions. This rule revises the instructions under paragraph (i), “Parts, components, and materials incorporated abroad into foreign-made products” by expanding the country scope to include all the countries in Country Group E:1. With the publication of this rule, paragraph (i)(2)(x) now states that if the foreign-made product is the direct product of U.S.-origin technology, and U.S.-origin technology will accompany a shipment

to a country listed in Country Group D:1 or E:1 (see Supplement No. 1 to part 740 of the EAR), Block 24 must describe the type of technology and how it will be used. This change is being made to conform to the changes being made elsewhere in this rule to the "direct product rule." The effect of this amendment on the paperwork burden hours for filling out a license application is negligible, as there are rarely transactions involving these items to countries in Country Group E:1.

#### Export Administration Act

Since August 21, 2001, the Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*).

#### Saving Clause

Shipments of items removed from license exception eligibility or from eligibility for export without a license as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on July 30, 2010, pursuant to actual orders for export to a foreign destination, may proceed to that destination under the previous license exception eligibility, or without a license, so long as they have been exported from the United States before September 28, 2010. Any such items not actually exported before midnight, on September 28, 2010, require a license in accordance with this regulation.

#### Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves two collections of information subject to the PRA. One of the collections has been approved by OMB under control number 0694-0088, "Multi Purpose Application," and carries a burden hour estimate of 58

minutes for a manual or electronic submission. The other collection has been approved by OMB under control number 0694-0106, "Reporting and Recordkeeping Requirements under the Wassenaar Arrangement," and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to Jasmeet Sehra, OMB Desk Officer, by e-mail at [Jasmeet.K.Sehra@omb.eop.gov](mailto:Jasmeet.K.Sehra@omb.eop.gov) or by fax to (202) 395-7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6622, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. BIS implements the "direct product rule" to require licenses for the reexport of items controlled for national security reasons to countries in Country Groups D:1 and E:2. If this rule were delayed to allow for notice and comment and a delay in the effective date, it would provide additional time to the embargoed countries, which are being added to the list of countries for which the direct product rule applies, to receive items without a license, contrary to the foreign policy and national security of the United States. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce,

14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230.

#### List of Subjects

##### 15 CFR Part 732

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

##### 15 CFR Part 736

Exports.

##### 15 CFR Parts 740 and 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

■ Accordingly, Parts 732, 736, 740 and 748 of the Export Administration Regulations (15 CFR Parts 730-774) are amended as follows:

#### PART 732—[AMENDED]

■ 1. The authority citation for Part 732 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701-1706; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 2. Section 732.2 is amended by revising paragraph (f)(1)(i) to read as follows:

##### § 732.2 Steps regarding scope of the EAR.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(i) *Country scope of prohibition.* Your reexport destination for the foreign-produced direct product is a destination in Country Group D:1 or E:1 (see Supplement No. 1 to part 740 of the EAR) (reexports of foreign-produced direct products to other destinations are not subject to General Prohibition Three);

\* \* \* \* \*

■ 3. Section 732.3 is amended by revising paragraph (f)(1)(i), to read as follows:

##### § 732.3 Steps regarding the ten general prohibitions.

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(i) *Country scope of prohibition.* Your reexport destination for the direct product is a destination in Country Group D:1 or E:1 (see Supplement No. 1 to part 740 of the EAR) (reexports of foreign-produced direct products to other destinations are not subject to General Prohibition Three described in § 736.2(b)(3) of the EAR);

\* \* \* \* \*

**PART 736—[AMENDED]**

■ 4. The authority citation for Part 736 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 5. Section 736.2 is amended by revising paragraph (b)(3)(i), to read as follows:

**§ 736.2 General prohibitions and determination of applicability.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(i) *Country scope of prohibition.* You may not, without a license or license exception, reexport any item subject to the scope of this General Prohibition Three to a destination in Country Group D:1 or E:1 (See Supplement No. 1 to part 740 of the EAR).

\* \* \* \* \*

**PART 740—[AMENDED]**

■ 6. The authority citation for Part 740 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

**§ 740.6 [Amended]**

■ 7. Section 740.6 is amended by removing the reference to “E:2” and adding in its place “E:1” in paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), (a)(2)(i) and (a)(2)(ii).

**PART 748—[AMENDED]**

■ 8. The authority citation for Part 748 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 9. Supplement No. 2 to Part 748 is amended by removing the reference to “E:2” and adding in its place “E:1” in paragraph (i)(2)(x) and twice in paragraph (o)(3)(i).

Dated: July 23, 2010.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2010-18733 Filed 7-29-10; 8:45 am]

**BILLING CODE 3510-33-P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 190

**RIN 3038-AC90**

### Operation, in the Ordinary Course, of a Commodity Broker in Bankruptcy

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (the “Commission”) is amending its regulations regarding the operation of a commodity broker in bankruptcy, in order to permit the trustee in such bankruptcy to operate, with the written permission of the Commission, the business of such commodity broker in the ordinary course, including the purchase or sale of new commodity contracts on behalf of the customers of such commodity broker, under appropriate circumstances, as determined by the Commission.

**DATES:** *Effective Date:* The final rules are effective as of August 30, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Robert B. Wasserman, Associate Director, Division of Clearing and Intermediary Oversight, 202-418-5092, [rwasserman@cftc.gov](mailto:rwasserman@cftc.gov); or Alicia L. Lewis, Attorney-Advisor, Division of Clearing and Intermediary Oversight, 202-418-5862, [alewis@cftc.gov](mailto:alewis@cftc.gov); Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On December 16, 2009, the Commission published a Notice of Proposed Rulemaking, which proposed to amend Regulation 190.04(d) to permit a trustee, under appropriate circumstances, to operate the business of a commodity broker in bankruptcy in the ordinary course, including the purchase or sale of new commodity contracts on behalf of the customers of such commodity broker (the “Notice”).<sup>1</sup> The proposed rule stated that the appropriateness of a particular set of

circumstances would be determined by the Commission in its discretion, and such operation would require the written permission of the Commission.

The public comment period on the Notice ended on January 15, 2010. The Commission received two comments<sup>2</sup> during the comment period: (i) One from the trustee of a futures commission merchant (“FCM”) that was sold as a going concern in bankruptcy<sup>3</sup> and (ii) one from a futures industry trade association.<sup>4</sup>

Collectively, the comments raise the following five (5) concerns with the Notice:

- The Commission’s proposed rule is premature.
- The Commission staff should not be responsible for operating the FCM-related business of an insolvent FCM/broker-dealer.
- The Commission’s proposed rule is overly broad as it does not specify all circumstances the Commission will consider in authorizing a trustee to operate the business of an FCM and provide the public with an opportunity to comment on these circumstances.
- The Commission should work with the Securities and Exchange Commission and the Securities Investor Protection Corporation to develop uniform procedures to guide a trustee of an insolvent FCM/broker-dealer in the absence of legislative changes.
- The Commission should grant immunity to a bankruptcy trustee, who is to operate the business of a commodity broker, in the limited operation of the business.

The Commission will address below each of the five concerns.

#### II. Concern That the Commission’s Proposed Rule Is Premature

FIA stated that further action on the proposed rule is premature as the House of Representatives has passed a financial services reform bill which instructs the Commission, in coordination with the Securities and Exchange Commission (“SEC”) and several bank regulatory authorities, to recommend, within 180 days of the bill’s enactment, legislative changes to the federal insolvency laws to, among

<sup>2</sup> For purposes of this release, a comment letter is referenced by: (i) Its author, (ii) its file number (as shown in the comment file associated with the Notice on the Commission’s Web site), and (iii) the page (if applicable). The comment file associated with the Notice is available at <http://www.cftc.gov/LawRegulation/FederalRegister/CommentFiles/09-034.html>.

<sup>3</sup> Albert Togut of Togut, Segal & Segal LLP (Trustee for Refco, LLC) (“Refco Trustee”) (CL01).

<sup>4</sup> The Futures Industry Association (representing the commodity futures and options industry) (“FIA”) (CL02).