

Aquatic Release Conservation ((877) 411-4272), 1870 Mason Ave., Daytona Beach, FL 32117.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following items with them to the workshop:

Individual vessel owners must bring a copy of the appropriate permit(s), a copy of the vessel registration or documentation, and proof of identification.

Representatives of a business owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable permit(s), and proof of identification.

Vessel operators must bring proof of identification.

Workshop Objectives

The protected species safe handling, release, and identification workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish. Identification of protected species will also be taught at these workshops in an effort to improve reporting. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal for these workshops is to provide participants the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

Grandfathered Permit Holders

Participants in the industry-sponsored workshops on safe handling and release of sea turtles that were held in Orlando, FL (April 8, 2005) and in New Orleans, LA (June 27, 2005) were issued a NOAA workshop certificate in December 2006 that is valid for three years. Grandfathered permit holders must include a copy of this certificate when renewing limited access shark and limited access swordfish permits each year. Failure to provide a valid NOAA workshop certificate may result in a permit denial.

Dated: December 3, 2007.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. E7-23697 Filed 12-5-07; 8:45 am]

BILLING CODE 3510-22-S

COMMODITY FUTURES TRADING COMMISSION

Notice of Request for Comment on Exemption Requests

AGENCY: Commodity Futures Trading Commission.

Requests to extend, pursuant to the exemptive authority in section 4(c) of the Commodity Exchange Act, the exemption granted under Part 35 of the Commission's regulations to certain over-the-counter swaps that do not otherwise meet certain of the requirements imposed by Commission Regulation 35.2 and to determine that, subject to certain conditions, floor brokers and floor traders are eligible swap participants.

SUMMARY: The Commodity Futures Trading Commission ("CFTC" or "Commission") is requesting comment on whether to extend the exemption granted under Part 35 of the Commission's regulations to certain over-the-counter ("OTC") swaps that do not meet certain of the requirements otherwise imposed by Commission Regulation 35.2. This exemption has been requested by ICE Clear U.S., Inc. ("ICE Clear"), a registered derivatives clearing organization. The Commission is also requesting comment on whether ICE Futures U.S., Inc. ("ICE Futures U.S.") floor traders and floor brokers who are registered with the Commission, when trading for their own accounts, may be determined to be eligible swap participants and permitted to enter into certain specified OTC swap transactions. This exemption has been requested by ICE Futures U.S., a designated contract market. Authority for extending this relief is found in Section 4(c) of the Commodity Exchange Act ("CEA" or "Act").¹

DATES: Comments must be received on or before January 7, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/http://frwebgate.access.gpo/cgi-bin/leaving>. Follow the instructions for submitting comments.

- *E-mail:* secretary@cftc.gov. Include "ICE Clear Section 4(c) Request" in the subject line of the message.

- *Fax:* 202-418-5521.

- *Mail:* Send to David A. Stawick, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

¹ 17 U.S.C. § 6(c).

- *Courier:* Same as mail above.

All comments received will be posted without change to <http://www.CFTC.gov/>.

FOR FURTHER INFORMATION CONTACT: Lois J. Gregory, Special Counsel, 816-960-7719, lgregory@cftc.gov, or Robert B. Wasserman, Associate Director, 202-418-5092, rwasserman@cftc.gov, Division of Clearing and Intermediary Oversight; or Duane C. Andresen, Special Counsel, 202-418-5492, dandresen@cftc.gov, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The ICE Clear Petition

ICE Clear, the clearing organization for ICE Futures U.S., seeks to offer eligible swap participants who enter into certain bilateral swap transactions involving coffee, sugar, or cocoa the opportunity to submit them to ICE Clear for clearing. ICE Clear has represented that swap transactions in various agricultural products, including coffee, sugar, and cocoa, currently trade in OTC markets exempt from provisions of the CEA pursuant to Part 35 of the Commission's regulations. These are commonly swap agreements entered into by participants exchanging fixed for floating reference prices. Participants in these markets include trade houses, commodity lenders, producers, end users, and large speculators.

Part 35 of the Commission's regulations² exempts swap agreements and eligible persons entering into these agreements from most provisions of the Act.³ The term "swap agreement" is defined to include, among other types of agreements, "a * * * commodity swap,"⁴ which latter term includes swaps on agricultural products.⁵ Part 35 was promulgated pursuant to authority provided to the Commission in Section 4(c) of the Act to exempt certain transactions in order to promote innovation and competition.⁶ Various exemptions and exclusions were subsequently added to the Act by the Commodity Futures Modernization Act

² 17 CFR Part 35.

³ Jurisdiction is retained for, *inter alia*, provisions of the CEA proscribing fraud and manipulation. See Commission Reg. § 35.2, 17 CFR § 35.2 (Commission regulations are hereinafter cited as "Reg. §").

⁴ Reg. § 35.1(b)(1)(i).

⁵ "Commodity" is defined in Section 1a(4) of the Act to include a variety of specified agricultural products, "and all other goods and articles, except onions * * * and all services, rights and interests in which contracts for future delivery are presently or in the future dealt in."

⁶ See 58 F.R. 5587 (January 22, 1993).

of 2000 ("CFMA"),⁷ but none apply to agricultural contracts.⁸

Part 35 requires, *inter alia*, that a swap agreement not be part of a fungible class of agreements that are standardized as to their material economic terms⁹ and that the creditworthiness of any party having an interest under the agreement be a material consideration in entering into or negotiating the terms of the agreement.¹⁰ Under the arrangement that ICE Clear seeks to establish, OTC contracts would be submitted for clearing, a process that would extinguish the original OTC contract and replace it with an equivalent number of cash-settled "cleared-only" futures contracts, with the clearinghouse interposed as central counterparty.¹¹ A cleared-only contract could be offset by another cleared-only contract. Thus, clearing of these OTC contracts would result in contracts that are fungible with other cleared-only contracts with approximately equivalent terms. In addition, the creditworthiness of the counterparty would not be a consideration. Accordingly, the OTC contracts ICE Clear would clear in the fashion proposed would not fulfill all of the conditions of Part 35.

However, Part 35 further invites "any person [to] apply to the Commission for exemption from any of the provisions of the Act * * * for other arrangements or facilities." ICE Clear has petitioned the Commission for an order under Section 4(c) of the Act that would permit cleared OTC swaps involving coffee, sugar, and cocoa to be exempt on the same basis as other swaps are exempt under Part 35.

II. The ICE Futures U.S. Petition

ICE Futures U.S. seeks to permit floor traders and floor brokers (collectively, floor members) who are registered with the Commission, when trading for their own accounts, to enter into the OTC swap transactions discussed above. Part 35, however, defines the term eligible swap participant ("ESP") to include floor members only as follows: (1) Floor members generally who are other than natural persons or proprietorships; (2) floor members who are natural persons, provided they have total assets

exceeding at least \$10,000,000; or (3) floor members who are proprietorships, provided they have total assets exceeding at least \$10,000,000, or have the obligations under the swap agreement guaranteed or otherwise supported by certain other ESPs, or have a net worth of \$1,000,000 and enter into the swap agreement in connection with the conduct of their business or to manage the risk of an asset or liability owned or incurred in the conduct of their business.¹² ICE Futures U.S. has petitioned the Commission for an order under Section 4(c) of the Act that would permit all ICE Futures U.S. floor members who are registered with the Commission, when trading for their own accounts, to be ESPs for the purpose of entering into bilateral swap transactions involving agricultural commodities as described above.

ICE Futures U.S. represents that all floor members entering into the swap transactions would be sophisticated and knowledgeable in the relevant products and markets and would be fully capable of evaluating the transactions. Further, because the transaction results in a cleared-only futures contract, floor members would not be subject to counterparty credit risk and would rely on the credit of ICE CLEAR and their clearing futures commission merchants ("FCMs").

The Commission anticipates that any Section 4(c) order issued in response to this request would be subject to the following conditions:

(1) The contracts, agreement or transactions would have to be executed pursuant to the requirements of Part 35, as modified herein.

(2) The ICE Futures U.S. floor member would have to obtain a financial guarantee for the OTC swap transactions from an ICE Futures U.S. clearing member that:

(i) Is registered with the Commission as an FCM; and

(ii) Clears the OTC swap transactions thus guaranteed.

(3) Permissible OTC swap transactions would be limited to "cleared-only" contracts in the following eligible products: cocoa, coffee and sugar.

(4) Permissible OTC swap transactions would have to be submitted for clearance by an ICE Futures U.S. clearing member to ICE Clear pursuant to ICE Clear Rules.

(5) An ICE Futures U.S. floor member could not enter into OTC swap transactions with another ICE Futures

U.S. floor member as the counterparty for ICE Clear "cleared-only" contracts.

(6) ICE Futures U.S. would maintain appropriate compliance systems in place to monitor the OTC swap transactions of its floor members.¹³

III. Section 4(c) of the Commodity Exchange Act

Section 4(c)(1) of the CEA empowers the CFTC to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions from any of the provisions of the CEA (subject to exceptions not relevant here) where the Commission determines that the exemption would be consistent with the public interest.¹⁴ The Commission may grant such an exemption by rule, regulation, or order, after notice and opportunity for hearing, and may do so on application of any person or on its own initiative.

In enacting Section 4(c), Congress noted that the goal of the provision "is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective

¹³ These conditions are substantially similar to the conditions included in two previously issued Commission orders that permit floor members to be eligible contract participants ("ECPs") pursuant to Section 1a(12)(C) of the Act, 7 U.S.C. 1a(12)(C). On March 14, 2006, the Commission issued an order that permitted Chicago Mercantile Exchange floor members to be ECPs with respect to OTC transactions in excluded commodities entered into pursuant to Section 2(d)(1) of the Act. On August 3, 2006, the Commission issued an order that permitted New York Mercantile Exchange floor members to be ECPs with respect to OTC transactions in exempt commodities entered into pursuant to Section 2(h)(1) of the Act.

¹⁴ Section 4(c)(1) of the CEA, 7 U.S.C. 6(c)(1), provides in full that:

In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated or registered as a contract market or derivatives transaction execution facility for transactions for future delivery in any commodity under section 7 of this title) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) of this section (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a) of this section, or from any other provision of this chapter (except subparagraphs (c)(ii) and (D) of section 2(a)(1) of this title, except that the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) of this title), if the Commission determines that the exemption would be consistent with the public interest.

⁷ Pub. L. 106-554, 114 Stat. 2763 (2000).

⁸ See, e.g., CEA §§ 2(d), (g) and (h).

⁹ Reg. § 35.2(b).

¹⁰ Reg. § 35.2(c).

¹¹ The OTC transaction would be required to involve the coffee, sugar, or cocoa underlying the corresponding cleared-only contract. The unit size, quality, and other specifications for the OTC coffee, sugar, or cocoa transaction would be approximately equivalent to the unit size, quality, and other specifications of the corresponding physical delivery futures contract listed on ICE Futures.

¹² Reg. § 35.1(b)(2)(x).

and competitive manner.”¹⁵ Permitting the clearing of OTC coffee, sugar, and cocoa transactions by ICE Clear, as well as permitting ICE Futures U.S. floor members to trade such products, as discussed above, may foster both financial innovation and competition. It may benefit the marketplace by providing ESPs the ability to bring together flexible negotiation with central counterparty guarantees and capital efficiencies. The CFTC is requesting comment on whether it should exempt the OTC transactions in coffee, sugar, and cocoa that are proposed to be cleared through ICE Clear as described above, in the same fashion as are other contracts that are exempt pursuant to Part 35 of the Commission’s regulations. The CFTC is also requesting comment on whether it should determine ICE Futures U.S. floor members, subject to certain conditions, to be ESPs for the purpose of entering into the OTC transactions in coffee, sugar and cocoa.

Section 4(c)(2) provides that the Commission may grant exemptions only when it determines that the requirements for which an exemption is being provided should not be applied to the agreements, contracts, or transactions at issue, and the exemption is consistent with the public interest and the purposes of the CEA; that the agreements, contracts or transactions will be entered into solely between appropriate persons; and that the exemption will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory responsibilities under the CEA.¹⁶

The purposes of the CEA include “promot[ing] responsible innovation and fair competition among boards of trade, other markets, and market

participants.”¹⁷ It may be consistent with these and the other purposes of the CEA, and with the public interest, for the OTC contracts described herein and submitted for clearing as described herein to be exempt as are other contracts under Part 35 of the Commission’s regulations. However, the exception of agricultural commodities from the exemptions and exclusions provided under the CFMA for OTC transactions may be relevant to the analysis. Accordingly, the CFTC is requesting comment as to whether an exemption from the requirements of the CEA should be granted in the context of these transactions and these potential participants.

Section 4(c)(3) includes within the term “appropriate persons” a number of specified categories of persons deemed appropriate under the Act for entering into transactions exempt by the Commission under Section 4(c). This includes persons the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections. ESPs, as defined in Part 35 of the Commission’s regulations, will be eligible to submit for clearing to ICE Clear the OTC transactions described above. That definition includes many of the classes of persons explicitly referred to in CEA Section 4(c)(3) (e.g., a bank or trust company) as well as some classes of persons who are included under the category of Section 4(c)(3)(K) (“[s]uch other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections”). The Commission is proposing to include as appropriate persons for this extended relief under Part 35 all of the persons who meet the definition of ESP in Commission Regulation § 35.1(b)(2). For the purposes of the extended relief requested by ICE Futures U.S., the Commission is also proposing to expand upon this list of appropriate persons to include, as discussed above, ICE Futures U.S. floor members. The Commission seeks comment on this determination.

In light of the above, the Commission also is requesting comment as to whether these exemptions will affect its ability to discharge its regulatory responsibilities under the CEA, or with the self-regulatory duties of any contract market or derivatives clearing organization.

¹⁷ CEA § section 3(b), 7 U.S.C. 5(b). See also CEA § section 4(c)(1), 7 U.S.C. § 6(c)(1) (purpose of exemptions is “to promote responsible economic or financial innovation and fair competition”).

IV. Request for Comment

The Commission requests comment on all aspects of the issues presented by these exemption requests.

V. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”) ¹⁸ imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The exemption would not, if approved, require a new collection of information from any entities that would be subject to the exemption.

B. Cost-Benefit Analysis

Section 15(a) of the CEA,¹⁹ requires the Commission to consider the costs and benefits of its action before issuing an order under the CEA. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of an order or to determine whether the benefits of the order outweigh its costs. Rather, Section 15(a) simply requires the Commission to “consider the costs and benefits” of its action.

Section 15(a) of the CEA further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular order was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

The Commission is considering the costs and benefits of an exemptive order in light of the specific provisions of Section 15(a) of the CEA, as follows:

1. *Protection of market participants and the public.* The contracts that are the subject of the exemptive request will only be entered into by persons who are “appropriate persons” as set forth in Section 4(c) of the Act.

2. *Efficiency, competition, and financial integrity.* Extending the exemption granted under Part 35 to

¹⁸ 44 U.S.C. § 3507(d).

¹⁹ 7 U.S.C. § 19(a).

¹⁵ House Conf. Report No. 102–978, 1992 U.S.C.C.A.N. 3179, 3213.

¹⁶ Section 4(c)(2) of the CEA, 7 U.S.C. 6(c)(2), provides in full that:

The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) of this section unless the Commission determines that—

(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory duties under this Act.

these swap agreements to allow them to be cleared may promote liquidity and transparency in the markets for OTC derivatives on coffee, sugar, and cocoa, as well as on futures on those commodities. Extending the exemption also may promote financial integrity by providing the benefits of clearing to these OTC markets. Determining ICE Futures U.S. floor members to be ESPs may increase the flow of trading information between markets, increase the pool of potential counterparties for participants trading OTC, and provide essential trading expertise to the market.

3. *Price discovery.* Price discovery may be enhanced through market competition.

4. *Sound risk management practices.* Clearing of OTC transactions may foster risk management by the participant counterparties. ICE Clear's risk management practices in clearing these transactions would be subject to the Commission's supervision and oversight.

5. *Other public interest considerations.* The requested exemption may encourage market competition in agricultural derivative products without unnecessary regulatory burden.

After considering these factors, the Commission has determined to seek comment on the exemption requests as discussed above. The Commission also invites public comment on its application of the cost-benefit provision.

* * * * *

Issued in Washington, DC, on November 30, 2007 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E7-23635 Filed 12-5-07; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF DEFENSE

Office of Secretary

[DOD-2007-OS-0130]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice to Add a System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to add a system of records notices to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on January 7,

2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279-8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676-6045.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 29, 2007 to the House Committee on Oversight and Government Reform, the Senate Committee on Government Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated December 12, 2000, 65 FR 239.

Dated: November 30, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

T7901

SYSTEM NAME:

Standard Finance and Accounting Payment System.

SYSTEM LOCATIONS:

Defense Information Systems Agency, Defense Enterprise Computing Center-St Louis, Post Office Box 20012, St. Louis, MO 63120-0012.

Defense Finance and Accounting Service—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249-2700.

Defense Finance Accounting Service—Columbus, 3990 East Broad Street, Building 21, Columbus OH 43213-2317.

Defense Finance and Accounting Service—Kansas City, 1500 E. Bannister Street, Kansas City, MO 64197-0001.

For a list of other DFAS, U.S. Army, and Marine Corps sites utilizing the system contact the Standard Finance System, Redesigned Subsystem, System Manager, Defense Finance and Accounting Service—Indianapolis, Information Technology Directorate, 8899 East 56th Street, Indianapolis, IN 46249-2700. Telephone number (317) 510-4003.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military members (Army and U.S. Marine Corps), Reserve and Guard military members, Army Military Academy cadets, Army Reserve Officer Training Corps (ROTC) students, DoD contractors, and vendors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), home address, and military branch of service, military status, disbursing and accounting transaction data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Department of Defense Financial Management Regulation (DoDFMR) 7000.14-R, Volume 5; 31 U.S.C. Sections 3511, 3512, and 3513; and E.O. 9397 (SSN).

PURPOSE(S):

The system processes payments and collections utilizing the Electronic Funds Transfer system. It is a multi-functional, interactive, automated disbursing and accounting system composed of several functional modules that perform vendor pay, travel pay, and military payroll payment. Defense Finance and Accounting Service, U.S. Army, and Marine Corps will use the system for processing accounting and disbursing transactions in contingency locations requiring foreign currency operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal Reserve banks to distribute payments made through the direct deposit system to financial organizations or their processing agents authorized by individuals to receive and deposit payments in their accounts.

The 'Blanket Routine Uses' published at the beginning of the DoD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Name and Social Security Number (SSN).