

maturity of such agreement. In the event, however, that such agreement is amended or renewed for any reason, then such agreement shall not be deemed a satisfactory subordination agreement unless the amended or renewed agreement meets the requirements of this section.

\* \* \* \* \*

■ 6. Section 1.18 is amended by revising paragraph (b) to read as follows:

**§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.**

\* \* \* \* \*

(b)(1) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 17 business days after the date for which the computations are made, commencing the first month end after the date the application for registration is filed.

(2) An applicant or registrant that has filed a monthly Form 1-FR or Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (FOCUS report) in accordance with the requirements of § 1.10(b) will be deemed to have satisfied the requirements of paragraph (b)(1) of this section for such month.

\* \* \* \* \*

Issued in Washington, DC, on August 5, 2004, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 04-18349 Filed 8-11-04; 8:45 am]

BILLING CODE 6351-01-P

**COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Part 30**

**RIN 3038-AB45**

**Foreign Futures and Foreign Options Transactions**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (Commission or CFTC) is amending part 30 of the Commission's regulations to clarify the circumstances under which a foreign futures and options broker (FFOB) that is a member of a foreign board of trade must register or obtain an exemption from registration. The Commission has amended Rule 30.4(a) to clarify that FFOBs are not required to register as futures commission merchants (FCMs) pursuant to Rule 30.4, or to seek exemption from registration under Rule 30.10, if they only carry the following types of U.S.-related accounts that trade on or are subject to the rules of non-U.S. exchanges: Customer omnibus accounts for U.S. FCMs; U.S. affiliate accounts that are proprietary to the FFOB; and/or U.S. accounts that are proprietary to a U.S. FCM. In addition, an FFOB that has U.S. bank branches will be eligible for a Rule 30.10 comparability exemption or exemption from registration under Rule 30.4 based upon compliance with conditions specified in Rule 30.10(b)(1)-(6) and thereby will be able to carry any U.S.-related account for trades on non-U.S. exchanges. The Commission has also deleted Rule 30.4(e), which required an FCM registered under part 30 to maintain a U.S. office.

**EFFECTIVE DATE:** September 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Patent, Deputy Director, or Susan A. Elliott, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5439 or (202) 418-5464, or electronic mail: [lpatent@cftc.gov](mailto:lpatent@cftc.gov) or [selliott@cftc.gov](mailto:selliott@cftc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Commission has adopted final rules that were first published for comment on August 26, 1999,<sup>1</sup> and republished on April 6, 2004.<sup>2</sup> The Commission proposed amending part 30 of its rules to clarify when foreign futures and options brokers that are

<sup>1</sup> 64 FR 46613 (August 26, 1999).

<sup>2</sup> 69 FR 17998 (April 6, 2004). The reproposal was substantially the same, except that the 1999 proposal required an entity with a U.S. bank branch applying for a Rule 30.10 exemption to file a specified set of representations with the National Futures Association (NFA), while the 2004 reproposal listed the representations as conditions for compliance with the exemption, in order to reduce the paperwork necessitated by the rule amendments.

members of a foreign board of trade or affiliates of U.S. FCMs must register under the Act or obtain an exemption from registration under the Act.

The Commission's part 30 rules govern, generally, the solicitation and sale of foreign futures<sup>3</sup> and foreign option<sup>4</sup> contracts to customers<sup>5</sup> located in the U.S. Rule 30.4(a) requires any person who solicits or accepts orders and money for foreign futures or foreign option contracts from foreign futures or foreign options customers<sup>6</sup> to register as an FCM under the Act. Rule 30.10 permits any person to seek exemption from any provision of part 30.

Under Rule 30.10 and Appendix A thereto, the CFTC may exempt an FFOB from compliance with certain rules, including those rules pertaining to registration, provided that a comparable regulatory system exists in the firm's home country and that certain safeguards are in place to protect U.S. investors. This exemption process requires that the CFTC issue an Order pursuant to Rule 30.10 granting general relief to the foreign regulator or self-regulatory organization and that individual firms be granted confirmation of relief upon proper application. Generally, a firm that confirms relief under Rule 30.10 must be located outside the U.S. and this relief permits a firm to solicit or accept orders from U.S.-located customers for trading on or subject to the rules of exchanges located outside of the U.S.

**II. Final Rules**

*A. Registration Exemptions*

As explained in the rule proposal, the Commission believes that it can provide clarity to its registration requirements under part 30 by specifically addressing, in Rule 30.4, when registration by an FFOB is *not* required. Thus, the Commission has amended Rule 30.4(a)

<sup>3</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." Commission Rule 30.1(a).

<sup>4</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." Commission Rule 30.1(b).

<sup>5</sup> Pursuant to Commission Rule 30.1(c), "Foreign futures or foreign options customer" means "any person located in the United States, its territories or possessions who trades in foreign futures or foreign options: *Provided*, That an owner or holder of a proprietary account as defined in paragraph (y) of [Commission Rule 1.3] shall not be deemed to be a foreign futures or foreign options customer within the meaning of §§ 30.6 and 30.7 of this part."

<sup>6</sup> See n. 5, *supra*.

to clarify that FFOBs are not required to register as FCMs if they only carry the following types of U.S.-related accounts that trade on or subject to the rules of non-U.S. exchanges: (1) Foreign futures and options customer omnibus accounts<sup>7</sup> of U.S. FCMs; (2) its own proprietary accounts (including accounts of its U.S. affiliates and others whose accounts are "proprietary" to the FFOB under CFTC Rule 1.3(y)); and/or (3) proprietary accounts of a U.S. FCM. These FFOBs, however, otherwise remain subject to provisions of part 30 that are not dependent upon registration as an FCM, such as the antifraud provision of Rule 30.9. The exemption from registration is self-executing and does not require entities seeking to avail themselves of the exemption to file a petition under Rule 30.10.

An FFOB is eligible for Rule 30.10 relief notwithstanding the presence in the U.S. of a separately-incorporated *affiliate or subsidiary* that engages in a related activity if the following procedural requirements are met: (1) The applicant must identify the name and location of any affiliate or subsidiary in the U.S. which acts in a related capacity (*e.g.*, bank, broker-dealer or dealer in a cash commodity); (2) the applicant must represent that it will not accept any futures-related business from any of its affiliates or subsidiaries in the U.S. other than a proprietary account of the affiliate or subsidiary, unless such entities are registered with the CFTC in the appropriate capacity; and (3) the applicant must represent that it has informed its affiliates or subsidiaries in writing that they may not introduce to, or solicit futures business on behalf of, the applicant, unless such entities are registered with the CFTC in the appropriate capacity.

As explained in the rule proposal, in certain cases CFTC staff has permitted an FFOB with U.S. *bank branches* to obtain a Rule 30.10 exemption under certain conditions on the grounds that a bank branch is viewed as a separate legal entity in many respects under the U.S. federal bank regulatory scheme. This rule codifies those staff positions as set forth in interpretative statements and no-action letters.<sup>8</sup> The Commission is amending Rule 30.10 to clarify that an FFOB with U.S. bank branches may be eligible for confirmation of Rule 30.10 relief if it complies with the following conditions:

(1) No U.S. bank branch, office or division will engage in the trading of futures or options on futures within or from the U.S., except for its own account;<sup>9</sup>

(2) No U.S. bank branch, office or division will refer any foreign futures or foreign options customer to the FFOB or otherwise be involved in the FFOB's business in foreign futures and foreign option transactions;

(3) No U.S. bank branch, office or division will solicit any foreign futures or foreign options business or purchase or sell foreign futures or foreign option contracts on behalf of any foreign futures or foreign option customers or otherwise engage in any activity subject to regulation under Part 30 or engage in any clerical duties related thereto. If any U.S. division, office or branch desires to engage in such activities, it will only do so through an appropriate CFTC registrant;

(4) The FFOB will maintain outside the U.S. all contract documents, books and records regarding foreign futures and option transactions;

(5) The FFOB and each of its U.S. bank branches, offices or divisions agree to provide upon request of the Commission, the NFA or the U.S. Department of Justice, access to their books and records for the purpose of ensuring compliance with the undertakings and consent to make such records available for inspection at a location in the U.S. within 72 hours after service of the request;<sup>10</sup> and

(6) Although it will continue to engage in normal commercial activities, no U.S. bank branch, office or division will establish relationships in the U.S. with the broker's foreign futures and foreign options customers for the purpose of facilitating or effecting transactions in foreign futures and foreign option contracts in the U.S.

Pursuant to these rule amendments, an FFOB that is not required to register under Rule 30.4(a) because it solely carries a U.S. customer omnibus account, an account that would be classified as proprietary to the broker under Commission Rule 1.3(y), or a U.S. FCM's proprietary account, is also not required to register solely because it has U.S. bank branches, so long as it complies with the conditions specified in Rule 30.10(b)(1)-(6), as listed above.<sup>11</sup>

The main difference in the two types of exemptions referred to herein relate to whether the firm seeking exemption is otherwise regulated and what type of accounts it may handle. The exemptions in Rule 30.4 apply to any foreign firm, irrespective of whether it is a member of an exchange or other self-regulatory organization, or a regulatee of a foreign regulatory authority, that has received a Commission order under Rule 30.10. However, such an entity may only handle those U.S.-related accounts described above, customer omnibus or proprietary to itself or to a U.S. FCM. By contrast, the firm seeking confirmation of relief under Rule 30.10 must be otherwise regulated by an entity that has received a Commission order under Rule 30.10, which relief permits the firm to handle any U.S.-related accounts. In either case, if the firm in question has bank branches, the conditions set forth in Rule 30.10(b)(1)-(6) must be met.

The Commission's adoption of these rule amendments supercedes prior staff positions on these subjects.<sup>12</sup> Because

Japanese or Hong Kong FFOB are also subject to request by NFA and U.S. Department of Justice representatives, as is the case for an FFOB in any other jurisdiction.

<sup>11</sup> The rationale for providing relief to foreign firms with bank branches in the U.S. is that those branches are otherwise regulated by the banking authorities. Although this rationale would be inapplicable to non-bank branches, there may be other reasons why exemption from registration under part 30 would be appropriately granted upon application by Commission staff.

<sup>12</sup> See CFTC Staff Letter 87-7 (customer omnibus accounts), [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,972 (November 17, 1987); CFTC Staff Letter 88-15 (proprietary accounts), [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,296 (August 10, 1988); CFTC Staff Letter 89-5 (bank branches), [1987-1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,471 (December 8, 1988); and CFTC Staff Letter 89-11 (bank branches),

<sup>9</sup> That is, the "house" account of the entity. This is the "narrow" definition of the term "proprietary," as set forth in Commission Rule 1.17(b)(3).

<sup>10</sup> The Commission has recognized that Japanese and Hong Kong laws require that original books and records of any firm located within either country be maintained within the local jurisdiction. See CFTC Staff Letter 95-83 [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,559 at 43,490 (September 20, 1995) (no-action position permitting the Japanese and Hong Kong affiliates of a U.S. FCM to accept directly foreign futures and options orders from certain sophisticated U.S. customers); 62 FR 47792 (September 11, 1997) (extending the relief under CFTC Staff Letter 95-83 to the Japanese and Hong Kong affiliates of all U.S. FCMs). That letter is now superceded by this rule. For the purpose of this rulemaking, the Commission will allow foreign futures and options brokers in Japan and Hong Kong to satisfy the books and records requirement by: (1) Providing within 72 hours authenticated copies of its books and records upon request of a Commission, NFA or U.S. Department of Justice representative; (2) providing within 72 hours access to original books and records in the foreign jurisdiction; (3) waiving objection to the admissibility of the copies as evidence in a Commission, NFA or U.S. Department of Justice action against the foreign futures and options broker; and (4) agreeing in the event of a proceeding to provide a witness to authenticate copies of books and records given to the Commission, NFA, or the U.S. Department of Justice. The Commission is clarifying that the books and records from a

<sup>7</sup> "Foreign futures and options customer omnibus account" is defined at Rule 30.1(d), 17 CFR 30.1(d) (2003).

<sup>8</sup> See n. 12, *infra*.

the rule amendments contain no substantive changes to prior staff interpretative statements and no-action letters, no party should be disadvantaged. The new rules will make these staff positions more accessible and more widely understood and obviate the need for individualized relief.

Two comments were submitted in response to the Commission's reproposal. Both were generally supportive of the rule amendments. One comment suggested clarification of the applicability of amended Rule 30.4(a), because the preamble to the reproposal limited its applicability to FFOBs with foreign futures and foreign options customer omnibus accounts of U.S. FCMs "but [that] have no direct contact with the customers whose accounts comprise the omnibus accounts."<sup>13</sup> The commenter was concerned that the quoted phrase could be read as contradicting Commission Rule 30.12, which permits certain foreign firms to accept and to execute orders directly from U.S. customers without having to register with the Commission. In response to this comment, the Commission emphasizes that the amended Rule 30.4(a) in no way limits the scope of Rule 30.12.

#### B. U.S. Office

Finally, the Commission is deleting Rule 30.4(e) to eliminate an inconsistency and source of potential confusion. Rule 30.4(e) stated that "persons required to be registered as [an FCM] must maintain an office in the United States which is managed by an individual domiciled in the United States and registered with the Commission as an associated person." Rule 30.4(e) was originally adopted because of a concern that unscrupulous firms might establish their base of operations offshore.<sup>14</sup>

A few months after Rule 30.4(e) was adopted as a provision of the original Part 30 rules, a staff interpretation clarified that a policy basis for the provision was the assurance that a foreign FCM can produce its books and records—but that if it can otherwise demonstrate that capability and its willingness to do so, that is sufficient.<sup>15</sup>

[1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,516 (August 15, 1989).

<sup>13</sup> 69 FR 17988 at 17999 (April 6, 2004).

<sup>14</sup> 52 FR 28980 at 28990 (August 5, 1987).

<sup>15</sup> The letter, directed to NFA, stated that it would be "other good cause" to deny registration to a foreign-located firm "unless the applicant has an office in the United States, its territories or possessions, or the applicant is otherwise able to demonstrate that it has adopted appropriate procedures for producing its books and records in the United States expeditiously upon request, and the applicant can and does represent that it will

NFA implemented this interpretation and it is currently set forth in Rule 802. Paragraph (a)(9)(i) of that rule requires production of records in the U.S. on 72 hours' notice, except that FCMs must produce on 24 hours' notice except for good cause shown. A foreign applicant also certifies, per paragraph (a)(9)(iv), that it is not subject to any blocking, privacy or secrecy laws that would interfere with or create an obstacle to full inspection of the applicant's books and records by the CFTC, the Department of Justice, and NFA.

Although the coverage of Rule 30.4(e) was limited strictly to those persons required to register as FCMs under Rule 30.4 (and therefore engaged in transactions on or subject to the rules of foreign boards of trade), the provision has no counterpart with respect to trades done on designated contract markets by foreign firms, and does not include foreign-based commodity trading advisors (CTAs), commodity pool operators (CPOs) and introducing brokers (IBs).

In light of these factors, the Commission is revoking Rule 30.4(e). The Commission notes that foreign firms seeking to solicit or accept orders and funds related thereto from U.S.-located customers for transactions on non-U.S. exchanges do not apply for registration as FCMs under Rule 30.4, but instead submit the appropriate certification to confirm exemption relief granted by Commission order under Rule 30.10 to the firms' foreign regulator or self-regulatory organization. The Commission also notes that, as of September 30, 2004, there were more than 470 foreign-based IBs, CPOs and CTAs and the Commission has not observed any special concerns as a result.

### III. Related Matters

#### A. Administrative Procedure Act

The Administrative Procedure Act generally requires that, before an agency adopts a rule, the agency provide an opportunity for notice and comment thereon. That opportunity is not required, however, when the agency for good cause finds such procedure unnecessary. The Commission is eliminating Rule 30.4(e) without provision for notice and comment because such procedure is unnecessary, per section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B) (2004). Rule 30.4(e) has never been applied because, as

comply with such procedures." Staff Letter 87–10, [1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,999 (Dec. 9, 1987). (Emphasis in original.)

discussed above, foreign firms seeking to solicit or accept orders and funds related thereto from U.S.-located customers for transactions on non-U.S. exchanges do not apply for registration as FCMs under Rule 30.4, but instead submit the appropriate certification to confirm exemption relief granted by Commission order under Rule 30.10 to the firms' foreign regulator or self-regulatory organization. In addition, Rule 30.4(e) may be eliminated because its purposes are now accomplished by NFA's Rule 802, as discussed above.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.<sup>16</sup> In proposing these amendments to part 30, the Commission stated that they would affect foreign members of foreign boards of trade who perform the functions of an FCM, some of which may be foreign affiliates of U.S. FCMs. The Commission previously has determined that, based upon the fiduciary nature of the FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entities. No comment was received regarding the impact of these amendments on small businesses.

#### C. Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995,<sup>17</sup> the Commission submitted a copy of the proposed rule amendments to the Office of Management and Budget for its review. The Commission did not receive any public comments relative to its analysis of paperwork burdens associated with this rulemaking.

#### D. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, section 15(a) simply requires the Commission to "consider the costs and benefits" of its action. Section 15(a)

<sup>16</sup> 47 FR 18618–18621 (April 30, 1982).

<sup>17</sup> Pub. L. 104–13 (May 13, 1995).

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 rule 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 Act.

The Commission published an analysis of costs and benefits when it proposed the rule amendments that have now been adopted.<sup>18</sup> It did not receive any public comments pertaining to the analysis.

#### List of Subjects in 17 CFR Part 30

Definitions, Foreign futures, Foreign options, Reporting and recordkeeping requirements, Registration requirements.

■ In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4(b), 4c and 8 thereof, 7 U.S.C. 2, 6(b), 6c and 12a, and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

#### PART 30—FOREIGN OPTIONS AND FOREIGN FUTURES TRANSACTIONS

■ 1. The authority citation for part 30 continues to read as follows:

**Authority:** 7 U.S.C. 1a, 2, 4, 6, 6c and 12a, unless otherwise noted.

■ 2. Section 30.4 is amended by revising paragraph (a) to read as follows, and by removing paragraph (e):

#### § 30.4 Registration required.

\* \* \* \* \*

(a) To solicit or accept orders for or involving any foreign futures contract or foreign options transaction and, in connection therewith, to accept any money, securities or property (or extend credit in lieu thereof) to margin, guarantee or secure any trades or contracts that result or may result therefrom, unless such person shall have registered, under the Act, with the Commission as a futures commission

merchant and such registration shall not have expired nor been suspended nor revoked; *provided that*, a foreign futures and options broker (as defined in § 30.1(e)) is not required to register as a futures commission merchant: one, in order to accept orders from or to carry a U.S. futures commission merchant's foreign futures and options customer omnibus account, as that term is defined in § 30.1(d); two, in order to accept orders from or to carry a U.S. futures commission merchant's proprietary account, as that term is defined in paragraph (y) of § 1.3 of this chapter; and/or three, in order to accept orders from or carry a U.S. affiliate account which is proprietary to the foreign futures and options broker, as "proprietary account" is defined in paragraph (y) of § 1.3 of this chapter. Such foreign futures and options broker remains subject to all other applicable provisions of the Act and of the rules, regulations and orders thereunder. Foreign futures and options brokers that have U.S. bank branches, offices or divisions engaging in the activity listed in this paragraph are not required to register as futures commission merchants if they comply with the conditions listed in § 30.10(b)(1) through (6).

\* \* \* \* \*

■ 3. Section 30.10 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

#### § 30.10 Petitions for exemption.

\* \* \* \* \*

(b) Any foreign person that files a petition for an exemption under this section shall be eligible for such an exemption notwithstanding its presence in the United States through U.S. bank branches or divisions if, in conjunction with a petition for confirmation of relief granted under an existing Commission order issued pursuant to this section, it complies with the following conditions:

- (1) No U.S. bank branch, office or division will engage in the trading of futures or options on futures within or from the United States, except for its own proprietary account;
- (2) No U.S. bank branch, office or division will refer any foreign futures or foreign options customer to the foreign person or otherwise be involved in the foreign person's business in foreign futures or foreign option transactions;
- (3) No U.S. bank branch, office or division will solicit any foreign futures or foreign option business or purchase or sell foreign futures or foreign option contracts on behalf of any foreign futures or foreign option customers or

otherwise engage in any activity subject to regulation under this part or engage in any clerical duties related thereto. If any U.S. division, office or branch desires to engage in such activities, it will only do so through an appropriate Commission registrant;

(4) The foreign person will maintain outside the United States all contract documents, books and records regarding foreign futures and foreign option transactions;

(5) The foreign person and each of its U.S. bank branches, offices or divisions agree to provide upon request of the Commission, the National Futures Association or the U.S. Department of Justice, access to their books and records for the purpose of ensuring compliance with the foregoing undertakings and consent to make such records available for inspection at a location in the United States within 72 hours after service of the request; and

(6) Although it will continue to engage in normal commercial activities, no U.S. bank branch, office or division of the foreign person will establish relationships in the United States with the applicant's foreign futures or foreign option customers for the purpose of facilitating or effecting transactions in foreign futures or foreign option contracts.

Dated: August 4, 2004.

By the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 04-18344 Filed 8-11-04; 8:45 am]

BILLING CODE 6351-01-P

#### SECURITIES AND EXCHANGE COMMISSION

#### 17 CFR Part 232

[Release Nos. 33-8454; 34-50160; 35-27881; 39-2424; IC-26525]

RIN 3235-AG96

#### Adoption of Updated EDGAR Filer Manual

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the Commission) is adopting revisions to the Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) Filer Manual to reflect updates to the EDGAR system. The revisions are being made primarily to support the redesign of Form 8-K, where the reportable events have been expanded from 12 to 22 items, a new

<sup>18</sup> 69 FR 17988 at 18000 (April 6, 2004).