SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include briefings on trade priorities and issues, Information Technology Agreement, economic sanctions, and Virtual Trade Mission activities. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 12991.

DATES: April 24, 1997.

TIME: 1 p.m. to 4:15 p.m.

ADDRESS: The Washington Court Hotel, Atrium Ballroom, 525 New Jersey Avenue, NW., Washington, DC., 20001–1527. This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be submitted by April 16, 1997, to Lori Way, President's Export Council, Room 2015B, Washington, DC, 20230. (Phone: 202–482–1124) Seating is limited and will be on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: Sylvia Lino Prosak or Lori Way, President's Export Council, Room 2015B, Washington, DC, 20230 (Phone: 202–482–1124).

Dated: March 26, 1997.

Sylvia Lino Prosak,

Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 97–8289 Filed 4–1–97; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 022497A]

Fisheries Bycatch Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of and seeks public comment on the draft NMFS bycatch plan, *Managing the Nation's Bycatch: Priorities, Programs and Actions for the National Marine Fisheries Service.* The NMFS bycatch plan will guide the agency's bycatch-related research and management for the next decade. Any written comments received will be considered by NMFS in the adoption and implementation of the final bycatch plan.

DATES: Written comments will be accepted on or before May 19, 1997.

ADDRESSES: Requests for copies of the NMFS bycatch plan should be directed to the NMFS Office of Science and Technology, 1315 East-West Highway, Silver Spring, MD. 20910. PHONE:(301)713–2363. FAX: (301)713–1875. The NMFS bycatch plan is also available in its entirety on the Internet at http://kingfish.ssp.nmfs.gov/.

FOR FURTHER INFORMATION CONTACT: John F. Witzig, 508–495–2305.

SUPPLEMENTARY INFORMATION:

Background

Interest in bycatch in the Nation's fisheries has received increased attention in the last decade. During this time, NMFS and its constituents have come to agree that fisheries bycatch is an issue of great concern to those interested in sustainable fisheries and marine ecosystems. Congress has emphasized NMFS' responsibility to address bycatch in the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act. Following a series of public symposia and workshops with industry, the conservation community, scientists, Native Alaskan groups, and others, NMFS undertook development of a national bycatch plan. The NMFS bycatch plan will be used as a blueprint for the agency's bycatch-related research and management for the next decade.

In the development of the plan, NMFS conducted a survey of available information on bycatch in the Nation's fisheries and efforts to understand and manage the issue. The survey, which is included in the bycatch plan, is intended to update information previously compiled elsewhere, and to serve as a benchmark from which to judge future efforts in data collection and management efforts to mitigate negative effects of bycatches.

Issues in each of NMFS' administrative regions and on the national level are addressed in detail in the NMFS bycatch plan. This discussion forms the basis for a set of research and management recommendations that will help guide the agency's bycatch-related activities. Broadly, recommendations in the plan address the acquisition of bycatch data, gear technology and selectivity research, the effects of bycatch, research on individual incentive programs to manage bycatch, development and implementation of conservation and management measures to address bycatch, and information exchange and cooperative management.

Request for Comments

NMFS intends that the final version of the bycatch plan will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions are hereby solicited from the public, other concerned governmental agencies, the scientific community, industry, and any other person concerned with this draft NMFS Bycatch Plan.

Dated: March 26, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–8364 Filed 4–1–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Petition of the Philadelphia Stock Exchange, Inc. for Exemptive Relief To Permit United States Customers To Establish or Offset Positions in Certain Foreign Currency Options on the Hong Kong Futures Exchange Ltd. Through Registered Broker-Dealers

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of final order.

SUMMARY: In response to a petition by the Philadelphia Stock Exchange, Inc. (''PHLX''), the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') has issued an Order (the ''Order'') exempting from regulation under the Commodity Exchange Act (''Act'' or ''CEA'')[1] transactions in which United States (''U.S.'') customers establish or offset positions in Philadelphia Stock Exchange, Inc. (''PHLX'') foreign currency options on the Hong Kong Futures Exchange Ltd. (''HKFE'') through registered broker-dealers pursuant to regulation by the Securities and Exchange Commission (''SEC'') under the federal securities laws and subject to specified conditions as set forth herein. The Order grants the requested relief pursuant to section 4c(b) of the Act.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: Susan C. Ervin, Deputy Director/Chief Counsel or Christopher W. Cummings, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC. 20581. Telephone number: (202) 418–5450. Facsimile number: (202) 418–5536. Electronic mail: tm@cftc.gov.

[1] 7 U.S.C. 1 *et seq.*

SUPPLEMENTARY INFORMATION: On October 9, 1996, the Commission published a Notice of Proposed Order and Request for Comment (the ''Proposing Release'')[2] in connection with the petition of PHLX (the ''PHLX Petition'') for exemptive relief under sections 4(c) and 4c(b) of the Act.[3] In its Petition, PHLX requested that, to the extent pertinent, the Commission exempt from its regulatory framework certain transactions by U.S. customers in PHLX foreign currency options (''FCOs'') effected on HKFE pursuant to a cross-listing and clearing linkage arrangement between PHLX and HKFE.

I. Background

PHLX and HKFE have entered into a licensing agreement pursuant to which FCOs traded on PHLX may also be traded and offset on HKFE (the ''Linkage''). The Linkage is intended to permit U.S. customers, acting through U.S.-registered broker-dealers, to establish FCO positions on PHLX and offset such positions on HKFE or to establish FCO positions on HKFE and offset the positions on PHLX.[4] PHLX petitioned the Commission for exemptive relief in order to assure that: (1) PHLX FCOs may be cross-listed on HKFE, treated as fungible with PHLX-traded FCOs and cleared through a securities-regulated clearing organization pursuant to the federal securities laws and SEC oversight; and (2) the PHLX and HKFE cross-listed FCOs would not be dually regulated under the securities laws and the CEA, taking cognizance of the policies inherent in Section 4c(f) of the Act, which provides that within the U.S. options on foreign currencies may be traded on both futures and securities exchanges.[5]

A. PHLX Foreign Currency Options Trading

PHLX is a national securities exchange which has been registered with the SEC since 1934. Equity securities, equity and index options, and FCOs are listed for trading on the PHLX. PHLX commenced trading FCOs on December 10, 1982. FCOs currently listed on PHLX include dollar-denominated options on foreign currencies, cross-rate currency options, cash/spot FCOs (which permit the holder to receive the difference between the current foreign exchange spot price and the exercise price of the particular contract) and customized currency options.[6]

As discussed in the PHLX Petition,[7] trading of options on PHLX is governed by PHLX rules that require, *inter alia*, that a customer's account be specifically approved for options trading before any option transactions may be effected by a PHLX member for that customer. Such approval must be in writing, may be made only by a person registered with (and approved by) PHLX as a ''Registered Options Principal,''[8] and may occur only after the PHLX member ''exercise[s] due diligence to learn the essential facts as to the customer and his investment objectives and financial situation.''[9] PHLX rules additionally require that a customer's account be specifically approved, in writing, for transactions in foreign currency options by a ''Foreign Currency Options Principal,''[10] before transactions in foreign currency options are effected.

PHLX also has a customer suitability rule, which prohibits a member firm from recommending any option transaction to a customer unless the firm ''has reasonable grounds to believe that the entire recommended transaction is not unsuitable'' for the customer.[11] Before a broker may permit a customer to begin trading options, SEC and PHLX rules require the broker to provide to the customer an SEC-mandated disclosure document specific to the particular type of option order the customer seeks to enter.[12] PHLX and NASD rules also regulate the content and presentation of advertisements, sales literature, and other options-related communications in connection with sales of PHLX-offered options to the public. Each foreign currency option contract on PHLX is issued and marketed by prospectus pursuant to a registration statement filed with the SEC under the Securities Act of 1933 (the ''Securities Act'').[13]

PHLX rules require member firms to establish written procedures concerning supervision of customer option accounts and of all option orders in such accounts and to maintain a special supervisory structure for foreign currency options.[14] Consistent with SEC regulations, PHLX requires that all order tickets be time-stamped immediately upon execution, and floor brokers and traders are required to report relevant information regarding each option transaction. With the exception of specialists, PHLX floor traders are prohibited from dual trading, that is, trading a particular options class for their own account on the day of

---

[2] 61 FR 52921 (October 9, 1996).

[3] 7 U.S.C. 6(c) and 6c(b) (1994), respectively. The intial thirty-day period specified in the Proposing Release for public comment on the PHLX Petition would have expired on November 8, 1996 but was extended to December 11, 1996. 61 FR 59089 (November 20, 1996). The PHLX Petition (dated August 15, 1996) is described in detail in the Proposing Release.

[4] Non-U.S. customers will also be able to use the Linkage to trade PHLX FCOs. Although a non-U.S. customer will be able to establish a position on HKFE through an HKFE broker that need not be a clearing member of PHLX, if that customer wishes to offset or add to that position on PHLX, the customer (or his HKFE broker) must ultimately do so through a broker that is a PHLX member clearing through The Options Clearing Corporation (''OCC'').

[5] 7 U.S.C. 6c(f) (1994) provides that nothing in the CEA ''shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.'' The parallel securities law provision is Section 9(g) of the Securities Exchange Act of 1934 (the ''Exchange Act''), 15 U.S.C. 78i(g) (1994), which provides, in relevant part, that:

Notwithstanding any other provision of law, the [Securities and Exchange] Commission shall have the authority to regulate the trading of * * * any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency * * *.

An option on foreign currency is within the securities law definition of a ''security'' when it is ''entered into on a national securities exchange.'' Exchange Act section 2(a)(1), 15 U.S.C. 77b(a)(1) (1994).

[6] The Proposing Release more fully describes the FCOs listed for trading on PHLX and cross-references the relevant SEC releases approving PHLX's proposed listing and trading of such FCOs. *See* 61 FR 52921 at 52922 (October 9, 1996).

[7] PHLX Petition at 7–11.

[8] A ''Registered Options Principal'' must pass a proficiency examination demonstrating knowledge of the self-regulatory organization requirements applicable to options transactions, including the rules of PHLX and OCC, and also must demonstrate an understanding of options trading. PHLX Rule 1024(a). Both the National Association of Securities Dealers (''NASD'') and PHLX require that persons selling FCOs pass a proficiency examination.

[9] PHLX Petition at 7, quoting from PHLX Rule 1024(b)(ii). As used herein, ''PHLX member'' means a broker-dealer that is either a full member of PHLX or a non-member that has been admitted to PHLX as a ''Foreign Currency Options Participant.'' A Foreign Currency Options Participant must meet the same financial and fitness requirements as a full member of PHLX (including registration with the SEC and compliance with SEC net capital requirements), but avoids paying the full price of a PHLX seat.

[10] A ''Foreign Currency Options Principal'' of a PHLX member must be a general partner, officer or person or appropriate supervisory or managerial rank who has successfully completed a registered options principal examination, allied member's examination or other principal's examination (or equivalent demonstration of knowledge) and who has also successfully completed an examination prescribed by PHLX to demonstrate adequate knowledge of foreign currency options and foreign currency markets. PHLX Rule 1025(c).

[11] PHLX Petition at 8, quoting from PHLX Rule 1026(a).

[12] Exchange Act Rule 9b–1 provides that an options disclosure document must include information delineating the mechanics of options trading, options trading risks, the uses of options, transaction costs, margin requirements, and relevant tax issues. 17 CFR 240.9b–1(1996). PHLX Rule 1029 also requires delivery of the Rule 9b–1 options disclosure document.

[13] The prospectus prepared and delivered pursuant to the Securities Act is a separate document from the options disclosure document required to be furnished to customers under Exchange Act Rule 9b–1.

[14] PHLX Petition at 9.

execution of a customer order in the same options class.[15]

PHLX has represented that HKFE has agreed to adopt rules similar to certain of PHLX's rules and requirements applicable to cross-listed PHLX FCOs in order assure fungibility.[16] HKFE has further agreed not to adopt any rules that conflict with PHLX's options rules.[17]

B. Proposed PHLX–HKFE Linkage

Incorporated in 1976, HKFE is licensed as an exchange company by the Governor in Council of Hong Kong and is governed by a board of directors consisting of both HKFE members and non-members from the Hong Kong financial and business community. In addition, the operations of the HKFE and the HKFE Clearing Corporation Limited (''HCC''), HKFE's subsidiary, are under the jurisdiction of and are regulated by Hong Kong's independent financial regulatory body, the Securities and Futures Commission (''SFC'') pursuant to the Commodities Trading Ordinance, which treats options on foreign currencies similarly to securities options for such purposes, and which regulates fitness and qualifications of persons involved in customer order solicitation and acceptance, imposes minimum financial requirements upon persons accepting customer funds, and establishes requirements for the protection of customer funds from misapplication, recordkeeping and reporting, sales practices and risk disclosure, and procedures to ensure compliance with such regulatory requirements. It currently is expected that the existing regulatory structure will continue beyond July 1997, notwithstanding the changeover to mainland Chinese rule.

Currently, no FCOs are listed for trading on HKFE. The Linkage provides for cross-listing of PHLX FCOs, permitting U.S. customers and non-U.S. customers to establish positions in PHLX FCOs on HKFE and offset them on PHLX or to establish PHLX FCO positions on PHLX and offset them on HKFE. Only registered broker-dealers would be permitted to carry the account of FCOs traded through the Linkage on behalf of U.S. persons (and to clear FCOs on the PHLX side of the Linkage for non-U.S. customers). The Linkage will be applicable to all foreign currency option contracts for which PHLX has received SEC approval. Pursuant to the Linkage, trading in PHLX FCOs will be permitted on HKFE during Asian business hours in the same manner as such FCOs are currently traded on PHLX.[18] In general, auction trading of PHLX's FCOs occurs between 2:30 a.m. and 2:30 p.m. Eastern Time each business day. The Linkage thus effectively extends the trading hours for PHLX foreign currency option contracts. FCOs, regardless of where originated, will be marketed by means of the same prospectus and subject to the same securities margin requirements.

The Commission has permitted appropriately designed linkages between exchanges in different time zones as a means of lengthening trading hours, broadening distribution of products, enhancing trading volume and open interest, and increasing the capacity to offset risk or adjust portfolios in a timely manner without incurring excessive transaction costs.[19] In its Petition, PHLX states that it expects that the proposed Linkage will stimulate trading interest in PHLX's FCOs in the Far East. The PHLX agreement with HKFE does not preclude similar agreements between HKFE and U.S. futures exchanges with respect to foreign currency options. Consequently, a similar linkage agreement between HKFE and a futures exchange potentially could permit such an exchange to extend its hours and allow registered futures commission merchants (''FCMs'') to offset currency options undertaken there on HKFE.

OCC, owned equally by the five national securities exchanges that list options, functions as the issuer and clearing organization for all options traded on national securities exchanges, including the FCOs traded on PHLX. OCC is regulated as a clearing agency by the SEC under section 17A of the Exchange Act[20] and the Standards for the Registration of Clearing Agencies issued thereunder.[21] OCC will issue, clear and settle PHLX FCOs that are cross-listed on HKFE.[22] Subject to SEC approval, PHLX, HKFE, and OCC expect to enter into an International Market Agreement (the ''IMA''), which will govern the trading and clearance of transactions in FCOs cross-listed on HKFE. The IMA will address issues relevant to the trading and clearance of the PHLX contracts, including issuance, disclosure, expiration months, exercise prices, units of trading, margin, trade information comparison, clearing and settlement of PHLX FCOs traded on HKFE, and the respective rights and obligations of the parties with respect to such options.

Subject to SEC approval, OCC expects to execute an ''Associate Clearinghouse Agreement'' with HCC (or another affiliate of HKFE) organized for the purpose of acting as a clearing organization for the PHLX foreign currency option contracts traded on HKFE, under which HCC (or such affiliate) will act as an ''associate clearinghouse'' of OCC. The Associate Clearinghouse Agreement will provide that HCC (or other HKFE affiliate) will be treated in all material respects as an OCC clearing member for purposes of clearing trades in PHLX foreign currency options for HKFE members that are not clearing members of OCC, whether such trades are effected on HKFE or (through PHLX members) on PHLX.[23] As such, HCC (or other HKFE affiliate) will be subject to SEC oversight, albeit indirectly through the SEC's oversight of OCC.

C. Request for Comments

In the Proposing Release, the Commission sought comments on any aspect of the Petition that commenters believed might raise issues under the CEA or Commission regulations. In particular, the Commission invited comments regarding: (1) The appropriateness of addressing the transactions specified in the Proposing Release pursuant to the Commission's exemptive authority under section 4(c) and/or pursuant to the Commission's plenary authority under section 4c(b); (2) whether the proposed exemption is consistent with the standards set forth in section 4(c) of the CEA; (3) whether there is sufficient authority under existing law for the SEC to exercise its regulatory and supervisory authority over transactions effected pursuant to the Linkage; (4) any material adverse

[15] PHLX Petition at 11.

[16] Such rules include those regarding margin levels and changes thereof, position and exercise limits, reporting and liquidation of positions, quote spread parameters, minimum fractional changes, allocation of exercise notices, series of options open for trading, customized FCOs and settlement of dollar-denominated FCOs.

[17] PHLX Petition at 11.

[18] The licensing agreement between PHLX and HKFE provides that PHLX FCOs may not be traded on HKFE between the hours of 2:00 a.m. and 3:00 p.m. Eastern Time, Monday through Friday.

[19] The Commission has approved linkage arrangements between the Singapore International Monetary Exchange, Ltd. (''SIMEX'') and CME (approved August 28, 1984); between the Commodity Exchange, Inc. (''COMEX'') and the Sydney Futures Exchange, Ltd. (''SFE'') (approved August 1, 1986); between Marché à Terme International de France (''MATIF'') and the CME (approved September 24, 1992); and between the New York Merchantile Exchange and SFE (approved September 1, 1995).

[20] 15 U.S.C. 78q–1 (1994).

[21] Exchange Act Release No. 34–16900 (June 17, 1980) 45 FR 41920.

[22] PHLX Petition at 5. However, as noted below, OCC expects that FCO transactions for HKFE members that are not clearing members of OCC will be cleared through HKFE or an affiliate of HKFE.

[23] Provision will be made, however, for matters such as reconciling non-U.S. accounting principles.

effects that granting the PHLX petition would have upon other securities exchanges, futures exchanges, or Commission registrants, such as FCMs, from a competitive or other perspective; (5) the type of risk assessment information that should be available to the Commission regarding FCO transactions by FCM affiliates; (6) whether the Commission should attach any conditions to any exemptive relief that may be granted; and (7) any other issues relevant to the PHLX Petition.

Five comment letters were received: one from OCC, one each from the Chicago Board of Trade (''CBOT'') and the Chicago Mercantile Exchange (''CME''), both designated contract markets, one from the SEC, and one from the Futures Industry Association Inc. (''FIA''), a futures industry trade organization. The comments of the SEC, FIA and OCC generally supported granting the relief sought by the PHLX Petition; the CBOT and CME comment letters offered conditional or qualified support and identified various concerns for future consideration by the Commission.

II. The Order

Based upon its consideration of the PHLX Petition and the comments received, and subject to SEC approval of the relevant rules and agreements establishing and governing operation of the Linkage, the Commission has determined to issue an order, pursuant to its authority under Section 4c(b) of the Act, granting an exemption from Commission regulation consistent with certain conditions more particularly set forth herein, for Linkage transactions. As discussed below, the Commission has considered the public comments received in response to the Proposing Release in connection with issuing this Order.

A. Statutory and Regulatory Basis of the Order

1. The Commission's Authority To Grant the Requested Relief

Section 4c(b) of the Act prohibits persons from entering into any transaction involving any commodity regulated under the CEA which is of the character of or is commonly known ''as an option * * * contrary to any rule, regulation or order of the Commission * * *.'' Section 4c(b) vests the Commission with the authority to adopt orders, rules or regulations to prohibit or allow commodity option transactions, upon notice and opportunity for hearing. Section 4c(b) of the Act, therefore, affords the Commission plenary authority to permit the trading of commodity options outside of designated futures exchanges.[24]

CME and OCC commented that in order to permit the Linkage the Commission would be required to grant particularized relief and that a new rule, order or regulation must be adopted under section 4c(b) for this purpose. The commenters generally concurred that the appropriate basis for granting the relief requested would be pursuant to an order issued under section 4c(b). Several commenters nonetheless urged the Commission to apply the standards required for exercising its exemptive authority under section 4(c) of the Act in determining whether to grant relief under section 4c(b). The SEC stated that the CFTC could appropriately address Linkage transactions under either section 4(c) or section 4c(b), as both sections provide the CFTC with broad flexibility to address the transactions encompassed by the PHLX Petition. FIA and the CBOT, however, commented that basing an exemptive order solely on section 4c(b) would be more consistent with the CEA than an order based upon sections 4c(b) and 4(c).

2. Consistency with Section 4c(f)

The Commission believes that while section 4c(f) may not itself confer authority to grant the requested relief to the Linkage, such relief would be consistent with the policy of section 4c(f) of the CEA, which provides that nothing in the CEA ''shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.''[25] In its petition, PHLX contended that a PHLX FCO would remain ''an option on foreign currency traded on a national securities exchange,'' despite being cross-listed on HKFE, which is not so registered.[26] PHLX urged that ''[f]or this purpose, cross-listing of PHLX foreign currency options on the HKFE may be viewed as adding another PHLX trading floor, or as lengthening the trading day for PHLX foreign currency options.''[27] Thus, PHLX contended that section 4c(f) should remove the Linkage from CFTC jurisdiction, while requesting exemptive relief under sections 4(c) and 4c(b) ''to eliminate any potential uncertainty as to the status of these transactions.''[28]

3. Consistency with Section 4(c)

Section 4(c) provides, in relevant part, that the Commission may exempt, ''by rule, regulation, or order, after notice and opportunity for hearing, * * * any agreement, contract, or transaction * * * that is otherwise subject to'' the exchange-trading requirement of section 4(a) from all provisions of the CEA except section 2(a)(1)(B).[29] Such exemption may be granted upon a determination by the Commission that: (1) The exemption is in the public interest;[30] (2) the requirements from

---

[24] Section 4c(b) provides, in relevant part:

No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an ''option'' [or] ''privilege'', * * * contrary to any rule, regulation, or order of the commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.

[25] Section 4c(f) is part of the jurisdictional accord between the SEC and the CFTC that was codified in the Futures Trading Act of 1982. Public Law 97–444, Act of January 11, 1983, effective January 11, 1983, sec. 102, 96 Stat. 2294, 2296. The effect of the provision was that the SEC would have jurisdiction over FCOs that trade on national securities exchanges, while the CFTC continued to have jurisdiction to regulate other trading of FCOs. H.R. Rep. No. 97–565, 97th Cong., 2d Sess. 82 (1982).

[26] The SEC and OCC comments agreed with this characterization. The SEC stated that it would treat the Linkage as an operating extension of the trading of FCOs on PHLX and therefore as being subject to the full scope of the federal securities laws (noting that the FCOs traded on PHLX and HKFE would be identical, would be cleared and settled through OCC, and would be traded pursuant to an agreement between PHLX and HKFE, as are other linked securities contracts). The CBOT and the CME, however, disputed that the Linkage should be treated as an extension of the PHLX trading floor and questioned the validity of any assertion of SEC jurisdiction over the establishment or offsetting of FCO positions on HKFE.

[27] PHLX Petition at 2.

[28] *Id.* In its comment letter, OCC supported PHLX's request that the CFTC issue an exemption to eliminate potential uncertainty. CME and CBOT disputed PHLX's assertion that transactions in the cross-listed FCOs are excluded from the CFTC's jurisdiction, contending that HKFE is not a national securities exchange and should not be characterized as an additional PHLX trading floor.

[29] 7 U.S.C. 6(c)(1) (1994). In particular, section 4(c)(1) provides:

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 as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract or transaction (or class thereof) that is otherwise subject to subsection (a) (the exchange-trading requirement) (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), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest.

[30] As the Commission noted in the Proposing Release, the Conference Committee Report on the legislation enacting section 4(c) indicated that the ''public interest'' includes ''the national public

which exemption is sought should not be applied to the agreement, contract, or transaction at issue and the exemption would be consistent with the purposes of the CEA; (3) the agreement, contract or transaction will be entered into solely between ''appropriate persons;''[31] and (4) the agreement, contract or transaction will not have a material adverse effect upon the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the CEA.

Several commenters expressed the view that, because section 4(c) provides the Commission with authority to exempt from CEA regulation transactions in futures contracts on or subject to the rules of a U.S. exchange, it is not the appropriate basis for an exemptive order with respect to the PHLX/HKFE Linkage. However, although CBOT, CME and OCC argued against reliance by the Commission upon section 4(c) as the basis for granting an exemption for Linkage transactions, CBOT and FIA urged the Commission to consider the merits of the PHLX Petition in light of the standards set forth in section 4(c).[32] The Commission concurs that the standards for exemption established by section 4(c) are relevant in determining whether an order of relief should be issued under section 4c(b). Accordingly, the Commission has considered the PHLX Petition in light of the criteria of section 4(c) and believes, for the reasons discussed below, that granting the Petition is consistent with such criteria.

a. Consistency with the Public Interest and Purposes of the Act. With respect to the public interest standard of section 4(c), the CBOT commented that ''(w)hen the retail public is involved, it would seem that the only way an exemption from CEA regulation could be consistent with the public interest is if another comparable regulatory scheme also applies.'' The CBOT expressed the view that before deciding to grant exemptive relief, the Commission should carefully examine ''the nature and reach'' of the SEC's regulation of broker-dealers, including the scope of the SEC's authority to regulate ''broker-dealers' activities with respect to foreign currency options traded on the HKFE, given that such instruments are technically not securities.''

The Commission believes that based upon the SEC's analysis of its regulatory authority with respect to Linkage transactions and the other materials of record, the concerns voiced by the CBOT are adequately addressed. Under the linkage, FCOs may be traded for U.S. customers on a foreign futures exchange. The Commission does not and, indeed, cannot directly regulate foreign boards of trade, under section 4(b) of the Act.[33] Under that section, however, the Commission has authority to adopt regulations prohibiting fraud, setting financial standards, and imposing registration, recordkeeping, reporting and other obligations on persons trading futures contracts for U.S. customers on non-U.S. exchanges. Pursuant to part 30 of its regulations, the Commission regulates the offer and sale to U.S. persons of commodity option contracts made on or subject to the rules of foreign boards of trade. However, the Commission's rules no longer require prior authorization by the Commission before a foreign commodity option may be offered or sold to U.S. customers, and therefore, U.S. customers could trade foreign currency options on HKFE without further action by the Commission.

Moreover, irrespective of the characterization of HKFE FCOs cross-listed with PHLX FCOs, the Commission believes that the SEC has authority to exercise regulatory functions comparable to those that the CFTC would be able to exercise with respect to transactions to be established or offset on HKFE through the Linkage. The CFTC itself could not directly regulate the HKFE market and would be limited to regulating sales to U.S. persons from locations outside the U.S. in accordance with section 4(b) of the Act. The SEC regulates broker-dealer fitness, capital requirements, sales practices and protection of customer funds. In the limited circumstances of the PHLX-HKFE Linkage, therefore, based upon the SEC's regulatory authority and program applicable to registered broker-dealers, and subject to the conditions discussed below, the Commission believes that its deference to SEC regulation over the Linkage as a whole to facilitate the Linkage arrangement is warranted, especially as such deference is without prejudice to a similar arrangement for linking a U.S. futures market to HKFE or the regulatory characterization of foreign currency options in that context.

Although it acknowledged that it does not have express authority over activities occurring on HKFE, the SEC cited its authority under the Exchange Act to condition approval of the PHLX rules necessary to implement the Linkage upon establishment of adequate safeguards addressing surveillance-sharing between PHLX and HKFE, as well as between the SEC and Hong Kong regulators; provisions for trading and clearing the FCOs (on PHLX and on HKFE); and the requirement that the FCOs be registered under the Securities Act. The SEC has authority over OCC (and indirectly over HCC or other HKFE affiliate) and the broker-dealers who will effect Linkage transactions for U.S. customers and offset on PHLX linked transactions undertaken for U.S. customers. It therefore can require meaningful safeguards as a condition for approval of the implementing PHLX and OCC rule changes for the Linkage.[34]

The FIA, OCC and SEC urged that the Commission find that the requested exemption would be consistent with the public interest and the purposes of the Act. To this end, FIA commented that the requested exemption would not be contrary to the essential purposes of the Act (customer protection, financial integrity and market integrity) because: (1) FCOs executed on HKFE may be offered and sold in the U.S. only

interests noted in the (CEA), the prevention of fraud and the preservation of the financial integrity of markets, as well as the promotion of responsible economic or financial innovation and fair competition,'' and that the Commission should ''assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants'' and that an exemption should not be denied ''solely on grounds that it may compete with or draw market share away from the existing market.'' H.R. Rep. No. 978, 102d Cong., 2d Sess. 78–79 (1992).

[31] ''Appropriate person'' is defined in section 4(c)(3) (A)–(K) of the Act to include, generally, a bank or trust company, a savings association, an insurance company, a registered investment company, a commodity pool operated by a Commission registrant, certain business entities and employee benefit plans, governmental entities, registered broker-dealers, registered futures commission merchants, floor brokers and floor traders and ''[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.'' 7 U.S.C. 6(c)(3) (A)–(K)(1994).

[32] OCC stated that ''the Commission may of course choose as a policy matter to consider the standards of section 4(c).'' CME stated that even if the Commission had authority under section 4(c) to grant the requested relief, the proposed exemption is not consistent with (and does not meet the standards set forth in) section 4(c).

[33] 7 U.S.C. 6(b) (1994). Section 4(b) provides that the Commission may not adopt any rule that requires Commission approval of a foreign board of trade's contracts or rules, or that governs in any way any rule or contract term or action of a foreign board of trade.

[34] CBOT urged the Commission to consider carefully the nature and scope of SEC and NASD regulation (including whether SEC and NASD are willing or prepared to accept this jurisdiction, whether safeguards exist equivalent to the Commission's segregation requirements, and whether the requested relief amounts to a transfer to the SEC of Commission jurisdiction over foreign currency options). The SEC has indicated in its comment letter that it is prepared to exercise regulatory oversight with respect to transactions over the Linkage. Moreover, PHLX FCOs are already subject to SEC and PHLX regulation, and broker-dealer practices are subject to NASD regulation.

through registered broker-dealers in accordance with sales practice and related customer protection rules of PHLX and the NASD;

(2) the financial integrity of the transactions will be assured because they will be settled and cleared by OCC (and trades on HKFE for non-OCC clearing members will be carried out pursuant to an agreement with OCC); and (3) market integrity is assured by the Intermarket Surveillance Group Surveillance Sharing Agreement between PHLX and HKFE. The SEC stated that FCOs cross-listed on HKFE ''would be subject to full SEC regulation'' and that ''subjecting such trading to a single regulatory regime is appropriate and might additionally facilitate efficiencies in the trading, clearance and settlement of such transactions.''

OCC expressed the view that the proposed relief would be consistent with the public interest because it is an essential precondition to the Linkage, and the Linkage itself is in the public interest because it would ''contribute to greater depth and liquidity in the market for PHLX FX Options'' and ''foster global market efficiency and reduce systemic risk by standardizing the currency options traded on PHLX and HKFE and centralizing the clearance and settlement process for trades in such options.'' The currency cash market is a 24-hour market. Establishing an Asia time zone link extends the liquidity and the hedging usefulness of the PHLX foreign currency options market and renders it more competitive with the larger over-the-counter market, subject to significant regulatory safeguards for participants. Pursuant to part 30 of its regulations, the Commission routinely evaluates the comparability of other regulatory regimes. In this case, without ceding authority or characterizing the jurisdictional status of the HKFE FCOs, the Commission concludes that sufficient grounds exist for deference to the SEC regulatory regime, especially in light of the policies underlying section 4c(f), which supports trading in foreign currency options in both domestic securities and futures exchanges, subject to either securities or futures laws and the attendant regulatory frameworks, respectively.

b. The ''Appropriate Person'' Criterion. Section 4(c) of the Act defines the term ''appropriate person'' to include various categories of business and corporate entities, including banks and trust companies, savings associations; insurance companies, registered investment companies, CEA-regulated commodity pools, corporations or other business entities with net worth of $1 million or total assets of $5 million, and ''[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.'' [35] In its Petition, PHLX urges that because PHLX FCOs ''are subject to the full panoply of SEC regulation under the securities laws,'' appropriate regulatory protections apply to the Linkage, and the Commission therefore should be able to determine that any person eligible to purchase or sell such options under the SEC regulatory scheme is an ''appropriate person'' within the meaning of section 4(c)(3)(K).[36] In its comment letter, the SEC agreed that the class of permissible FCO participants proposed by PHLX may not be identical to those designated in the enumerated categories of section 4(c)(3) (A)–(J) but concluded that ''it is appropriate for the CFTC to determine, pursuant to 4(c)(3)(K), that such persons are appropriate persons because they meet the requirements set forth by PHLX and approved by the SEC for persons engaged in exchange-traded options transactions.''

Section 4(c)(3)(K) permits the Commission to determine that persons engaging in transactions that are otherwise regulated by another governmental agency qualify as ''appropriate persons.'' In adopting rules exempting from CFTC regulation certain hybrid instruments, the Commission stated that ''appropriate persons'' eligible for that exemption would include ''person[s] permitted by applicable securities or banking requirements to purchase or enter into the security (component) of the hybrid instrument * * *.'' 58 FR 5580 (January 22, 1993) (release adopting final rules regarding the regulation of hybrid instruments). As discussed above, the SEC, PHLX and NASD requirements applicable to U.S. customers in FCO transactions conducted on PHLX will apply equally to cross-linked FCO transactions on HKFE. Based upon the restrictions imposed by these requirements upon participation in FCOs cross-linked on HKFE and the other regulatory safeguards applicable to such transactions, the Commission believes that the ''appropriate persons'' criterion is satisfied with respect to U.S. persons engaging in FCO transactions pursuant to the Linkage.[37]

c. No Material Adverse Effect on Regulatory or Self-Regulatory Responsibilities. Commenters differed in their assessment as to whether granting the PHLX Petition would have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under the CEA. The Commission believes that with appropriate risk assessment information sharing, and retention of its own ability to terminate relief, granting the requested relief will not interfere with the Commission's regulatory program or adversely affect the ability of any U.S. contract market to discharge its regulatory duties.

B. Risk Assessment

The Commission requested comments regarding the type of risk assessment information that should be available to it concerning FCO transactions effected by FCM affiliates. The two commenters who addressed this issue. The SEC noted that all PHLX/HKFE cross-listed FCO transactions involving U.S. customers must be effected through U.S.-registered broker-dealers and that the SEC's risk assessment rules would thus be applicable and would result in the provision of important risk assessment data to the SEC. The SEC has confirmed that it would coordinate information-sharing with the CFTC in the event that problems developed warranting CFTC review. Similarly, the OCC stated that there was no need for risk assessment information in addition to that which the Commission currently obtains regarding FCM affiliate transactions on PHLX, since PHLX and HKFE FCO transactions pose the same risks. The Commission nonetheless has conditioned this relief on its access to information on transactions through the Linkage relevant to exercise of its and its markets' supervisory duties with respect to FCMs or other relevant futures market participants engaged in Linkage transactions.

C. Conditions

The Commission also invited comment concerning whether conditions should be attached to any exemptive relief granted in response to the PHLX Petition. Several commenters addressed this subject. The SEC recommended that the Commission condition exemptive relief on assured availability to the Commission of information exchanged pursuant to the terms of the Intermarket Surveillance Group Surveillance Sharing Agreement

[35] 7 U.S.C. 6(c)(3) (1994).

[36] PHLX Petition at 16.

[37] However, an ''appropriate person'' for purposes of Linkage transactions in accordance with this Order may not be an ''appropriate person'' in other contexts.

between PHLX and HKFE and suggested that the Commission consider conditioning relief upon the SEC's approval of a PHLX implementing rule submission under section 19(b) of the Exchange Act. The CME urged the Commission to ensure that adequate regulatory protections exist with respect to any trading activities that take place in Hong Kong, suggesting, by way of example, that the Commission consider whether the policies underlying Rule 30.7 [38] require that the foreign futures and options secured amount for HKFE positions be separately accounted for and segregated from customer funds used to margin PHLX positions. OCC commented that it saw no need for any conditions other than that the Linkage be operated substantially as described in the PHLX Petition.

D. Other Issues Raised by Commenters

The FIA urged the Commission to consider granting relief for registered broker-dealers that are also registered as FCMs from the restrictions on options transactions applicable to FCMs set forth in Commission Rule 1.19 and to consider whether any relief with respect to the provisions of subchapter IV of Chapter 7 of the Bankruptcy Code [39] and part 190 of the Commission's rules may be necessary. CME commented that granting the requested relief would amount to sanctioning the cross-margining of securities options and futures positions at the customer level and that if the Commission grants the PHLX Petition, CME expects to be permitted to expand its cross-margining program with OCC to include retail customer accounts. Because the PHLX FCOs are functionally identical, whether traded on PHLX or HKFE, and because offsetting positions will cancel, rather than hedge each other, the Commission believes that cross-margining arrangements raise different issues from the cross-listing of FCOs. In any event, the Commission will address any such request on its individual merits and believes that a response to CME is outside the scope of this proceeding.

E. Conclusion

Regulatory authority over trading activity in FCOs is divided between the SEC and the CFTC, and absent a grant of exemptive relief by the CFTC, participation by U.S. customers in the HKFE side of the proposed Linkage would be subject to regulation under the CEA. Nonetheless, upon consideration of the PHLX Petition and the comments received and for the reasons stated above, the Commission has determined to exercise its authority under Section 4c(b) of the Act by issuing the attached Order granting the Petition, provided that certain conditions are met. The Commission believes that under the specific circumstances of the Linkage, and subject to certain conditions, deference to the SEC to provide regulatory oversight for the Linkage is appropriate.

The Commission believes that the SEC's existing regulation of registered broker-dealers and clearing organizations, combined with its ability to condition approval of the PHLX and OCC rule changes necessary to implement the Linkage upon incorporation of appropriate safeguards will enable the SEC to exercise regulatory authority over the HKFE side of the Linkage comparable to that which the Commission would be able to exercise. Neither agency is empowered directly to regulate HKFE, but each has statutory authority to regulate assigned classes of market participants, and thereby, activities on HKFE of such persons. The Commission believes that the existing regulatory framework applicable to HKFE in Hong Kong, combined with the SEC's regulation of U.S. broker-dealers effecting transactions over the Linkage and regulation of OCC, will be adequate in the absence of direct regulation of trading on HKFE by U.S. regulatory agencies. Additionally, the SEC has authority over the design of relevant clearing arrangements and the rules of PHLX establishing the operating agreement between the markets for the Linkage. The Commission further believes that the risk assessment information provided to the SEC will be adequate but that it should likewise be provided to the Commission upon request or as otherwise appropriate in light of market conditions.

The Commission also believes that the standards set forth in section 4(c) will be met by the Linkage, in that: (1) Granting the requested relief is in the public interest, because due to the applicability of a regulatory scheme comparable to the Commission's, the Linkage can operate to expand the availability and usefulness of PHLX FCOs, while maintaining regulatory protections for customers and markets; (2) granting the requested relief will neither interfere with the Commission's ability to carry out its regulatory program nor adversely affect the ability of any contract market to carry out its self-regulatory duties; and (3) in view of the regulatory and self-regulatory requirements regarding eligibility of customers to effect transactions over the Linkage, it is appropriate to determine pursuant to section 4(c)(3)(K) that participation in the Linkage will be limited to appropriate persons.

Several commenters raised related issues which the Commission does not believe affect the appropriateness of granting the PHLX Petition. In response to concerns that broker-dealers that are also registered as FCMs may be considered to be in violation of Rule 1.19 as a result of transactions in FCOs on the HKFE, the Commission hereby confirms that PHLX FCOs traded on the Linkage may be considered exchange-traded ''commodity options'' for purposes of Rule 1.19(a) such that an FCM would not be precluded from taking a position in such FCOs. With respect to FIA's concern as to the applicability of Subchapter IV of Chapter 7 of the Bankruptcy Code, the Commission has conditioned its exemptive order upon the applicability of the SEC's segregation requirements for securities,[40] and Subchapter III of Chapter 7 of the Bankruptcy Code [41] to securities broker-dealers. Consequently, PHLX represents that it will take whatever contractual or regulatory actions may be necessary to cause the cross-listed FCOs to be treated as securities for purposes of the Bankruptcy Code and for purposes of the segregation requirements under Exchange Act Rule 15c3–3.

The Commission thus has determined that an exemption with respect to the Linkage should be conditioned upon implementation of the Linkage pursuant to PHLX and OCC rules approved by the SEC, operation of the Linkage (including restrictions on participation by U.S. customers) substantially as described in the PHLX Petition, availability to the Commission of adequate risk assessment information, availability to the Commission of surveillance information required to be exchanged pursuant to the Surveillance Sharing Agreement between PHLX and HKFE and the completion of any necessary contractual or other measures to cause FCOs traded over the Linkage to be treated as securities for purposes of securities segregation requirements and under the Bankruptcy Code.

[38] Rule 30.7 sets forth an FCM's duty to maintain in a segregated account at an appropriate depository sufficient money or other property to cover all of its current obligations to foreign futures and options customers and to keep records and make daily computations with respect to such obligations.

[39] 11 U.S.C. 761–766 (1994).

[40] Exchange Act Rule 15c3–3, 17 CFR 240.15c3–3 (1996).

[41] 11 U.S.C. 741–752 (1994).

Order of the Commodity Futures Trading Commission Exempting From Regulation Certain Foreign Currency Option Transactions

Whereas, it is the Commission's understanding, based upon representations made by the Philadelphia Stock Exchange, Inc. (''PHLX'') as set forth in a Request for Exemptive Relief from regulation under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), dated August 15, 1996, that PHLX and the Hong Kong Futures Exchange Ltd. (''HKFE'') have entered into a licensing agreement (the ''Linkage'') pursuant to which foreign currency options (''FCOs'') listed and traded on PHLX will be cross-listed and traded on HKFE. The Linkage will permit PHLX FCOs to be traded on HKFE during Asian business hours. Transactions for U.S. customers will be effected only through brokers or dealers registered as such with the Securities and Exchange Commission (''SEC'') on behalf of persons meeting the PHLX customer options account approval and suitability standards (approved by the SEC) for persons engaging in options transactions. Transactions on PHLX for non-U.S. customers, whether or not initiated through a non-PHLX member, must ultimately be effected through a member of PHLX that is a clearing member of The Options Clearing Corporation (''OCC'').

Whereas, transactions effected through the Linkage will be issued, cleared and settled by OCC pursuant to the terms of an International Market Agreement (''IMA'') among PHLX, HKFE and OCC. Clearing of trades in PHLX FCOs for HKFE members that are not clearing members of OCC (whether such trades are effected on PHLX or on HKFE) will be made by an OCC clearing member or an affiliate of HKFE (as an ''associate clearinghouse'' of OCC) pursuant to an Associate Clearinghouse Agreement between OCC and such affiliate of HKFE, and such associate clearinghouse will be treated in all material respects as a clearing member of OCC for purposes of Linkage transactions.

Whereas, PHLX and HKFE have entered into an Intermarket Surveillance Group Surveillance Sharing Agreement obligating each to use its best efforts to obtain and provide information required by the other to fulfill its self-regulatory responsibilities.

Whereas, PHLX will submit for SEC approval an amendment to PHLX's rules, permitting the establishment and operation of the Linkage, and that OCC will likewise submit a rule amendment to accommodate clearing and settlement functions with respect to the Linkage.

And Whereas, PHLX represents that the licensing agreement and other relevant documentation, including the Surveillance Sharing Agreement, the IMA and the Associate Clearinghouse Agreement, are consistent with the aforesaid understanding of the Linkage arrangement and will be submitted to the SEC for its review in conjunction with the SEC's review of PHLX and OCC rule changes to implement the Linkage.

It is therefore ordered, pursuant to section 4c(b) of the Commodity Exchange Act (the ''Act'') and based upon the Commission's consideration of the representations set forth in the PHLX Petition and the comments received pursuant to the Notice of Proposed Order and Request for Comments, that transactions in FCOs listed for trading on HKFE as described in the PHLX Petition are exempt from all provisions of the Act and the Commission's rules promulgated thereunder subject to the following conditions:

1. That the Linkage is operated substantially as described in the PHLX Petition;

2. That FCO transactions effected pursuant to the Linkage on behalf of U.S. customers are undertaken through broker-dealers registered as such with the SEC, cleared through clearing facilities subject to SEC oversight, and restricted to customers who satisfy the customer options account approval and suitability standards set forth in PHLX rules approved by the SEC;

3. That the Linkage is implemented pursuant to rules of PHLX and OCC approved by the SEC pursuant to section 19(b) of the Securities Exchange Act of 1934 (the ''Exchange Act''), 15 U.S.C. 78s;

4. That HKFE and PHLX will make available to the Commission upon request all information required to be exchanged under the terms of the Intermarket Surveillance Group Surveillance Sharing Agreement between PHLX and HKFE;

5. That HKFE is subject to rules which establish fitness and qualifications of persons through whom customer orders are solicited or accepted, minimum financial requirements for persons that accept customer funds, measures for protection of customer funds from misapplication, recordkeeping and reporting requirements, minimum sales practice and risk disclosure standards, and procedures to ensure and to audit for compliance with regulatory requirements;

6. That all risk assessment information pertinent to the Linkage provided to the SEC by broker-dealers participating in the Linkage (and that is not otherwise available to the CFTC pursuant to its risk assessment rules) is made available to the Commission by the SEC and/or PHLX upon request and as otherwise appropriate; and

7. That the FCO positions, regardless of where established, will be treated as securities for purposes of required segregation pursuant to Exchange Act Rule 15c3–3 and for application of the relevant insolvency laws, including the Bankruptcy Code and rules, and Securities Investor Protection Act of 1970.

By issuing this Order, the Commission does not intend to prohibit or restrict the ability of any futures exchange to establish a similar linkage arrangement with HKFE.

By issuing this Order, the Commission takes notice of its surveillance and enforcement information sharing arrangements with the appropriate Hong Kong regulatory authorities.

The Commission retains the authority to terminate or otherwise to modify this relief at such time as it determines that exemption of transactions through the Linkage is no longer in the public interest.

Issued in Washington, DC on March 28, 1997, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–8365 Filed 4–1–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Inland Waterways Users Board

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In Accordance with 10(a)(2) of the Federal Advisory Committee Act, Public Law (92–463) announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on 18 April 1997 at the Tulsa Port of Catoosa, located at 5350 Cimarron Road in Catoosa, Oklahoma, (Tel. 918–266–2291). Registration will begin at 8:30 AM and the meeting is scheduled to adjourn at 5:00 PM. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee at the time and in the manner permitted by the committee.