(b) *Acquiring institution.* The deposits shall be deemed, upon assumption by the acquiring institution, to be insured by the same fund or funds in the same amount or amounts as the deposits were so insured immediately prior to the transaction.

By order of the Board of Directors.

Dated at Washington, D.C., this 26th day of November 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–31207 Filed 12–9–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–103–AD; Amendment 39–9808; AD 96–23–18]

RIN 2120–AA64

Airworthiness Directives; Aerospace Technologies of Australia Pty Ltd. (Formerly Government Aircraft Factory) Models N22B, N24A, and N22S Airplanes; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This action makes a correction to an airworthiness directive (AD) that was published in the Federal Register on November 12, 1996 (61 FR 57993), and concerns Aerospace Technologies of Australia Pty Ltd. (ASTA) Models N22B, N24A, and N22S airplanes. The AD number for that action should be AD 96–23–18, but was referenced as AD 96–23–03. The AD currently requires replacing the existing fuselage stub fin plate with one of improved design. This action corrects the AD to reflect the correct AD number.

EFFECTIVE DATE: December 23, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Atmur, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard., Lakewood, California 90712; telephone (310) 627–5224; facsimile (310) 627–5210.

SUPPLEMENTARY INFORMATION: On October 28, 1996, the FAA issued an airworthiness directive (AD), Amendment 39–9808 (61 FR 57993, November 12, 1996), to require replacing the existing fuselage stub fin plate with one of improved design on ASTA Models N22B, N24A, and N22S airplanes.

Need for the Correction

The AD number for that action should be AD 96–23–18, but was referenced as AD 96–23–03. As written, operators of the ASTA Models N22B, N24A, and N22S airplanes would be referencing the wrong AD in their logbook, thus creating confusion as to whether the operator had complied with the AD.

Action is taken herein to correct this reference in Amendment 39–9808 and to add this AD correction to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The effective date remains December 23, 1996.

Correction of Publication

Accordingly, the publication of November 12, 1996 (61 FR 57993), of Amendment 39–9808; AD 96–23–03, which was the subject of FR Doc. 96–28164, is corrected as follows:

On page 57993, in the first column, in the fifth line of the heading of the document, replace AD 96–23–03 with AD 96–23–18.

§ 39.13 [Corrected]

On page 57994, in the first column, § 39.13, the first line of the AD, replace 96–23–03 with 96–23–18.

Issued in Kansas City, Missouri on December 2, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31264 Filed 12–9–96; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC''), subject to the conditions specified below, is granting to designated Dealers of the New Zealand Futures and Options Exchange (''Exchange'' or ''NZFOE'') the following relief: Exemption under Commission rule 30.10, 17 CFR 30.10 (1996), from application of certain of the Commission's foreign futures and options rules to solicit and accept orders from United States customers for otherwise permitted transactions on the NZFOE and on any non-U.S. exchange [1] where such Dealers are permitted under New Zealand law to conduct futures business for customers; and confirmation of the applicability of the Limited Marketing Orders.

EFFECTIVE DATE: January 9, 1997.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Marianne A. Bueno, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: On July 23, 1987, the Commission adopted final rules governing the domestic offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade.[2] These rules, which are codified in Part 30 of the Commission's regulations,[3] generally extend the Commission's existing customer protection regulations for products offered or sold on contract markets in the United States to foreign futures and option products [4] sold to U.S. customers by imposing requirements with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, sales practice and compliance procedures that are generally comparable to those applicable to wholly domestic transactions.

In formulating a regulatory program to govern the offer and sale of foreign futures and options products to U.S. customers, the Commission, among other things, considers the potential extraterritorial impact of such a program and the desirability of avoiding duplicative regulation of firms engaged

[1] The term ''non-U.S. exchange'' refers to a foreign board of trade which is defined in Commission rule 1.3 (ss), 17 CFR 1.3(ss) (1996) as:

Any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into.

Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act'') are not within the scope of this Order.

[2] 52 FR 28980 (Aug. 5, 1987).

[3] 17 CFR Part 30 (1996).

[4] Commission rule 30.1(a), 17 CFR 30.1(a) (1996), defines the term ''foreign futures'' as ''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(b), 17 CFR 30.1(b) (1996), defines the term ''foreign option'' as ''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 on or subject to the rules of any foreign board of trade.''

in international business. Based upon these considerations, the Commission, as set forth in Commission rule 30.10, determined to permit persons located outside the United States and subject to a comparable regulatory structure in the jurisdiction in which they are located to seek an exemption from certain of the requirements imposed by the Part 30 rules so as to solicit or accept orders directly from U.S. customers for foreign futures or option transactions.[5] Provided such exemption would not otherwise be contrary to the public interest, persons located and doing business outside of the United States were granted relief based upon substituted compliance with the comparable regulatory requirements imposed by the foreign jurisdiction.[6]

In issuing orders under rule 30.10, the Commission evaluates whether the particular foreign regulatory program provides a basis for permitting substituted compliance for purposes of exemptive relief pursuant to Commission rule 30.10. The specific elements examined are set forth in Appendix A to Part 30, ''Interpretative Statement With Respect to the Commission's Exemptive Authority Under Section 30.10 of Its Rules'' (''Appendix A'').[7] These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons (both individuals and firms) through which customer orders are solicited and accepted; (2) minimum financial requirements for those persons who accept customer funds; (3) protection of customer funds from misapplication; (4) minimum sales practice standards, including the disclosure of the risks of futures transactions; (5) recordkeeping and reporting requirements; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) the existence of appropriate information-sharing arrangements. The Commission may apply additional conditions to ensure that brokers licensed under other regulatory regimes are not permitted to solicit U.S. customers while effectively evading U.S. requirements, such as those relative to statutory disqualification.

Moreover, the Commission specifically stated in adopting rule 30.10 that no exemption based on substituted compliance of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) Consent to jurisdiction in the United States and designate an agent for service of process in the United States with respect to transactions subject to Part 30 by filing a copy of the relevant agency agreement with the National Futures Association (''NFA''); (2) agree to make their books and records available in the United States to Commission and Department of Justice representatives; and (3) notify NFA of the commencement or termination of business in the United States.[8]

By letters dated June 8 and June 12, 1993, as supplemented, counsel for the Exchange requested that the Commission exercise its authority under Commission rule 30.10 to exempt certain Dealers[9] from compliance with the registration and other requirements of Part 30 relative to brokerage activities undertaken on or subject to the rules of the NZFOE for or on behalf of customers in the United States[10] and which are otherwise permissible as to U.S. customers.[11] By letter dated February 22, 1996, counsel for the Exchange requested expanded rule 30.10 relief to permit Dealers to also solicit or accept orders from U.S. customers for otherwise permitted transactions on any non-U.S. exchange where the Dealers are entitled to carry such accounts. The Exchange construes its customer protection rules broadly to also apply to regulated activities on exchanges other than the NZFOE and as authorizing disciplinary action against its Dealers in connection with such activities.[12]

By letter dated June 5, 1996, counsel for the Exchange requested confirmation from the Commission that the Limited Marketing Orders will apply to Dealers which have confirmed rule 30.10 relief.[13]

Order: The Commission is hereby issuing the following order:

Order under CFTC Rule 30.10 exempting designated dealers of the NZFOE from the application of certain of the foreign futures and options rules the later of thirty days after publication of the order herein in the Federal Register or after the filing of relevant consents by dealers of the exchange and the exchange under the terms and conditions of this order.

The Commission has reviewed the information and representations contained in, among other things, the following submissions:

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[5] In general, foreign exchanges have filed rule 30.10 applications on behalf of their members in connection with transactions on those exchanges. In certain cases, where a regulatory/self-regulatory authority has requested that firms subject to its jurisdiction be granted broader relief to engage in transactions on exchanges other than in its home jurisdiction, the relief has been granted where the relevant authority has represented that it will monitor its firms for compliance with the terms of the order in connection with such offshore transactions.

To date, such expanded relief has been granted:

(a) on May 15, 1989, to firms designated by the U.K. Securities and Investments Board and certain U.K. SROs to conduct brokerage activities for U.S. customers on any non-U.S. exchange designated under U.K. law. 54 FR 21599, 21600 (May 19, 1989); 54 FR 21604, 21605 (May 19, 1989) (Association of Futures Brokers and Dealers (''AFBD'')); 54 FR 21609, 21610 (May 19, 1989) (The Securities Association (''TSA'')); 54 FR 21614, 21615 (May 19, 1989) (Investment Management Regulatory Organisation). The AFBD and TSA subsequently merged to form the Securities and Futures Association, which became the successor organization for rule 30.10 purposes. 55 FR 14017 (Apr. 5, 1991); and

(b) on April 7, 1993, to firms designated by the Sydney Futures Exchange (''SFE''). 58 FR 19209 (Apr. 13, 1993).

[6] The Commission has authorized, subject to certain conditions, firms which have received rule 30.10 relief to engage in limited marketing conduct with respect to foreign futures or option contracts from locations within the United States through their employees or other representatives. 57 FR 49644 (Nov. 3, 1992); 59 FR 42156 (Aug. 17, 1994) (hereinafter ''Limited Marketing Orders'').

Prior to the issuance of the Limited Marketing Orders, rule 30.10 relief was available only to qualified firms subject to a comparable regulatory system which solicited U.S. customers from a foreign location. The Limited Marketing Orders interpret rule 30.10 relief more expansively to allow rule 30.10 exempted firms and their employees or other representatives to market foreign futures and option products to qualified customers from U.S. locations under certain conditions. Among other conditions, the Limited Marketing Orders require that the regulatory or self-regulatory organization to which the Commission has issued 30.10 relief or its equivalent obtain written confirmation from the Commission that the Limited Marketing Orders apply to such rule 30.10 order.

[7] 17 CFR Part 30, Appendix A (1996).

[8] 52 FR 28980, 28981 and 29002 (Aug. 5, 1987).

[9] Subsequent to the acquisition of the NZFOE by the SFE, member firms of the NZFOE are called ''Dealers'' and shall be referred to as such in this Order.

[10] See letters dated June 8 and June 12, 1993, from Philip McBride Johnson, counsel for the Exchange, to Jean A. Webb, Commission, Re: Petition for Authorization of the Offer and Sale in the United States of Futures and Option Contracts Traded on the NZFOE.

By letter dated July 12, 1993, counsel for the Exchange also requested that the Commission authorize the offer and sale of option contracts traded on the Exchange to persons resident in the United States. See letter dated July 12, 1993 from Mr. Johnson to Ms. Webb, Re: Petition Pursuant to Commission Regulation § 30.3(a) for Exemption of Certain Commodity Options on the NZFOE.

On March 12, 1996, the Commission amended Commission rule 30.3(a) to no longer require an authorization order before a particular foreign option product could be offered or sold to U.S. customers. However, the amendment does not affect existing restrictions on transactions involving stock index futures and foreign government debt. 61 FR 10891 (Mar. 18, 1996). Based on the foregoing, by letter dated March 22, 1996 from Jane C. Kang, Commission, to Mr. Johnson, the Exchange was notified that its application under rule 30.3 was deemed withdrawn.

[11] The Part 30 rules apply solely with respect to foreign futures and foreign options, which are defined by reference to the term ''foreign board of trade.'' See note 1 above.

[12] Letter dated February 22, 1996 from Philip McBride Johnson, counsel for the Exchange, to Jane C. Kang, Commission.

[13] Letter dated June 5, 1996 from Philip McBride Johnson, counsel for the Exchange, to Jane C. Kang, Commission.

—The Securities Act 1978, as amended, 1988, No. 234 (21 December 1988)(''SAA'');
—The Futures Industry (Client Funds) Regulations 1990, No. 227 (3 September 1990)(''Client Funds Regulations'');
—The Companies Act 1955, Articles of Association of New Zealand Futures and Options Exchange Limited;
—New Zealand Securities Commission Annual Report (30 June 1992);
—The Annual Audited Financial Statements of the New Zealand Futures and Options Exchange (31 March 1992);
—New Zealand Futures & Options Exchange, A Specialist, Screen-Trading Marketplace;
—Aklaw Number Thirty-Nine Limited (Aklaw) Petition to the Australian Ministerial Council; and
—Letters dated June 8, 1993; June 12, 1993; June 9, 1994; February 22, 1996; June 6, 1996; and November 12, 1996 from Philip McBride Johnson, Skadden, Arps, Slate, Meagher & Flom, counsel for the Exchange.

Based upon its review of the above supporting materials and the Memorandum from the Division of Trading and Markets dated November 21, 1996, and subject to the conditions set forth below, the Commission has determined to issue this Order which will become effective the later of thirty days after publication of this Order in the Federal Register or the filing of consents by Dealers of the Exchange and the Exchange to the terms and conditions of the Order herein.

Furthermore, subject to the conditions set forth below, the Commission concludes that the standards for relief set forth in Commission rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied and that compliance with the SAA, the Client Funds Regulations and NZFOE rules may be substituted for compliance with certain sections of the Act as more particularly set forth herein. By this Order, the Commission hereby exempts, subject to specified conditions, those Dealers identified to the Commission as eligible for the rule 30.10 relief granted herein from registration with the Commission based upon substituted compliance by such Dealers with the applicable statutes and relevant Exchange and other rules in effect in New Zealand.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing the firms trading on the Exchange who would be exempted hereunder provides:

(1) A system of qualification or licensing of firms and persons who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about licensees;

(2) Financial requirements for licensees;

(3) A system for the segregation of customer funds that applies to all customers and which requires the separate accounting for such funds, augmented by funds designed to compensate customers who have suffered a loss as a result of fraud or insolvency or other failure of a Dealer;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, customer account statements, customers' deposit records and accounting records for customer and proprietary trades;

(5) Sales practice standards for licensees which include, for example, required disclosures to customers and prohibitions on misrepresentations and other deceptive practices;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, a surveillance program and the existence of broad powers to conduct investigations and to impose sanctions; and

(7) Mechanisms for sharing information between the Exchange and the New Zealand Securities Commission (''NZSC'') and the Commission on an ''as needed'' basis including, without limitation, confirmation data, data necessary to trace funds, position data, data on firms' standing to do business and financial condition, and mechanisms for cooperating with the Commission in inquiries, compliance matters, investigations and enforcement proceedings.[14]

Further, the Commission has determined in this Order to permit Dealers designated for rule 30.10 relief to solicit and accept orders from U.S. customers for otherwise permitted transactions in commodity futures and commodity options (including options on futures)[15] on or subject to the rules of any non-U.S. exchange permitted under New Zealand law, other than a contract market designated as such pursuant to section 5 of the CEA, undertaken by such Dealers from a location in New Zealand.

The Commission also hereby confirms that the Limited Marketing Orders will apply to Dealers designated by the Exchange for rule 30.10 relief pursuant to this Order. Any such Dealer acting pursuant to the Limited Marketing Orders will be required to comply with the terms and conditions of the Limited Marketing Orders in addition to those specified herein.

This Order does not provide an exemption from any provision of the Act or regulations thereunder not specified herein, for example, without limitation, the antifraud provision in Commission rule 30.9, 17 CFR 30.9 (1996), or the disclosure provisions of Commission rules 1.55, 30.6 and 33.7, 17 CFR 1.55, 30.6 and 33.7 (1996), including the requirements of rule 1.55(f), 30.6(e) and 33.7(f).[16]

The relief does not extend to rules or regulations relating to trading, directly or indirectly, on U.S. exchanges. For example, a Dealer trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.[17] Similarly, if such a Dealer were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.[18] The relief herein does not apply to Dealers that solicit U.S. customers for transactions on U.S. markets. In that case, the Dealer must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The eligibility of any Dealer to seek rule 30.10 relief under this exemptive Order is subject to the following conditions:

I. The regulatory or self-regulatory organization responsible for monitoring the compliance of such Dealer with the regulatory requirements described in the rule 30.10 petition must represent in writing to the CFTC that:

A. Each Dealer for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in New Zealand; such Dealer is engaged in business with customers located in New Zealand as well as in the United States; and such Dealer would not be statutorily disqualified from

[14] On September 16, 1996, the Commission and the NZSC signed a Memorandum of Understanding concerning consultation and mutual assistance for the exchange of information. In addition, the Exchange has provided assurances to the Commission regarding the availability of information relevant to Part 30 on an ''as needed'' basis. See letter dated June 9, 1994 from Philip McBride Johnson, counsel for the Exchange, to Jane C. Kang, Commission.

[15] Relief under this Order extends only to those products falling within the jurisdiction of the CEA and remains subject to existing product restrictions under the CEA and Commission regulations and procedures thereunder related to stock indices and foreign government debt (see CEA section 2(a)(1)(B)(v) and Securities and Exchange Commission rule 3a12–8, 17 CFR 240.3a12–8 (1996)).

[16] These rules essentially provide that delivery of a mandated risk disclosure statement does not eliminate any obligation under the Act to disclose all material information to existing or prospective customers even if the information is not specifically required by the applicable risk disclosure rule.

[17] See, *e.g.*, 17 C.F.R. Part 18 (1996).

[18] See, *e.g.*, 17 C.F.R. Parts 17 and 21 (1996).

registration under section 8a(2) of the CEA, 7 U.S.C. 12(a)(2) (1994);

B. It will monitor Dealers to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a Dealer which would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the United States;

C. All transactions on the Exchange with respect to customers resident in the United States will be made on or subject to the rules of the Exchange and be otherwise permissible as to U.S. customers, and the Commission will receive prompt notice of all material changes to NZSC and Exchange rules, the SAA and Client Fund Regulations;

D. It will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated Dealers of U.S. customers for otherwise permissible transactions involving options and futures business on non-U.S. exchanges to the same extent that the Exchange conducts such activities in regard to Exchange business;

E. Customers resident in the United States will be provided no less stringent regulatory protection than New Zealand customers under all relevant provisions of New Zealand law;

F. It consents to maintain all Exchange records for a minimum of five years; and

G. It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A to the Part 30 rules on an ''as needed'' basis in accordance with the agreed information sharing arrangement and will use its best efforts to notify the Commission if it becomes aware of any information which in its judgment affects the financial or operational viability of a New Zealand-domiciled Dealer doing business in the United States under the exemption granted by this Order.

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

A. Consents to jurisdiction in the United States under the Act and files a valid and binding appointment of an agent in the United States for service of process in accordance with the requirements set forth in Commission rule 30.5, 17 CFR 30.5 (1996);

B. Acknowledges that it can be required by the Exchange to provide the Exchange immediate access to its books and records related to transactions under Part 30 required to be maintained under the applicable laws and Exchange rules in effect in New Zealand and that the Exchange will cooperate in providing access to such books and records to the Commission in accordance with the agreed upon information sharing arrangement;

C. Consents that all futures or regulated option transactions with respect to customers resident in the United States will be made on or subject to the rules of the Exchange or any other exchange, other than a contract market designated as such pursuant to section 5 of the Act, and will be undertaken consistent with the rules of the NZSC and Exchange and applicable provisions of the SAA and Client Funds Regulations;

D. Represents that no principal, and no employee who solicits or accepts orders from U.S. customers, would be disqualified from directly applying to do business in the United States under section 8a(2) of the CEA, 7 U.S.C. 12a(2) (1994), and consents to notify the Commission promptly of any change in that representation based on a change in control as generally defined in Commission rule 3.32, 17 CFR 3.32 (1996);

E. Discloses the identity of each subsidiary or affiliate domiciled in the United States with a related business (*e.g.*, banks and broker/dealer affiliates) and provides a brief description of such subsidiary's or affiliate's principal business in the United States;

F. Consents to participate in any NFA arbitration program which offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, and consents to notify customers resident in the United States of the availability of such a program; and if the U.S. customer elects NFA arbitration, that the Dealer consents to participate in NFA arbitration even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices;

G. Consents to maintain all firm records for a minimum of five years;

H. Undertakes to comply with the applicable provisions of New Zealand law and Exchange and NZSC rules which form the basis upon which this exemption from certain provisions of the Act is granted;

I. Agrees to provide to any U.S. customer either the generic risk disclosure statement approved by the Commission under rule 1.55(c), or the risk disclosure statements mandated by Commission rules 30.6(a) [*i.e.*, 1.55(a)] and 33.7, and applicable Commission orders, as appropriate;[19]

J. With respect to transactions effected on behalf of U.S. customers on the NZFOE, complies with the regulations relating to segregation of client funds under NZFOE rules and New Zealand laws;

K. With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange other than the NZFOE and the SFE [20], whether by the Dealer directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, complies with paragraphs 1, 2 or 3 below:

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

b. May not commingle such money, securities and property with the money, securities or property of the Dealer, with any proprietary account of such Dealer, and may not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the Dealer or any proprietary account of the Dealer;

c. May deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph 1. a. above money, securities or property held for or on behalf of non-U.S. customers of the Dealer for the purpose of entering into foreign futures and options transactions. In such a case, the amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount required by paragraph 1. a. above plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (2) the foreign futures and foreign options secured amount required by paragraph 1. a. above plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule or regulation or order, or any rule of any self-regulatory organization;

d. The separate account or accounts referred to in paragraph 1. a. above must be maintained under an account name that clearly identifies them as such, with any of the following depositories:

(1) Another person registered with the Commission as a futures commission merchant (''FCM''), or a firm exempted from FCM registration pursuant to CFTC rule 30.10;

(2) The clearing organization of any foreign board of trade;

(3) Any member and/or clearing member of such foreign board of trade; or

(4) A bank or trust company which any of the depositories identified in (1)–(3) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located; and

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

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

(2) It will ensure that such money, securities or property will be held and treated at all times effectively in accordance with the provisions of this paragraph; and, *provided further,* that the Dealer assures itself that such separate account depository will not pass on such money, securities or

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[19] See, *e.g.*, CFTC Advisory No. 90–1 [1987–1990 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,597 (Feb. 21, 1990) (disclosure statement related to the deferred payment of options premiums).

[20] NZFOE is a wholly-owned subsidiary of SFE, which received rule 30.10 relief from the Commission on November 1, 1988. 53 FR 44856 (Nov. 7, 1988). The SFE and its members are required to segregate customer funds from money and property belonging to the firm and cannot use customer funds to satisfy the firm's obligations, both at the firm level and at the SFE clearing house in connection with all transactions effected on the SFE. See Section 1209 of the Australian Corporations Law; SFE Article 43; and SFE Clearing House By-Law 41. Consequently, with respect to transactions on the SFE on behalf of U.S. foreign futures and options customers, NZFOE Dealers may comply with existing NZFOE and SFE rules in connection with paragraph K relating to the foreign futures and options secured amount.

property to any other depository unless the Dealer has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in this paragraph 1 herein; [21] or

2. Must set aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission rule 30.7, 17 CFR § 30.7 (1996), and treat those funds in the manner described by that rule; or

3. Must comply with the terms and procedures of paragraph 1 or 2, with the amount required to be segregated under NZFOE rules and New Zealand laws to be substituted for the secured amount requirement as set forth in such paragraphs.[22]

Upon filing of the notice required under paragraph I. B. as to any such Dealer, the rule 30.10 relief granted by this Order may be suspended immediately as to that Dealer. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the Dealer and the Exchange and/or any applicable regulatory or self-regulatory organization.

Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for issuance of an order under Commission rule 30.10, including Appendix A of rule 30.10, have generally been satisfied.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular Dealer, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific Dealer, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. If necessary, provisions will be made for servicing existing client positions.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign futures and options.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

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

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to part 30 is amended by adding at the end of the appendix the following entry to read as follows:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain of the Part 30 Rules Pursuant to § 30.10

* * * * *

Firms designated by the New Zealand Futures and Options Exchange (''NZFOE'')

FR date and citation, _____, 1996, _____ FR _____.

Issued in Washington, D.C., on December 3, 1996.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 96–31326 Filed 12–9–96; 8:45 am]

BILLING CODE 6351–01–U

[21] This proviso is intended to ensure that the originating Dealer makes reasonable inquiries and understands prior to the initiation of a trade the conditions under which its customers' funds will be held at all subsequent depositories, so that it may determine whether it may count a particular intermediary or clearing house as a good separate account depository for purposes of this Order or must alternatively set aside funds in the manner set forth in paragraph 2. The Dealer initially would discuss with its immediate intermediary broker whether funds will be transferred to any subsequent depositories and determine the conditions under which such funds would be treated. Compliance with this condition would be satisfied by the Dealer obtaining relevant information or assurances from appropriate sources such as, for example, the immediate intermediary broker, exchanges or clearinghouses, exchange regulators, banks, attorneys or regulatory references.

This requirement is intended to ensure that funds provided by U.S. customers for foreign futures and options transactions, whether held at a U.S. FCM under rule 30.7(c) or a firm exempted from registration as an FCM under CFTC rule 30.10, will receive equivalent protection at all intermediaries and exchange clearing organizations. Thus, for example, an exchange that does not segregate customer from firm obligations and firms which trade on such exchanges and which do not arrange to comply otherwise with any of the procedures described in paragraph K would not be deemed an acceptable separate account. Specifically, such exchange or firms could not provide a valid and binding acknowledgement to a rule 30.10 exempted firm.

This provision is not intended to create a duty on a rule 30.10 firm that it audit any intermediaries for continued compliance with the undertakings it has obtained based on discussions with those relevant intermediaries. It is intended to make clear that firms must engage in a due diligence inquiry before customer funds are sent to another intermediary and take appropriate action (*i.e.*, set aside funds) in the event that it becomes aware of facts leading it to conclude that customer funds are not being handled consistent with the requirements of Commission rules or relevant rule 30.10 order by any subsequent intermediary or clearing house.

[22] The Client Funds Regulations permit a Dealer to send client funds to a depository outside New Zealand which cannot or will not provide the acknowledgement required by the Client Funds Regulations, provided that the Dealer has first:

—advised the client that the money may not receive the protection afforded by section 20 of the Client Funds Regulations (*i.e.*, segregation); and

—obtained the written agreement of the client that notwithstanding such notice, the money may be credited to the client funds account. See section 10 of the Client Funds Regulations.

The Commission notes, however, that such waiver is inconsistent with the terms of this Order requiring that the secured amount funds of U.S. foreign futures and options customers (or the segregated amount under New Zealand law) be in appropriate separate account locations and protected for the benefit of such customers.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 94F–0251]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 1,4-bis[(2,4,6-trimethylphenyl)amino]-9,10-anthracenedione as a colorant in polyethylene phthalate polymers intended for use in food-contact articles. This action is in response to a petition filed by Registration and Consulting Co. AG.

DATES: Effective December 10, 1996; written objections and requests for a hearing January 9, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 2, 1994 (59 FR 39366), FDA announced that a food additive petition (FAP 4B4423) had been filed by Registration and Consulting Co. AG, c/o Bruce A. Schwemmer, Bruce EnviroExcel Group, Inc., 94 Buttermilk Bridge Rd., Washington, NJ 07882 (formerly, c/o Reynaldo A. Gustilo, 125A 18th St., suite 142, Newport Plaza, Jersey City, NJ 07310). The petition proposed to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of 1,4-bis[(2,4,6-trimethylphenyl)amino]-9,10-anthracenedione (C.I. Solvent Blue 104) as a colorant in polyethylene phthalate