

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange Petition for Exemption From the Dual Trading Prohibition in Affected Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is granting the petition of the New York Cotton Exchange ("NYCE" or "Exchange") for exemption from the prohibition against dual trading in its Cotton No. 2 futures contract.

DATES: This Order is to be effective July 16, 1997.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581; telephone (202) 418-5490.

SUPPLEMENTARY INFORMATION: On September 28, 1995, the New York Cotton Exchange ("NYCE" or "Exchange") submitted a Petition for Exemption from the Dual Trading Prohibition for its Cotton No. 2 futures contract. Subsequently, the Exchange submitted a corrected petition and an update on November 21, 1995, and March 14, 1997, respectively. Upon consideration of these petitions and other matters of record, including staff review of Exchange audit trail test results to Commission-specified tests, compliance with the order ticket customer identification requirement of Commission Regulation 1.35, dual trading surveillance data required under the Commission's August 12, 1996 Audit Trail Report, and disciplinary and investigatory actions undertaken by the Exchange during the period of September 1995 through January 1997, the Commission hereby finds that NYCE meets the standards for granting a dual trading exemption contained in Section 4j(a) of the Commodity Exchange Act ("Act") as interpreted in Commission Regulation 155.5.¹

Subject to NYCE's continuing ability to demonstrate that it meets applicable requirements, the Commission specifically finds that NYCE maintains

a trade monitoring system which is capable of detecting and deterring, and is used on a regular basis to detect and to deter, all types of violations attributable to dual trading and, to the full extent feasible, other violations involving the making of trades and execution of customer orders, as required by Section 5a(b) and Commission Regulation 155.5. The Commission further finds that NYCE's trade monitoring system includes audit trail and recordkeeping systems that satisfy the Act and regulations.²

With respect to each required component of the trade monitoring system, the Commission finds as follows:

(a) *Physical Observation of Trading Areas*—NYCE's trade monitoring system satisfies the requirements of Section 5a(b)(1)(A) in that NYCE maintains and executes an adequate program for physical observation of Exchange trading areas and integrates the information obtained from such observation into its compliance programs. The Exchange physically observes trading areas by conducting daily floor surveillance during the open, close, and at random times during each trading day. NYCE also performs floor surveillance when warranted by special market conditions, such as exceptional volatility or contract expirations. The Exchange uses information obtained from such surveillance in evaluating audit trail data and otherwise in executing its compliance programs.

(b) *Audit Trail System*—The Exchange's trade monitoring system satisfies the audit trail standards of Section 5a(b)(1) in that it is capable of capturing essential data on the terms, participants, and sequence of transactions. The system obtains relevant data on unmatched trades and outrades as required by Section 5a(b)(1) of the Act. The Commission further finds that NYCE accurately and promptly records the essential data on terms, participants, times (in increments of no more than one minute in length), and sequence through a means that is

unalterable, continual, independent, reliable, and precise, as required by Section 5a(b)(3) of the Act. Consistent with the guidelines to Regulation 155.5, the Commission finds that NYCE also demonstrated the use of trade timing data in its surveillance systems for dual trading-related and other abuses.

One-Minute Execution Time Accuracy and Sequencing

NYCE's manual trade timing system captures a one-minute time for both the buy and sell sides of every trade and sequences all customer and proprietary trades. In an audit trail test conducted by Commission staff in January 1997, the accuracy and sequencing rates of NYCE's trade times exceeded 90 percent. Separately, the Exchange provided the Commission with four months of data from the period of November 1996 to February 1997 demonstrating that more than 90 percent of trade times in the cotton futures contract were consistent with time and sales data during this time period.

Unalterable, Continual, Independent, Reliable, and Precise Times

The Commission finds that trade records generated by NYCE, including order tickets and trading cards, are recorded in nonerasable ink and that alterations are completely recorded. Trading card collections occur within 15 minutes after each half-hour time bracket, and members must submit trade data for clearing within one hour after each one-half hour trading period. Trade data, therefore, are provided periodically to the Exchange, which is continual.

Trade times are independently obtained through a reliable means, to the extent practicable, since individual times separately submitted for each side of a trade can be compared to each other, to underlying trade data, and to time and sales. NYCE's trade timing system also produces precise sequencing.

Broker Receipt Time

The Commission finds that it is not practicable at this time for NYCE to record the time that each order is received by a floor broker for execution at NYCE.

(c) *Recordkeeping System*—NYCE satisfies the requirements of Section 5a(b)(1)(B) by maintaining an adequate recordkeeping system that is able to capture essential data on the terms, participants, and sequence of transactions. The Exchange uses such information and information on violations of such requirements on a

¹ The record consists of the NYCE's petition and amendment thereto and supporting documents, the Commission's January 1997 audit trail test, dual trading surveillance, customer identification information, and documents submitted by the Exchange as part of a rule enforcement review of the Exchange initiated by the Commission in February 1997.

² Sections 4j(a)(3) and 5a(b) of the Commodity Exchange Act and Commission Regulations 1.35 and 155.5, 17 CFR § 1.35, 155.5. Section 4j(a)(3) requires the Commission to exempt a contract market from the prohibition against dual trading, either unconditionally or on stated conditions, upon finding that the trade monitoring system in place at the contract market satisfies the requirements of Section 5a(b), governing audit trails and trade monitoring systems, with regard to violations attributable to dual trading at such contract market. Commission Regulation 155.5 requires a contract market to demonstrate that its trade monitoring system is capable of and is used to detect and to deter dual trading abuses and to demonstrate that it meets each element required of the components of such a system.

consistent basis to bring appropriate disciplinary actions.

NYCE conducts either annual or quarterly trading card and order ticket reviews for a representative sample of customer orders and uses information from these reviews to generate investigations. Commission staff review of a sample of order ticket account identifiers demonstrated 97 percent compliance with the requirement that the account identifier relate back to the ultimate customer account.

(d) *Surveillance Systems and Disciplinary Actions*—As required by Section 5a(b)(1) (C), (D) and (F), NYCE uses information generated by its trade monitoring and audit trail systems on a consistent basis to bring appropriate disciplinary action for violations relating to the making of trades and execution of customer orders. In addition, NYCE assesses meaningful penalties against violators and refers appropriate cases to the Commission.

On a daily basis, NYCE reviews trade registers and computerized surveillance reports to detect dual trading-related and other trading abuses. All relevant trade data are included in these reviews. The Exchange reviews its trade register daily and surveillance exception reports at least three times a week. The exception reports are designed to identify such suspicious trading activity as trading ahead, trading against, preferential trading (withholding or disclosing orders), accommodation trading, prearranged trading, improper cross trading, and misallocating orders.³

From September 1995 through January 1997, the Exchange initiated 89 investigations into all types of possible abuses. Based on examination of its computerized surveillance reports, NYCE initiated 48 dual trading-related investigations during that period, two of which resulted in referral to the Business Conduct Committee. In 1996, NYCE assessed \$31,000 in fines, suspended a member for 14 days, issued three cease and desist orders, and agreed to a voluntary transfer of membership in three dual trading-related cases involving three members.

(e) *Commitment of Resources*—The Commission finds that NYCE meets the requirements of Section 5a(b)(1)(E) by committing sufficient resources for its trade monitoring system, including automating elements of such trade surveillance system, to be effective in detecting and deterring violations and

by maintaining an adequate staff to investigate and to prosecute disciplinary actions. For fiscal year 1996, NYCE expended \$1,039,729 in salaries for self-regulatory personnel and reported its total self-regulatory costs to be \$2,712,516. NYCE reported volume for this period as 6,228,285 contracts.

Accordingly, on this date, the Commission *Hereby Grants* NYCE's Petition for Exemption from the dual trading prohibition for trading in its Cotton No. 2 futures contracts.

For this exemption to remain in effect, NYCE must demonstrate on a continuing basis that it meets the relevant statutory and regulatory requirements. The Commission will monitor continued compliance through its rule enforcement review program and based on any other information it may obtain about NYCE's program. Although the Commission has found that NYCE meets the standards of independence and continual provision of data to the extent practicable and has found that it is not practicable at this time to capture a broker receipt time, the Commission reserves the ability to reconsider what is practicable as technology for order routing and trade reporting becomes more widely available.

The provisions of this Order shall be effective on the date on which it is issued and shall remain in effect unless and until it is revoked in accordance with Section 8e(b)(3)(B) of the Commodity Exchange Act, 7 U.S.C. § 12e(b)(3)(B). If other NYCE contracts become affected contracts after the date of this Order, the Commission may expand this Order in response to an updated petition that includes those contracts.

It is so Ordered.

Dated: July 16, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97-19177 Filed 7-21-97; 8:45 am]

BILLING CODE 6351-01-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board of Directors of the Corporation for National and Community Service (Corporation).

DATE AND TIME: Thursday, July 31, 1997, from 2 p.m. to 3:30 p.m.

PLACE: The meeting will be held via conference call.

STATUS: The meeting will be closed, pursuant to exemptions (4) and (9(b)) of the Government in the Sunshine Act. The basis for this closing has been certified by the Corporation's Acting General Counsel. A copy of the certification will be posted for public inspection at the Corporation's headquarters at 1201 New York Avenue NW., Suite 8200, Washington, DC 20525, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED: The Board of Directors of the Corporation will meet to deliberate and make decisions on grant awards in the following areas: AmeriCorps*State formula and AmeriCorps Education Awards Program.

FOR FURTHER INFORMATION CONTACT: Rhonda Taylor, Assoc. Dir., Special Projects and Initiatives, Corporation for National Service, 1201 New York Avenue NW., 8th Floor, Washington, DC 20525. Telephone (202) 606-5000 ext. 282. (T.D.D. (202) 565-2799)).

Dated: July 17, 1997.

Stewart Davis,

Acting General Counsel.

[FR Doc. 97-19272 Filed 7-17-97; 4:23 pm]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

³ On a recent date, for example, NYCE's trading ahead review, which isolates brokers receiving better prices than customers fairly contemporaneously, identified one percent of trades in all futures and futures option contracts for further review.