

Application," which carries a burden hour estimate of 40 minutes per electronic submission and 45 minutes for a manual submission. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503; and to the Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, PO Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. See 5 U.S.C. 553(a)(1). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and BXA will consider comments in the development of the final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close November 1, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any

other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be available for public inspection. The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 6883, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482-0500.

List of Subjects in 15 CFR Part 742

Exports, Foreign trade.

Accordingly, part 742 of the Export Administration Regulations (15 CFR parts 730-799) is amended as follows:

PART 742—[AMENDED]

1. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 10, 1999, 64 FR 44101 (August 13, 1999).

2. Section 742.9(b)(1)(iv) is revised to read as follows:

§ 742.9 Anti-Terrorism: Syria.

- * * * * *
- (b) * * *
- (1) * * *

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval. These are items controlled to any destination for national security and missile technology reasons and items controlled to Syria for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated into foreign made products, all aircraft-related items that require a license to Syria will be included as controlled U.S. content, except for ECCNs 6A998, 7A994, and 9A991.d, for purposes of such licensing requirements.

* * * * *

R. Roger Majak,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 99-24203 Filed 9-15-99; 8:45 am]

BILLING CODE 3510-33-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplemental order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is issuing a Supplemental Order authorizing members of the Singapore International Monetary Exchange ("SIMEX" or "Exchange") who receive confirmation of relief under Commission Rule 30.10 ("Exchange Member" or "Member") to solicit and accept orders from U.S. customers for otherwise permitted transactions¹ on

¹ Relief under this Supplemental Order extends only to those products falling within the jurisdiction of the Commodity Exchange Act ("CEA" or "Act") 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 3as12-8, 17 CFR 240.3a12-8).

Eurex Deutschland ("Eurex").² This Supplemental Order is issued pursuant to Commission Rule 30.10, which permits the Commission to grant an exemption from certain provisions of the Commission's regulations, and the Commission's Order dated December 30, 1988,³ granting relief under Rule 30.10 to designated members of SIMEX. **EFFECTIVE DATE:** September 16, 1999.

FOR FURTHER INFORMATION CONTACT: Laurie Plessala Duperier, Special Counsel, or Andrew Chapin, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Supplemental Order.

Supplemental Order Permitting Members of the Singapore International Monetary Exchange Designated for Relief Under Commission Rule 30.10 To Solicit and To Accept Orders From U.S. Customers for Otherwise Permitted Transactions on Eurex

On December 30, 1988, the Commission issued an Order granting relief under Rule 30.10 to designated members of SIMEX ("Original Order"). The Original Order limited the scope of permissible brokerage activities undertaken by designated SIMEX Members on behalf of U.S. customers to transactions "on or subject to the rules of SIMEX."⁴ By letter dated February 4, 1998, SIMEX petitioned the Commission to revise the Original Order to permit designated members of SIMEX to solicit and accept orders from U.S. foreign futures and options customers for "otherwise permitted transactions" on all non-U.S. exchanges⁵ where Exchange Members "are authorized" by Singapore law to conduct futures and options business for customers, subject to SIMEX's and SIMEX Members' continued compliance with the terms of the Original Order and with certain

specified conditions.⁶ Subsequently, SIMEX amended its request to limit the expanded relief to the solicitation and acceptance of orders from U.S. customers for "otherwise permitted transactions" on Eurex, a German and Swiss futures and options exchange.⁷

In response to a prior Commission inquiry, the Monetary Authority of Singapore ("MAS") represented that "the provision of information by (any) MAS official to the [Commission] or any other regulatory body for purposes of making due diligence checks, investigation or market surveillance would not be prohibited by law."⁸ By letter dated March 19, 1998, the Commission's Division of Trading and Markets ("Division") requested that MAS confirm that the information sharing arrangement between the Commission and MAS extended to those transactions that would be the subject of the requested supplemental relief issued to SIMEX.⁹ On July 25, 1998, MAS represented that it "would not be precluded by law from authorizing SIMEX to furnish any such information, for the purpose of making due diligence checks, investigation or market surveillance."¹⁰ The Division sought additional clarification of the Commission's ability under Singapore law to use, without restriction, information obtained from MAS in enforcement proceedings brought by the Commission.¹¹ MAS confirmed that

⁶ Letter dated February 4, 1998, from Philip McBride Johnson, counsel for SIMEX, to I. Michael Greenberger, Director, CFTC Division of Trading and Markets ("February 4, 1998 Request").

⁷ Letter dated April 20, 1998, from Philip McBride Johnson, counsel for SIMEX, to I. Michael Greenberger, Director, CFTC Division of Trading and Markets.

In this context, the Commission notes that the German Bundesaufsichtsamt für den Wertpapierhandel, the German government authority responsible for, among other things, cooperation with foreign authorities in matters relating to the supervision of securities and futures exchanges, is a signatory, along with the Commission, of the 1996 Declaration of Cooperation and Supervision of International Futures Markets and Clearing Organizations and the 1998 amendment to the Declaration. The Bundesaufsichtsamt für den Wertpapierhandel has also signed an October 17, 1997 Memorandum of Understanding with the Commission concerning consultation and cooperation in the administration and enforcement of futures laws.

⁸ Letter dated January 22, 1994, from Koh Beng Seng, MAS Deputy Managing Director, to Andrea Corcoran, Director, Division of Trading and Markets.

⁹ Letter dated March 19, 1998, from Andrew S. Baer, Staff Attorney, CFTC Division of Trading and Markets, Philip C. McBride Johnson, counsel for SIMEX.

¹⁰ Letter dated July 25, 1998, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Andrea Corcoran, Director, CFTC Office of International Affairs.

¹¹ Letter dated December 1, 1998, from Laurie Plessala Duperier, Special Counsel, CFTC Division

of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director. ¹² Letter dated March 5, 1999, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets. ¹³ Letter dated March 22, 1999, from Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director. ¹⁴ Letter dated April 23, 1999, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets.

information provided by MAS for the purpose of making due diligence checks, investigations or market surveillance may be used without restriction in any public court proceeding, including any enforcement proceeding brought by the Commission.¹² The Division also requested additional clarification as to whether MAS or SIMEX would be required to obtain the consent of any account holders or other persons prior to authorizing SIMEX to release information to the Commission.¹³ On April 23, 1999, MAS confirmed that the consent of an account holder or other persons prior to the release of information by MAS or SIMEX to the Commission was not required.¹⁴ 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 Rule 30.10. This requirement is designed to ensure that U.S. customers receive comparable protection for trades entered into on or subject to the rules of a foreign exchange regardless of whether the intermediating party is registered with the Commission or has received confirmation of Rule 30.10 relief. In this regard, U.S. FCMs must comply with, for example, regulations dealing with trade practice and auditing standards, minimum financial requirements and the segregation of customer funds while trading on behalf of U.S. customers on foreign exchanges. Similarly, regulatees or members of a Rule 30.10 order recipient trading on behalf of U.S. customers must comply with analogous requirements that have been deemed generally comparable by the Commission in the Rule 30.10 order. The relief under a typical Rule 30.10 Order only extends to transactions entered into on an exchange within the jurisdiction of the Rule 30.10 recipient.

On occasion, the Commission has issued Rule 30.10 orders and/or supplemental orders that permitted members of an exchange with confirmation of Rule 30.10 relief to trade on behalf of U.S. customers on

of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director.

¹² Letter dated March 5, 1999, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets.

¹³ Letter dated March 22, 1999, from Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets, to Tharman Shanmugaratnam, MAS Deputy Managing Director.

¹⁴ Letter dated April 23, 1999, from Tharman Shanmugaratnam, MAS Deputy Managing Director, to Laurie Plessala Duperier, Special Counsel, CFTC Division of Trading and Markets.

² Prior to June 18, 1998, Eurex Deutschland was known as the Deutsche Terminbörse ("DTB"). This order will refer to Eurex Deutschland.

³ 54 FR 806 (January 10, 1989).

⁴ *Id.* at 808 (condition 2(c)).

⁵ 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) 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.

other authorized or designated exchanges outside the jurisdiction of the Rule 30.10 recipient.¹⁵ To ensure that U.S. customers receive adequate protection for transactions intermediated by non-U.S. persons on or subject to the rules of a foreign exchange located outside the jurisdiction of a Rule 30.10 recipient, the Commission requires the jurisdiction to which the Rule 30.10 order is directed to demonstrate that such transactions will be regulated as if they were executed on an exchange located within the recipient's jurisdiction.

Upon due consideration, and for the reasons stated in the Original Order and above, the Commission has determined to issue this Supplemental Order permitting SIMEX Members to which Rule 30.10 relief has been confirmed by the Commission or by the National Futures Association to solicit and to accept orders from U.S. customers for otherwise permitted transactions in futures and option (including options on futures) on or subject to the rules of Eurex.¹⁶

¹⁵ In 1989, the Commission issued a series of Rule 30.10 orders authorizing firms designated by the U.K. Securities and Investments Board ("SIB") and certain U.K. "Self-Regulating Organisations" ("SROs") to conduct brokerage activities for U.S. customers on any non-U.S. exchange under designated U.K. law. See 54 FR 21599, 21600 (May 19, 1989) (SIB), 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")), and 54 FR 21614, 21615 (May 19, 1989) (Investment Management Regulatory Organisation ("IMRO")). The AFBD and TSA subsequently merged to form the Securities and Futures Association, which became the successor organization for Rule 30.10 purposes. See 56 FR 14017 (April 5, 1991). The SIB recently became the Financial Services Authority ("FSA").

In 1996, the Commission issued an order under Rule 30.10 to the New Zealand Futures and Options Exchange ("NZFOE") permitting NZFOE Dealers to solicit and accept orders from U.S. customers for otherwise permitted transactions on the NZFOE and on any non-U.S. exchange where such Dealers are permitted under New Zealand law to conduct futures business for customers. The Commission also has issued similar orders granting supplemental relief to the Sydney Futures Exchange ("SFE"), 58 FR 19209 (April 13, 1993), and the Montreal Exchange, 62 FR 8875 (February 27, 1997).

¹⁶ The Commission notes that the Division of Trading and Markets originally issued a no-action letter permitting Eurex electronic terminals providing access to Eurex to be placed in the United States without Eurex having to acquire contract market designation pursuant to Section 5 of the CEA and allowing Eurex members to execute transactions involving Eurex futures and options products from U.S.-based Eurex terminals. See CFTC Staff Letter No. 96-28, (1996-1998 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 26,669 (February 29, 1996), as modified by, CFTC Staff Letter No. 98-42 (1996-1998 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 27,365 (Eurex members who were not already operating U.S.-based Eurex terminals were prevented from placing Eurex terminals in the United States absent written authorization). On August 10, 1999, the Division of

The expanded Rule 30.10 relief provided under this Supplemental Order, however, is contingent upon SIMEX's and SIMEX Members' compliance with certain conditions outlined below. In its April 20, 1998 Request, SIMEX represented on its own behalf and on behalf of SIMEX Members to undertake the following conditions:

(1) SIMEX will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated Exchange Members of U.S. customers for futures and options business on Eurex to the same extent that it conducts such activities in regard to SIMEX business;

(2) SIMEX will cooperate with the Commission with respect to any inquiries concerning any activity which is the subject of this Supplemental Order, including sharing the information specified in appendix A to the part 30 rules, 17 CFR part 30, on an "as needed basis," on the same basis as set forth in the Original Order;

(3) Each SIMEX Member firm seeking to engage in activities which are the subject of this Supplemental Order must agree to provide to the Commission the books and records related to such activities required to be maintained under the applicable SIMEX rules and laws in effect in Singapore on the same basis as set forth in the Original Order.¹⁷

Furthermore, the Commission seeks to ensure that the funds of U.S. customers will be subject to consistent protection irrespective of whether the SIMEX Member effects trades directly on SIMEX, on Eurex or through the intermediation of a foreign exchange member. Accordingly, the expanded relief permitting SIMEX Member firms to engage in foreign futures and options

Trading and Markets issued another no-action letter expanding the relief set forth in CFTC Staff Letter 96-28 to permit current and future Eurex members to install additional U.S.-based Eurex terminals and authorizing Eurex members to accept orders through U.S. automated order routing systems ("AORSs") from U.S. customers for transmission to Eurex. See Letter from I. Michael Greenberger, Director, Division of Trading and Markets, to Edward J. Rosen, Esq., counsel for Eurex, dated August 10, 1999. Although the relief provided for within this Supplemental Order will permit SIMEX Members to intermediate trades for U.S. customers on Eurex, nothing herein permits SIMEX electronic terminals providing access to SIMEX and Eurex to be placed in the United States, or otherwise authorizes SIMEX Members to accept orders through U.S. AORSs from U.S. customers for transmission to either SIMEX or Eurex, without SIMEX having to acquire contract market designation pursuant to section 5 of the CEA or receive comparable no-action relief.

¹⁷ SIMEX Member firms which currently operate under the Original Order will be deemed to have consented to condition (3) by effecting transactions pursuant to this Supplemental Order. SIMEX Members which apply for confirmation of Rule 30.10 relief subsequent to the issuance of this Supplemental Order must submit representations to the Commission consistent with condition (3) of this Order.

transactions for U.S. customers on Eurex under this Supplemental Order will be contingent upon compliance by the SIMEX Member firm with the following additional conditions:

(4) The SIMEX Member firm will continue to comply with the terms of the Original Order with respect to transactions effected for U.S. customers on the SIMEX;¹⁸

(5) With respect to transactions effected on Eurex on behalf of U.S. customers, whether by the SIMEX Member directly as a clearing member of Eurex or through the intermediation of one or more intermediaries, the SIMEX Member 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 Member, with any proprietary account of such Member and may not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the Member;

c. May deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph (5)1.a. above, money, securities or property held for or on behalf of non-U.S. customers of the Member 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 (5)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 (5)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, regulation or order, or any rule of any self-regulatory organization;

d. The separate account or accounts referred to in paragraph (5)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

¹⁸ See CFTC Advisory 87-4, Foreign Futures and Options: Compliance and Operational Questions and Answers, November 18, 1987, reprinted in Comm. Fut. L. Rep. (CCH) ¶ 23,975.

(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 (5)1.a. above may be deemed a good secured amount depository only if the Member obtains and retains in its files for the period required by applicable law and SIMEX rules a written acknowledgment from such separate account depository that it:

- (1) Was informed that such money, securities or property are held for or on behalf of customers of the Member; and
 - (2) 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 Member assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the Member has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in paragraph (5)1 herein;¹⁹ or,
2. Must set aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission

¹⁹This proviso is intended to ensure that the originating Member 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 (5)2. The Member 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 Member 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 U.S. FCM under Commission rule 30.7(c) or a firm exempted from registration as an FCM under CFTC Rule 30.10, will receive equivalent protections 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 (5) above 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 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.

Rule 30.7, 17 CFR 30.7, and treat those funds in a manner described by that rule; or

3. Complies with the terms and procedures of paragraph 1 or 2, except that the amount required to be segregated under SIMEX rules and Singapore law may be substituted for the secured amount requirement as set forth in such paragraphs.

Any Singapore laws or regulations or SIMEX rules that would permit a SIMEX Member to obtain from its customers a waiver, acknowledgment, or similar document in which such customer effectively waives the right to segregation would be inconsistent with compliance with paragraphs 1, 2 or 3.

The expanded Rule 30.10 relief provided by this Supplemental Order is contingent upon SIMEX's and SIMEX Members' continued compliance with the Original Order and enumerated conditions therein. The expanded Rule 30.10 relief provided under this Supplemental Order is also contingent upon MAS's compliance with the terms and conditions of the information sharing arrangement with the Commission described herein.

This Supplemental Order is issued based on the information provided to the Commission as set forth herein, including the letter dated February 4, 1998 from SIMEX and the letter dated April 23, 1999 from MAS. Any changes or material omissions may require the Commission to reconsider the authorization granted in this Supplemental Order.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular Member, 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 Member, 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.

Should SIMEX seek to extend its Rule 30.10 relief to allow its members to solicit and accept orders from U.S. customers for otherwise permitted transactions on any non-U.S. exchange authorized by Singapore law, it must:

- (1) Prohibit its members from intermediating otherwise permitted transactions for U.S. customers on unapproved foreign exchanges as set forth under local law, and must specify which exchanges are authorized by local

law;²⁰ (2) represent that member firms with U.S. customers will comply with all the terms and conditions of the original Rule 30.10 Order with respect to transactions entered into on or subject to the rules of a foreign exchange located outside its jurisdiction; and (3) confirm that it has the authority and the ability to enforce its laws, rules and/or regulations with respect to those transactions to the same extent that it conducts such activities on an exchange located within its jurisdiction. Other Rule 30.10 order recipients requesting expanded relief must make the above representations and showings.

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

2. Appendix C to Part 30 is amended by adding the following citation to the existing entry for the Singapore International Monetary Exchange to read as follows:

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

* * * * *
FR date and citation: _____, 1999,
_____ FR _____.

²⁰For example, in the United Kingdom, IMRO and SFA have received Supplemental Rule 30.10 Orders from the Commission that authorize their member firms to handle transactions on behalf of U.S. customers on non-U.K. exchanges determined by the FSA to meet adequate standards of investor protection. See 62 FR 10447 (March 7, 1997)(SFA); 62 FR 10449 (March 7, 1997)(IMRO). Pursuant to the United Kingdom Financial Services Act, these exchanges are classified as Designated Investment Exchanges ("DIEs") See, e.g., 62 FR 10447, n.3. To determine whether a non-U.K. exchange qualifies as a DIE, the SIB evaluates the foreign exchange's regulatory program according to standards set forth in its own rules and regulations. See, e.g., *id.* (citing the SFA Financial Services (Glossary and Interpretation) Rules and Regulations 1990). The Commission has also authorized designated members of the SFE to solicit and accept orders from U.S. customers for otherwise permitted transactions on any non-U.S. exchange "recognized" by Australian law. See 58 FR 19209 (April 13, 1993). Section 9(b) of the Australian Corporations Law requires the Australian Attorney-General to confirm a foreign exchange as "recognized" before an Australian futures broker may enter into futures or options transactions on that exchange on behalf of another person. *Id.* at 19210. If the Rule 30.10 jurisdiction does not have a specific statute regarding authorized or recognized exchanges, then the jurisdiction must specify that in its application.

Issued in Washington, DC on September 9, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-24017 Filed 9-15-99; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 24

[T.D. ATF-403]

RIN 1512-AB78

Implementation of Public Law 105-34, Section 1417, Related to the Use of Additional Ameliorating Material in Certain Wines

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Temporary rule (Treasury decision).

SUMMARY: This temporary rule implements one of the provisions of the Taxpayer Relief Act of 1997. In accordance with the new law, the wine regulations are amended to extend the amelioration and sweetening limitations so that wines made exclusively from any fruit (excluding grapes) or berry with a fixed acid content of 20 or more parts per thousand are entitled to a volume of up to 60 percent ameliorating material. In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on this temporary rule for a 90-day period following the publication of this temporary rule.

DATES: The temporary regulations are retroactive to April 1, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202) 927-8204.

SUPPLEMENTARY INFORMATION:

Background

This temporary rule implements one of the provisions of the Taxpayer Relief Act of 1997, Public Law 105-34 ("the Act"). Section 1417 of the Act amended Section 5384(b)(2)(D) of the Internal Revenue Code of 1986 by striking "loganberries, currants, or gooseberries," and inserting "any fruit

or berry with a natural fixed acid of 20 parts per thousand or more (before any correction to such fruit or berry)."

Current Regulation for Amelioration of Fruit and Berries

Before enactment of the Act, the amelioration and sweetening limitations of 26 U.S.C. 5384(b)(2)(D) could only be used for wines produced exclusively from loganberries, currants, or gooseberries. For wine produced exclusively from loganberries, currants, or gooseberries, the volume of ameliorating material added to juice or wine may not have exceeded 60 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). If the starting fixed acid level was or exceeded 12.5 grams per liter, a maximum of 1,500 gallons of ameliorating material may have been added to each 1,000 gallons of wine or juice.

Section 1417 of Public Law 105-34 now extends the amelioration and sweetening limitations so that wines made from any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) is entitled to a volume of up to 60 percent ameliorating material. These provisions do not apply to grape wine, only to fruit or berry wine.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this temporary rule, the provisions of the Regulatory Flexibility Act (5 USC 601) do not apply. Pursuant to 26 U.S.C. 7805(f), this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined by Executive Order 12866.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this temporary rule because no new collection of information is contained in this regulation.

Administrative Procedure Act

It has been determined that 5 USC 553 (b)(A) applies to this temporary rule. Moreover, because this document merely implements a section of the law which was effective April 1, 1998, and

because immediate guidance is necessary to implement the provisions of the law, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b), or subject to the effective date limitation in section 553(d).

Drafting Information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance:

Accordingly, Chapter I of title 27, Code of Federal Regulations is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Par. 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Section 4.21 is amended by revising the proviso in paragraph (e)(1)(i) to read as follows:

§ 4.21 The standards of identity.

* * * * *

(e) * * *

(1)(i) * * * *Provided*, That a domestic product may be ameliorated or sweetened in accordance with the provisions of 26 U.S.C. 5384 and any product other than domestic may be ameliorated before, during, or after fermentation by adding, separately or in combination, dry sugar, or such an amount of dry sugar and water solution as will increase the volume of resulting product, in the case of wines produced from any fruit or berry other than grapes, having a normal acidity of 20 parts or more per thousand, not more than 60 percent, but in no event shall