

NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 30, 2003.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04-230 Filed 1-5-04; 8:45 am]

BILLING CODE 3510-22-S

COMMODITY FUTURES TRADING COMMISSION

In the Matter of Intermarket Clearing Corporation—Request for Vacation From Designation as Derivatives Clearing Organization

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: In response to a request by the Intermarket Clearing Corporation (“ICC”), the Commodity Futures Trading Commission (“Commission” or “CFTC”) is issuing an order vacating ICC’s designation as a Derivatives Clearing Organization (“DCO”).

EFFECTIVE DATE: December 31, 2003.

FOR FURTHER INFORMATION CONTACT: R. Trabue Bland, Attorney, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430. E-mail: tbland@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Section 5b(d) of the Commodity Exchange Act¹ (“Act”) provides that DCOs that clear contracts for boards of trade designated by the Commission as contract markets prior to a certain date are deemed registered with the Commission. Under Section 1a(29)(C) of the Act, registered DCOs are “registered entities.” Section 7 of the Act² provides that “any person that has been designated or registered as a registered entity in the manner herein provided may have such designation or registration vacated and set aside by giving notice to the Commission requesting that its designation or registration as a registered entity be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when vacation of designation or registration

shall take effect.” ICC has requested that the vacation of this registration take place before the expiration of the ninety-day period. In response to the request, the Commission is exempting ICC from the notice requirements of Section 7 of the Act pursuant to Section 4(c) of the Act,³ which gives the Commission broad exemptive authority, and then vacating ICC’s registration.

II. Request for Vacation of Registration

A. Background

By letter to the Division of Clearing Intermediary Oversight, the ICC submitted a request for the vacation of registration.⁴ The ICC is a registered DCO under Section 5b(d) of the Act and thus a registered entity as defined in Section 1a(29)(C) of the Act. The ICC is a wholly owned subsidiary of The Options Clearing Corporation (“OCC”), another registered DCO. For the past several years, ICC has not engaged in any clearing activities, and thus the OCC wishes to merge the ICC into the OCC. At the completion of the merger, ICC will cease to exist as a corporate entity. Therefore, the ICC requests that the Commission vacate the registration of ICC as a DCO.

Section 7 of the Act allows “any person that has been designated or registered as a registered entity in the manner herein provided may have such designation or registration vacated and set aside by giving notice to the Commission requesting that its designation or registration as a registered entity be vacated, which notice shall be served at least ninety days prior to the date named therein as the date when vacation of designation or registration shall take effect.” ICC served notice to the Commission on November 17, 2003. However, the merger of ICC and OCC will take place before the end of the calendar year 2003, which will occur before the expiration of the ninety-day notice period required by Section 7 of the Act. Therefore, ICC requests, pursuant to Section 4(c) of the Act, that the Commission exempt ICC from Section 7’s ninety-day notice requirement. On December 18, 2003, the Commission published a proposed order and invited comment on ICC’s request.⁵ The Commission received no comments.

³ 7 U.S.C. 6c (2003).

⁴ The letter, dated November 17, 2003, was sent to John Lawton, Deputy Director and Chief Counsel of the Division of Clearing and Intermediary Oversight.

⁵ 68 FR 79494 (December 18, 2003).

B. Public Interest Considerations

The Commission is waiving the Section 7 ninety-day notice requirement pursuant to section 4(c) of the Act, which grants the Commission broad exemptive authority. Section 4(c) of the Act provides that, in order to promote responsible economic or financial innovation and fair competition, the Commission “may, by rule, regulation or order, exempt any class of agreements, contracts or transactions, including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction, from the contract market designation requirement of Section 4(a) of the Act, or any other provision of the Act * * * if the Commission determines that the exemption would be consistent with the public interest.”⁶

As explained above, the ICC has not operated as a clearing entity in a number of years. The merger of ICC into OCC will allow the OCC to streamline its operations. The Commission believes that exempting ICC from the ninety-day requirement of section 7 is consistent with the public interest, is consistent with the purposes of the Act and would have no adverse effect on the ability of OCC to fulfill its self-regulatory responsibilities imposed by the Act.

The Commission invited comments specifically on exempting ICC from the ninety-day requirement of section 7 and received no comments.

III. Conclusion

After consideration of the ICC request, the Commission has determined to exempt ICC from the ninety-day notice requirement of section 7 of the Act. Furthermore, the Commission is vacating the Intermarket Clearing Corporation’s registration as a derivatives clearing organization upon completion of the merger between ICC and OCC.

IV. Cost-Benefit Analysis

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

⁶ See, e.g., 65 FR 77993 (December 13, 2000) (adopting final rules pursuant to the 4(c) exemption).

¹ 7 U.S.C. 7a-1 (2003).

² 7 U.S.C. 11 (2003).

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The order is intended to vacate the registration of the ICC, in order to allow the Options Clearing Corporation to merge with the ICC. The Commission has considered the costs and benefits of the order in light of the specific provisions of Section 15(a) of the Act.

1. Protection of market participants and the public.

The ICC does not provide any clearing services to any designated contract markets. Accordingly, the order should have no effect on the Commission's ability to protect market participants and the public.

2. Efficiency and competition.

The order is not expected to have an effect on efficiency or competition.

3. Financial integrity of futures markets and price discovery.

The order should have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the commodity futures and options markets.

4. Sound risk management practices.

The order should have no effect on sound risk management practices.

5. Other public interest considerations.

The order will have the positive effect of allowing the OCC to streamline its operations.

V. Order

Upon due consideration, and pursuant to its authority under Section 7 of the Act to vacate the designation of a registered entity and pursuant to its authority under Section 4(c) of the Act to exempt ICC from the requirement that notice be served at least 90 days prior to vacation, the Commission finds that:

(1) The Intermarket Clearing Corporation ("ICC") is currently registered with the Commission as a derivatives clearing organization ("DCO") under section 5b(d) of the Commodity Exchange Act (the "Act");

(2) ICC has not engaged in activity as a DCO for several years;

(3) ICC proposes to merge into The Options Clearing Corporation, which is also registered as a DCO;

(4) Upon the effectiveness of that merger, ICC will cease to exist as a corporate entity;

(5) ICC has requested that the Commission terminate ICC's registration as a DCO upon the effectiveness of that merger;

(6) The merger of ICC and OCC will take place before the expiration of the ninety-day notice requirement of section 7 of the Act; and

(7) Exempting ICC from the ninety-day notice requirement of section 7 of the Act will have no adverse effect on any of the regulatory or self-regulatory responsibilities imposed by the Act and will be consistent with the public interest.

Therefore, the Commission hereby orders that ICC's designations as a DCO be and hereby is vacated upon the effectiveness of ICC's merger into the Options Clearing Corporation.

Issued in Washington, DC, on December 30, 2003, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04-189 Filed 1-5-04; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by February 5, 2004.

Title, Form, and OMB Number: Air Force Academy Secondary School Transcript, OMB Number 0701-0066.

Type of Request: Extension of a Currently Approved Collection.

Number of Respondents: 7,954.

Responses Per Respondent: 1.

Annual Responses: 3,977.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 3,977.

Needs and Uses: This information collection is necessary to obtain data on candidate's background and aptitude in determining eligibility and selection to the Air Force Academy.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Ms. Jacqueline Davis.

Written requests for copies of the information collection proposal should be sent to Ms. Davis, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: December 30, 2003.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04-192 Filed 1-5-04; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by February 5, 2004.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subparts 227.71, "Rights in Technical Data;" and 227.72, "Rights in Computer Software and Computer Software Documentation;" and related clauses and provisions at 252.227; OMB Number 0704-0369.

Type of Request: Reinstatement, Without Change, of a Previously Approved Collection, for Which Approval has Expired.

Number of Respondents: 54,925.

Responses Per Respondent: 21 (average).

Annual Responses: 1,034,342.

Average Burden Per Response: 1.7 hours (average).

Annual Burden Hours: 1,760,155.

Needs and Uses: The Defense Federal Acquisition Regulation Supplement (DFARS) Subparts 227.71 and 227.72 prescribe the use of solicitation