

SFE NOTICE NO.

82/06

Date of Issue:

27 July 2006

Effective Data:

1 August 2006

New Regime for Participants Acting on Behalf of US Customers on Non-US Exchanges

Participants were advised of changes to arrangements, for dealing on behalf of US customers in SFE Notice 55/06 dated 25 May 2006. These changes include additions to the Operating Rules of Sydney Futures Exchange Limited and determinations made under the new rules to provide for a list of SFE determined exchanges, and a new Order from the Commodity Futures Trading Commission (CFTC). Although it had been originally intended to implement these changes effective from 1 July, this has now been deferred to 1 August 2006.

Following consultation with Participants and the CFTC, the Exchange has expanded the list of exchanges on which Participants may deal pursuant to the Order; the extended list appears in Annexure A.

The CFTC has now issued an Order and a copy is attached at Annexure B.

The Supplemental Order in combination with new Operating Rule 2.2.30 applies to SFE Participants who have been granted relief under CFTC Regulation 30.10. These Participants are authorised to deal on behalf of US customers on exchanges designated by SFE subject to a number of conditions; these are outlined in Annexure B.

Participants will recall that SFE Notice 55/06 advised in relation to one of the conditions of the Order that they would be required to formally agree to provide the books and records which are required to be maintained under Australian law and SFE rules and which relate to transactions on the non-US exchanges. However, Participants are advised that under the Order the CFTC is not requiring each Participant to give a formal undertaking but provides in the Supplemental Order that by operating under that Order Participants will be deemed to have consented to the condition.

Finally, Participants would be aware that the Exchange recently updated and forwarded to the CFTC the list of exchanges on which each of its Participants with Part 30.10 relief currently deal on behalf of US customers. As outlined in Notice 56/06, where a Participant proposes to deal on a designated exchange on which it has not dealt previously for US customers, the Participant must give prior notification to the National Futures Association (NFA). In this regard SFE is currently reviewing and updating the PDP relevant to Rule 2.2.30 and this will provide details in relation to such notifications to the NFA.

For further information on the above, please contact either the undersigned on +612 9256 0495 or at roaldrake@sfe.com.au or Bronwyn Hill on +612 9256-0699 or at bhill@sfe.com.au.



Rob Coaldrake
Senior Manager, Compliance & Surveillance

SFE Corporation Limited
30 Grosvenor Street
Sydney Australia
+612 9256 0555
www.sfe.com.au
ABN 74 000 299 392

SFE Determined Exchanges (for the purposes of Operating Rule 2.2.30(a))

ADEX Athens Exchange Derivatives Market	OB Oslo Bors
BM & F Commodities & Futures Exchange Brazil	OMX Exchanges (Nordic Derivatives Market – Stockholm, Copenhagen, Helsinki, Riga, Tallinn, & Vilnius)
BSE (Budapest Stock Exchange)	OME Osaka Mercantile Exchange
C-Com Central Japan Commodity Exchange	OSE Osaka Securities Exchange
DGCX Dubai Gold and Commodities Exchange	RTS Russian Trading System Stock Exchange
EDX EDX London	SAFEX South African Futures Exchange
EEX European Energy Exchange	SGX Singapore Exchange
Eurex	SHFE Shanghai Futures Exchange
Euronext (Paris, Amsterdam, Brussels, Lisbon)	SICOM Singapore Commodity Exchange Limited
Euronext.liffe	SPSE Sao Paulo Stock Exchange
HKEX Hong Kong Exchanges & Clearing Ltd	TAIFEX Taiwan Futures Exchange
ICE Futures (formerly IPE)	TASE Tel Aviv Stock Exchange Limited
IDEM Italian Derivatives Market	TRX Tokyo Financial Exchange (formerly TIFFE Tokyo International Financial Futures Exchange)
ISE International Securities Exchange	TOCOM Tokyo Commodity Exchange
KRX the Korea Exchange	TGE Tokyo Grain Exchange
LME London Metal Exchange	TSE Tokyo Stock Exchange
MDEX Bursa Malaysia Derivatives	Turkdex Turkish Derivatives Exchange
ME Montreal Exchange	WB Wiener Börse AG
MEFF Mercado Espanol de Futuros Financieros	WCE Winnipeg Commodity Exchange
MexDer Mexico Derivatives Exchange	WSE Warsaw Stock Exchange
NSE National Stock Exchange of India Limited	

It should be noted that

1. the listing of these exchanges by SFE is for identification purposes only and in no way indicates that SFE has approved them;
2. the CFTC Order allows dealings for US customers in futures and options over futures which are offered by the above exchanges where such contracts are not restricted. Most futures contracts over stock indices and government debt are restricted. A list of such contracts which have been approved by the CFTC may be found on the CFTC's web-site at <http://www.cftc.gov/opa/backgrounder/opapart30.htm>
3. whilst some of the exchanges listed above offer equity and other products as well as futures and options, the listing of the exchanges by SFE does not apply to contracts other than futures and options.

RULES and REGULATIONS
COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

Monday, July 17, 2006

AGENCY: Commodity Futures Trading Commission.

***40395 ACTION:** Amended Supplemental Order for Expanded Relief.

SUMMARY: The Commodity Futures Trading Commission ("Commission or CFTC") is issuing an Amended Supplemental Order for expanded relief, authorizing members of the Sydney Futures Exchange ("Exchange or SFE") to solicit and accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. and non-Australian exchanges ("foreign exchanges") where such members are authorized by the regulations of the SFE to conduct futures business for customers. The Amended Supplemental Order supercedes the prior Supplemental Orders, relating to expanded relief, issued to SFE in 1997 and 1993. This Amended Supplemental Order is issued pursuant to Commission ***40396** Regulation 30.10, which permits the Commission to grant an exemption from certain provisions of Part 30 of the Commission's regulations, and the Commission's Order to SFE dated November 1, 1988 (Original Order), granting relief under Regulation 30.10 to designated members of the Exchange.

DATES: Effective Date: July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Deputy Director, or Susan A. Elliott, Esq., Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order: Amended Supplemental Order Under CFTC Regulation 30.10 Exempting Firms Designated by the Sydney Futures Exchange From the Application of Certain of the Foreign Futures and Option Regulations for Trading on Certain Non-U.S. and non-Australian Exchanges ("Foreign Exchanges"), After Filing of Consents by Such Firms and the Sydney Futures Exchange, as Appropriate, to the Terms and Conditions of the Order Herein.

On November 1, 1988, the Commission issued an Order under Regulation 30.10 authorizing designated members of the SFE to offer or sell certain futures and option contracts traded on the Exchange to persons located in the United States. [FN1] The Original Order limited the scope of permissible brokerage activities undertaken by designated SFE members on behalf of U.S. customers to transactions "on or subject to the rules of the Exchange." [FN2] Subsequently, the Commission issued Regulation 30.10 orders which did not include this limitation (expanded relief), including such orders to SFE. [FN3]

FN1 [53 FR 44856 \(November 7, 1988\)](#).

FN2 [53 FR at 44857](#).

FN3 [58 FR 19209 \(April 13, 1993\)](#), hereafter 1993 Supplemental Order, and [62 FR 10445 \(March 7, 1997\)](#), hereafter 1997 Supplemental Order. The 1997 Supplemental Order clarified certain depository requirements later adopted as Regulation 30.7, [17 CFR 30.7 \(2006\)](#).

A condition of the Commission's grant of expanded relief in 1993 is that SFE carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated SFE members of U.S. customers for futures business on Recognized Futures Exchanges, as defined in Section 9(b) of the Australian Corporations Law (ACL), other than a contract market designated as such pursuant to section 5a of the Commodity Exchange Act (Act), to the same extent that it conducts such activities with regard to SFE business.

The passage of the Financial Services Reform Act (FSRA) in Australia in March 2002 eliminated the list of Recognized Futures Exchanges as defined in the ACL. A condition for the granting of Part 30 Expanded Relief to SFE in 1993 was that a foreign exchange be included on that list. This Amended Supplemental Order eliminates this condition, and substitutes the condition that SFE must identify in its rules the foreign exchanges on which its members handle transactions on behalf of U.S. customers. [FN4] SFE has submitted a proposal to its regulator, the Australian Securities and Investments Commission (ASIC), [FN5] representing that it will identify in its rules the foreign exchanges on which its members may handle transactions on behalf of U.S. customers, pursuant to its expanded relief. SFE will make the rule effective on August 1, 2006.

FN4 Relief under this Amended Supplemental Order extends only to those products falling within the jurisdiction of the Act and remains subject to existing product restrictions under the Act and Commission regulations thereunder related to stock indices and foreign government debt (see Section 2(a)(1)(B)(v) of the Act and Securities and Exchange Commission Regulation 3a12-8, [17 CFR 240.3a12-8 \(2006\)](#)).

FN5 Letter of April 3, 2006 from Barbara Jones, Senior Legal Counsel, SFE, to Ms. Tracey Lyons, Director, Markets Regulation, ASIC.

The relief provided under this Amended Supplemental Order, however, is contingent on the SFE's Exchange Members' continued compliance with the Original Order and the Exchange's and Exchange Members' compliance with the following conditions:

- (1) The SFE 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 options and futures business on all non-U.S. exchanges listed in Rule 2.2.30(a) of the Exchange rules to the same extent that it conducts such activities in regard to Exchange business;
- (2) The SFE will cooperate with the Commission with respect to any inquiries concerning any activity that is the subject of this Amended Supplemental Order, including sharing the information specified in Appendix A to the Commission's part 30 regulations, 17 CFR part 30, on an "as needed" basis on the same basis as set forth in the Original Order;
- (3) Each SFE Member confirmed for relief under the Original Order seeking to engage in activities that are the subject of this Amended Supplemental Order must agree to provide the books and records related to such activities required to be maintained under the applicable laws and regulations now in effect in Australia and Exchange regulations on the same basis as set forth in the Original Order; [FN6]

FN6 SFE member firms that currently operate under the Original Order will be deemed to have consented to condition (3) by effecting transactions pursuant to this Amended Supplemental Order. Exchange members who apply for confirmation of Regulation 30.10 relief subsequent to the issuance of this Amended Supplemental Order must submit representations to the National Futures Association consistent with condition (3) of this Order, and the list of foreign exchanges required by condition (4), as well as the representations required by the Original Order.

(4) Foreign futures and options exchanges on which each SFE Member firm may engage in transactions on behalf of U.S. customers are those foreign exchanges identified in Rule 2.2.30(a) of the Exchange rules, provided however, that Exchange Members may not engage in any transactions on behalf of U.S. customers on an exchange designated as a contract market under section 5 of the Act;

(5) SFE Members who apply for confirmation of Regulation 30.10 relief with National Futures Association must provide a list of the foreign exchanges where they intend to engage in transactions on behalf of U.S. customers pursuant to the SFE Expanded Relief granted in this order and must agree to abide by the Original Order; and

(6) The SFE will continue to comply with the terms of the Original Order with respect to transactions effected for U.S. customers on the SFE.

This Amended Supplemental Order is issued based on the information provided to the Commission and its staff. Any changes or material omissions may require the Commission to reconsider the authorization granted in this Amended Supplemental Order.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign futures.

Accordingly, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 30--FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

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

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

Appendix C to Part 30--[Amended]

17 CFR PT. 300, APP. C

2. Appendix C to Part 30--Foreign Petitioners Granted Relief from the *40397 Application of Certain of the Part 30 Rules. The following citation is added:

Firms designated by the Sydney Futures Exchange Limited.

* * * * *

FR date and citation: 70 FR [insert number of page on which this release begins] July 17, 2006.

* * * * *

Issued in Washington, DC, on July 11, 2006.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6-11152 Filed 7-14-06; 8:45 am]

BILLING CODE 6351-01-P

71 FR 40395-01, 2006 WL 1970068 (F.R.)

END OF DOCUMENT