

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"). 17 CFR part 30, appendix A. 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.⁶

By letter dated May 14, 1993, as supplemented, counsel for the Exchange requested that the Commission: (1) Authorize the offer and sale of option contracts traded on the Exchange to persons located in the United States under rule 30.3(a); and (2) exercise its authority under Commission rule 30.10 to exempt certain members of the Exchange from compliance with Part

30's registration and other requirements with respect to brokerage activities undertaken on behalf of customers in the United States⁷ with respect to transactions on or subject to the rules of MEFF Renta Fija, and which U.S. customers may trade.⁸ The Exchange also has requested that the Commission confirm the application of the Commission's Limited Marketing Orders to MEFF Renta Fija member firms designated by the Exchange for rule 30.10 relief, and this request will be addressed separately.⁹

Order

The Commission is hereby issuing the following order:

ORDER UNDER CFTC RULE 30.3 PERMITTING OPTION CONTRACTS TRADED ON MEFF RENTA FIJA TO BE OFFERED OR SOLD IN THE UNITED STATES THIRTY DAYS AFTER PUBLICATION OF THE TERMS AND CONDITIONS OF THE PARTICULAR EXCHANGE OPTION CONTRACT IN THE FEDERAL REGISTER, UNLESS PRIOR TO THAT DATE THE COMMISSION RECEIVES ANY COMMENTS WHICH MAY RESULT IN THE DETERMINATION TO DELAY THE EFFECTIVE DATE OF THE ORDER; AND

⁷ See Letter dated May 14, 1993, from Philip McBride Johnson, Esq., to Jean A. Webb, Commission, Re: Petition for Authorization of the Offer and Sale in the United States of Futures and Options Contracts Traded on the MEFF Renta Fija ("Petition").

By letter dated August 26, 1994, MEFF confirmed that it seeks initial authorization for the following contracts: options on the three year Spanish government bond futures contracts, monthly and quarterly options on the ten year Spanish government bond futures contracts and options on the MIBOR '90 futures contract. Spanish government debt obligations have been designated by the U.S. Securities and Exchange Commission as "exempted securities" under SEC rule 3a12-8, a prerequisite before an option product based on such a foreign government debt futures contract may be offered or sold in the United States. See 59 FR 54812 (November 2, 1994).

⁸ 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. For purposes of this Order, the term "foreign board of trade" shall mean 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. Commission rule 1.3(ss), 17 CFR 1.3(ss). Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5a of the Commodity Exchange Act (CEA) are not within the scope of this Order.

⁹ See letter dated January 31, 1995 from Philip McBride Johnson, Skadden, Arps, Slate, Meagher & Flom, to Jane C. Kang, CFTC. The Commission has authorized, subject to certain conditions, direct limited marketing activities from within the United States by rule 30.10 firms. See 57 FR 49644 (November 3, 1992), and 59 FR 42156 (August 17, 1994) ("Limited Marketing Orders").

ORDER UNDER CFTC RULE 30.10 EXEMPTING DESIGNATED MEMBERS OF THE MEFF RENTA FIJA FROM THE APPLICATION OF CERTAIN OF THE FOREIGN FUTURES AND OPTION RULES THE LATER OF THIRTY DAYS AFTER PUBLICATION OF THE ORDER HEREIN IN THE FEDERAL REGISTER OR AFTER THE FILING OF RELEVANT CONSENTS BY MEMBERS OF THE EXCHANGE AND 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:

- Petition dated May 14, 1993;
- The Spanish Securities Market Act 24/1988;
- Royal Decree 1814 Governing Official Futures and Options Markets;
- Royal Decree 629/1993 of May 3, 1993 "Concerning the Regulations Governing Participation in the Stock Markets and Obligatory Registers of Transactions;"
- MEFF Renta Fija Articles of Association (1992);
- MEFF Renta Fija Rules and Regulations;
- Letters dated October 1, 8, and 15 1993; December 23, 1993; August 26, 1994; December 20, 1994; and January 31, 1995, from Philip McBride Johnson, Skadden, Arps, Slate, Meagher & Flom, counsel for the Exchange;
- Letters dated May 19, 1994 and September 28, 1994 from the Comision Nacional del Mercado de Valores ("CNMV"); and
- Letter dated January 12, 1995 from MEFF Renta Fija.

Based upon its review of the above supporting materials, and the memorandum from the Division of Trading and Markets dated April 24, 1995 (the "Staff Memorandum") and subject to the conditions set forth below, the Commission has determined to issue this Order which:¹⁰

(a) As to matters subject to rule 30.3(a), will become effective thirty days after publication of the terms and conditions of the particular Exchange option contract in the **Federal Register**, unless prior to that date the Commission receives any comments which may result in the determination to delay the effective date of the Order pending review of such comments (under such circumstances, the Commission will provide notice); and

¹⁰ Although the Commission in the past has issued separate orders under rules 30.3(a) and 30.10 as requested by the petitioners, there are many issues common to the consideration of the two types of petitions such that the review of one would facilitate the review of the other.

⁶ 52 FR 28980, 28981 and 29002.