

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES AND CHANGEOVER POINTS
[Amendment 435, Effective date: June 13, 2002]

From	To	MEA
Atlantic Routes—G026 is Amended to Delete		
Galveston, TX NDB	Rebaa, La FIX	3000
Rebaa, LA FIX	Grand Isle, LA NDB	6000
Grand Isle, LA NDB	Lefko, FL FIX	6000
Lefko, FL FIX	Picny, FL NDB	5000
&95.6001 Victor Routes—U.S. &95.6006 VOR Federal Airway 6 is Amended to Read in Part		
Empyr, NY FIX	Nanci, NY FIX	2700
Nanci, NY FIX	La Guardia, NY VOR/DME	5000
&95.6035 VOR Federal Airway 35 is Amended to Read in Part		
Cross City, FL VORTAC	Greenville, FL VORTAC	2000
&95.6123 VOR Federal Airway 123 is Amended to Read in Part		
Robbinsville, NJ VORTAC	Minks, NJ FIX	2000
Minks, NJ FIX	La Guardia, NY VOR/DME	5000
&95.6157 VOR Federal Airway 157 is Amended to Read in Part		
Robbinsville, NJ VORTAC	Minks, NJ FIX	2000
Minks, NJ FIX	La Guardia, NY VOR/DME	5,000
&95.6385 VOR Federal Airway 385 is Amended to Read in Part		
Lubbock, TX VORTAC *4600—MOCA	Wagun, TX FIX	*8500
Wagun, TX FIX *3800—MOCA	Abilene, TX VORTAC	*4900
&95.6433 VOR Federal Airway 433 is Amended to Read in Part		
Gritty, NJ FIX	Tickl, NY FIX	4000
Tickl, NY FIX	La Guardia, NY VOR/DME	5000
&95.6445 VOR Federal Airway 445 is Amended to Read in Part		
Empyr, NY FIX	Nanci, NY FIX	2700
Nanci, NY FIX	La Guardia, NY VOR/DME	5000

[FR Doc. 02-11494 Filed 5-7-02; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is granting an exemption to designated members of Eurex Deutschland (“Eurex”) from the

application of certain of the Commission’s foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority consistent with conditions specified by the Commission, as set forth herein. This Order is issued pursuant to Commission Rule 30.10, which permits specified persons to file a petition with the Commission for exemption from the application of certain of the rules set forth in Part 30 and authorizes the Commission to grant such an exemption if such action would not be otherwise contrary to the public interest or to the purposes of the provision from which exemption is sought. By this Order, the Commission

also confirms that members of Eurex that have received confirmation of the relief set forth herein may engage in limited marketing conduct from a non-permanent U.S. location with respect to the offer and sale to certain qualified customers located in the U.S. of foreign futures and foreign options, subject to the terms and conditions of prior Commission orders.

EFFECTIVE DATE: May 8, 2002.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Associate Chief Counsel, Susan A. Elliott, Esq., Staff Attorney, or Andrew V. Chapin, Esq., Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under CFTC Rule 30.10 Exempting Firms Designated by Eurex Deutschland ("Eurex") From the Application of Certain of the Foreign Futures and Option Rules the Later of the Date of Publication of the Order Herein in the **Federal Register** or After Filing of Consents by Such Firms and the Regulatory or Self-Regulatory Organization, as Appropriate, to the Terms and Conditions of the Order Herein; and Confirming that Designated Members of Eurex May Engage in Limited Marketing Conduct With Respect to Qualified Customers Located in the U.S., as Set Forth in Prior Commission Orders

Commission rules governing the offer and sale of commodity futures and option contracts traded on or subject to the rules of a foreign board of trade to customers located in the U.S. are contained in Part 30 of the Commission's rules.¹ These rules include requirements for intermediaries with respect to registration, disclosure, capital adequacy, protection of customer funds, recordkeeping and reporting, and sales practice and compliance procedures, that are generally comparable to those applicable to transactions on U.S. markets.

In formulating a regulatory program to govern the offer and sale of foreign futures and option products to customers located in the U.S., the Commission, among other things, considered the desirability of ameliorating the potential extraterritorial impact of such a program and avoiding duplicative regulation of firms engaged in international business. Based upon these considerations, the Commission determined to permit persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they were located to seek an exemption from certain of the requirements under Part 30 of the Commission's rules based upon substituted compliance with the comparable regulatory requirements of the foreign jurisdiction.

Appendix A to Part 30, "Interpretative Statement With Respect to the Commission's Exemptive Authority Under 30.10 of Its Rules" ("Appendix A"), generally sets forth the elements the Commission will evaluate in determining whether a particular regulatory program may be found to be comparable for purposes of exemptive

relief pursuant to Rule 30.10.² These elements include: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons through whom 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) recordkeeping and reporting requirements; (5) sales practice standards; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) information sharing arrangements between the Commission and the appropriate governmental and/or self-regulatory organization to ensure Commission access on an "as needed" basis to information essential to maintaining standards of customer and market protection within the U.S.

Moreover, the Commission specifically stated in adopting Rule 30.10 that no exemption of a general nature would be granted unless the persons to whom the exemption is to be applied: (1) Submit to jurisdiction in the U.S. by designating an agent for service of process in the U.S. with respect to transactions subject to Part 30 and filing a copy of the agency agreement with the National Futures Association ("NFA"); (2) agree to provide access to their books and records in the U.S. to Commission and Department of Justice representatives; and (3) notify NFA of the commencement of business in the U.S.³

By letter dated April 23, 2001 and subsequent correspondence through November 21, 2001, Eurex petitioned the Commission on behalf of certain firms located and doing business in Germany for an exemption from the application of the Commission's Part 30 rules to those firms. In support of its petition, Eurex states that granting such an exemption with respect to firms that it has authorized to conduct foreign futures and options transactions on behalf of customers located in the U.S. would not be contrary to the public interest or to the purposes of the provisions from which the exemption is sought because such firms are subject to a regulatory framework comparable to that imposed by the Commodity Exchange Act ("Act") and the rules thereunder.

Based upon a review of the petition, supporting materials filed by Eurex and the recommendation of the Commission's staff, the Commission has concluded that the standards for relief

set forth in Rule 30.10 and, in particular, Appendix A thereof, have generally been satisfied and that compliance with applicable German law and Eurex rules may be substituted for compliance with those sections of the Act and rules thereunder more particularly set forth herein.

By this Order, the Commission hereby exempts, subject to specified conditions, those firms identified to the Commission by Eurex as eligible for the relief granted herein from:

- Registration with the Commission for firms and for firm representatives;
- The separate account requirement contained in Commission Rule 30.7, 17 CFR 30.7;
- The requirement in Commission Rule 30.6(a) and (d), 17 CFR 30.6(a) and (d), that firms provide customers located in the U.S. with the risk disclosure statements in Commission Rule 1.55(b), 17 CFR 1.55(b) and Commission Rule 33.7, 17 CFR 33.7, or as otherwise approved under Commission Rule 1.55(c), 17 CFR 1.55(c);
- Those sections of Part 1 of the Commission's financial rules that apply to foreign futures and options sold in the U.S. as set forth in Part 30; and
- Those sections of Part 1 of the Commission's rules relating to books and records that apply to transactions subject to Part 30, based upon substituted compliance by such persons with the applicable statutes and regulations in effect in Germany.

This determination to permit substituted compliance is based on, among other things, the Commission's finding that the regulatory scheme governing persons in Germany who would be exempted hereunder provides:

(1) A system of qualification or authorization of firms who deal in transactions subject to regulation under Part 30 that includes, for example, criteria and procedures for granting, monitoring, suspending and revoking licenses, and provisions for requiring and obtaining access to information about authorized firms and persons who act on behalf of such firms;

(2) Financial requirements for firms including, without limitation, a requirement that all firms immediately notify Eurex if the firms' liable equity capital falls below a specified level and daily mark-to-market settlement and/or accounting procedures;

(3) A system for the protection of customer assets that is designed to preclude the use of customer assets to satisfy house obligations and requires separate accounting for such assets, augmented by a compensation program

¹ Commission rules referred to herein are found at 17 CFR Ch. I (2001).

² 52 FR 28980, 29001 (August 5, 1987).

³ 52 FR 28980, 28981 and 29002.

designed to compensate customers whose assets are segregated and who have suffered a loss as a result of fraud and/or insolvency of a firm;

(4) Recordkeeping and reporting requirements pertaining to financial and trade information including, without limitation, order tickets, trade confirmations, monthly customer account statements, customers' segregation records, accounting records for customer and proprietary trades and discretionary account documentation;

(5) Sales practice standards for authorized firms and persons acting on their behalf that include, for example, a requirement that authorized persons know their customers, required disclosures to prospective customers and prohibitions on misleading advertising and improper trading activities;

(6) Procedures to audit for compliance with, and to redress violations of, customer protection and sales practice requirements including, without limitation, an affirmative surveillance program designed to detect trading activities that take advantage of customers, and the existence of broad powers of investigation relating to sales practice abuses; and

(7) Mechanisms for sharing of information between the Commission, the Eurex, and the relevant German regulators on an "as needed" basis including, without limitation, confirmation data, data necessary to trace funds related to trading futures products subject to regulation in Germany, position data, and data on firms' standing to do business and financial condition.

This Order does not provide an exemption from any provision of the Act or rules thereunder not specified herein, for example, without limitation, the antifraud provision in Rule 30.9. Moreover, the relief granted is limited to brokerage activities undertaken on behalf of customers located in the U.S. with respect to transactions on or subject to the rules of Eurex for products that customers located in the U.S. may trade.⁴ The relief also extends to otherwise permitted transactions on or subject to the rules of any other non-U.S. market where Eurex members are authorized by Germany law to conduct

brokerage activities.⁵ The relief, however, does not extend to rules relating to trading, directly or indirectly, on U.S. exchanges. For example, a firm trading in U.S. markets for its own account would be subject to the Commission's large trader reporting requirements.⁶ Similarly, if such a firm were carrying a position on a U.S. exchange on behalf of foreign clients, it would be subject to the reporting requirements applicable to foreign brokers.⁷ The relief herein is inapplicable where the firm solicits or accepts orders from customers located in the U.S. for transactions on U.S. markets. In that case, the firm must comply with all applicable U.S. laws and regulations, including the requirement to register in the appropriate capacity.

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firms with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Germany; such firm is engaged in business with customers in Germany as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under Section 8a(2) of the Act, 7 U.S.C. 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) All transactions with respect to customers located in the U.S. will be made on or subject to the rules of Eurex and the Commission will receive prompt notice of all material changes to the relevant laws in Germany, any rules promulgated thereunder and Eurex rules;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than German customers under all relevant provisions of German law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A on an "as needed" basis and will use its best efforts to notify the Commission if it becomes aware of any information that in its judgment affects the financial or operational viability of a member firm doing business in the U.S. under the exemption granted by this Order.

(2) Each firm seeking relief hereunder must represent in writing that it:

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (e.g., banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identity and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Agrees to provide access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in Germany upon the request of any representative of the Commission or U.S. Department of Justice at the place in the U.S. designated by such representative, within 72 hours, or such lesser period of time as specified by that representative as may be reasonable under the circumstances after notice of the request;

(d) Has no principal, or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified from directly applying to do business in the U.S. under Section 8a(2) of the Act, 7 U.S.C. 12(a)(2);

(e) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices, and consents to notify customers located in the U.S. of the availability of such a program;

⁴ This Order granting exemptive relief does not authorize the offer or sale of any contract beyond the scope of the Part 30 rules or otherwise inconsistent with the CEA. Thus, for example, Eurex members may not offer or sell to U.S. customers any security futures product or any non-narrow-based stock index futures product. See, e.g., Sections 2(a)(1)(c) and (d) of the Commodity Exchange Act.

⁵ See, e.g., 64 FR 50248, 50251 (September 16, 1999) (permitting designated members of the Singapore Exchange Derivatives Trading Limited to solicit and accept from U.S. customers foreign futures and foreign options orders for otherwise permitted transactions on an exchange located outside Singapore).

⁶ See, e.g., 17 CFR Part 18 (2001).

⁷ See, e.g., 17 CFR Parts 17 and 21 (2001).

(f) Consents to refuse customers resident in the U.S. the option of not segregating funds notwithstanding relevant provisions of the German regulatory system and otherwise consents to provide all customers resident in the U.S. no less stringent regulatory protection than German customers under all relevant provisions of German law; and

(g) Undertakes to comply with the applicable provisions of German laws and Eurex rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted. As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.⁸ Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

The Commission also confirms that Eurex members that receive confirmation of relief set forth herein may engage in limited marketing conduct with respect to certain qualified customers located in the U.S. from a non-permanent location in the U.S., subject to the terms and conditions set forth in prior Commission Orders.⁹ The Commission notes that any firm and their employees or other representatives which engage in marketing conduct pursuant to this relief are deemed to have consented to the Commission's jurisdiction over such marketing activities by their filing of a valid and binding appointment of an agent in the U.S. for service of process.

This Order will become effective as to any designated Eurex member firm the later of the date of publication of the Order in the **Federal Register** or the filing of the consents set forth in paragraph (2). Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will

⁸ 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualifying firms.

⁹ See 57 FR 49644 (November 3, 1992) (permitted limited marketing of foreign futures and foreign options products to certain governmental and institutional customers located in the U.S.); 59 FR 42156 (August 17, 1994) (expanding the relief set forth in the 1992 release to conduct directed towards "accredited investors", as defined in the Securities and Exchange Commission's Regulation D issued pursuant to the Securities Act of 1933).

remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and Eurex.

This Order is issued pursuant to Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, 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 firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, DC on April 29, 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02-11013 Filed 5-7-02; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96-1-020; Order No. 587-O]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued: May 1, 2002.

AGENCY: Federal Energy Regulatory Commission, DOT.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its open access regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines. The Commission is adopting the most recent version, Version 1.5, of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), formerly the Gas Industry Standards Board. The Commission also is removing its regulations dealing with pipeline Electronic Bulletin Boards (EBBs), since all pipelines are required under Commission regulations to provide all electronic communications and conduct all electronic transactions using the public Internet.

DATES: The rule will become effective June 7, 2002. Pipelines are required to make filings to comply with the regulations adopted in this rule by August 1, 2002, with an effective date of October 1, 2002.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208-2294.

Marvin Rosenberg, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208-1283.

Kay Morice, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208-0507.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell

1. The Federal Energy Regulatory Commission (Commission) is amending § 284.12 of its open access regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines. The Commission is adopting the most recent version, Version 1.5, of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), formerly the Gas Industry Standards Board. The Commission also is removing § 284.12(a) of its regulations dealing with pipeline Electronic Bulletin Boards (EBBs),¹ since all pipelines are required under

¹ Citations to § 284.12 refer to the section as redesignated after removal of § 284.12(a).