

**FOR FURTHER INFORMATION CONTACT:** John Conniff, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-1009.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 27, 2010, the Department of Commerce (the Department) published in the *Federal Register* a notice of initiation of the countervailing duty investigation of aluminum extrusions from the People's Republic of China. See *Aluminum Extrusions From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 22114 (April 27, 2010). On May 11, 2010, petitioners requested, in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(2), a 65-day postponement of the preliminary determination.<sup>1</sup>

**Postponement of Due Date for Preliminary Determination**

Section 703(b)(1) of the Act requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, the Department may postpone, at petitioners' timely request, making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation. See section 703(c)(1)(A) of the Act.

Petitioners' request for a 65-day postponement of the preliminary determination was made 25 days before the scheduled date of the preliminary determination, pursuant to 19 CFR 351.205(e). Therefore, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2), we are fully extending the due date for the preliminary determination to no later than 130 days after the day on which the investigation was initiated. The deadline for completion of the preliminary determination is now August 28, 2010. Because that date falls on a weekend, the deadline for completion of this preliminary determination is the next business day, *i.e.*, August 30, 2010.

<sup>1</sup> Petitioners are Aerolite Extrusion Company, Alexandria Extrusion Company, Benada Aluminum of Florida, Inc., William L. Bonnell Company, Inc., Frontier Aluminum Corporation, Futura Industries Corporation, Hydro Aluminum North America, Inc., Kaiser Aluminum Corporation, Profile Extrusion Company, Sapa Extrusions, Inc., and Western Extrusions Corporation.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: June 15, 2010.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-15099 Filed 6-17-10; 4:15 pm]

**BILLING CODE 3510-DS-S**

**COMMODITY FUTURES TRADING COMMISSION**

**Order (1) Pursuant to Section 4(c) of the Commodity Exchange Act, Permitting the Kansas City Board of Trade Clearing Corporation to Clear Over-the-Counter Wheat Calendar Swaps and (2) Pursuant to Section 4d of the Commodity Exchange Act, Permitting Customer Positions in Such Cleared-Only Swaps and Associated Funds To Be Commingled With Other Positions and Funds Held in Customer Segregated Accounts**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Order.

**SUMMARY:** By petition dated May 26, 2009 (Petition), the Kansas City Board of Trade (KCBT), a designated contract market, and its wholly-owned subsidiary corporation, the Kansas City Board of Trade Clearing Corporation (KCBTCC), a registered derivatives clearing organization (DCO), requested permission to clear over-the-counter (OTC) swap agreements (swaps) in wheat. Authority for granting this request is found in section 4(c) of the Commodity Exchange Act (Act).<sup>1</sup> The Petition also requested permission pursuant to section 4d of the Act<sup>2</sup> to allow KCBTCC and futures commission merchants (FCMs) to commingle positions in those cleared-only OTC swaps and funds associated with those positions with positions and funds otherwise required to be held in a customer segregated account. The Commodity Futures Trading Commission (Commission) has reviewed public comments and the entire record in this matter and it has determined to issue an order granting the requested permission, subject to certain terms and conditions.

**DATES:** *Effective Date:* June 15, 2010.

**FOR FURTHER INFORMATION CONTACT:** Phyllis P. Dietz, Associate Director, 202-418-5449, [pdietz@cftc.gov](mailto:pdietz@cftc.gov), or Eileen A. Donovan, Special Counsel, 202-418-5096, [edonovan@cftc.gov](mailto:edonovan@cftc.gov),

<sup>1</sup> 7 U.S.C. 6(c).

<sup>2</sup> 7 U.S.C. 6d.

Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. The KCBT/KCBTCC Petition**

KCBT and KCBTCC ("Petitioners") jointly submitted a Petition requesting that the Commission issue an exemptive order under section 4(c) of the Act.<sup>3</sup> The order would grant KCBTCC approval to clear OTC wheat calendar swaps, and it would permit KCBT to list those products for "clearing-only" ("cleared-only wheat swaps"). The contract size for the cleared-only wheat swaps would be the same as that for wheat futures—5,000 bushels. The proposed cleared-only wheat swaps would be cash settled, in contrast to the futures contracts which are physically settled.

Part 35 of the Commission's regulations<sup>4</sup> exempts, subject to conditions, swap agreements and eligible persons entering into such agreements from most provisions of the Act.<sup>5</sup> Part 35 was promulgated pursuant to authority conferred upon the Commission in section 4(c) of the Act to exempt certain transactions in order to explicitly permit certain off-exchange derivatives transactions and thus promote innovation and competition.<sup>6</sup> A number of exemptions and exclusions for off-exchange derivatives transactions were subsequently added to the Act by the Commodity Futures Modernization Act of 2000,<sup>7</sup> but none apply to agricultural contracts.<sup>8</sup> Accordingly, swaps involving agricultural commodities continue to rely upon the exemption in part 35.

Part 35 requires, among other things, that a swap agreement not be part of a fungible class of agreements that are standardized as to their material economic terms,<sup>9</sup> and that the creditworthiness of any party having an interest under the agreement be a material consideration in entering into or negotiating the terms of the

<sup>3</sup> A copy of the petition is available on the Commission's Web site at <http://www.cftc.gov/>.

<sup>4</sup> 17 CFR part 35 (Commission regulations are hereinafter cited as "Reg. §").

<sup>5</sup> Jurisdiction is retained for, among other things, provisions of the Act proscribing fraud and manipulation. See Reg. § 35.2.

<sup>6</sup> See 58 FR 5587 (Jan. 22, 1993). Section 4(c) of the Act was added by section 502(a) of the Futures Trading Practices Act of 1992, Public Law 102-546, 106 Stat. 3590 (1992).

<sup>7</sup> Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>8</sup> See, *e.g.*, sections 2(d), (g) and (h) of the Act, 7 U.S.C. 2(d), (g), and (h).

<sup>9</sup> Reg. § 35.2(b).

agreement.<sup>10</sup> Under the arrangement proposed by Petitioners, a cleared-only wheat swap could be offset by another cleared-only wheat swap with equivalent terms. In addition, due to the introduction of a clearing guarantee, the creditworthiness of the counterparty would no longer be a consideration. Accordingly, the OTC swaps KCBTCC would clear would not satisfy all of the conditions of part 35.<sup>11</sup>

Part 35 permits "any person [to] apply to the Commission for exemption from any of the provisions of the Act \* \* \* for other arrangements or facilities."<sup>12</sup> Petitioners have requested that the Commission issue an order under section 4(c) of the Act that would exempt cleared-only wheat swaps to the same extent as contracts that are exempt pursuant to part 35 of the Commission's regulations.

In addition, Petitioners also requested an order under section 4d of the Act so that KCBTCC and FCMs could hold customer positions in the cleared-only wheat swaps and associated funds in the customer segregated account along with positions in exchange-traded futures and customer funds, resulting in improved collateral management and other benefits.

## II. Sections 4(c) and 4d of the Act

### A. Permitting the OTC Swaps To Be Cleared

In enacting section 4(c) of the Act, Congress noted that the goal of the provision "is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner."<sup>13</sup> Section 4(c)(1) of the Act empowers the Commission to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions from any of the provisions of the Act (subject to exceptions not relevant here) where the Commission determines that the exemption would be consistent with the public interest.<sup>14</sup> The Commission may

grant such an exemption by rule, regulation, or order, after notice and opportunity for hearing, and may do so on application of any person or on its own initiative.

Section 4(c)(2) of the Act provides that the Commission may grant exemptions from section 4(a) of the Act only when the Commission determines that the requirements for which an exemption is being provided should not be applied to the agreements, contracts, or transactions at issue, and the exemption is consistent with the public interest and the purposes of the Act; that the agreements, contracts, or transactions will be entered into solely between appropriate persons; and that the exemption will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory responsibilities under the Act.<sup>15</sup>

The Commission requested comment on whether it should grant an exemption from the requirements of the Act, thereby permitting cleared-only wheat swaps to be cleared through KCBTCC. It also requested comment on whether such an exemption would affect its ability to discharge its regulatory responsibilities under the Act

any board of trade designated or registered as a contract market or derivatives transaction execution facility for transactions for future delivery in any commodity under section 7 of this title) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) of this section (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a) of this section, or from any other provision of this chapter (except subparagraphs (c)(ii) and (D) of section 2(a)(1) of this title, except that the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) of this title), if the Commission determines that the exemption would be consistent with the public interest.

<sup>15</sup> Section 4(c)(2) of the Act, 7 U.S.C. 6(c)(2), provides in full as follows:

The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) of this section unless the Commission determines that—

(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

(B) the agreement, contract, or transaction—

(i) will be entered into solely between appropriate persons; and

(ii) will not have a material adverse effect on the ability of the Commission or any contract market or derivatives transaction execution facility to discharge its regulatory or self-regulatory duties under this Act.

or the self-regulatory duties of any contract market.

### B. Permitting Funds To Be Commingled

Section 4d(a)(2) of the Act prohibits commingling positions executed on a contract market and customer funds associated with such positions together with any funds not required to be so segregated.<sup>16</sup> Section 4d(a)(2) provides that the Commission may grant exceptions to this prohibition by order.

In this case, the cleared-only wheat swaps are not executed on a contract market and, thus, holding positions in those contracts and associated funds in an account together with positions and customer funds required to be segregated would, absent a Commission order, violate Section 4d. Having analyzed the risks and benefits associated with commingling such positions and funds in a customer segregated account, the Commission has determined that the benefits of the proposal outweigh the risks and that the proposal, along with conditions set forth by the Commission in its order, will provide sufficient safeguards to address the risks adequately.

## III. Comment Letters

The Commission published a request for comments regarding the 4(c) exemption in the **Federal Register** on November 13, 2009.<sup>17</sup> At the same time, it posted the Petition on the Commission's Web site, providing the opportunity for the public to comment on any aspect of the Petition, including the request for an order under section 4d of the Act.

The Commission received three comment letters.<sup>18</sup> All three letters expressly supported the issuance of an exemptive order to permit clearing of the OTC wheat calendar swaps, citing such benefits as increased transparency and liquidity in the OTC markets and enhanced risk management for market participants. Of those letters, two specifically commented on the 4d order request. Both of those letters supported the issuance of an order to permit the commingling of positions in cleared-only wheat swaps and associated funds

<sup>16</sup> Under Reg. § 1.3(gg), the term "customer funds" is defined to include all money, securities, and property received by an FCM or by a DCO from, for, or on behalf of, customers or option customers to margin, guarantee or secure exchange-traded futures contracts or options on futures, and all money accruing to such customers as the result of such contracts. The term "funds" is similarly used herein to refer to cash as well as securities and other property associated with futures contracts or cleared-only contracts.

<sup>17</sup> See 74 FR 58608 (Nov. 13, 2009).

<sup>18</sup> Letters were submitted by Louis Dreyfus Commodities, International Assets Holding Company, and the Futures Industry Association.

<sup>10</sup> Reg. § 35.2(c).

<sup>11</sup> The contracts that KCBT proposes to list for clearing only would, however, meet the requirements of Reg. §§ 35.2(a) and (d) in that they would be entered into solely between eligible swap participants and executed OTC, respectively.

<sup>12</sup> Reg. § 35.2(d).

<sup>13</sup> House Conf. Report No. 102-978, 1992 U.S.C.C.A.N. 3179, 3213.

<sup>14</sup> Section 4(c)(1) of the Act, 7 U.S.C. 6(c)(1), provides in full as follows:

In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including

with positions and customer funds otherwise required to be held in a customer segregated account.

#### IV. Findings and Conclusions

After considering the complete record in this matter, including the comments received, the Commission finds that the requirements of section 4(c) of the Act have been met with respect to the request for an order permitting the clearing of OTC wheat calendar swaps.

First, permitting the clearing of these transactions, subject to the terms and conditions of the order, is consistent with the public interest and with the purposes of the Act. The purposes of the Act include “promot[ing] responsible innovation and fair competition among boards of trade, other markets, and market participants.”<sup>19</sup> The purpose of an exemption is “to promote economic or financial innovation and fair competition.”<sup>20</sup> Permitting the clearing of OTC wheat calendar swaps by KCBTCC would appear to foster both financial innovation and competition. It could benefit the marketplace by providing eligible swap participants the ability to bring together flexible negotiation with central counterparty guarantees and capital efficiencies. Clearing also may increase the liquidity of the OTC markets and thereby foster competition in those markets. Moreover, in furtherance of the public interest, the order requires that the cleared-only wheat swaps be executed pursuant to the requirements of part 35 of the Commission’s regulations. Part 35, among other things, provides for the Commission’s continuing authority to enforce provisions of the Act and Regulations that prohibit fraud and manipulation.

Second, the cleared-only wheat swaps would be entered into solely between appropriate persons. Those would be limited to persons qualifying as eligible swap participants under part 35 of the Commission’s regulations.<sup>21</sup>

Third, the exemption would not have a material adverse effect on the ability of the Commission or any designated contract market to carry out its regulatory or self-regulatory responsibilities under the Act. Clearing of OTC wheat swaps will actually enhance the Commission’s ability to carry out its regulatory responsibilities by, for example, facilitating the collection of large trader reports for cleared-only wheat swaps. KCBTCC will use the same systems, procedures,

personnel, and processes to clear the cleared-only wheat swaps as it currently employs with respect to all of the other transactions it clears for KCBT.

The Commission has concluded that permitting the clearing of OTC wheat swaps, subject to the terms and conditions of the order, furthers the goals of market transparency and liquidity, and financial risk management. It also enhances the Commission’s ability to obtain market information and conduct oversight once OTC transactions are cleared by a registered DCO.

With respect to the Petitioners’ request for an order pursuant to section 4d permitting KCBTCC and FCMs, including non-clearing and non-member FCMs, to commingle cleared-only contract positions and associated funds with positions and customer funds required to be held in a customer segregated account, the Commission recognizes that there is additional risk to customer funds as a result of the possibility of default involving commingled cleared-only positions. The Commission has considered whether such additional risk to customers can be adequately addressed and mitigated by KCBTCC and participating FCMs.

Each carrying FCM should have adequate means to address a default by a customer holding cleared-only contracts. In the event of a customer default on a position in the cleared-only wheat swaps, the FCM could offset its risk by liquidating the customer position through a broker or dealer in the OTC swap market or by taking an economically equivalent position in the KCBT wheat futures contract.

The order requires that KCBTCC review the FCMs’ risk management capabilities to verify that all FCMs carrying the cleared-only wheat swaps maintain sufficient operational capability to manage a default in a cleared-only contract. In the event of an FCM default, KCBTCC would have available the same means for managing the default as the FCM would have in the first instance.

The order further requires that all FCMs subject to the order, regardless of whether an FCM is a member of KCBT or KCBTCC, to execute a participation agreement that provides, among other things, that the FCM agrees to be bound by all KCBT rules pertaining to the cleared-only wheat swaps and to cooperate with, promptly respond to any inquiries or requests for information from, and make available its books and records for inspection to KCBT.

The order also requires that KCBT: (1) Maintain a coordinated market surveillance program that encompasses

the cleared-only wheat swaps and the corresponding wheat futures contracts, and (2) adopt speculative position limits for the cleared-only wheat swaps that are the same as the limits applicable to the corresponding wheat futures contracts. These measures should mitigate market risk.

Accordingly, the Commission has determined that KCBTCC will be able to employ reasonable safeguards to protect customer funds, and that it will be able to measure, monitor, manage, and account for risks associated with transactions and open interest in the cleared-only wheat swaps in the same manner as it does for other contracts it clears. The Commission believes that KCBTCC has sufficiently demonstrated that it will continue to comply with the DCO core principles set forth in section 5b of the Act in connection with holding customer positions in cleared-only wheat swaps and associated funds with positions and customer funds required to be held in a customer segregated account pursuant to section 4d of the Act.

#### V. Related Matters

##### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)<sup>22</sup> imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission’s order will not require a new collection of information from any entities that would be subject to the order.

##### B. Cost-Benefit Analysis

Section 15(a) of the Act<sup>23</sup> requires the Commission to consider the costs and benefits of its action before issuing an order under the Act. By its terms, section 15(a) does not require the Commission to quantify the costs and benefits of an 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.

Section 15(a) of the Act 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

<sup>19</sup> Section 3(b) of the Act, 7 U.S.C. 5(b).

<sup>20</sup> Section 4(c)(1) of the Act, 7 U.S.C. 6(c)(1).

<sup>21</sup> See Reg. § 35.1(b)(2) (defining the term “eligible swap participant”).

<sup>22</sup> 44 U.S.C. 3507(d).

<sup>23</sup> 7 U.S.C. 19(a).

greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular order 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 Commission has considered the costs and benefits of this order in light of the specific provisions of section 15(a) of the Act, as follows:

1. *Protection of market participants and the public.* The cleared-only wheat swaps will be entered into only by persons who are "appropriate persons" as set forth in section 4(c) of the Act. Only eligible swap participants will enter into the wheat calendar swaps that will be cleared pursuant to the Commission's order. Allowing the commingling of positions in cleared-only contracts and associated funds with positions and customer funds required to be segregated under section 4d of the Act will benefit market participants by facilitating clearing and the reduction of credit risk for contracts that meet market participants' specific risk management requirements. Customers holding positions in cleared-only wheat swaps also will benefit from having those positions and associated funds held in a customer segregated account in the event of the insolvency of an FCM. Futures customers will be protected from risks associated with the commingling of funds by a number of existing risk management and other safeguards, including KCBTCC's financial surveillance and oversight of clearing members and non-clearing member and non-member FCMs pursuant to the participation agreement, and its financial resources package, as supplemented by conditions imposed by the order. Bringing OTC contracts into a regulated clearing venue also protects market participants by eliminating bilateral counterparty risk through the clearing process.

2. *Efficiency and competition.* Allowing the OTC wheat calendar swaps to be cleared appears likely to promote liquidity and transparency in the markets for OTC derivatives as well as futures on those commodities. The commingling of positions in cleared-only contracts and associated funds with positions and customer funds required to be held in a customer segregated account should result in improved, more efficient, collateral management and lower administrative costs given that risk-reducing positions will be held together in the same account rendering a more precise estimation of the risk posed by the

account. The availability of cleared-only wheat swaps also provides another risk management tool that can compete with other OTC products.

3. *Financial integrity of futures markets and price discovery.* Price discovery is likely to be enhanced by bringing greater transparency to the OTC market for wheat. The section 4(c) exemption also may promote financial integrity by providing the benefits of clearing to the OTC wheat market. As discussed above, the Commission believes that the risks associated with the commingling of funds in the customer segregated account can be appropriately mitigated.

4. *Sound risk management practices.* Clearing of the cleared-only wheat swaps is likely to improve risk management by the participant counterparties. KCBTCC's risk management practices in clearing these transactions are subject to the Commission's supervision and oversight, and the requirements of the participation agreement expressly supplement the FCMs' responsibilities to adequately manage risk.

5. *Other public interest considerations.* The action taken by the Commission under sections 4(c) and 4d of the Act is likely to encourage market competition in agricultural derivatives products. It will also further the Commission's overall goals in supporting greater market transparency, credit risk management, and regulatory oversight by encouraging the clearing of OTC products.

The Commission requested comment on its application of these factors in the proposing release. No comments were received.

## VI. Order

After considering the above factors and the comment letters received in response to its request for comments, the Commission has determined to issue the following:

### Order

(1) The Commission, pursuant to its authority under section 4(c) of the Commodity Exchange Act ("Act") and subject to the conditions below, hereby permits eligible swap participants to submit for clearing, and FCMs and KCBTCC to clear, OTC wheat calendar swaps (eligible products).

(2) The Commission, pursuant to its authority under section 4d of the Act and subject to the conditions below, hereby permits:

- (a) KCBTCC;
- (b) registered FCMs that are clearing members of KCBT;

(c) registered FCMs that are non-clearing members of KCBT; and

(d) registered FCMs that are non-members of KCBT,

acting on behalf of customers pursuant to this order, to hold money, securities, and other property, used to margin, guarantee, or secure cleared-only transactions in eligible products (cleared-only contracts), and belonging to customers that are eligible swap participants, with other customer funds used to margin, guarantee, or secure trades or positions in commodity futures or commodity option contracts executed on or subject to the rules of a contract market designated pursuant to section 5 of the Act, in a customer segregated account or accounts maintained in accordance with section 4d of the Act (including any orders issued pursuant to section 4d(a)(2) of the Act) and the Commission's regulations thereunder, and all such customer funds shall be accounted for and treated and dealt with as belonging to the customers of the registered FCM, consistent with section 4d of the Act and the regulations thereunder.

(3) This order is subject to the following conditions:

(a) The contracts, agreements, or transactions subject to this order shall be executed pursuant to the requirements of part 35 of the Commission's regulations, as modified herein, and shall be limited to the eligible products identified in this order.

(b) All eligible products that are submitted for clearing shall be submitted pursuant to KCBT and KCBTCC rules.

(c) Each registered FCM subject to this order shall take appropriate measures to:

(i) Ensure that any customer submitting eligible products for clearing qualifies as an eligible swap participant; and

(ii) identify, measure, and monitor financial risk associated with carrying the cleared-only contracts in the customer segregated account and implement risk management procedures to address those financial risks.

(d) KCBT shall require each registered FCM subject to this order, regardless of whether such FCM is a member of KCBT or KCBTCC, to execute an agreement that provides, among other things, that the FCM agrees to be bound by all KCBT rules pertaining to the cleared-only contracts and to cooperate with, promptly respond to any inquiries or requests for information from, and make available its books and records for inspection to KCBT.

(e) KCBTCC shall apply appropriate risk management procedures with respect to transactions and open interest in the cleared-only contracts. KCBTCC shall conduct financial surveillance and oversight of each registered FCM subject to this order, regardless of whether such FCM is a member of KCBT or KCBTCC, and it shall conduct oversight sufficient to assure KCBTCC that each such FCM has the appropriate operational capabilities necessary to manage defaults in such contracts. KCBTCC and each FCM subject to this order shall take all other steps necessary and appropriate to manage risk related to clearing eligible products.

(f) Each cleared-only contract shall be marked to market on a daily basis, and final settlement prices shall be established in accordance with KCBT rules.

(g) KCBTCC shall apply its margining system and calculate performance bond rates for each cleared-only contract in accordance with its normal and customary practices;

(h) KCBT shall make available open interest and settlement price information for the cleared-only contracts on a daily basis in the same manner as for contracts listed on KCBT.

(i) KCBT shall establish and maintain a coordinated market surveillance program that encompasses the cleared-only contracts and the corresponding futures contracts listed by KCBT on its designated contract market.

(j) KCBT shall adopt speculative position limits for the cleared-only contracts that are the same as the limits applicable to the corresponding futures contracts pursuant to Commission regulation § 150.2.

(k) The cleared-only contracts shall not be treated as fungible with any contract listed for trading on KCBT.

(l) Each FCM acting pursuant to this order shall keep the types of information and records that are described in section 4g of the Act and Commission regulations thereunder, including but not limited to Commission regulation § 1.35, with respect to all cleared-only contracts. Such information and records shall be produced for inspection in accordance with the requirements of Commission regulation § 1.31.

(m) KCBT shall provide to the Commission the types of information described in part 16 of the Commission's regulations in the manner described in parts 15 and 16 of the Commission's regulations with respect to all cleared-only contracts.

(n) KCBT shall apply large trader reporting requirements to cleared-only contracts in accordance with its rules,

and each FCM acting pursuant to this order shall provide to the Commission the types of information described in part 17 of the Commission's regulations in the manner described in parts 15 and 17 of the Commission's regulations with respect to all cleared-only contracts in which it participates.

(o) KCBT and KCBTCC shall at all times fulfill all representations made in their requests for Commission action under sections 4(c) and 4d of the Act and all supporting materials thereto.

Based upon the representations made and supporting material provided to the Commission by KCBT and KCBTCC in connection with the Petition, the Commission finds that KCBT and KCBTCC, subject to the terms and conditions specified herein, have demonstrated their ability to comply with the requirements of the Act and Commission regulations, as applicable to the clearing of the OTC contracts subject to this order and the carrying of related customer funds in a customer segregated account.

Any material change or omission in the facts and circumstances pursuant to which this order is granted might require the Commission to reconsider its finding that the actions taken herein are appropriate. Further, in its discretion, the Commission may condition, suspend, terminate, or otherwise modify this order, as appropriate, on its own motion.

Issued in Washington, DC, on June 15, 2010, by the Commission.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

[FR Doc. 2010-14974 Filed 6-18-10; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Federal Advisory Committee; Defense Business Board (DBB)

**AGENCY:** Department of Defense (DoD).

**ACTION:** Meeting notice.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150, the Department of Defense announces that the Defense Business Board (hereafter, "DBB" or "Board") will meet on July 22, 2010, at the Pentagon Conference Center. Subject to the availability of space, the meeting is open to the public.

**DATES:** The meeting will be held on Thursday, July 22, 2010, from 9 a.m. to 9:45 a.m.

**ADDRESSES:** The meeting will be held at the Pentagon Conference Center, Room B-6, Washington, DC (escort required, see below).

**FOR FURTHER INFORMATION CONTACT:** For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B-1088A, Washington, DC 20301-1155, *Debora.Duffy@osd.mil*, (703) 697-2168. The Board's Designated Federal Officer (DFO) is Ms. Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 5B-1088A, Washington, DC 20301-1155, *Phyllis.Ferguson@osd.mil*, (703) 695-7563.

**SUPPLEMENTARY INFORMATION:**

**Background**

At this meeting, the Board will deliberate partial findings and draft recommendations from the "Reducing Overhead Improving Business Operations" Task Group. The mission of the Board is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense.

**Availability of Materials for the Meeting**

A copy of the draft agenda for the July 22, 2010, meeting and the terms of reference for the Task Group may be obtained from the Board's Web site at <http://dbb.defense.gov/meetings.html> under "Upcoming Meetings: 22 July 2010."

**Public's Accessibility to the Meeting**

Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. All members of the public who wish to attend the meeting must contact Ms. Duffy (see **FOR FURTHER INFORMATION CONTACT**) no later than noon on Wednesday, July 14th to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance in time to complete security screening by no later than 8:30 a.m. To complete security screening, please come prepared to present two forms of identification: (1) A government-issued photo I.D., and (2) any type of secondary I.D. which verifies the individual's name (*i.e.* debit card, credit card, work badge, social security card).

*Special Accommodations:* Individuals requiring special accommodations to