

*Title:* Global Intellectual Property Academy (GIPA) Surveys.

*Form Number(s):* None.

*Agency Approval Number:* 0651-00xx.

*Type of Request:* New information collection.

*Burden:* 375 hours annually.

*Number of Respondents:* 1,500 responses per year.

*Avg. Hours per Response:* The USPTO estimates that it will take participants of the GIPA training programs 15 minutes (0.25 hours) to complete the surveys. This includes the time to gather the necessary information, complete the survey, and submit the completed survey to the USPTO.

*Needs and Uses:* The pre-program, post-program, and alumni surveys will be used to obtain feedback from the participants of the various GIPA training classes. The pre-program surveys allow participants to provide feedback on the program expectations and training needs immediately prior to participating in the GIPA training programs. The post-program surveys allow participants to provide feedback on program effectiveness, service, facilities, teaching practices, and processes immediately after completing the GIPA training programs. The alumni surveys allow participants to provide feedback on program effectiveness approximately one year after completing the GIPA training programs.

The USPTO will use the data collected from the surveys to evaluate the percentage of foreign officials trained by GIPA who have initiated or implemented a positive intellectual property change in their organization and to evaluate the percentage of foreign officials trained by GIPA who increased their expertise in intellectual property. The data will also be used to evaluate the satisfaction of the participants with the intellectual property program and the value of the experience as it relates to future job performance. The USPTO also uses the survey data to meet organizational performance and accountability goals.

*Affected Public:* Individuals.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Nicholas A. Fraser, e-mail: [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov).

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at <http://www.reginfo.gov>.

Paper copies can be obtained by:

- *E-mail:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-00xx Global Intellectual Property Academy (GIPA)

Surveys copy request" in the subject line of the message.

- *Fax:* 571-273-0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before January 28, 2011 to Nicholas A. Fraser, OMB Desk Officer, via e-mail to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

Dated: December 23, 2010.

**Susan K. Fawcett**,  
*Records Officer, USPTO, Office of the Chief Information Officer.*

[FR Doc. 2010-32738 Filed 12-28-10; 8:45 am]

**BILLING CODE 3510-16-P**

## COMMODITY FUTURES TRADING COMMISSION

### Order Exempting the Trading and Clearing of Certain Products Related to the CBOE Gold ETF Volatility Index and Similar Products

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final Order.

**SUMMARY:** On November 10, 2010, the Commodity Futures Trading Commission ("CFTC" or the "Commission") published for public comment in the **Federal Register** a proposal to exempt the trading and clearing of certain options ("Options") on the CBOE Gold ETF Volatility Index ("GVZ Index"), which would be traded on the Chicago Board Options Exchange ("CBOE"), a national securities exchange, and cleared through the Options Clearing Corporation ("OCC") in its capacity as a registered securities clearing agency, from the provisions of the Commodity Exchange Act ("CEA") and the regulations thereunder, to the extent necessary to permit such Options to be so traded and cleared. The Commission also requested comment regarding whether it should provide a categorical exemption that would permit the trading and clearing of options on indexes that measure the volatility of shares of gold exchange-traded funds ("ETFs") generally, regardless of issuer, including options on any index that measures the magnitude of changes in, and is composed of the price(s) of shares of one or more gold ETFs and the price(s) of any other instrument(s), which other

instruments are securities as defined in the Securities Exchange Act of 1934 ("the '34 Act"). The Commission has determined to issue this Order essentially as proposed. Authority for these exemptions is found in § 4(c) of the CEA.

**DATES:** *Effective Date:* December 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Robert B. Wasserman, Associate Director, 202-418-5092, [rwasserman@cftc.gov](mailto:rwasserman@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW., Washington, DC 20581, or Anne C. Polaski, Special Counsel, 312-596-0575, [apolaski@cftc.gov](mailto:apolaski@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe Street, Suite 1100, Chicago, Illinois 60661.

## SUPPLEMENTARY INFORMATION:

### I. Introduction

The OCC is both a Derivatives Clearing Organization ("DCO") registered pursuant to § 5b of the CEA,<sup>1</sup> and a securities clearing agency registered pursuant to § 17A of the '34 Act.<sup>2</sup>

OCC has filed with the CFTC, pursuant to § 5c(c) of the CEA and §§ 39.4(a) and 40.5 of the Commission's regulations thereunder,<sup>3</sup> a request for approval of a rule that would enable OCC to clear and settle options on the GVZ Index traded on the CBOE, a national securities exchange, in its capacity as a registered securities clearing agency (and not in its capacity as a DCO).<sup>4</sup> Section 5c(c)(3) of the CEA provides that the CFTC must approve such a rule submitted for approval unless it finds that the rule would violate the CEA.

The GVZ Index is an index that measures the implied volatility of options on shares of the SPDR® Gold Trust ("SPDR® Gold Trust Shares"), an ETF designed to reflect the performance of the price of gold bullion.<sup>5</sup>

<sup>1</sup> 7 U.S.C. 7a-1.

<sup>2</sup> 15 U.S.C. 78q-1.

<sup>3</sup> 7 U.S.C. 7a-2(c), 17 CFR 39.4(a), 40.5.

<sup>4</sup> See Securities Exchange Act Release No. 62094 (May 13, 2010), 75 FR 28085 (May 19, 2010) (File No. SR-OCC-2010-07 filed with both the CFTC and the Securities and Exchange Commission ("SEC")) and the SEC's approval in Securities Exchange Act Release No. 62290 (June 14, 2010), 75 FR 35861 (June 23, 2010). See also Securities Exchange Act Release No. 62139 (May 19, 2010), 75 FR 29597 (May 26, 2010) (SEC approval of the CBOE's listing and trading of Options on the GVZ Index).

<sup>5</sup> See Securities Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (original

The Commission has proposed to permit OCC to clear and settle options on indexes that measure the volatility of shares of gold ETFs generally, regardless of issuer, that are traded on national securities exchanges, in OCC's capacity as a registered securities clearing agency (and not in its capacity as a DCO). Such options could include options on any index that measures the magnitude of changes in, and is composed of the price(s) of shares of one or more gold ETFs and the price(s) of any other instrument(s), which other instruments are securities as defined in the '34 Act.

## II. Section 4(c) of the Commodity Exchange Act

Section 4(c)(1) of the CEA empowers the CFTC 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 CEA (subject to exceptions not relevant here) where the Commission determines that the exemption would be consistent with the public interest.<sup>6</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) does not require the Commission to determine the jurisdictional status of the Options on the GVZ Index or other options on indexes that measure the volatility of shares of gold ETFs. In enacting § 4(c), Congress noted that the goal of the provision "is to give the Commission a

Approval Order for listing and trading shares of the streetTRACKS® Gold Trust (renamed the SPDR® Gold Trust on May 20, 2008) on the New York Stock Exchange, Inc.).

<sup>6</sup> Section 4(c)(1) of the CEA, 7 U.S.C. 6(c)(1), provides in full that:

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 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.

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>7</sup> The Commission believes that permitting Options on the GVZ Index and other options on indexes that measure the volatility of shares of gold ETFs to be traded on a national securities exchange, and to be cleared by OCC in its capacity as a securities clearing agency, as discussed above, may foster both financial innovation and competition.

The Options on the GVZ Index and other options on indexes that measure the volatility of shares of gold ETFs, described above, are novel instruments. Given, among other things, the fact that the Commission has provided exemptions for options on shares of gold ETFs on prior occasions,<sup>8</sup> the Commission believes that this is an appropriate case for issuing an exemption without issuing a finding as to the nature of these particular instruments.

Section 4(c)(2) of the CEA provides that the Commission may grant exemptions only when it 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 CEA; 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 Commission-regulated markets to discharge their regulatory or self-regulatory responsibilities under the CEA.<sup>9</sup>

<sup>7</sup> House Conf. Report No. 102-978, 1992 U.S.C.A.N. 3179, 3213 ("4(c) Conf. Report").

<sup>8</sup> See Order Exempting the Trading and Clearing of Certain Products Related to SPDR® Gold Trust Shares, 73 FR 31981 (June 5, 2008), Order Exempting the Trading and Clearing of Certain Products Related to iShares® COMEX Gold Trust Shares and iShares® Silver Trust Shares, 73 FR 79830 (Dec. 30, 2008), and Order Exempting the Trading and Clearing of Certain Products Related to ETFs Physical Swiss Gold Shares and ETFs Physical Silver Shares, 75 FR 37406 (June 29, 2010) (collectively, the "Previous Orders").

<sup>9</sup> Section 4(c)(2) of the CEA, 7 U.S.C. 6(c)(2), provides in full that:

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

In the November 10, 2010 **Federal Register** release,<sup>10</sup> the CFTC requested comment as to whether this exemption from the requirements of the CEA and regulations thereunder should be granted in the context of these transactions. Seven comments were received, including comments from OCC and CBOE, which supported the exemption<sup>11</sup> and five from private citizens.<sup>12</sup>

## III. Findings and Conclusions

After considering the complete record in this matter, the Commission has determined that the requirements of § 4(c) have been met. First, the exemption is consistent with the public interest and with the purposes of the CEA, including "promot[ing] responsible innovation and fair competition among boards of trade, other markets and market participants."<sup>13</sup> It appears consistent with these and the other purposes of the CEA, and with the public interest, for the mode of trading and clearing Options on the GVZ Index, as well as other options on indexes that measure the volatility of shares of gold ETFs, whether the mode applicable to options on securities indexes or on commodities indexes, to be determined by competitive market forces.

Second, Options on the GVZ Index and other options on indexes that measure the volatility of shares of gold ETFs will be entered into solely between appropriate persons. Section 4(c)(3) of the CEA includes within the term "appropriate persons" a number of specified categories of persons, and also in subparagraph (K) thereof "such other persons that the Commission determines to be appropriate in light of \* \* \* the applicability of appropriate regulatory protections."<sup>14</sup> National securities exchanges and OCC, as well as their members who will intermediate Options on the GVZ Index and other

(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.

<sup>10</sup> 75 FR 69058 (Nov. 10, 2010).

<sup>11</sup> OCC and CBOE express the belief that the exemption, while somewhat helpful, does not go far enough, because, in the opinion of each of them, all options on ETFs are securities.

<sup>12</sup> None of the comments from private citizens discussed the GVZ index, gold ETFs, the volatility of shares of gold ETFs, or otherwise addressed the merits of this exemption. Each of the seven comments is available on the Commission's Web site at <http://comments.cftc.gov/PublicComments/CommentList.aspx?id=896>.

<sup>13</sup> 7 U.S.C. 5(b). See also 7 U.S.C. 6(c)(1) (purpose of exemptions is "to promote responsible economic or financial innovation and fair competition.")

<sup>14</sup> 7 U.S.C. 6(c)(3).

options on indexes that measure the volatility of shares of gold ETFs are subject to extensive and detailed regulation by the SEC under the '34 Act. Given such regulatory protections, the Commission has determined that all persons trading Options on the GVZ Index and other options on indexes that measure the volatility of shares of gold ETFs on a national securities exchange, and clearing such products through OCC in its capacity as a securities clearing agency, are appropriate persons.

Third, the grant of this exemption would not have a material adverse effect on the ability of the Commission or any Commission-regulated market to carry out their regulatory responsibilities under the CEA.<sup>15</sup>

Therefore, upon due consideration, pursuant to its authority under § 4(c) of the CEA, the Commission hereby issues this Order and exempts the trading of the following products on national securities exchanges, and the clearing of all such products through the Options Clearing Corporation ("OCC") in its capacity as a registered securities clearing agency, from the provisions of the CEA and the regulations thereunder, to the extent necessary to permit such products to be so traded and cleared:

- (a) Options on the GVZ Index;

<sup>15</sup> As noted in the proposing release, 75 FR at 69059, on September 24, 2010, the Commission has also issued a Request for Comment on Options for a Proposed Exemptive Order Relating to the Trading and Clearing of Precious Metal Commodity-Based ETFs and a Concept Release, 75 FR 60411 (September 30, 2010) ("Precious Metal ETF Release"). In the Precious Metal ETF Release, the Commission requested comment, in part, regarding whether it should issue a categorical Section 4(c) exemption to permit options and futures on shares of all or some precious metal commodity-based ETFs to be traded and cleared as options on securities and security futures, respectively. The comment period for the Precious Metal ETF Release expired on November 1, 2010; eight comments were received.

The Commission will use its authority under Section 4(c) of the CEA to exempt options on *indexes* that measure the volatility of shares of gold ETFs at this time while it continues to consider the appropriateness of a categorical exemption with respect to options and futures on shares of precious metal commodity-based ETFs. The Commission concludes that options on an index that measures commodity price volatility based on shares of such an ETF do not raise the same regulatory concerns that may be associated with options and futures on shares of an ETF that is based on the underlying commodity. In this regard, trading in options and futures on shares of a gold ETF could have a potential impact on the deliverable supply by removing physical gold from physical marketing channels, and thus may impact the gold futures price. An index based on volatility measures does not raise these concerns in that such an index does not involve ownership of the commodity, either directly or indirectly, by traders in options on such an index, and thus options on such index would not have a direct impact on deliverable supplies or the pricing of gold in the cash market.

(b) Options on any index that measures the volatility (historical or expected) of the price(s) of shares of one or more gold ETFs; and

(c) Options on any index that measures the volatility (historical or expected) of price(s) of shares of one or more gold ETFs and the price(s) of any other instrument(s), which other instruments are securities as defined in § 3(a)(10) of the '34 Act.<sup>16</sup>

This Order is subject to termination or revision, on a prospective basis, if the Commission determines upon further information that this exemption is not consistent with the public interest. If the Commission believes such exemption becomes detrimental to the public interest, the Commission may revoke this Order on its own motion.

#### IV. Related Matters

##### A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")<sup>17</sup> imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. The proposed exemptive order would not, if approved, require a new collection of information from any entities that would be subject to the proposed order.

##### B. Cost-Benefit Analysis

Section 15(a) of the CEA<sup>18</sup> requires the Commission to consider the costs and benefits of its action before issuing an order under the CEA. By its terms, § 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, it requires that the Commission "consider" the costs and benefits of its action.

Section 15(a) of the CEA further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may 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 order is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to

accomplish any of the purposes of the CEA.

The Commission has considered the costs and benefits of the order in light of the specific provisions of § 15(a) of the CEA. The Commission has determined that the costs of this order are not significant. Although the order exempts the subject options from regulation under the CEA, market participants and the public will nonetheless be protected because the national securities exchanges on which they trade, and the intermediaries through which they will be traded will be subject to comprehensive regulation by the SEC. The Commission has determined that the benefits of the order are substantial. The order will promote efficiency in the markets, as it will provide certainty that the subject options will not be subject to duplicative regulation.

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

After considering the costs and benefits, the Commission has determined to issue this order.

Issued in Washington, DC, on December 23, 2010 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. 2010-32812 Filed 12-28-10; 8:45 am]

#### BILLING CODE P

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

#### Proposed Notice of Funding Opportunity (NOFO) for Social Innovation Fund 2011 Awards; Request for Feedback

**AGENCY:** Corporation for National and Community Service (the Corporation).

**ACTION:** Request for Feedback on the Corporation's Fiscal Year (FY) 2011 Notice of Funding Opportunity (NOFO) for Social Innovation Fund Awards.

**SUMMARY:** The Corporation for National and Community Service (CNCS) is releasing a draft of the Notice of Funding Opportunity (NOFO) for the 2011 Social Innovation Fund competition. This release will initiate a public input period that will extend until January 21, 2011.

The Social Innovation Fund is an innovative program that awards grants to and works with existing grantmaking institutions, referred to in the *Notice* as "intermediaries," to direct resources to innovative community-based nonprofit organizations that will identify and grow promising programs with

<sup>16</sup> 15 U.S.C. 78c(a)(10).

<sup>17</sup> 44 U.S.C. 3507(d).

<sup>18</sup> 7 U.S.C. 19(a).