

must appear conspicuously, in color-contrasting ink, on the surface of the package on which printing or a label normally appears. If the package contains printing on more than one surface, the label must appear on the surface on which the product inside the package is described. The encircled capital letter "E" may be printed on the surface of the package, printed on a label containing other information, printed on a separate label, or indelibly stamped on the surface of the package. In the case of pallet loads containing metal halide lamp fixtures, the encircled capital letter "E" must appear conspicuously, in color-contrasting ink, on the plastic sheeting, unless clear plastic sheeting is used and the encircled capital letter "E" is legible underneath this packaging.

■ 8. In paragraph (a)(1) of section 305.19, add the phrase "metal halide lamp fixtures," after the phrase "fluorescent lamp ballasts," and revise paragraph (a)(2) to read as follows:

§ 305.19 Promotional material displayed or distributed at point of sale.

(a) * * *

(2) Any manufacturer, distributor, retailer or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product that is a fluorescent lamp ballast or metal halide lamp fixture to which standards are applicable under section 325 of the Act, shall disclose conspicuously in such printed material, in each description of such product, an encircled capital letter "E".

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■ 9. In paragraph (a) of section 305.20, add the phrase "metal halide lamp fixtures," after the phrase "fluorescent lamp ballasts," and add paragraph (e) to read as follows:

§ 305.20 Paper catalogs and websites.

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(e) Any manufacturer, distributor, retailer, or private labeler who advertises metal halide lamp fixtures manufactured on or after January 1, 2009 in a catalog prepared after July 1, 2009, from which they may be purchased by cash, charge account or credit terms, shall disclose conspicuously in such catalog, in each description of such metal halide lamp fixture, a capital letter "E" printed within a circle.

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By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. E8-15243 Filed 7-8-08; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Limited Marketing Activities From a United States Location by Certain Firms and Their Employees or Other Representatives Exempted Under Commodity Futures Trading Commission Regulation 30.10

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is confirming that designated members of the Taiwan Futures Exchange ("TAIFEX") may engage in limited marketing conduct with respect to foreign futures or options contracts within the U.S. through their employees or representatives consistent with prior Commission orders. This order is issued pursuant to Commission Regulation 30.10, which permits persons to file a petition with the Commission for exemption from the application of certain of the Regulations 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.

DATES: *Effective Date:* July 9, 2008.

FOR FURTHER INFORMATION CONTACT: Andrew Chapin, Special Counsel, Division of Clearing and Intermediary Oversight, at (202) 418-5430 Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Electronic mail: achapin@cftc.gov.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Issued Pursuant to Regulation 30.10 Confirming That Designated Members of TAIFEX May Engage in Limited Marketing Conduct With Respect to Foreign Futures and Options Contracts Within the United States Through Their Employees or Other Representatives.

Commission regulations governing the offer and sale of commodity futures and

option contracts traded on or subject to the regulations of a foreign board of trade to customers located in the U.S. are contained in Part 30 of the Commission's regulations.¹ These regulations 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 regulations based upon substituted compliance with the regulatory requirements of the foreign jurisdiction ("Regulation 30.10 relief").

On October 28, 1992, the Commission issued an order to permit firms that have obtained confirmation of Regulation 30.10 relief to engage in limited marketing conduct with respect to foreign futures or options contracts within the U.S. through their employees or representatives without prior notification to the Commission.² The Commission stated that

the success of the [Regulation] 30.10 program as well as the existence of working relationships established under that program with foreign regulatory and self-regulatory authorities provide assurances that the conduct of [Regulation] 30.10 exempted firms through their employees or other representatives located in the United States, if of a limited duration and subject to proper supervisory controls, will not be inconsistent with the Commission's obligations under the [Commodity Exchange Act] to ensure appropriate customer protection.

¹ Commission regulations referred to herein are found at 17 CFR Ch. I (2007). Appendix A to Part 30, "Interpretative Statement With Respect to the Commission's Exemptive Authority Under § 30.10 of Its Rules" 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 Regulation 30.10. 52 FR 28990, 29001 (Aug. 5, 1987).

² 57 FR 49644 (Nov. 3, 1992).

To provide the appropriate level of customer protection, the relief was limited to conduct directed towards certain institutions and governmental entities as described in Regulation 4.7.³ In addition, the Commission stated that any person who established a fixed location in the U.S. for the solicitation or acceptance of business, or whose marketing activities involved long or repeated periods within the U.S. that can be characterized as a *de facto* fixed presence, would be disqualified from Regulation 30.10 relief and would be required to register with the Commission. On August 4, 1994, the Commission issued an order expanding the category of persons to whom designated firms may direct limited marketing conduct to include all "accredited investors," as that term is defined in section 230.501(a) of Securities and Exchange Commission Regulation D issued pursuant to the Securities Act of 1933.⁴ The orders issued by the Commission in 1992 and 1994 are collectively known as the Limited Marketing Orders.

Pursuant to the terms set forth therein, a foreign regulatory or self-regulatory organization must obtain a written confirmation from the Commission that the Limited Marketing Orders apply to firms in its jurisdiction with confirmed Regulation 30.10 relief. On March 23, 2007, the Commission issued an order granting relief under Regulation 30.10 authorizing designated members of TAIFEX to solicit and accept orders from customers located in the U.S. for otherwise permitted transactions on TAIFEX.⁵ By letter dated April 16, 2008, counsel for TAIFEX petitioned the Commission to confirm that designated TAIFEX members may engage in limited marketing conduct with respect to foreign futures or options contracts within the U.S. through their employees or other representatives, as set forth in the Limited Marketing Orders.

As previously stated, the Commission believes that certain contacts between firms with confirmed Regulation 30.10 relief and certain sophisticated customers located in the U.S., who have

a high degree of sophistication and financial resources, would not be contrary to the public interest. Accordingly, the Commission has determined to issue this order permitting designated TAIFEX members to engage in limited marketing conduct with respect to foreign futures or option contracts within the U.S. through their employees or other representatives, as set forth in the Limited Marketing Orders.

Prior to engaging in any marketing activity in the U.S., a TAIFEX member must obtain confirmation of Regulation 30.10 relief from the National Futures Association ("NFA").⁶ Any TAIFEX member operating pursuant to this order will remain subject to all of the terms and conditions set forth in the Limited Marketing Orders and the TAIFEX Order. In particular, the Commission notes that every order granting Regulation 30.10 relief has required a firm seeking relief under such an order to consent to jurisdiction in the U.S. under the Commodity Exchange Act and file with NFA a valid and binding appointment of an agent in the U.S. for service of process.

Dated: July 3, 2008.

By the Commission

David Stawick,

Secretary of the Commission.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9412]

RIN 1545-BF06

Election To Expense Certain Refineries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the election to expense qualified refinery property under section 179C of the Internal Revenue Code, and affects taxpayers who own refineries located in the United States. These temporary

regulations reflect changes to the law made by the Energy Policy Act of 2005. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on July 9, 2008.

Applicability Date: For dates of applicability, see § 1.179C-1T(g).

FOR FURTHER INFORMATION CONTACT: Philip Tiegerman (202) 622-3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number (1545-2103). Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to 26 CFR part 1 to provide regulations under section 179C of the Internal Revenue Code (Code). Section 179C was added to the Code by section 1323(a) of the Energy Policy Act of 2005, Public Law 109-58 (119 Stat. 594) to encourage the construction of new refineries and the expansion of existing refineries to enhance the nation's refinery capacity.

³ The order limited the relief to marketing conduct directed towards persons whose description in terms of sophistication and assets was derived generally from the definition of "qualified eligible participant" ("QEP"), as defined in Regulation 4.7(a)(1)(ii). In 2000, the Commission streamlined Regulation 4.7 by combining into a single definition those persons formerly defined as QEPs and "qualified eligible clients" ("QECs"). As a result of the revision, both QEPs and QECs are termed "qualified eligible persons." 65 FR 47848, 47849-50 (Aug. 4, 2000).

⁴ 59 FR 42156 (Aug. 17, 1994).

⁵ 72 FR 14413 (Mar. 28, 2007) ("TAIFEX Order").

⁶ The Commission has delegated to NFA certain responsibilities, including the responsibility to receive requests for confirmation of Regulation 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Regulation 30.10 Order and to grant exemptive relief from registration to qualifying firms. 62 FR 47792, 47793 (Sept. 11, 1997).