

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-41090, International Series Release No. 1183, File No. S7-4-99]

RIN 3235-AH68

Exemption of the Securities of the Kingdom of Sweden under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes for comment an amendment to Rule 3a12-8 that would designate debt obligations issued by the Kingdom of Sweden as "exempted securities" for the purpose of marketing and trading of futures contracts on those securities in the United States. The amendment is intended to permit futures trading on the sovereign debt of Sweden.

DATES: Comments should be submitted by March 31, 1999.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comments should refer to File No. S7-4-99; this file number should be included on the subject line if e-mail is used. Comment letters will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Electronically submitted comment letters will also be posted on the Commission's Internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: Joshua Kans, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Securities and Exchange Commission (Mail Stop 10-1), 450 Fifth Street, N.W., Washington, D.C. 20549, at 202/942-0079.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), it is unlawful to trade a futures contract on any individual security unless the security in question is an exempted security (other than a municipal security) under the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934

("Exchange Act"). Debt obligations of foreign governments are not exempted securities under either of these statutes. The Securities and Exchange Commission ("SEC" or "Commission"), however, has adopted Rule 3a12-8 (17 CFR 240.3a12-8) ("Rule") under the Exchange Act to designate debt obligations issued by certain foreign governments as exempted securities under the Exchange Act solely for the purpose of marketing and trading futures contracts on those securities in the United States. As amended, the foreign governments currently designated in the Rule are Great Britain, Canada, Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, Germany, the Republic of Ireland, Italy, Spain, Mexico and, most recently, Brazil, Argentina and Venezuela (the "Designated Foreign Governments"). As a result, futures contracts on the debt obligations of these countries may be sold in the United States, as long as the other terms of the Rule are satisfied.

The Commission today is soliciting comments on a proposal to amend Rule 3a12-8 to add the debt obligations of the Kingdom of Sweden ("Sweden") to the list of Designated Foreign Governments whose debt obligations are exempted by Rule 3a12-8. To qualify for the exemption, futures contracts on the debt obligations of Sweden would have to meet all the other existing requirements of the Rule.

II. Background

Rule 3a12-8 was adopted in 1984¹ pursuant to the exemptive authority in Section 3(a)(12) of the Exchange Act in order to provide a limited exception from the CEA's prohibition on futures overlying individual securities.² As originally adopted, the Rule provided that the debt obligations of Great Britain and Canada would be deemed to be exempted securities, solely for the purpose of permitting the offer, sale, and confirmation of "qualifying foreign futures contracts" on such securities.

¹ See Securities Exchange Act Release No. 20708 ("Original Adopting Release") (March 2, 1984), 49 FR 8595 (March 8, 1984); Securities Exchange Act Release No. 19811 ("Original Proposing Release") (May 25, 1983), 48 FR 24725 (June 2, 1983).

² In approving the Futures Trading Act of 1982, Congress expressed its understanding that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar the sale of futures on debt obligations of the United Kingdom of Great Britain and Northern Ireland to U.S. persons, and its expectation that administrative action would be taken to allow the sale of such futures contracts in the United States. See Original Proposing Release, *supra* note 1, 48 FR at 24725 (citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)).

The securities in question were not eligible for the exemption if they were registered under the Securities Act or were the subject of any American depository receipt so registered. A futures contract on the covered debt obligation under the Rule is deemed to be a "qualifying foreign futures contract" if the contract is deliverable outside the United States and is traded on a board of trade.³

The conditions imposed by the Rule were intended to facilitate the trading of futures contracts on foreign government securities in the United States while requiring offerings of foreign government securities to comply with the federal securities laws. Accordingly, the conditions set forth in the Rule were designed to ensure that, absent registration, a domestic market in unregistered foreign government securities would not develop, and that markets for futures on these instruments would not be used to avoid the securities law registration requirements. In particular, the Rule was intended to ensure that futures on exempted sovereign debt did not operate as a surrogate means of trading the unregistered debt.⁴

Subsequently, the Commission amended the Rule to include the debt securities issued by Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, Germany, Ireland, Italy, Spain, Mexico and, most recently, Brazil, Argentina and Venezuela.⁵

³ As originally adopted, the Rule required that the board of trade be located in the country that issued the underlying securities. This requirement was eliminated in 1987. See Securities Exchange Act Release No. 24209 (March 12, 1987), 52 FR 8875 (March 20, 1987).

⁴ The CFTC regulates the marketing and trading of foreign futures contracts. CFTC rules provide that any person who offers or sells a foreign futures contract to a U.S. customer must be registered under the CEA, unless otherwise specifically exempted.

⁵ As originally adopted, the Rule applied only to British and Canadian government securities. See Original Adopting Release, *supra* note 1. In 1986, the Rule was amended to include Japanese government securities. See Securities Exchange Act Release No. 23423 (July 11, 1986), 51 FR 25996 (July 18, 1986). In 1987, the Rule was amended to include debt securities issued by Australia, France and New Zealand. See Securities Exchange Act Release No. 25072 (October 29, 1987), 52 FR 42277 (November 4, 1987). In 1988, the Rule was amended to include debt securities issued by Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany. See Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988). In 1991 the Rule was again amended to (1) include debt securities offered by the Republic of Ireland and Italy, (2) change the country designation of "West Germany" to the "Federal Republic of Germany," and (3) replace all references to the informal names of the countries listed in the Rule with references to their official names. See Securities Exchange Act Release No.

III. Discussion

OM Stockholm AB of Sweden ("OM"), and its British affiliate OMLX, The London Securities and Derivatives Exchange Limited ("OMLX"), have proposed that the Commission amend 3a12-8 to include the sovereign debt of Sweden. OM and OMLX (which will be collectively referred to as "OM") have stated that they are listing standardized futures contracts on Swedish government securities for trading on their respective markets, beginning with a futures contract on the ten-year Swedish government bond. The applicants wish to make those futures contracts available to U.S. investors.⁶

The Swedish National Debt Office has submitted a letter supporting OM's application to amend the Rule.⁷ The Commission in 1988 proposed adding Sweden to the list of countries designated under the Rule,⁸ but rejected the proposal because of opposition from the Swedish government.⁹

Under the proposed amendment, the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the United States, the futures contracts require delivery outside the United States, and the contracts be traded on a board of trade)

30166 (January 8, 1992), 57 FR 1375 (January 14, 1992). In 1994, the Rule was amended to include debt securities issued by Spain. See Securities Exchange Act Release No. 34908 (October 27, 1994), 59 FR 54812 (November 2, 1994). In 1995, the Rule was amended to include the debt securities of Mexico. See Securities Exchange Act Release No. 36530 (November 30, 1995), 60 FR 62323 (December 6, 1995). In 1996, the Rule was amended to include debt securities issued by Brazil, Argentina, and Venezuela. See Securities Exchange Act Release No. 36940 (March 7, 1996), 61 FR 10271 (March 13, 1996).

⁶ See Letters from Philip McBride Johnson, counsel for OM and OMLX, to Jonathan Katz, Secretary, Commission, dated June 11, 1998; Memorandum provided by OM and OMLX to the Division of Market Regulation on July 6, 1998; Letter from Philip Johnson to Michael Walinskas, Deputy Associate Director, Division, Commission, dated July 24, 1998; Letters from Philip Johnson to Joshua Kans, Attorney, Division, Commission, dated August 20, September 11 and October 2, 1998; Letter from Philip Johnson to Michael Walinskas, dated December 7, 1998 (collectively "OM petition").

⁷ See Letter from Tomas Magnusson, Director and General Counsel, Swedish National Debt Office, to Jonathan Katz, Secretary, Commission, dated June 29, 1998.

⁸ See Securities Exchange Act Release No. 25998 (August 16, 1988), 53 FR 31709 (August 19, 1988).

⁹ The Embassy of Sweden submitted two letters in response to the 1988 proposal, noting that currency controls prohibiting non-residents from holding Swedish kronor-denominated securities would preclude development of a market for physically settled futures on such securities, and stating that in any case it was not in the Swedish government's interest that such a market develop. As a matter of international comity, the Commission chose not to add Sweden to the Rule. See Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988).

would continue to apply. OM has represented that the securities underlying the futures contracts it will be listing are not registered in the United States,¹⁰ that delivery will occur through book entry registration in the Swedish Central Securities Depository, and that both OM and OMLX are "boards of trade" as defined by the CEA.¹¹

In the most recent determinations to amend the Rule to include Mexico, Brazil, Argentina, and Venezuela, the Commission considered primarily whether market evidence indicated that an active and liquid secondary trading market exists for the sovereign debt of those countries.¹² Prior to the addition of those countries to the Rule, the Commission considered principally whether the particular sovereign debt had been rated in one of the two highest rating categories¹³ by at least two nationally recognized statistical rating organizations ("NRSROs").¹⁴ The Commission continues to consider the existence of a high credit rating as indirect evidence of an active and liquid secondary trading market,¹⁵ as well as considering trading data as evidence of an active and liquid secondary trading

¹⁰ A number of Swedish government debt securities denominated in U.S. dollars have been registered under the Securities Act. The Rule does not exempt futures contracts on those securities.

¹¹ See OM petition, *supra* note 6.

¹² See, e.g., Securities Exchange Act Release No. 36530 (November 30, 1995), 60 FR 62323 (December 6, 1995) (amending the Rule to add Mexico because the Commission believed that as a whole, the market for Mexican sovereign debt was sufficiently liquid and deep for the purposes of the Rule); Securities Exchange Act Release No. 36940 (March 7, 1996), 61 FR 10271 (March 13, 1996) (amending the Rule to add Brazil, Argentina and Venezuela because the Commission believed that the market for the sovereign debt of those countries was sufficiently liquid and deep for the purposes of the Rule).

¹³ The two highest categories used by Moody's Investor Services ("Moody's") for long-term debt are "Aaa" and "Aa." The two highest categories used by Standard & Poor's ("S&P") for long-term debt are "AAA" and "AA."

¹⁴ See, e.g., Securities Exchange Act Release No. 30166 (January 6, 1992) 57 FR 1375 (January 14, 1992) (amending the Rule to include debt securities issued by Ireland and Italy—Ireland's long-term sovereign debt was rated Aa3 by Moody's and AA- by S&P, and Italy's long-term sovereign debt was rated Aaa by Moody's and AA+ by S&P); and Securities Exchange Act Release No. 34908 (October 27, 1994), 59 FR 54812 (November 2, 1994) (amending the Rule to include Spain, which had long-term debt ratings of Aa2 from Moody's and AA from S&P).

¹⁵ See, e.g., Securities Exchange Act Release No. 36213 (September 11, 1995), 60 FR 48078 (September 18, 1995) (proposal to add Mexico to list of countries encompassed by rule); Securities Exchange Act Release No. 24428 (May 5, 1987), 52 FR 18237 (May 14, 1987) (proposed amendment, which was not implemented, that would have extended the rule to encompass all countries rated in one of the two highest categories by at least two NRSROs).

market for the security, when determining whether to include a sovereign issuer in the list of Designated Foreign Governments.

Sweden meets the credit rating standard. Moody's Investors Service ("Moody's") has assigned Sweden a long-term local currency credit rating of Aa1 and a long-term foreign currency credit rating of Aa2. Standard & Poor's ("S&P") has assigned Sweden a long-term local currency credit rating of AAA and a long-term foreign currency credit rating of AA+.

The Commission also observes that market data indicates that there exists an active and liquid trading market for Swedish issued debt instruments. As of September 30, 1998, the total Swedish public debt outstanding was equivalent to approximately US\$179.4 billion (1409 billion Swedish kronor ("SEK")).¹⁶ The largest portion of this debt, Treasury bonds (Statsobligationslån) denominated in Swedish kronor, amounted to approximately US\$95.7 billion (SEK 752 billion).¹⁷ Treasury bills (Statsskuldväxlar) denominated in Swedish kronor amounted to approximately US\$25.7 billion (SEK 202 billion).¹⁸ Foreign currency-denominated debt amounted to approximately US\$46.9 billion (SEK 368 billion).¹⁹

¹⁶ Data regarding the amount of outstanding debt was obtained from "Den Svenska Statsskuden: The Swedish Central Government Debt," September 30, 1998, available from the website of the Swedish national Debt Office (<http://www.sndo.se>). All U.S. dollar equivalents set forth in this release are based on a conversion rate of SEK 7.8565 for US\$1.00 in effect as of September 30, 1998.

The last four countries added to the list—Mexico, Brazil, Argentina and Venezuela—had lower amounts of public debt. See Securities Exchange Act Release No. 36530 (December 6, 1995), 60 FR 62323 (December 6, 1995) (outstanding Mexican government debt amounted to approximately US\$87.5 billion face value as of March 31, 1995); Securities Exchange Act Release No. 36940 (March 7, 1996), 61 FR 10271 (March 13, 1996) (public and publicly guaranteed debt of Brazil, Argentina and Venezuela amounted to approximately US\$86 billion, US\$55 billion and US\$74 billion, respectively, as of December 31, 1993).

¹⁷ The outstanding Treasury bonds include approximately US\$78.2 billion (SEK 614 billion) worth of benchmark bonds, approximately US\$5.5 billion (SEK 42.9 billion) worth of non-benchmark bonds, and approximately US\$11.9 billion (SEK 93.7 billion) worth of inflation linked bonds.

¹⁸ Other types of Swedish currency-denominated debt included approximately US\$6.9 billion (SEK 54.8 billion) worth of lottery bonds. A total of US\$132.5 billion (SEK 1041 billion) in Swedish government debt was denominated in Swedish kronor.

¹⁹ Foreign-currency denominated debt includes approximately US\$36.4 billion (SEK 285.7 billion) worth of public issues, US\$7.9 billion (SEK 62.1 billion) worth of private placements, and US\$3.8 billion (SEK 30.1 billion) worth of commercial paper.

OM has submitted data indicating that secondary market trading in Treasury bonds amounted to approximately US\$1.156 trillion (SEK 9079 billion) in 1996, approximately US\$1.343 trillion (SEK 10,550 billion) in 1997, and approximately US\$593 billion (SEK 4662 billion) in the first six months of 1998.²⁰ The average daily trading volume during that period ranged from approximately US\$2.72 billion (SEK 21.4 billion) for the month of July 1996 to approximately US\$8.35 billion (SEK 65.6 billion) for the month of October 1997.²¹ OM adds that in 1997, there were 109,128 transactions in benchmark Treasury bonds, 27,525 transactions in non-benchmark Treasury bonds, and 1999 transactions in inflation-linked Treasury bonds.²²

OM has also submitted data stating that secondary market trading in Treasury bills amounted to approximately US\$439.4 billion (SEK 3452 billion) in 1996, approximately US\$487.6 billion (SEK 3831 billion) in 1997, and approximately US\$209.3 billion (SEK 1645 billion) in the first six months of 1998. The average daily trading volume during that period ranged from approximately US\$1.18 billion (SEK 9.3 billion) for the month of May 1996 to approximately US\$2.64 billion (SEK 20.7 billion) for the month of March 1997. OM adds that in 1997, there were 38,634 transactions in Treasury bills.²³

²⁰ OM petition, *supra* note 6. OM states that the statistics about secondary market trading in Swedish debt were derived from data specially prepared by the Swedish Central Securities Depository. *Id.*

²¹ OM has submitted data stating that the average daily trading volume for Treasury bonds decreased to approximately US\$2.11 billion (SEK 16.6 billion) for the month of July 1998.

²² OM states that secondary market trading for Swedish government debt is primarily conducted on a phone-based and screen-based over-the-counter market conducted by a number of dealers, with transactions in Treasury bonds and Treasury bills registered at the PMX Exchange at the end of the trading day. OM petition, *supra* note 6.

²³ OM states that secondary market trading in lottery bonds was equivalent to approximately US\$512 million (SEK 4.03 billion) in 1996, US\$449 million (SEK 3.53 billion) in 1997, and US\$213 million (SEK 1.67 billion) in the first half of 1998. OM has not provided secondary market trading data for other Swedish debt securities. According to OM, transaction data for Swedish government debt denominated in foreign currencies is extremely difficult to obtain. OM further contends that because a number of Swedish government debt securities denominated in U.S. dollars have been registered under the Securities Act of 1933, and therefore are not eligible for exemption under the Rule, secondary market data for securities denominated in non-kronor currencies is less significant. *See id.*

OM states that it presently does not intend to list any futures on inflation-linked bonds, treasury bonds with repurchase agreements, lottery bonds or commercial papers. *Id.*

In light of the above data, the Commission preliminarily believes that the debt obligations of Sweden should be subject to the same regulatory treatment under the Rule as the debt obligations of the Designated Foreign Governments.

IV. General Request for Comments

The Commission seeks comments on the desirability of designating the debt securities of Sweden as exempted securities under Rule 3a12-8. Comments should address whether the trading or other characteristics of Sweden's sovereign debt warrant an exemption for purposes of futures trading. Commentators may wish to discuss whether there are any legal or policy reasons for distinguishing between Sweden and the Designated Foreign Governments for purposes of the Rule. The Commission also requests information regarding the potential impact of the proposed rule on the economy on an annual basis. If possible, commenters should provide empirical data to support their views. The Commission also seeks comments on the general application and operation of the Rule given the increased globalization of the securities markets since the Rule was adopted.

V. Costs and Benefits of the Proposed Amendments

The Commission has considered the costs and benefits of the proposed amendment to the Rule, and the Commission preliminarily believes that the proposed amendment offers potential benefits for U.S. investors, with no direct costs. If adopted, the proposed amendment would allow U.S. and foreign boards of trade to offer in the United States, and U.S. investors to trade, a greater range of futures contracts on foreign government debt obligations. Moreover, the trading of futures on the sovereign debt of Sweden should provide U.S. investors with a vehicle for hedging the risks involved in the trading of the underlying sovereign debt of Sweden. The Commission does not anticipate that the proposed amendment would result in any direct cost for U.S. investors or others because the proposed amendment would impose no recordkeeping or compliance burdens, and merely would provide a limited purpose exemption under the federal securities laws. The restrictions imposed under the proposed amendment are identical to the restrictions currently imposed under the terms of the Rule and are designed to protect U.S. investors.

The Commission requests comments on the costs and benefits of the

proposed amendment to Rule 3a12-8. In particular, the Commission requests commentators to address whether the proposed amendment would generate the anticipated benefits, or impose any costs on U.S. investors or others.

VI. Effect of the Proposed Amendment on Competition, Efficiency and Capital Formation

Section 23(a)(2) of the Exchange Act²⁴ requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effect of such rules, if any, and to refrain from adopting a rule that would impose a burden on competition not necessary or appropriate in furthering the purposes of the Exchange Act. Moreover, Section 3 of the Exchange Act²⁵ as amended by the National Securities Markets Improvement Act of 1996²⁶ provides that whenever the Commission is engaged in a rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.

In light of the standards cited in Sections 3 and 23(a)(2) of the Exchange Act, the Commission preliminarily believes that the proposed amendment to the Rule will promote efficiency, competition and capital formation. The proposal is intended to expand the range of financial products available in the United States, and will make available to U.S. investors an additional product to use to hedge the risks associated with the trading of the underlying sovereign debt of Sweden. Insofar as the proposed amendment contains limitations, they are designed to promote the purposes of the Exchange Act by ensuring that futures trading on government securities of Sweden is consistent with the goals and purposes of the federal securities laws by minimizing the impact of the Rule on securities trading and distribution in the United States.

The Commission requests comments as to whether the amendment to the Rule will have any anti-competitive effects.

VII. Administrative Requirements

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment proposed herein would not, if adopted,

²⁴ 15 U.S.C. 78w(a)(2).

²⁵ 15 U.S.C. 78c.

²⁶ Pub. L. No. 104-290, 110 Stat. 3416 (1996).

have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as Appendix A. We encourage written comments on the Certification.

Commentators are asked to describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

The Paperwork Reduction Act does not apply because the proposed amendment does not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

VIII. Statutory Basis

The amendment to Rule 3a12-8 is being proposed pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12) and 23(a), 15 U.S.C. 78c(a)(12) and 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendment

For the reasons set forth in the preamble, the Commission is proposing to amend Part 240 of Chapter II, Title 17 of the *Code of Federal Regulations* as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

2. Section 240.3a12-8 is amended by removing the word "or" at the end of paragraph (a)(1)(xviii), removing the "period" at the end of paragraph (a)(1)(xix) and adding "; or" in its place, and adding paragraph (a)(1)(xx), to read as follows:

§ 240.3a12-8 Exemption for designated foreign government securities for purposes of futures trading.

(a) * * *

(1) * * *

(xx) The Kingdom of Sweden.

* * * * *

By the Commission.

Dated: February 23, 1999.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the Preamble will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Arthur Levitt, Jr., Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. § 605(b), that the proposed amendment to Rule 3a12-8 ("Rule") under the Securities Exchange Act of 1934 ("Exchange Act"), which would define the government debt securities of the Kingdom of Sweden ("Sweden") as exempted securities under the Exchange Act for the purpose of trading futures on such securities, will not have a significant economic impact on a substantial number of small entities for the following reasons. First, the proposed amendment imposes no recordkeeping or compliance burden in itself and merely allows, in effect, the marketing and trading in the United States of futures contracts overlying the government debt securities of Sweden. Second, because futures contracts on the nineteen countries whose debt obligations are designated as "exempted securities" under the Rule, which already can be traded and marketed in the U.S., still will be eligible for trading under the proposed amendment, the proposal will not affect any entity currently engaged in trading such futures contracts. Third, because those primarily interested in trading such futures contracts are large, institutional investors, neither the availability nor the unavailability of these futures products will have a significant economic impact on a substantial number of small entities, as that term is defined for broker-dealers in 17 CFR 240.0-10.

Arthur Levitt, Jr.

Chairman.

Dated: February 23, 1999.

[FR Doc. 99-4953 Filed 2-26-99; 8:45 am]

BILLING CODE 8010-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-049-1-9907b; FRL-6235-9]

Approval and Promulgation of Implementation Plans Alabama: Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revision submitted by the State of

Alabama through the Department of Environmental Management. On October 23, 1998, the State of Alabama through the Department of Environmental Management (ADEM) submitted a SIP submittal to revise the ADEM Administrative Code for the Air Pollution Control Program. Revisions were made to Chapter 335-3-1—General Provisions. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 31, 1999.

ADDRESSES: Written comments should be addressed to Kimberly Bingham, at the EPA Regional Office listed below. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, Air, Pesticides, and Toxics Management Division, Air Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303-3104.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham of the EPA Region 4, Air Planning Branch at (404) 562-9038 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.