

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 18, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift and the cancellation of special shift. This will reopen embargoes in both Categories 361 and 666-S.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63683, published on December 10, 2001.

James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on December 18, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit ¹
Specific limits	
360	8,520,672 numbers.

Category	Twelve-month restraint limit ¹
361	9,639,744 numbers.
666-P ²	1,079,969 kilograms.
666-S ³	6,208,419 kilograms.

¹The limits have not been adjusted to account for any imports exported after December 31, 2001.

²Category 666-P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

³Category 666-S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc.02-31835 Filed 12-17-02; 8:45 am]
BILLING CODE 3510-DR-S

COMMODITY FUTURES TRADING COMMISSION

Review by the National Futures Association of Annual Financial Reports Required To Be Filed by Commodity Pool Operators

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission (the "Commission") is authorizing the National Futures Association ("NFA") to conduct reviews of annual financial reports filed with the Commission by commodity pool operators ("CPOs"), as required by Commission Rules 4.22(c) and 4.7(b)(3), and to grant and deny certain requests for extensions of time to file such reports. In addition, the Commission is authorizing NFA to maintain and to serve as the official custodian of Commission records required by Rules 4.22 and 4.7(b)(3). **EFFECTIVE DATE:** December 18, 2002; with regard to all commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter.

FOR FURTHER INFORMATION CONTACT: Kevin P. Walek, Assistant Director, Eileen R. Chotiner, Futures Trading Specialist, Audit and Financial Review Section, or Michael A. Piracci, Attorney Advisor, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three

Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission previously has authorized NFA to conduct many functions that, until that time, were conducted by Commission staff. Such delegated functions include: the processing of applications for registration of intermediaries and floor traders under the Commodity Exchange Act (the "Act");¹ the processing of notices of eligibility for certain exemptions from registration as a CPO and commodity trading advisor ("CTA");² and the review of Disclosure Documents required to be filed by CPOs and CTAs pursuant to Commission rules.³

The Commission has found that NFA exercises its authority in these areas with particular proficiency. Additionally, authorizing NFA to perform such functions has enabled Commission staff to devote resources to other aspects of the Commission's regulatory mission.

The futures industry is continually expanding and transforming itself. As the industry changes and evolves, the Commission must also change and evolve, reassessing the manner in which it allocates its resources. Accordingly, by this order, the Commission is authorizing NFA to perform certain regulatory functions that may properly be performed by NFA instead of Commission staff. In particular, the Commission is authorizing NFA to review commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter, that CPOs are required to submit, pursuant to Commission Rules 4.22 and 4.7(b)(3).⁴ In addition, the Commission is authorizing NFA, with regard to such reports, to receive, grant, and deny, requests submitted pursuant to Rule 4.22(f)(1) for extensions of time to distribute and file annual financial reports and to process notices of claims of extension of time filed pursuant to Rule 4.22(f)(2).

¹ 7 U.S.C. 1 *et seq.* (2000). *See, e.g.*, 48 FR 35158 (Aug. 3, 1983) (introducing brokers and associated persons thereof); 49 FR 39593 (Oct. 9, 1984) (futures commission merchants, commodity pool operators, commodity trading advisors, and associated persons thereof); 51 FR 34490 (Sep. 29, 1986) (floor brokers); 58 FR 19657 (Apr. 15, 1993) (floor traders).

² *See* 62 FR 52088 (Oct. 6, 1997) (the "1997 Order").

³ *Id.*

⁴ Commission rules referred to herein may be found at 17 CFR Ch. I (2002).

II. Authority

Section 4n(3)(A) of the Act provides, among other things, that each CPO shall "file such reports in such form and manner as may be prescribed by the Commission." The Commission also notes that, in amending the Act through passage of the Commodity Futures Modernization Act of 2000 (the "CFMA"),⁵ Congress intended, as evidenced in section 2 of the CFMA, to transform the role of the Commission from that of a frontline regulator to one of an oversight regulator of the futures industry. Moreover, section 125 of the CFMA required the Commission to conduct a study of the Act and the Commission's rules and orders governing the conduct of registrants under the Act, identifying, among other things, regulatory functions the Commission performs that can be delegated to NFA.⁶ Additionally, the Commission notes that NFA, as a registered futures association, is obligated to establish a program for the protection of customers and customer funds and to prevent fraudulent acts and practices.⁷

III. Review of Annual Financial Reports

Commission Rule 4.22(c) requires, among other things, that each CPO distribute an annual financial report to each participant in each pool that it operates and file two copies with the Commission. Rule 4.12(b)(2)(iii) modifies the requirements as to the information to be contained in annual financial reports for certain commodity pools and the CPOs that operate such pools. CPOs that have claimed relief pursuant to Rule 4.12(b), with respect to qualifying pools, still must distribute and file annual financial reports for such pools pursuant to Commission Rule 4.22(c). Commission Rule 4.7(b)(3) exempts a CPO from the specific requirements of Rule 4.22(c) for certain commodity pools. Pursuant to Rule 4.7(b)(3)(i), however, a CPO still must distribute and file with the Commission an annual financial report for such pools. Commission staff currently review annual financial reports and issue letters to the CPO noting any issues concerning the CPO's compliance with relevant sections of the Act or Commission Rules, and work with the CPO to resolve such issues.

⁵ Pub. L. 106-554, 114 Stat. 2763 (codified as amended in scattered sections of 7 U.S.C.).

⁶ A copy of the study may be viewed on the Commission's Web site at: www.cftc.gov/files/opa/opaintermediarystudy.pdf.

⁷ See Commission Rule 170.5; See also section 17(b)(7) of the Act.

NFA Compliance Rule 2-13⁸ requires NFA members to file with NFA copies of any documents required to be filed with the Commission pursuant to part 4 of the Commission's rules. NFA staff reviews CPO annual financial reports during on-site audits as well as through a desk review program. Through working closely with NFA over the years, the Commission is confident in the expertise of NFA staff in reviewing these annual financial reports.

Commission and NFA staffs have had extensive discussions concerning the specific elements of the Commission's review of CPO annual financial reports under the Act and regulations thereunder. Further, Commission and NFA staff have worked closely to ensure that NFA's procedures for review of CPO annual financial reports similarly conform to the Act and regulations thereunder. Further, NFA has represented it will take appropriate steps to address deficiencies found in such reports, that it will maintain records reflecting its review and corrective activities, and that the information contained in such reports and such records will be maintained by NFA in electronic format that shall be accessible to Commission staff by electronic means. Based on the foregoing, the Commission is satisfied that NFA has established that it is capable of and willing to receive and to appropriately review CPO annual financial reports.⁹ Accordingly, the Commission believes it would be appropriate for NFA to receive and to review CPO annual financial reports for compliance with the Act and applicable regulations thereunder.

In order to avoid disruption of outstanding reviews of annual financial reports, this authorization is effective only with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter. Stated another way, annual financial reports of commodity pools for fiscal years ending prior to December 31, 2002, shall still be received and

⁸ NFA Rules may be found on NFA's Web site at: www.nfa.futures.org.

⁹ See, e.g., Letter from Regina L. Thoele, Managing Director, Compliance, National Futures Association, to Jane Kang Thorpe, Director, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission (Sep. 17, 2002); see also, Letter from Yvonne Downs, Senior Vice President, Compliance, National Futures Association, to Jane Kang Thorpe, Director, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission (Nov. 4, 2002); and Letter from Jane Kang Thorpe, Director, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, to Yvonne Downs, Senior Vice President, Compliance, National Futures Association (Nov. 22, 2002).

reviewed in the first instance by the Commission.

IV. Extensions of Time

Commission Rule 4.22(f)(1) provides that if a CPO is unable to disburse the annual financial report for a pool within the time specified in Rule 4.22(c) it may apply for an "extension of time to a specific date not more than 90 calendar days after the date as of which the Annual Report was to have been distributed." This application must be filed with the Commission prior to the date on which the annual financial report is due. The Commission must then notify the CPO, within ten calendar days after receipt of the application, whether the application has been granted, denied, or whether additional time is needed to analyze the application. As part of this order, the Commission is authorizing NFA to undertake this function. In a separate notice, published elsewhere today in the **Federal Register**, the Commission is amending its rules with regard to the submission of these applications for extensions of time so as to make clear that they need be filed only with NFA.

In granting or denying applications made pursuant to Rule 4.22(f)(1), Commission staff have issued, and made publicly available, letters that make clear the reasoning for granting or denying such requests. NFA, in determining whether to grant or deny requests made pursuant to Rule 4.22(f)(1), shall consult, and comply with, the guidance provided by the previous letters of Commission staff on this subject, as well as any future guidance, in whatever form, the Commission or Commission staff might provide. The Commission notes that in other contexts, such as determining whether to grant or deny an application for registration, NFA makes independent decisions based on general guidance provided by the Commission.¹⁰ The Commission fully expects that NFA will exercise the authority granted in this order with regard to requests for extensions of time in the same skillful manner as it has with regard to the registration of applicants.

Commission Rule 4.22(f)(2) provides for a self-executing extension of time of no more than 60 calendar days for distributing and filing an annual financial report of a commodity pool where the CPO is unable to prepare the annual financial report in the time required under the Commission's rules as a result of the pool's investments in

¹⁰ See Appendix A to Part 3 of the Commission's rules.

another collective instrument vehicle. To obtain the extension of time provided for in Rule 4.22(f)(2), the CPO must file a notice, in the form specified in the Rule, with the Commission and NFA. In the separate notice being published today, as discussed above, the Commission is amending Rule 4.22(f)(2) to provide that the notice need only be filed with NFA. As part of this order, the Commission is authorizing NFA to maintain and to serve as the official custodian of these notices.

V. Maintenance of and Access to CPO and CTA Filings

As noted above, in a separate document, published elsewhere today in the **Federal Register**, the Commission is amending its rules with regard to the submission of annual financial reports, extensions of time for filing annual financial reports,¹¹ and notices of eligibility for exemption from registration and certain part 4 requirements required to be filed by CPOs and CTAs.¹² Specifically, the Commission is amending the subject rules to make clear that CPOs and CTAs need only file the relevant documents with NFA and need not also file them with the Commission. As a result, NFA will act as official custodian of such records and will receive and maintain all records required to be filed by CPOs and CTAs with regard to the authorization made by the Commission in this and the 1997 Order.

As the Commission will no longer receive the subject filings, Commission staff has made NFA staff aware of the requirements that shall apply to NFA in maintaining these records. In particular, NFA will maintain these records in accordance with the Commission's Records Disposition Schedule. In addition, although Commission staff will no longer be reviewing the subject documents on a regular basis, the work of the Commission requires that Commission staff have ready electronic access to the information contained in the documents encompassed by this and the 1997 Order. NFA and Commission staffs have discussed the required availability and access by Commission staff to these records and the information contained therein. Effective March 10, 2003, Commission staff will have, at all times, immediate electronic

access to a database containing all pertinent information contained in the subject filings, as well as the results of the NFA's review thereof.¹³ Moreover, NFA will, at the request of the Commission, Commission staff, or the Department of Justice,¹⁴ make available within 24 hours hard copies of any of the documents encompassed by this and the 1997 Order.

The Commission has determined to authorize NFA to maintain and serve as official custodian of record for the filings, notice, reports, and claims required by Rules 4.7(b)(3), 4.22(c), 4.22(f)(1), and 4.22(f)(2). This determination is based upon NFA's representations regarding procedures for maintaining and safeguarding all such records, in connection with NFA's assumption of the responsibilities for the activities referenced above. In maintaining the Commission's records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it by the Commission in existing or future orders or regulations. In this regard, NFA shall also implement such additional procedures (or modify existing procedures) as are acceptable to the Commission and as are necessary to: Ensure the security and integrity of the records in NFA's custody; to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission orders or rules; to facilitate disclosure of public or nonpublic information in those records when permitted by Commission orders or rules and to keep logs as required by the Commission concerning disclosure of nonpublic information; and otherwise to safeguard the confidentiality of the records.

VI. Advisory 18-96

CFTC Advisory 18-96 makes generally available to certain registered CPOs relief from disclosure, reporting, and certain recordkeeping requirements in connection with the operation of offshore commodity pools.¹⁵ In order to obtain the relief provided for in the advisory, a CPO must file a claim for exemption with the Commission and NFA, as required in the advisory. In the 1997 Order, the Commission authorized NFA to process notices of claims filed

by qualifying CPOs pursuant to CFTC Advisory 18-96. As discussed above, in a separate document published elsewhere today in the **Federal Register**, the Commission is, among other things, amending Commission rules with regard to notices of eligibility for exemption from registration and certain part 4 requirements required to be filed by CPOs and CTAs to make clear that CPOs and CTAs need only file the relevant documents with NFA and need not also file them with the Commission. In order to conform the process for all claims for exemptions that the Commission has authorized NFA to process, the Commission is also ordering that as of January 1, 2003, all claims for exemption filed pursuant to CFTC Advisory 18-96 need only be filed with NFA and not also with the Commission.

VII. Conclusion and Order

For the reasons discussed above, and pursuant to its authority under the Act, the Commission has determined to authorize NFA, with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter, to: (1) Receive and review annual financial reports required to be filed by CPOs pursuant to Commission Rules 4.7(b)(3) and 4.22(c), including annual financial reports required to be filed by CPOs that have claimed relief pursuant to Rule 4.12(b) with respect to qualifying pools, and to review such reports for compliance with the Act and the Commission Rules thereunder and to provide notice of deficiencies; (2) receive and grant or deny applications filed pursuant to Commission Rule 4.22(f)(1) for extensions of time to distribute annual financial reports; and (3) process notices of claims of extension of time to distribute and file annual financial reports filed pursuant to Commission Rule 4.22(f)(2). In addition, the Commission has determined to authorize NFA to maintain and to serve as the official custodian of such records. The Commission has also determined that, as of January 1, 2003, all claims for exemption filed pursuant to CFTC Advisory 18-96 need only be filed with NFA and need not also be filed with the Commission.

These determinations are based upon: (1) The Congressional intent that the Commission be permitted to determine the best manner in which to oversee CPOs; (2) the Congressional intent that NFA, where appropriate, assume responsibility under the Act for regulatory functions the Commission has deemed unnecessary to retain; and (3) NFA's representation and

¹¹ With regard to annual financial reports and extensions of time for filing such reports, the rule amendments shall be made effective for such reports and extensions of time with regard to commodity pool annual financial reports for fiscal years ending on December 31, 2002, and thereafter.

¹² As noted above, in the 1997 Order the Commission authorized NFA to process notices of eligibility for certain exemptions.

¹³ Due to routine maintenance of the system on which this information will reside, NFA has made the Commission aware that there may be times at which the system will not be accessible. NFA, however, has indicated that, whenever possible, all maintenance of the system will be conducted after business hours.

¹⁴ See section 4n(3) of the Act.
¹⁵ CFTC Advisory No. 18-96, (1994-1996 Transfer Binder), Comm. Fut. L. Rep. (CCH) ¶ 26,659 (Apr. 11, 1996).

demonstration of its willingness and ability to administer the required regulatory functions in accordance with the standards established by the Act, the Commission's regulations and orders promulgated thereunder, any supplemental direction established by the Commission or Commission staff, and relevant case law, and to provide the Commission with whatever information, reports, summaries, or records the Commission may determine are necessary for effective oversight of NFA's administration of the functions delegated herein, or for the Commission to fulfill its role of regulatory oversight of the futures markets.

This order does not authorize NFA to accept or act upon requests for exemption from the requirements of Rule 4.7(b)(3) or Rule 4.22(c), except applications for extensions of time filed pursuant to Commission Rule 4.22(f)(1), as discussed in this order. Moreover, NFA is not authorized to issue any interpretations, "no-action" positions, or exemptions with respect to the requirements of Rules 4.7(b)(3) and 4.22(c).

NFA is authorized to perform all functions specified in this order until the Commission orders otherwise. Nothing in this order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matter regarding the functions delegated to it by this order. Nothing in this order affects the applicability of any previous orders issued by the Commission.

Issued in Washington, DC on December 11, 2002, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02-31684 Filed 12-17-02; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 03-03]

36(b)(1) Arms Sales Notifications

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 03-03 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: December 4, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M