

#### IV. Conclusion

The Commission has determined, in accordance with section 8a(10) of the Act, to authorize NFA to grant exemptive relief to any CFBF that solicits or accepts orders (and accepts money, securities or property to margin the trades that result or may result therefrom) from U.S. foreign futures and options customers and that: (1) Is fully regulated, in the aggregate, by a host and home country regulator, each of which has received a Rule 30.10 Order from the Commission; or (2) is organized in a home country and operating pursuant to the European Passport (as described herein) from a branch located in a host country where the regulator or SRO has received a Rule 30.10 Order, notwithstanding that the Commission has not issued a Rule 30.10 Order to the home country regulator. The Commission has determined further to authorize NFA to maintain records pertaining to the functions described in this Order and to serve as the official custodian of those Commission records. The Commission's authorization concerning records is subject to the terms and conditions set forth above.

The Commission notes that confirmation of rule 30.10 relief pursuant to this Order extends solely to conduct by the firm's branch in its capacity as a member or regulatee of the host country regulator from a location in the host country, subject to the Commission's Limited Marketing Orders.<sup>21</sup> As such, the Rule 30.10 relief would not extend to conduct undertaken from any other office or affiliate of the firm involving U.S. customers under the Act, including any office or branch located within the home country.

NFA shall perform this function in accordance with the standards established by the Act and the regulations and Commission orders, including the procedural requirements set forth in Part III of this Order, issued thereunder and shall provide the Commission with such summaries and periodic reports as the Commission may determine are necessary for the effective oversight of this program.

<sup>21</sup> In 1992, the Commission issued an order commonly referred to as the Limited Marketing Order. 57 FR 49644 (November 3, 1992). The Limited Marketing Order permits firms that have received confirmation of Rule 30.10 relief, without prior notice to the Commission, to engage in limited marketing conduct with respect to foreign futures or option contracts within the U.S. through their employees or other representatives, subject to the terms and conditions set forth therein. In 1994, the Commission expanded the category of persons to whom qualified firms may direct limited marketing conduct. 59 FR 42156 (August 17, 1994).

This determined is based upon the Congressional intent expressed in Section 8a(10) of the Act that the Commission have the authority to authorize NFA to perform any portion of the Commission's registration responsibilities under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner and upon NFA's representations concerning the standards and procedures to be followed and the reports to be generated in administering these functions. This Order does not, however, authorize NFA to render "no-action" positions, exemptions or interpretations with respect to applicable disclosure, reporting, recordkeeping and registration requirements. In addition, nothing in this Order shall affect the Commission's authority to review NFA's performance of the Commission functions listed above.

NFA is authorized to perform the functions specified herein until such time as the Commission orders otherwise. Nothing in this Order shall prevent the Commission from exercising the authority described herein. NFA may submit to the Commission for decision any specific matters that NFA has been authorized to perform, and Commission staff will be available to discuss with NFA staff issues relating to the implementation of this Order. Nothing in this Order affects the applicability of previous orders issued by the Commission under Part 30.

#### V. Cost-Benefit Analysis

Section 15(a) of the Act requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the regulation outweigh the costs. Rather, Section 15(a) simply requires the Commission to "consider the costs benefits" of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, an financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could 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 rule was necessary or appropriate to protect the public interest or to

effectuate any of the provisions or to accomplish any of the purposes of the Act. This Order is intended to create an expedited process to confirm exemptive relief to a class of qualified foreign brokers that would otherwise be required to seek relief through a more time-consuming procedure.

1. Protection of market participants and the public. The Order does not change the requirements to qualify for relief under Rule 30.10. Accordingly, the Order has not effect on the Commission's ability to protect market participants and the public.

2. Efficiency and competition. The Order should permit a firm engaged in cross-border activities to more quickly secure exemptive relief under Rule 30.10, and thus provides a benefit of greater efficiency.

3. Financial integrity of futures markets and price discovery. The Order does not have any effect, from the standpoint of imposing costs or creating benefits, on the financial integrity of futures markets and price discovery.

4. Sound risk management practices. The Order does not impact the risk management practices of the futures and options industry.

5. Other public interest considerations. The performance of the functions described herein by NFA will significantly reduce the amount of Commission and staff resources dedicated to the Part 30 program.

Upon consideration of these factors, the Commission has determined to issue this Order.

Issued in Washington, DC, on January 11, 2005, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Chief of Naval Operations (CNO) Executive Panel

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of Closed Meeting.

**SUMMARY:** The CNO Executive Panel is to report the findings and recommendations of the Special Access Program Processes Study Group to the Chief of Naval Operations. The meeting will consist of discussions of policy considerations on the Navy's Special Access Programs and how well they are integrated into the overall Navy, DOD, and allied requirements processes.

**DATES:** The meeting will be held on Friday, January 28, 2005, from 10:30 a.m. to 12 p.m.

**ADDRESSES:** The meeting will be held at the Chief of Naval Operations office, Room 4E540, 2000 Navy Pentagon, Washington, DC 20350.

**FOR FURTHER INFORMATION CONTACT:** Karen Ray, CNO Executive Panel, 4825 Mark Center Drive, Alexandria, VA 22311, 703-681-4907.

**SUPPLEMENTARY INFORMATION:** Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), these matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Dated: January 7, 2005.

**I.C. Le Moyné, Jr.,**

*Judge Advocate General's Corps, U.S. Navy,  
Alternate Federal Register Liaison Officer.*

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## DEPARTMENT OF EDUCATION

### Teaching American History

**AGENCY:** Office of Innovation and Improvement, Department of Education.

**ACTION:** Notice of proposed selection criteria and other application requirements.

**SUMMARY:** We propose selection criteria and other application requirements under the Teaching American History (TAH) grant program. We may use these criteria and the application requirements for competitions in fiscal year (FY) 2005 and in later years. We take this action to add selection criteria and to provide more specificity with regard to the range of awards and the number of awards a local educational agency (LEA) may receive in each competition.

**DATES:** We must receive your comments on or before February 14, 2005.

**ADDRESSES:** Address all comments about this proposed priority and other application requirements to Alex Stein, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W218, FOB6, Washington, DC 20202-6140. If

you prefer to send your comments through the Internet, you may send them to us at the following address: [comments@ed.gov](mailto:comments@ed.gov).

You must include the term "Teaching American History" in the subject line of your electronic message.

**FOR FURTHER INFORMATION CONTACT:** Alex Stein. Telephone: (202) 205-9085 or via Internet: [Alex.Stein@ed.gov](mailto:Alex.Stein@ed.gov).

If you use a telecommunications devise for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

#### SUPPLEMENTARY INFORMATION:

##### Invitation To Comment

We invite you to submit comments regarding these selection criteria and other application requirements. Also, we invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these criteria and other application requirements. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed selection criteria and other application requirements in room 4W218, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., eastern time, Monday through Friday of each week except Federal holidays.

##### Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed selection criteria and other application requirements. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### General Information

We will announce the final selection criteria and other application

requirements in a notice in the **Federal Register**. We will determine the final selection criteria and other application requirements after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional requirements, subject to meeting applicable rulemaking requirements.

**Note:** This notice does *not* solicit applications. In any year in which we choose to use these proposed selection criteria and other application requirements, we invite applications through a notice in the **Federal Register**.

### Discussion of Proposed Selection Criteria

#### Background

In the past, the selection criteria for the TAH program were taken directly from the program statute and the Education Department General Administrative Regulations (EDGAR). Our experience with competitions, peer reviewers, applicants, and funded grantees demonstrates the need to develop selection criteria that more adequately reflect the qualities of successful TAH grantees. These proposed selection criteria would, therefore, provide the applicant with more detail and clarity with regard to the information that is most likely to result in a high-quality application. Through the selection criteria, we are encouraging applicants to describe: (1) The specific history content to be taught under the grant; (2) how the professional development provided by the grant will improve the quality of instruction; (3) how the evaluation will be aligned with the project design; and (4) the importance of the outcomes likely to be attained through the grant. We also encourage applicants to explain their rationale for selecting certain partners so that the reviewers will have a greater understanding of the potential role and contribution of the partner(s) in achieving the objectives of the grant.

We also encourage applicants to ensure that grant activities will focus on building capacity in the LEA receiving the award. Teachers in the LEA receiving the grant should be the primary recipients of the grant services, and the LEA should be actively involved in the administration of the grant.

We are proposing the additional criteria so that, along with providing a description of the goals and objectives of the application, applicants will describe clear and specific means by which they will achieve those goals and objectives.