

access to business proprietary information under APO can be found at 19 CFR 351.304–306.

### Information Required From Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these sunset reviews must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the sunset review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.<sup>1</sup> Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

<sup>1</sup> In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

Dated: January 26, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–122–814]

#### Pure Magnesium From Canada: Notice of Rescission of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request from the petitioner in this proceeding, the Department of Commerce (“the Department”) initiated an administrative review of the antidumping duty order on pure magnesium from Canada. Due to the recent completion of NAFTA panel review of the final remand redetermination made by the Department concerning the full sunset review of that order, the order was revoked effective August 1, 2000. Therefore, we are rescinding the ongoing administrative review covering the period August 1, 2003, through July 31, 2004.

**EFFECTIVE DATES:** February 2, 2005.

**FOR FURTHER INFORMATION CONTACT:** Scott Holland, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–1279.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 31, 1992, the Department published in the **Federal Register** (57 FR 39390) an antidumping duty order on pure magnesium from Canada. On August 3, 2004, the Department published a notice in the **Federal Register** of the opportunity for interested parties to request an administrative review of the antidumping duty order on pure magnesium from Canada. See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 46496 (August 3, 2004). On August 30, 2004, and in accordance with 19 CFR 351.213(b)(1) of the Department's regulations, the Department received a

timely request for review of the antidumping duty order from U.S. Magnesium LLC, an interested party in these proceedings, on imports of pure magnesium from Canada by Norsk Hydro Canada Inc., and Magnola Metallurgy Inc. (collectively, “the respondents”).

We published a notice of initiation of the antidumping duty administrative review on September 22, 2004, with respect to the respondents in accordance with 19 CFR 351.221(b)(1) of the Department's regulations. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004). The period of review is August 1, 2003, through July 31, 2004.

On November 19, 2004, the NAFTA Secretariat published in the **Federal Register** a notice of completion of panel review of the final remand redetermination made by the Department concerning the full sunset review of the antidumping duty order on pure magnesium from Canada. See *North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Completion of Panel Review*, 69 FR 67703 (November 19, 2004).

On December 7, 2004, pursuant to the panel's decision, the Department published a notice in the **Federal Register** of amended final results of its full sunset review and revocation of the antidumping duty order on pure magnesium from Canada effective August 1, 2000, the effective date of the original full sunset review, in accordance with 516A(g)(5)(C) of the Tariff Act of 1930, as amended, (“the Act”). See *Pure Magnesium from Canada; Notice of NAFTA Binational Panel's Final Decision, Amended Final Results of Full Sunset Review and Revocation of Antidumping Duty Order*, 69 FR 70649 (December 7, 2004).

#### Rescission of Antidumping Administrative Review

As the result of the revocation of the antidumping duty order effective August 1, 2000, we are hereby rescinding the instant administrative review on pure magnesium from Canada, the only ongoing review of this order.

#### Instructions to U.S. Customs and Border Protection

Pursuant to sections 751(d)(2) and 751(d)(3) of the Act, and 351.222 of the Department's regulations, the Department has instructed U.S. Customs and Border Protection (“CBP”) to terminate the suspension of liquidation and to liquidate, without regard to

antidumping duties, all unliquidated entries of pure magnesium from Canada entered, or withdrawn from warehouse, for consumption on or after August 1, 2000, the effective date of the revocation of the order. The Department has further instructed CBP to refund with interest any estimated duties collected with respect to unliquidated entries of pure magnesium entered, or withdrawn from warehouse, for consumption on or after August 1, 2000, in accordance with section 778 of the Act.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 777(i) of the Act, as amended and 19 CFR 351.213(d)(4).

Dated: January 26, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 05-1957 Filed 2-1-05; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Proposed withdrawal of staff interpretation.

**SUMMARY:** Section 4d(a)(2) of the Commodity Exchange Act ("CEA") and related Commission regulations (hereinafter collectively referred to as "segregation requirements") require that, among other things, all funds deposited with a futures commission merchant ("FCM") to purchase, margin, guarantee, or secure futures or commodity options transactions and all accruals thereon ("customer funds" or "customer margin") be accounted for separately, be held for the benefit of customers and deposited under an account name that clearly identifies them as such, and not be commingled

with the FCM's own funds.<sup>1</sup> Further, the Division of Clearing and Intermediary Oversight ("Division") has construed these provisions to prohibit any impediments or restrictions upon an FCM's ability to obtain immediate access to customer funds.

In 1984, the Division of Trading and Markets ("T&M," predecessor to the Division) issued an interpretation, Financial and Segregation Interpretation No. 10 ("Interpretation No. 10"), to address whether, and the circumstances under which, the use of bank custodial accounts (otherwise known as "safekeeping accounts" or "third-party custodial accounts") to maintain customer funds would be consistent with the segregation requirements of the CEA.<sup>2</sup> At the time, investment companies registered under the Investment Company Act of 1940 (the "Investment Company Act") ("RICs") were generally barred from using any FCM or futures clearinghouse as a custodian of fund assets and, thus, third-party custodial accounts were the only permissible means available to RICs to use the risk management tools available through the futures markets.<sup>3</sup> With Interpretation No. 10, T&M took the position that customer funds held in third-party custodial accounts could be deemed properly segregated for purposes of Section 4d(a)(2), provided that certain terms and conditions designed to ensure FCMs' immediate and unimpeded access to the funds were met.

Today, RICs are, for the most part, no longer prohibited from depositing customer margin directly with FCMs and thus may engage in futures trading generally in the same manner as other futures customers. This, coupled with the fact that third-party custodial accounts may present not insignificant regulatory concerns, as well as costs and burdens for market participants, leads the Division to believe that Interpretation No. 10 is no longer necessary or justified, except in certain limited circumstances. In this notice, the Division is inviting comments

concerning Interpretation No. 10 and specifically, whether Interpretation No. 10 should be withdrawn.

**DATES:** Comments must be received on or before April 4, 2005.

**ADDRESSES:** Comments should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418-5521, by e-mail to [secretary@cftc.gov](mailto:secretary@cftc.gov), or electronically by accessing <http://www.regulations.gov>. Reference should be made to "Proposed Withdrawal of Interpretation No. 10."

**FOR FURTHER INFORMATION CONTACT:** Carlene S. Kim, Senior Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5613.

#### SUPPLEMENTAL INFORMATION:

##### I. Interpretation No. 10

Section 4d(a)(2) of the CEA and related Commission regulations require that, among other things, all funds deposited with an FCM to purchase, margin, guarantee, or secure futures or commodity options transactions and all accruals thereon, be accounted for separately by the FCM and deposited under an account name that clearly identifies them as such, not be commingled with the FCM's own funds, and be held for the benefit of customers.<sup>4</sup> The segregation requirements are intended to prevent an FCM from using customer property to margin the trades of other customers or of the FCM itself. Further, the Division has interpreted the segregation requirements to preclude any impediments or restrictions on the FCM's ability to obtain the immediate access to customer funds.<sup>5</sup> The immediate and unfettered access requirement avoids potential delay or interruption in securing required margin payments that, in times of significant market disruption or otherwise, could magnify the impact of such market

<sup>1</sup> 7 U.S.C. 6d(a)(2). The Commission segregation requirements are set forth in Regulations 1.20-1.30, 1.32 and 1.36 [17 CFR 1.20-1.30, 1.32 and 1.36].

<sup>2</sup> See Financial and Segregation Interpretation No. 10, Treatment of Funds Deposited in Safekeeping Accounts, Comm. Fut. L. Rep. (CCH) ¶ 7120 (May 23, 1984).

<sup>3</sup> Until immediately prior to the issuance of Interpretation No. 10, the Department of Labor ("DOL") viewed customer margin as client assets for purposes of the custody requirements and certain other fiduciary provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") [29 U.S.C. 1001-1461], requiring separate safekeeping of such assets. Since then, and currently, DOL subscribes to the view that such assets are not client assets for purposes of ERISA.

<sup>4</sup> U.S.C. 6(d)(a)(2).

<sup>5</sup> See also, note 16, Interpretation No. 10, citing Administrative Determination No. 29 of the Commodity Exchange Authority, the Commission's predecessor agency, dated September 28, 1937, which stated in pertinent part that "the deposit, by a futures commission merchant, of customer funds \* \* \* under conditions whereby such funds would not be subject to withdrawal upon demand would be repugnant to the spirit and purpose of the Commodity Exchange Act. All funds deposited in a bank should in all cases be subject to withdrawal on demand."