

appropriate to issue an order pursuant to Section 1a(12)(C) of the Act extending the relief granted in its original February 4, 2003 order whereby, subject to certain conditions and for a further one-year period commencing on February 4, 2005, NYMEX floor brokers and floor traders are included within the definition of ECPs who can enter into OTC transactions pursuant to Section 2(h)(1) of the Act. Although this order applies only to NYMEX and NYMEX members, the Commission would welcome, in response to a petition so requesting, providing substantially similar relief to other designated contract markets and members of designated contract markets.

#### V. Cost Benefit Analysis

Section 15 of the Act, as amended by Section 119 of the CFMA, requires the Commission to consider the costs and benefits of its action before issuing a new regulation or order under the Act. By its terms, Section 15 does not require the Commission to quantify the costs and benefits of its action or to determine whether the benefits of the action outweigh its costs. Rather, Section 15 simply requires the Commission to "consider the costs and benefits" of the subject rule or order.

Section 15(a) further specifies that the costs and benefits of the proposed rule or order shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that, notwithstanding its costs, a particular rule or order is 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. The Commission undertook a detailed costs-benefits analysis in considering the original order.<sup>19</sup> Actual experience under that order has been consistent with the Commission's analysis.

By extending the essential provisions of the original 2003 order, this order is intended to reduce regulatory barriers by continuing to permit NYMEX members registered with the Commission as floor brokers or floor traders, when acting in a proprietary capacity, to enter into OTC transactions

in exempt commodities pursuant to Section 2(h)(1) of the Act if such floor members have obtained a financial guarantee for such transactions from an Exchange clearing member that is registered with the Commission as an FCM. The Commission has considered the costs and benefits of this order in light of the specific provisions of Section 15(a) of the Act.

#### VI. Order

Upon due consideration, and pursuant to its authority under Section 1a(12)(C) of the Act, the Commission hereby determines that a NYMEX member who is registered with the Commission as a floor broker or a floor trader, when acting in a proprietary trading capacity, shall continue to be deemed to be an eligible contract participant and may continue to enter into Exchange-specified OTC contracts, agreements or transactions in an exempt commodity under the following conditions:

1. This Order is effective for one year, commencing on February 4, 2005.

2. The contracts, agreements or transactions must be executed pursuant to Section 2(h)(1) of the Act.

3. The floor broker or floor trader must have obtained a financial guarantee for the contracts, agreements or transactions from a NYMEX clearing member that:

(a) Is registered with the Commission as an FCM; and,

(b) Clears the OTC contracts, agreements or transactions thus guaranteed.

4. Permissible contracts, agreements or transactions must be limited to trading in a commodity that either:

(a) Is listed only for clearing at NYMEX or

(b) Is listed for trading and clearing at NYMEX and NYMEX's rules provide for exchanges of futures for swaps in that contract, and each OTC contract, agreement or transaction executed pursuant to the order must be cleared at NYMEX.

5. The floor broker or floor trader may not enter into OTC contracts, agreements or transactions with another floor broker or floor trader as the counterparty for contracts that are listed for trading on the Exchange.

6. NYMEX must have appropriate compliance systems in place to monitor the OTC contracts, agreements or transactions of its floor brokers and floor traders.

7. Clearing members that guarantee and clear OTC contracts, agreements or transactions pursuant to this order must have and maintain at all times minimum working capital of at least \$20

million. A clearing member must compute its working capital in accordance with exchange rules and generally accepted accounting principles consistently applied.

8. In the event NYMEX requests a further modification or extension of the ECP Order, the request shall include a report to the Commission reviewing the experiences of the Exchange and its floor members and clearing members under the Order. The report shall include information on the levels of OTC trading and related clearing activity, the number of floor members and clearing members participating in the activity, and the Exchange's reasons supporting the further modification or extension of the Order.

This order is based upon the representations made and supporting material provided to the Commission by NYMEX. Any material changes or omissions in the facts and circumstances pursuant to which this order is granted might require the Commission to reconsider its finding that the provisions set forth herein are appropriate. Further, if experience demonstrates that the continued effectiveness of this order would be contrary to the public interest, the Commission may condition, modify, suspend, terminate or otherwise restrict the provisions of this order, as appropriate, on its own motion.

Issued in Washington, DC on February 2, 2005 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

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## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Sunshine Act; Notice of Closed Meeting

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of closed meeting of the Board of Directors.

**SUMMARY:** On Thursday, February 3, 2005, a majority of the Board of Directors (Board) of the Corporation for National and Community Service (Corporation) voted, pursuant to 45 CFR 2505.4, to close public observation for a meeting on February 7, 2005. The meeting to be closed involves discussions of the draft AmeriCorps rulemaking proposal the Corporation plans to submit to the Office of Management and Budget rulemaking docket. The vote followed a determination, in accordance with the

<sup>19</sup> See 68 FR 5621 at 5624-25 (February 4, 2003).

Government in the Sunshine Act and the Corporation's regulations, that Board business required this discussion without the delay that would be necessary to make a public announcement at least one week before the meeting, in accordance with 45 CFR 2505.6. In accordance with 45 CFR 2505.5(e), the Corporation's General Counsel has certified that, in his opinion, the meeting to be closed could properly be closed to public observation on the grounds that disclosing the information to be discussed to the public prematurely would significantly frustrate implementation of a proposed agency action, pursuant to 45 CFR 2505.4(h)(i). The Board accepted that determination in voting to close the meeting.

As provided in 45 CFR 2505.5(c), the members of the Board voting in favor of closing the meeting were: Stephen Goldsmith; Dorothy Johnson; Donna Williams; Cynthia Burleson; Henry Lozano; Leona White Hat; and William Schambra.

The Corporation expects the following Corporation for National and Community staff to attend the closed meeting: David Eisner, Chief Executive Officer; Andrew Klein, Acting Chief Financial Officer; Amy Mack, Chief of Staff; Frank Trinity, General Counsel; Rosie Mauk, Director of AmeriCorps; Kathy Ott, Director of Government Relations; Robert Grimm, Director of Research and Policy Development; Nicola Goren, Associate General Counsel; Susannah Washburn, Senior Advisor to the CEO; Carol Bates, Acting Inspector General; and Vincent Mulloy, Counsel to the Inspector General. In addition, the Corporation expects the following members of the Board of Directors to attend: Stephen Goldsmith (Chair); Dorothy Johnson; Donna Williams; Cynthia Burleson; Carol Kinsley; Henry Lozano; William Schambra; Mimi Mager; Mark Gearan; Jacob Lew; Leona White Hat, as well as Alan Solomont, immediate past Chair of the Board's rulemaking committee, and Juanita Doty, immediate past chair of the Board's communications committee.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Frank Trinity, General Counsel, at (202) 606-5000 ext. 256.

Dated: February 3, 2005.

**Frank R. Trinity,**  
General Counsel.

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs.

**ACTION:** Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed extension of collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received April 11, 2005.

**ADDRESSES:** Written comments and recommendations on the information collection should be sent to TRICARE Management Activity—Aurora, Office of Program Requirement, 16401 E. Centretch Parkway, ATTN: Graham Kolb, Aurora, CO 80011-9043.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection, please write to the above address or call TRICARE Management Activity, Office of Program Requirements at (303) 676-3580.

*Title Associated With Form, and OMB Number:* Health Insurance Claim Form, UB 92, OMB Number 0720-0013.

*Needs and Uses:* The information collection requirement is necessary for a medical institution to claim benefits under the Defense health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). The information collected will be used by TRICARE/CHAMPUS to determine beneficiary eligibility, other health insurance liability, certification that the beneficiary received the care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/CHAMPUS and its contractors to

determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers.

*Affected Public:* Business or other for-profit; not-for-profit institutions.

*Annual Burden Hours:* 525,000.

*Number of Respondents:* 2,100,000 annually.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 15 minutes.

*Frequency:* On occasion.

#### SUPPLEMENTARY INFORMATION:

##### Summary of Information Collection

This collection instrument is for use by medical institutions filing for reimbursement with the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS). TRICARE/CHAMPUS is a health benefits entitlement program for the dependent of active duty members of the Uniformed Service, and deceased sponsors, retirees and their dependents, dependents of department of transportation (Coast Guard) sponsors, and certain North Atlantic treaty Organization, National Oceanic and Atmospheric Administration, and Public Health Service eligible beneficiaries. Use of the UB-92 (also known as the HCFA 1450) continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

Dated: January 31, 2005.

**Patricia L. Topplings,**

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** DoD, Office of the Assistant Secretary of Defense for Health Affairs.

**ACTION:** Notice.

In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the new collection of information is necessary for the proper performance of the functions of the