

would clarify uncertainties and to re-evaluate the findings in this notice as new information becomes available. In particular, NMFS will incorporate an annual review of any reports of incidental mortality of the subject listed species in the fisheries addressed by this permit. Particular attention will be paid to instances of incidental take of Western stock Steller sea lions in those sub-regions experiencing continued population declines (NMFS Fishery Statistical Areas 541, 542, and 543) to ensure the level of taking remains negligible on a local scale.

*Comment 3:* The Commission recommended NMFS work with state and tribal fisheries managers and participants in those fisheries to expand observer coverage in fisheries that may take marine mammals and, as observers provide better data, re-evaluate the negligible impact determination.

*Response:* In the NID, NMFS recognized that certain fisheries may have not been observed, have been only observed for a limited number of seasons, or were covered over a decade or longer ago. NMFS agrees that there is a pressing need for new and sound data, in particular for certain fisheries known to have taken marine mammals at some previous point (e.g., Prince William Sound salmon drift gillnet fishery) and will undertake new monitoring programs as budgetary constraints and priorities allow. NMFS has also recently taken steps to expand observer coverage in previously unmonitored groundfish fisheries in nearshore areas and in smaller boat fisheries (e.g., < 60 foot vessels). However, the implementation date for such an expanded program and the initial proportion of coverage are uncertain at this time. As any new data from observer programs become available, NMFS will re-evaluate the NID for all species, as appropriate.

*Comment 4:* The Commission recommended NMFS identify information gaps related to endangered and threatened species that may be affected by the issuance of this permit and elevate the priority given to addressing those gaps, in particular to the possible affect of this action on critically endangered marine mammals such as the North Pacific right whale.

*Response:* NMFS will continue to evaluate available data such as that obtained through the existing Groundfish Fishery Observer Program that may provide information relevant to a relationship among this action, ongoing Alaska groundfish fishing activities, and critically endangered marine mammal species and stocks. Research and management programs for listed species will continue to be a high

priority for NMFS and will be expanded to the extent that future budgets allow.

*Comment 5:* In their review of the draft NID, MCA called attention to information discussed in the NID concerning possible changes in, or “blurring at the edges,” of the geographic boundary (144°W) between the Western U.S. and Eastern U.S. stocks of Steller sea lions and referred to their additional comments on that topic submitted as part of NMFS’s ongoing five-year status review of the Eastern U.S. stock.

*Response:* There is adequate information to continue to manage these stocks as defined based on extensive prior scientific review as well as new information (e.g., Phillips, C.D., J.W. Bickham, J.C. Patton, and T.S. Gelatt. 2009. Systematics of Steller sea lions (*Eumetopias jubatus*): Subspecies recognition based on concordance of genetics and morphometrics. Occas. Pap. Mus. Texas Tech Univ. 283:1–15). Additional information and a response to those comments will be forthcoming through the public review process appropriate to the five year status review.

*Comment 6:* The MCA opined the Draft NID did not incorporate the most up-to-date Western U.S. Steller sea lion population assessment data nor called attention to the relationship between current population trends and various Recovery Plan criteria, alleging the population is “on track” towards downlisting from endangered to threatened.

*Response:* NMFS has used the best available scientific information which is complete at this time for preparing and issuing the NID. Data analysis and final report preparation for population surveys of Steller sea lions conducted in 2009 and 2010 remain in process. NMFS staff conferred and reached a preliminary conclusion that these data are not likely to result in any substantial alteration of the conclusions reached in the NID. The criteria for recovery and ultimate “downlisting” of the Western U.S. stock are clearly stated in the Recovery Plan (NMFS 2008) and are based on (among a variety of factors) maintaining a statistically significant consistent but slow (e.g., 1.5 percent) increasing trend of population growth for 15 years on average. Clearly, given the lack of any long-term statistical certainty in available population assessment data as well as the disparate trends within the various sub-regions as defined in the Recovery Plan, it is premature to make a statement as to whether the population is or is not “on track” with respect to recovery and delisting; furthermore, such a determination is not relevant to the NID

process. The NID uses the appropriate criteria and utilized the best available population information to determine that the effect of authorizing the incidental take of commercial groundfish fishing will have a negligible impact on the Western U.S. population stock of Steller sea lions. In addition, whether or not the status of any of these species may change under the ESA is not relevant to the NID under the MMPA. If such a change in status occurs, NMFS would evaluate whether or not additional analyses for this permit are necessary.

*Comment 7:* The MCA inquired about how not convening a TRP might potentially affect recovery of the Western U.S. stock and whether or not funding is likely to be included in the FY2012/13 budgets.

*Response:* As discussed in the notice of the proposed permit, the current levels of incidental mortality and serious injury (without a TRP) are expected to delay recovery of the Western U.S. stock of Steller sea lions by no more than 10 percent of the time to recovery if such mortality and serious injury did not occur. However, NMFS plans, through both monitoring of this permit, and actions required through the section 7 process of the ESA—the Reasonable and Prudent Alternatives issued with the Final BiOp for the subject groundfish fisheries—to assess the level of taking and to work with industry, the North Pacific Fisheries Management Council, and other groups to ensure that any such taking remains at negligible levels. NMFS will continue to assess the need for any TRPs and associated budgetary needs within the priorities of the agency.

Dated: December 21, 2010.

**P. Michael Payne,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2010–32689 Filed 12–28–10; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for a new collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* United States Patent and Trademark Office (USPTO).

*Title:* Global Intellectual Property Academy (GIPA) Surveys.

*Form Number(s):* None.

*Agency Approval Number:* 0651-00xx.

*Type of Request:* New information collection.

*Burden:* 375 hours annually.

*Number of Respondents:* 1,500 responses per year.

*Avg. Hours per Response:* The USPTO estimates that it will take participants of the GIPA training programs 15 minutes (0.25 hours) to complete the surveys. This includes the time to gather the necessary information, complete the survey, and submit the completed survey to the USPTO.

*Needs and Uses:* The pre-program, post-program, and alumni surveys will be used to obtain feedback from the participants of the various GIPA training classes. The pre-program surveys allow participants to provide feedback on the program expectations and training needs immediately prior to participating in the GIPA training programs. The post-program surveys allow participants to provide feedback on program effectiveness, service, facilities, teaching practices, and processes immediately after completing the GIPA training programs. The alumni surveys allow participants to provide feedback on program effectiveness approximately one year after completing the GIPA training programs.

The USPTO will use the data collected from the surveys to evaluate the percentage of foreign officials trained by GIPA who have initiated or implemented a positive intellectual property change in their organization and to evaluate the percentage of foreign officials trained by GIPA who increased their expertise in intellectual property. The data will also be used to evaluate the satisfaction of the participants with the intellectual property program and the value of the experience as it relates to future job performance. The USPTO also uses the survey data to meet organizational performance and accountability goals.

*Affected Public:* Individuals.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Nicholas A. Fraser, e-mail: [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov).

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at <http://www.reginfo.gov>.

Paper copies can be obtained by:

- *E-mail:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-00xx Global Intellectual Property Academy (GIPA)

Surveys copy request" in the subject line of the message.

- *Fax:* 571-273-0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before January 28, 2011 to Nicholas A. Fraser, OMB Desk Officer, via e-mail to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

Dated: December 23, 2010.

**Susan K. Fawcett**,  
*Records Officer, USPTO, Office of the Chief Information Officer.*

[FR Doc. 2010-32738 Filed 12-28-10; 8:45 am]

**BILLING CODE 3510-16-P**

## COMMODITY FUTURES TRADING COMMISSION

### Order Exempting the Trading and Clearing of Certain Products Related to the CBOE Gold ETF Volatility Index and Similar Products

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final Order.

**SUMMARY:** On November 10, 2010, the Commodity Futures Trading Commission ("CFTC" or the "Commission") published for public comment in the **Federal Register** a proposal to exempt the trading and clearing of certain options ("Options") on the CBOE Gold ETF Volatility Index ("GVZ Index"), which would be traded on the Chicago Board Options Exchange ("CBOE"), a national securities exchange, and cleared through the Options Clearing Corporation ("OCC") in its capacity as a registered securities clearing agency, from the provisions of the Commodity Exchange Act ("CEA") and the regulations thereunder, to the extent necessary to permit such Options to be so traded and cleared. The Commission also requested comment regarding whether it should provide a categorical exemption that would permit the trading and clearing of options on indexes that measure the volatility of shares of gold exchange-traded funds ("ETFs") generally, regardless of issuer, including options on any index that measures the magnitude of changes in, and is composed of the price(s) of shares of one or more gold ETFs and the price(s) of any other instrument(s), which other

instruments are securities as defined in the Securities Exchange Act of 1934 ("the '34 Act"). The Commission has determined to issue this Order essentially as proposed. Authority for these exemptions is found in § 4(c) of the CEA.

**DATES:** *Effective Date:* December 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Robert B. Wasserman, Associate Director, 202-418-5092, [rwasserman@cftc.gov](mailto:rwasserman@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW., Washington, DC 20581, or Anne C. Polaski, Special Counsel, 312-596-0575, [apolaski@cftc.gov](mailto:apolaski@cftc.gov), Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe Street, Suite 1100, Chicago, Illinois 60661.

## SUPPLEMENTARY INFORMATION:

### I. Introduction

The OCC is both a Derivatives Clearing Organization ("DCO") registered pursuant to § 5b of the CEA,<sup>1</sup> and a securities clearing agency registered pursuant to § 17A of the '34 Act.<sup>2</sup>

OCC has filed with the CFTC, pursuant to § 5c(c) of the CEA and §§ 39.4(a) and 40.5 of the Commission's regulations thereunder,<sup>3</sup> a request for approval of a rule that would enable OCC to clear and settle options on the GVZ Index traded on the CBOE, a national securities exchange, in its capacity as a registered securities clearing agency (and not in its capacity as a DCO).<sup>4</sup> Section 5c(c)(3) of the CEA provides that the CFTC must approve such a rule submitted for approval unless it finds that the rule would violate the CEA.

The GVZ Index is an index that measures the implied volatility of options on shares of the SPDR® Gold Trust ("SPDR® Gold Trust Shares"), an ETF designed to reflect the performance of the price of gold bullion.<sup>5</sup>

<sup>1</sup> 7 U.S.C. 7a-1.

<sup>2</sup> 15 U.S.C. 78q-1.

<sup>3</sup> 7 U.S.C. 7a-2(c), 17 CFR 39.4(a), 40.5.

<sup>4</sup> See Securities Exchange Act Release No. 62094 (May 13, 2010), 75 FR 28085 (May 19, 2010) (File No. SR-OCC-2010-07 filed with both the CFTC and the Securities and Exchange Commission ("SEC")) and the SEC's approval in Securities Exchange Act Release No. 62290 (June 14, 2010), 75 FR 35861 (June 23, 2010). See also Securities Exchange Act Release No. 62139 (May 19, 2010), 75 FR 29597 (May 26, 2010) (SEC approval of the CBOE's listing and trading of Options on the GVZ Index).

<sup>5</sup> See Securities Exchange Act Release No. 50603 (Oct. 28, 2004), 69 FR 64614 (Nov. 5, 2004) (original