

Chapter 12

Commodity Futures Trading Commission Part 30 exemption order

12.1 Application

- 12.1.1 **R** This chapter applies to a *firm* conducting business pursuant to the *Part 30 exemption order*.
- 12.1.2 **G** United States ('US') legislation restricts the ability of non-US firms to trade on behalf of customers resident in the US ('US customers') on non-US futures and options exchanges. The relevant US regulator (the *CFTC*) operates an exemption system for *firms* authorised under the *Act*. Under the *Part 30 exemption order*, eligible *firms* may apply for confirmation of exemptive relief from Part 30 of the General Regulations under the US Commodity Exchange Act. In line with this system, both the applicant *firm* and the *FCA* must make certain written representations to the *CFTC*.

12.2 Treatment of client money

12.2.1 **G** Under condition 2(g) of the *Part 30 exemption order*, a firm with exemptive relief represents to the CFTC that it consents to refuse to allow any US customer the option of not having its *money* treated as *client money* if it is held or received in respect of transactions on non-US exchanges, unless that US customer is an "eligible contract participant" as defined in section 1a(18) of the Commodity Exchange Act, 7 U.S.C.

12.2.2 **G** The FCA understands that in complying with condition 2(g) of the *Part 30 exemption order*, a firm is representing that it will not:

- (1) make use of the opt-out arrangements in ■ CASS 7.10.9G to ■ CASS 7.10.13G; or
- (2) conduct business to which the *client money rules* do not apply because of the exemption for *CRD credit institutions* and *approved banks* in ■ CASS 7.10.16R to ■ CASS 7.10.24R; or
- (3) enter into any *TTCA* under ■ CASS 7.11;

in relation to business conducted pursuant to the *Part 30 exemption order*.

LME bond arrangements

12.2.3 **G** For firms with exemptive relief under the *Part 30 exemption order*, the CFTC has issued certain no-action letters which, on the FCA's understanding, would allow such firms to use an *LME bond arrangement* as an alternative to complying with condition 2(g) of the *Part 30 exemption order*. Under an *LME bond arrangement*, a firm may arrange for a binding letter of credit to be issued to cover the 'secured amount' (as defined by section 30.7 of the General Regulations under the US Commodity Exchange Act). The letter of credit must be drawn up in a pre-specified format and may be issued for either:

- (1) an omnibus account in favour of a specified trustee; or
- (2) a specified *client* who is the named beneficiary.

12.2.4 **R** A firm must not reduce the amount of, or cancel a letter of credit issued under, an *LME bond arrangement* where this will cause the firm to be in breach of the conditions of the *Part 30 exemption order*.

- 12.2.5 **R** A *firm* must notify the *FCA* immediately if it arranges the issue of a letter of *credit* for a specified *client* who is the named beneficiary under an *LME bond arrangement*.
- 12.2.6 **G** A *firm's* use of an *LME bond arrangement* does not remove the need for the *firm* to act in accordance with the *client money rules*.