

specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: May 25, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 99-13826 Filed 5-28-99; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

Performance of Certain Functions by National Futures Association With Respect to Those Domestic and Foreign Firms Acting in the Capacity of a Commodity Pool Operator or a Commodity Trading Advisor

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is authorizing the National Futures Association ("NFA") to conduct reviews of disclosure documents required to be filed with the Commission pursuant to Rule 30.6(b)(2) by firms acting in the capacity of commodity pool operators ("CPOs") and commodity trading advisors ("CTAs").¹ Further, the Commission is authorizing NFA to maintain and serve as the official custodian of certain Commission records.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Laurie Plessala Duperier, Special Counsel, or Andrew Chapin, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418-5430.

Order Authorizing the Performance of Certain Functions With Respect to U.S. and Non-U.S. Firms

I. Authority and Background

Section 8a(10) of the Commodity Exchange Act² ("Act") provides that the Commission may authorize any person to perform any portion of the

registration functions under the Act, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to Section 17(j) of the Act³ and subject to the provisions of the Act applicable to registrations granted by the Commission. Section 17(o)(1) of the Act⁴ provides that the Commission may require NFA to perform Commission registration functions in accordance with the Act and NFA rules. NFA has confirmed its willingness to perform certain functions now performed by the Commission and has provided the Commission with a detailed proposal setting forth standards and procedures to be followed and reports to be generated in administering the functions discussed below.⁵

Upon consideration, the Commission has determined to authorize NFA, effective July 1, 1999, to conduct reviews of disclosure documents required to be filed pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5, and to maintain and serve as the official custodian of records for these disclosure documents.

Compliance With Rule 30.6(b)(2)

Rule 30.6(b)(2)⁶ requires CPOs and CTAs registered or required to be registered under Part 30, or exempt from registration pursuant to Rule 30.5, to provide a disclosure document⁷ to prospective U.S. foreign futures and foreign options customers⁸ that do not meet the definition of qualified eligible participants and qualified eligible clients, respectively.⁹ Rule 30.6(b)(2) also requires CPOs and CTAs to file the disclosure documents with the Commission in accordance with Rule

4.26(d) and 4.36(d), respectively.¹⁰ Pursuant to an October 6, 1997 delegation order, the Commission authorized NFA to review disclosure documents required to be filed with the Commission by CPOs and CTA pursuant to Rules 4.26(d) and 4.36(d), respectively.¹¹ In light of NFA's experience in receiving and reviewing disclosure documents filed in accordance with Rules 4.26(d) and 4.36(d), the Commission believes that it is appropriate for NFA to undertake the performance of this function as it relates to Rule 30.6(b)(2). Accordingly, by this Order, NFA is authorized to review all disclosure documents filed pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5.

II. Conclusion and Order

The Commission has determined, in accordance with Sections 8a(10) and 17(o)(1) of the Act, subject to any restriction by a given jurisdiction that information must pass directly between regulatory authorities, to authorize NFA to perform the following functions:

- (1) To conduct reviews of disclosure documents required to be filed with the Commission pursuant to Rule 30.6(b)(2) by firms registered or required to be registered as CPOs or CTAs under Part 30, or exempt from registration pursuant to Rule 30.5; and
- (2) To maintain and to serve as the official custodian of records for the disclosure documents required to Rule 30.6(b)(2).

NFA shall perform these functions in accordance with the standards established by the Act and the regulations and Commission orders 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.

These determinations are based on the Congressional intent expressed in

³ 7 U.S.C. 21(j) (1998).

⁴ 7 U.S.C. 21(o)(1) (1998).

⁵ U.S.C. Letter from Robert K. Wilmouth, President of NFA, to Brooksley Born, Chairperson of the Commission, dated June 20, 1997.

⁶ On January 11, 1999, the Commission proposed to amend Rules 30.5 and 30.6. 64 FR 1566 (January 11, 1999).

⁷ The information contained in the disclosure document must comply with Rule 4.21 for CPOs and Rule 4.31 for CTAs.

⁸ Pursuant to Rule 30.1(c), "foreign futures or foreign options customer" means "any person located in the United States, its territories or possessions who trades in foreign futures or foreign options. *Provided*, That an owner or holder of a proprietary account defined in paragraph (y) or § 1.3 of this Chapter shall not be deemed to be a foreign futures or foreign options customer within §§ 30.6 and 30.7 of this part."

⁹ Qualified eligible participants and qualified eligible clients are defined in Rules 4.7(a)(1)(ii) and 4.7(b)(1)(ii), respectively.

¹⁰ Rule 4.26(d)(1) requires that a CPO file a disclosure document with the Commission for each pool that it operates or intends to operate not less than 21 calendar days prior to the date the CPO intends to deliver the document to prospective participants in the pool. Similarly, Rule 4.36(d)(1) requires that a CTA file a disclosure document with the Commission for each trading program that it offers or intends to offer not less than 21 calendar days prior to the date the CTA first intends to deliver the document to a prospective client in the trading program. Further, pursuant to Rules 4.26(d) and 4.36(d), CPOs and CTAs, respectively, must file with the Commission all subsequent amendments to their disclosure documents within 21 calendar days of the date upon which the CPO or CTA first knows or has reason to know of the defect requiring amendment. In addition, CPOs and CTAs may not use their disclosure documents for more than nine months from the effective dates of such documents, in accordance with Rules 4.26(a)(2) and 4.36(a)(2), respectively.

¹¹ 62 FR 52088 (October 6, 1997).

¹ Commission rules referred to herein are found at 17 CFR Ch. I (1999).

² 7 U.S.C. 12a(10) (1998).

Sections 8a(10) and 17(o) of the Act that the Commission shall have the authority to delegate to NFA 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.

Nothing in this Order or in Sections 8a(10) or 17(o) of the Act shall affect the Commission's authority to review NFA's performance of the Commission functions listed above.

NFA is authorized to perform all functions specified herein until such time as the Commission orders otherwise. Nothing in this Order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matters that have been delegated to it, 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 Parts 4 and 30.

Issued in Washington, DC, on May 21, 1999 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-13572 Filed 5-28-99; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 99-C0006]

Shimano American Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Shimano American Corporation, containing a civil penalty of \$150,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by June 16, 1999.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 99-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Deborah Lewis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington DC 20207; telephone (301) 504-0626, 1346.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: May 25, 1999.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. Shimano American Corporation ("Shimano") a corporation, enters into this Settlement Agreement and Order with the United States Consumer Product Safety Commission ("the CPSC") in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA").

I. The Parties

2. The Consumer Product Safety Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051-2084.

3. Shimano is a corporation organized and existing under the laws of the State of California. Its principal offices are located at One Holland Drive, Irvine, CA, 92618.

II. Staff Allegations

4. Between March, 1994 and November, 1995, Shimano Inc. of Japan manufactured over one million bicycle cranks—models FC-CT90, FC-M290 and FC-MC12—a significant number of which were imported and distributed in the United States by Shimano American Corporation. Shimano is, therefore, a distributor of bicycle cranks in commerce.

5. The bicycle cranks attach to the pedals of bicycles. Shimano Inc. of Japan and Shimano sold the cranks to 49 bicycle manufacturers.

6. The bicycle cranks can break during use. A consumer can be injured in a number of ways if the bicycle cranks break while he or she is riding it:

(1) The broken crank or part exposed as a result of the crank breaking can injure the bicyclist; (2) The bicyclist can fall as a result of the broken crank, leading to injuries from contact with the ground; (3) The bicyclist can lose control and collide with another vehicle or object.

7. Between June, 1995 and July, 1997, Shimano received 22 reports of injuries from consumers due to broken cranks. The injuries included fractures, lacerations, puncture wounds, head trauma, and severe bruising and swelling. Shimano conducted numerous tests on the bicycle cranks and held at least one meeting at a high level in the corporation in September, 1996, about its growing concern over the cranks. Yet, Shimano did not report the problem until July, 1997.

8. Shimano obtained information which reasonably supported the conclusion that its bicycle cranks contained defects which could create a substantial product hazard but failed to report that information in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 20643(b).

III. Response of Shimano

9. Shimano denies the allegations of the staff that the bicycle cranks contain a defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a), denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), and further denies the other allegations of the CPSC as stated herein.

10. Shimano voluntarily contacted the CPSC in May 1997, to seek the CPSC's cooperation in conducting a recall of the three models of bicycle cranks. In June, Shimano filed a report under Section 15(b) of the CPSA and proposed a voluntary product recall under the CPSC's Fast Track program. Shimano's report and voluntary recall did not result from any investigation by the CPSC, but rather represented part of Shimano's effort to maintain its reputation for providing bicycle components of the highest quality.

11. Prior to May 1997, Shimano did not have reason to believe that the cranks posed a substantial product hazard. Shimano believes the information available did not reasonably support the conclusion that the products were defective within the meaning of the CPSA, and, therefore, no report was required under Section 15(b) of the Act. During the time period in which the CPSC alleges Shimano wrongfully failed to file a report, Shimano conducted its own internal testing as well as independent testing of the cranks, and these tests suggested