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July 10, 2000

Ms. Jean Webb
Office of the Secretariat
COMMODITY FUTURES TRADING COMMISSION
1155 21st Street, N.W.
Washington, D.C. 20581

RE: Application of BrokerTec Futures Exchange, L.L.C. for
Designation as a Contract Market in U.S. Treasury Notes
and U.S. Treasury Bond Futures Contracts

Dear Ms. Webb:

The Chicago Mercantile Exchange ("CME" or "Exchange") believes that two features of the BrokerTec proposal for designation as a contract market require comment. Both features concern proposed BrokerTec Rule 406. – Block Trades. As the Commission notes in its *Federal Register* release, BrokerTec proposes to impose "...no parameters on the price at which the block trade could be executed." BrokerTec also proposes to establish a schedule of tiered reporting intervals for block trades, contingent on the size of the block trade.

Both the CME and the Cantor Financial Futures Exchange ("CFFE") have received Commission approval for one-year pilot programs to allow block transactions in selected products. In both cases, the Commission required that the block trading rules incorporate certain features. In particular, the rules must provide that the prices of block transactions be "fair and reasonable" in light of the size of the block transactions and the conditions in related spot and futures markets. Also, block transactions must be reported to the exchange in a short time frame and must immediately be publicly disseminated. The proposed BrokerTec rule is at significant variance with both of these required features.

The CME wishes to comment both on the process by which the standards for block transactions may be altered and on some of the specific features of the BrokerTec proposal.

1. Pricing Requirements

BrokerTec is proposing to do away with the notion that the prices of block transactions be required to be "fair and reasonable." The price-assignment requirements imposed on the CFFE

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and CME were quite extensive and particular: "The price at which a Block Trade is executed must be fair and reasonable in light of (i) the size of such Block Trade, (ii) the price and size of other trades in the same Contract at the relevant time, (iii) the price and size of trades in other relevant markets, including without limitation the underlying cash market and futures markets, at the relevant time and (iv) the circumstances of the parties to such Block Trade." The CME clearly is subject to extensive and costly market surveillance obligations with respect to Block Trading activity.

Without getting into the merits of the CFTC's current "fair and reasonable" standard or BrokerTec's proposal to avoid it, the Exchange is concerned with the process by which the Commission will proceed. The possibility is real that BrokerTec may become a direct competitor of the CME. If the CFTC agrees with BrokerTec's arguments that the standard is unnecessary, how will it treat the rules that it previously imposed on the CME (and CFFE)? It would not be "fair and reasonable" to allow BrokerTec to avoid obligations that the Commission has imposed on other competing exchanges until it has provided those competitors the opportunity to amend their rules to reflect the Commission's latest thinking.

This potential for shifting standards and concomitant unfairness appears to be a fatal flaw in the "case-by-case" approach that the Commission has determined to apply to block transactions. An exchange's only current defense under such circumstances is to apply continually to the CFTC for relief on rules related to policies that may someday be changed. This is the opposite of a strategy for cost-reduction and deregulation.

2. Price-Reporting Timing Requirement

In the process of reviewing the CME's block trading rule, the Commission made it quite clear that the reporting requirements for block transactions would have to be quite tight. The CME adopted a 5-minute requirement for all block transactions, regardless of trade size. Previously the CFFE (after a 90-day period with a 10-minute requirement) also adopted a 5-minute requirement regardless of trade size. BrokerTec has proposed a far looser standard for reporting block transaction prices. BrokerTec's proposed Rule 406(d) contains the following tiered price reporting requirements: 250-499 contracts - 15 minutes, 500-999 contracts - 30 minutes, 1000-2499 contracts - 1 hour, 2500-4999 contracts - 2 hours, 5000-9999 contracts - 4 hours, 1000+ contracts - 8 hours 20 minutes. In addition, pursuant to proposed Rule 406(e), these are not "real time" minutes but "trading session" minutes, so a trade done near the close of a session may not have to be reported until after the market has opened the next trading day.

The Exchange has the same strong reservations about the rule approval process for this issue as noted above. In addition, we question the wisdom of such lax reporting requirements for block transactions. A trade not posted until after the beginning of the next trading session is largely of historical interest. Put another way, its contribution to price discovery is minimal. The Commission's intent in the restrictions that it has imposed on the CME and CFFE clearly is

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to preserve a considerable degree of meaningful price discovery for block transactions. To approve the tiered schedule proposed by BrokerTec would make a mockery of the notion of price discovery.

BrokerTec dismisses the possibility that significantly delayed reporting of the prices of large transactions might harm market participants. But BrokerTec's arguments can be extended to orders of *any* size, bringing into question the appropriateness of the price discovery requirements embedded in the Commodity Exchange Act. The Commission must carefully consider the balance to be struck between the convenience of large traders on the one hand and the benefits of price discovery to the general marketplace on the other.

In conclusion, we urge the Commission to consider carefully the important issues raised by particular features of BrokerTec's proposed block trading rule and by the Commission's current procedures for reviewing block transaction rules.

Respectfully submitted,


James J. McNulty

RJM/rjm