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REGULATORY SECTION

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**COMMENT**



28 December 2008

David A. Stawick, Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

Re: CME/CBOT Section 4(c) Petition

Dear Mr. Stawick:

Newedge USA, LLC (Newedge USA), on behalf of the entire worldwide Newedge organization (Newedge), takes pleasure in submitting this comment in support of the application of the Chicago Mercantile Exchange (CME) and the Board of Trade of the City of Chicago (CBOT) to permit qualified participants who enter into over the counter (OTC) corn basis swaps and OTC calendar swaps for corn, wheat and soybeans to submit those contracts to CME for clearing. The Commodity Futures Trading Commission (CFTC) should also issue an order authorizing the CME and clearing member future commission merchants (FCMs), such as Newedge USA, to commingle customer funds used to margin, secure or guarantee these contracts with other funds in segregated accounts.

As background, Newedge USA is a wholly owned subsidiary of Newedge Group, which itself is a joint venture between Société Générale and Calyon, itself a subsidiary of Credit Agricole. Newedge – one of the world's largest exchange-traded derivatives' brokerage organizations -- is a member of over 80 derivative and stock exchanges worldwide, and it has offices in offices in 16 different countries. Worldwide, Newedge specializes in the brokering on behalf of customers of exchange traded derivatives, all securities products (including equities and fixed income), and OTC instruments (including FX); it engages in only minimal proprietary trading activities.

In general, Newedge supports the trend to centrally clear OTC contracts that meet two important criteria:

1. the clearing facility is well managed (e.g., including fair governance) and is a financially viable counterparty to all cleared transactions. A clearing facility must also advance three main features: price transparency, effective risk monitoring and effective risk control; and
2. the participation of clearing members who hold ultimate customers' accounts, who meet uniform strict guidelines established by the relevant clearing facility and a government regulator (such as the CFTC), who provide an additional level of security and control to the clearing process.

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# Newedge

The absence of either criterion renders the clearing function significantly less robust. It is the connection between the two that makes clearing effective, and only proposals that meet BOTH criteria should be approved by regulators such as the CFTC. Otherwise the public interest is not served, and "centralized clearing" becomes a catchphrase only, and not as an effective process that protects both participants and, ultimately, the public at large.

The CME and CBOT proposal is precisely the type of proposal that should be wholeheartedly embraced by the CFTC. Not only will it permit useful OTC contracts to be centrally cleared by the CME through its highly respected clearing house, but it requires such contracts to pass through clearing members that meet rigorous standards established both by the CME and the CFTC. Thus two levels of risk monitoring and control will exist for each contract – between the CME and its clearing member, and between each clearing member and its customer. This check and balance will help ensure that only qualified participants enter into the clearing process and in a responsible way.

For these reasons, Newedge respectfully requests that the CFTC approve the petition of the CME and CBOT to permit qualified participants who enter into OTC corn basis swaps and OTC calendar swaps for corn, wheat and soybeans to submit those contracts to the CME for clearing. The CFTC should also issue an order authorizing CME and clearing member future commission merchants, such as Newedge USA, to commingle customer funds used to margin, secure or guarantee these contracts with other funds in segregated accounts.

Thank you for your consideration. Feel free to contact the undersigned at 646 557 8458 or at [gary.dewaal@newedgegroup.com](mailto:gary.dewaal@newedgegroup.com) if you require any further information.

Very truly yours,

Newedge USA LLC

Gary Alan DeWaal  
Senior Managing Director and  
Group General Counsel, Newedge