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Mr. David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request for Extension of Time of the Comment Period for the Application
By New York Portfolio Clearing ("NYPC") to become a Designated Clearing
Organization ("DCO") (Filing Number IF10-009)

Dear Secretary Stawick:

On behalf of ELX Futures, L.P. ("ELX"), we respectfully request an extension of 60 additional days for the comment period regarding the above-referenced DCO application, and that the Commodity Futures Trading Commission ("Commission") review the application under the 180-day time period of Commission Rule 39.3(a)(1) rather than under the expedited review process under Rule 39.3(a)(3). In support of this request ELX states the following reasons:

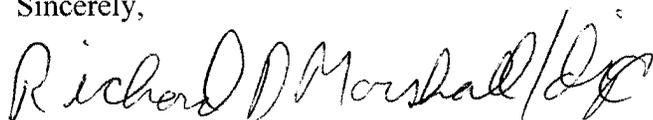
1. NYPC and its owners have not yet filed for the necessary approvals with the Securities and Exchange Commission ("SEC"). SEC approval - which is a prerequisite according to NYPC for it to start operations - has therefore not yet occurred. Since NYPC cannot become operational until the SEC gives its approval to the arrangement, NYPC cannot claim any prejudice in having additional time for comment and review granted in this instance. Moreover, there are substantive issues involving regulation by the SEC and the Commission that should be reviewed by both agencies in a coordinated manner, and the Commission's comment and review period should allow filings at both agencies to be reviewed concurrently. Without the SEC submission, the application should be considered materially incomplete.
2. There are significant and complex legal issues involved in this application which are atypical of the issues that arise in DCO registration applications and that require additional time for review. The application implicates Section 5b(c)(2)(N) – DCO Core Principles: Antitrust Considerations – of the Commodity Exchange Act, and various provisions of the Securities Exchange Act of 1934 which require that self-regulatory organizations (such as

securities exchanges and clearing agents) engage in behavior that does not promote anti-competitive or discriminatory impact. These issues exist in light of the tie-up between NYPC and the SEC's regulated utility, Depository Trust Clearing Corporation ("DTCC"), and its affiliate, Fixed Income Clearing Corporation ("FICC"). Because of this tie-up, ELX and its independent DCO have been denied direct access to FICC and the assets that it holds as custodian as a public utility regulated by the SEC. The applicant and its owners have acted as a roadblock limiting access to a national clearinghouse which is required to offer open and equal access. This is a novel issue of utmost seriousness.

3. The published appendices are not complete. Other important documents are referred to in the application, but are not part of the materials published for comment. These documents should be made available as promptly as possible to allow for meaningful review and comment. For instance, the contract between NYSE and DTCC to create NYPC is not available. The NYSE Guaranty, which is referred to as being located in Appendix R, has also not been made available. The agreement between NYSE and DTCC is important to assess whether the filing implicates anti-competitive concerns, and the guaranty is key to assess the financial adequacy of the proposed DCO. We request public access to these particular documents and the other unpublished appendices. The comment period should not expire before these documents are made available with adequate time to develop and submit comments.
4. The filing is voluminous, and because of security restrictions embedded in the pdfs that are published for review, the documents are not capable of being searched by computer, which makes a review of the application a cumbersome and lengthy process. The intervening Thanksgiving Day holiday shortens an already too-brief comment period.

I am available to answer any follow-up questions.

Sincerely,



Richard D. Marshall

cc: Hon. Gary Gensler, Chairman
Hon. Michael Dunn, Commissioner
Hon. Jill Sommers, Commissioner
Hon. Bart Chilton, Commissioner
Hon. Scott O'Malia, Commissioner
Ananda K. Radhakrishnan, Director, Division of Clearing and Intermediary Oversight
Dan Berkovitz, General Counsel