

CFTC Letter No. 00-73**May 25, 2000****No-Action****Office of General Counsel**

Mr. Derek Oliver
Director of Legal Affairs
OM London Exchange Limited
107 Cannon Street
London EC4N 5AD
United Kingdom

Re: The Offer and Sale in the U.S. of Futures Contracts on the OMXCAP Index
Traded on OM London Exchange Limited and OM Stockholm Exchange AB

Dear Mr. Oliver:

This is in response to your May 24, 2000 letter to the Office of General Counsel of the Commodity Futures Trading Commission ("Commission" or "CFTC") in which you inquire whether no-action letters previously issued by this office¹ concerning the offer and sale in the United States by OM London Exchange Limited ("OM London") of its standardized and flexible futures contracts based on the OMX Stock Index ("OMX Index" or "Index") and by OM Stockholm Exchange AB ("OM Stockholm") of its standardized futures contracts based on the OMX Index will be extended to futures contracts on the OMXCAP Index, a revised version of the OMX Stock Index, when those futures contracts begin trading on May 26, 2000.

The no-action letters previously issued by this office incorporated, by reference, the agreements of OM London and OM Stockholm to contact the Division of Market Regulation of the Securities and Exchange Commission ("Division") should the average weighting of any single issuer in the OMX Index in a calendar month exceed 25 percent of the Index, or if the combined average weightings of the top three issuers in the Index account for more than 50 percent of the Index. Moreover, the agreements also required the OM London and OM Stockholm, if the average weighting of any single issuer in the Index during a calendar quarter exceeded 30 percent, or if the combined average weightings of the top three issuers in the Index represented more than 55 percent of the Index, to promptly suspend further offers or sales of futures contracts in the U.S. based on the Index in reliance on this office's no-action letters unless the Division staff advised them that it had waived or modified this condition.

From your May 24 letter and attachments thereto, we understand the facts to be as follows. As a result of

recent market events, the average weighting of a single issuer in the OMX Index has exceeded the limits set forth in the agreements noted above between OM London and OM Stockholm, and the Division. Accordingly, OM London and OM Stockholm have decided following consultations with their respective members that it would be appropriate to modify the manner in which the OMX Index is constructed by introducing a capped or maximum weighting for an individual index stock of 20% of the value of the OMXCAP Index as a whole. On May 26, 2000, OM London will begin trading standardized and flexible futures contracts based on the OMXCAP Index, and OM Stockholm will begin trading standardized futures contracts based on the OMXCAP Index.

The OMXCAP Index, like the OMX Index, is a modified capital-weighted index which is designed to reflect the development of the Swedish equity market. Unlike the OMX Index, however, the OMXCAP Index is subject to the restriction that the weighting of an individual stock should not exceed 20% of the Index market capitalization on the occasion of semi-annual reviews of the Index in June and December of each year. The OMXCAP Index comprises the 30 most liquid stocks traded on OM Stockholm. The trading volumes of these stocks represents approximately 70% of all trading in stocks on OM Stockholm. In your May 24 letter, you confirm that the substantive rules and procedures governing the construction or composition of the OMXCAP Index are in all material respects the same as the rules and procedures governing the OMX Index as presented to this office in the various letters, attachments and facsimiles from OM London and OM Stockholm which formed the basis for the issuance of the prior no-action letters, except where differences are expressly described in your May 24 letter.

In your May 24 letter, you also confirm that OM London is duly authorized to make this request on behalf of OM Stockholm and that OM Stockholm agrees that it will be bound by such representations as are made by OM London in relation to the contents of your letter. In this regard, you represent for both OM London and OM Stockholm that they each will continue to comply with all conditions set forth in the two no-action letters previously issued by this office, including the agreement between OM London and OM Stockholm, and the Division described above, and with regard to the sharing of information of a regulatory nature in relation to the OMXCAP Index futures contracts.

In light of the foregoing, this office is of the view that the no-action letters it previously issued concerning the offer and sale in the United States by OM London of its standardized and flexible futures contracts based on the OMX Stock Index and by OM Stockholm of its standardized futures contracts based on the OMX Index will be extended to the futures contracts based on the OMXCAP Index when those futures contracts begin trading on May 26, 2000.² Because this letter is based upon the facts and representations contained in your May 24, 2000 letter and attachments thereto as well as those facts and representations contained in the original requests for no-action relief for the futures contracts based on the OMX Index made by OM London and OM Stockholm, it should be noted that any different, omitted or changed facts or conditions might require a different conclusion.

Yours
truly,

David
R.
Merrill
Deputy
General
Counsel

cc: Ms. Annette L. Nazareth
Director
Division of Market Regulation
Securities and Exchange Commission

1 See CFTC Interpretive Letter No. 98-41 Re: OM Stockholm AB Request for No-Action Letter for Futures Contract based on the OMX Stock Index, [1996-98 Transfer Binder] Comm. Fut. L. Rep. ¶ 27,364 (June 3, 1998); CFTC Interpretive Letter No. 96-54 Re: OMLX, The London Securities and Derivatives Exchange Limited Request for No-Action Letter for Futures Contracts based on the OMX Stock Index, [1994-96 Transfer Binder] Comm. Fut. L. Rep. ¶ 26,759 (July 23, 1996). The OMLX was renamed the OM London Exchange Limited subsequent to the issuance of the 1996 no-action letter.

2 The staff of the Securities and Exchange Commission ("SEC") has informed us that they would have no objection to the offer and sale of these futures contracts in the U.S. See letter dated May 25, 2000 from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, to C. Robert Paul, General Counsel, CFTC.