

CFTC letter No. 05-03
January 26, 2005
No-Action
Division of Market Oversight

Mr. Mathew Lisle
Chief of Compliance
U.S. Futures Exchange, LLC
233 S. Wacker Drive
Chicago, IL 60606

RE: Request for No-Action Relief from Commission Rule 15.03(b)

Dear Mr. Lisle:

This is in response to your letter dated January 7, 2005. In that letter you request no-action relief on behalf of U.S. Futures Exchange, LLC (Eurex US or the Exchange) from the application of the default reporting level of 25 contracts to futures and option contracts based on 3-Year U.S. Treasury Notes (3-Year T-Notes). Instead, you seek a reporting level of 750 contracts.

We understand the facts to be as follows. The Exchange self-certified contract specifications for 3-Year T-Notes on January 4, 2005.^[1] The Exchange is planning to list and commence trading in 3-Year T-Notes on February 1, 2005. No designated contract market has previously listed 3-Year T-Notes for trading. However, futures and option contracts on 2-Year U.S. Treasury Notes (2-Year T-Notes) have been offered for several years and are widely traded.^[2]

You base your request on the similar characteristics between 3-Year T-Notes and 2-Year T-Notes. Specifically, you state that 2-Year T-Notes and 3-Year T-Notes call for delivery of \$200,000 face value of Treasury securities. You also reference the considerable deliverable supply for 2-Year T-Notes and assert that the amount of Treasury securities available for delivery against 3-Year T-Notes will generally be comparable. In your request for no-action relief, you place the deliverable supply for the December 2004 and March 2005 2-Year T-Notes at approximately \$165 billion. You also place the deliverable supply for the March 2005 3-Year T-Notes at approximately \$95 billion.

Commission Rule 15.03(b) establishes contract reporting levels for futures and option contracts. Rule 15.03(b) applies a default reporting level of 25 contracts to contracts and contract sets not specifically itemized in Rule 15.03(b). The Commission does not specify a reporting level for futures or option contracts based on 3-Year T-Notes. In the absence of no-action relief, the default reporting level for 3-Year T-Notes is 25 contracts.

The Commission recently amended its large trader reporting rules.^[3] In that rulemaking, the Commission raised the reporting level for 2-Year T-Notes from 500 to 1,000 contracts. Those rules, among other things, require the reporting to the Commission of position information of the largest futures and option traders and require the traders themselves to provide information upon special call. The large trader reporting rules fashion a system that is an important Commission oversight tool. The Commission, however, is mindful of the burden associated with these reporting requirements and reviews them periodically with an eye to easing that burden to the extent compatible with its responsibilities for rigorous surveillance of the commodity futures and option markets.

The Commission has traditionally calibrated contract reporting levels to ensure that the aggregate of all positions reported to the Commission represents approximately 70 to 90 percent of the open interest in any given contract. The Commission periodically analyzes trading volume, open interest, the number and position sizes of individual traders relative to the reporting levels, and its surveillance experience with specific contracts, to determine if coverage of open interest is adequate for effective market surveillance.

The default reporting level of 25 contracts is in part designed to apply to novel contracts with which the Commission has no surveillance experience. In the present situation, the Division of Market Oversight (Division) believes that historical trading in 2-Year T-Notes provides a precedent for anticipated trading in 3-Year T-Notes. Based upon its surveillance experience with 2-Year T-Notes, the liquidity of the underlying securities, and the securities available for delivery against 3-Year T-Notes, the Division believes that a reporting level of 750 contracts for 3-Year T-Notes is appropriate.

In light of the foregoing, the Division will not recommend any enforcement action to the Commission based on sections 4a, 4c(b), 4g, or 4i of the Commodity Exchange Act (Act), or parts 15 through 18, or 21 of the Commission's regulations for non-compliance with the default reporting level of 25 contracts if Eurex US adopts a reporting level of 750 contracts for 3-Year T-Notes. The no-action position extends to Eurex US, clearing members, futures commission merchants, foreign brokers, and traders that comply with all regulatory obligations triggered by a reporting level of 750 contracts for 3-Year T-Notes.

The Division's no-action position is specifically limited to 3-Year T-Notes with a face value of \$200,000. In addition, the Commission may codify a contract reporting level for 3-Year T-Notes. Eurex US, clearing members, futures commission merchants, foreign brokers, and traders must bring their conduct into compliance with reporting levels adopted in any final Commission rulemaking to the extent that final reporting levels differ from the reporting level of 750 contracts.

This no-action position is taken by the Division and does not necessarily reflect the views of the Commission or any other division or member of the Commission's staff. Because this position is based upon facts and representations contained in this letter, any different, omitted or changed facts or conditions might require a different conclusion. This position also is contingent on the continued compliance of Eurex US with all otherwise applicable obligations under the Act, and regulatory conditions imposed by the Commission.

If you have any questions regarding this correspondence, please contact David P. Van Wagner at (202) 418-5481 or Bruce Fekrat at (202) 418-5578.

Very truly yours,

Richard A. Shilts
Acting Director

^[1] Eurex US Rules 909 and 910.

^[2] As of January 14, 2005, the open interest in the Chicago Board of Trade's futures contract on 2-Year T-Notes was 290,158.

^[3] 69 Fed. Reg. 76392 (December 21, 2004).