



## U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of  
Market Oversight

CFTC letter No. 06-25  
September 29, 2006  
No-Action  
Division of Market Oversight

Arthur W. Hahn, Esq.  
KattenMuchinRosenman LLP  
525 W. Monroe Street  
Chicago, IL 60661-3693

Re: LIFFE Administration and Management's Request for Amendment of  
Commodity Futures Trading Commission Staff Letter No. 99-31 (July 23, 1999)

Dear Mr. Hahn:

On July 23, 1999, the Division of Trading and Markets of the Commodity Futures Trading Commission (Commission or CFTC) issued a no-action letter in which it confirmed that it would not recommend that the Commission institute enforcement action against LIFFE Administration and Management (LIFFE)<sup>1</sup> or its members solely based upon LIFFE's failure to apply for contract market designation pursuant to Sections 5 and 5a of the Commodity Exchange Act (Act) if: (i) LIFFE members trade for their proprietary accounts through LIFFE CONNECT®, LIFFE's electronic trading and order matching system, in the U.S.; (ii) LIFFE members that are registered with the Commission as futures commission merchants (FCM) or that are exempt from such registration pursuant to Rule 30.10 (Rule 30.10 Firms) submit orders from U.S. customers for transmission to LIFFE CONNECT®; and/or (iii) LIFFE members that are registered with the Commission as FCMs or that are Rule 30.10 Firms accept orders through automated order routing systems (AORS) from U.S. customers for submission to LIFFE CONNECT®.<sup>2</sup>

By letter to the Division of Market Oversight (Division) dated August 21, 2006, you requested an amendment to the above no-action relief such that current and future LIFFE members that are registered with the Commission as commodity pool operators (CPO) or commodity trading advisors (CTA), or that are exempt from such registration pursuant to Commission Rule 4.13 or 4.14, may enter orders directly into LIFFE CONNECT® through terminals located in the U.S. on behalf of the pools which they operate or the customer accounts

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<sup>1</sup> Euronext acquired LIFFE in January 2002.

<sup>2</sup> CFTC Staff Letter No. 99-31 (July 23, 1999) (LIFFE no-action letter).

over which they exercise trading discretion, respectively. All such trading activity would be cleared through an FCM or Rule 30.10 Firm.<sup>3</sup>

You represent that CPOs and CTAs have sought to become LIFFE members in order to obtain a more favorable fee arrangement or to enjoy the trading immediacy made possible by direct access to LIFFE CONNECT®. This would benefit the pools operated by the CPO and the U.S. customer accounts for which the CTA has trading discretion. You represent that there is an urgent commercial need to provide CPOs and CTAs with the ability to enter orders directly into LIFFE CONNECT® terminals located in the U.S. on behalf of the pools which they operate or the customer accounts over which they exercise trading discretion. If the amendment is granted, LIFFE understands and agrees that it will continue to be subject to the applicable terms and conditions set forth in the LIFFE no-action letter.<sup>4</sup>

The Division has reviewed the requested amendment and the earlier no-action letter and has determined that granting the amendment, subject to the condition below, should not have a significant impact on the no-action relief as granted and would not be contrary to public policy. Accordingly, the Division confirms that it will not recommend that the Commission institute enforcement action against LIFFE or its members solely based upon LIFFE's failure to seek designation as a contract market or registration as a derivatives transaction execution facility under Sections 5 and 5a of the Act<sup>5</sup> if LIFFE members who are registered with the CFTC as CPOs or CTAs, or who are exempt from such CPO or CTA registration pursuant to Commission Regulation 4.13 or 4.14, enter orders directly into LIFFE CONNECT® through terminals located in the U.S. on behalf of the pools which they operate or the customer accounts over which they exercise trading discretion, provided that all such trading activity is cleared through a registered FCM or a firm that is exempt from registration by the Commission pursuant to Rule 30.10. This no-action position is subject to compliance with the following condition:

All orders that are transmitted through LIFFE CONNECT® by a member of LIFFE that is operating pursuant to the no-action relief provided herein will be solely for the member's own account unless (i) such member is registered with the CFTC as an FCM or is a Rule 30.10 Firm, or (ii) such member is registered with the CFTC as a CPO or CTA, or is exempt from such registration pursuant to Commission Regulation 4.13 or 4.14, provided that an FCM or Rule 30.10 Firm acts as clearing firm with respect to all activity conducted by such CPO or CTA

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<sup>3</sup> You represent that all positions entered into on LIFFE by such CPOs and CTAs (and persons exempt from registration as such) on behalf of such pools and U.S. customers would be guaranteed by a clearing member of LIFFE without limitation.

<sup>4</sup> The Division has issued no-action letters permitting, subject to conditions, CPO and CTA members of Euronext Amsterdam and NYMEX Europe Limited to enter orders through trading terminals located in the United States for the pools which they operate or the accounts over which they have discretionary authority, respectively. CFTC Staff Letters No. 05-16 (August 26, 2005) and No. 05-24 (December 16, 2005). In addition, the Division recently amended the no-action relief granted to Eurex Deutschland to include similarly situated CPOs and CTAs. CFTC Staff Letter No. 06-08 (April 21, 2006).

<sup>5</sup> The LIFFE no-action letter referred only to contract market designation because at that time there was no provision in the Act or rules thereunder governing a derivatives transaction execution facility. Because of the creation of that category of board of trade under the Commodity Futures Modernization Act, the Division amended its relief accordingly.

through the submission of orders on LIFFE CONNECT®.<sup>6</sup>

Except for the now superseded conditions recited in the footnote below, the Division notes that its no-action position does not relieve LIFFE from compliance with the terms and conditions set forth in the LIFFE no-action letter. As with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the no-action relief provided herein, in its discretion. The Division specifically notes that its no-action position does not alter the general requirement that a firm operating pursuant to the no-action relief provided herein must be appropriately registered or exempt from such registration to engage in the offer or sale of a foreign futures contract or a foreign option transaction for or on behalf of a United States customer.

The no-action position taken herein is taken by the Division only and does not necessarily reflect the views of the Commission or any other unit or member of the Commission's staff. It is based upon the information and representations contained in LIFFE's request for no-action relief and the amendment thereto. Any materially different, changed, or omitted facts or circumstances may render this letter void.

If you have any questions regarding this correspondence, please contact Duane C. Andresen, Special Counsel, Division of Market Oversight, at (202) 418-5492.

Very truly yours,

Richard A. Shilts  
Director

cc: Gregory C. Prusik, Vice-President, Compliance and Registration, NFA  
Branch Chief, Audit and Financial Review Unit, Division of Clearing and Intermediary Oversight, Chicago Regional Office

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<sup>6</sup> This supersedes the following conditions enumerated in the LIFFE no-action letter: (i) "All orders that are transmitted through LIFFE CONNECT® by a member of LIFFE that is operating pursuant to the no-action relief provided herein and that is not registered with the Commission as an FCM or that is not a Rule 30.10 Firm will be solely for 'proprietary accounts,' as defined herein, of such LIFFE member;" and (ii) "All orders for United States customers accepted through an AORS and/or transmitted by LIFFE members through LIFFE CONNECT® will be intermediated by a LIFFE member that is either registered with the Commission as an FCM or is a Rule 30.10 Firm."