

CFTC Letter No. 98-42**June 3, 1998****Division of Trading & Markets****Re: DTB's No-Action Letter Regarding Terminal Placement**

Dear :

This letter is in reference to various discussions that the Deutsche Terminbörse ("DTB") and its counsel have had with staff of the Division of Trading and Markets ("Division") regarding the impact of the pending merger between the DTB and the Swiss Options and Financial Futures Exchange ("SOFFEX") on DTB's February 29, 1996 no-action letter permitting the placement of DTB computer terminals in the U.S. (the "DTB Letter").¹ This letter also responds to your letter dated April 30, 1998, in which you submitted a list of pending applications of U.S.-based firms for admission as DTB members.

According to information that you have provided to the Division, Deutsche Börse AG and the Swiss Exchange have agreed to merge their futures exchanges, the DTB and the SOFFEX respectively, to create a futures exchange organization called Eurex. Pursuant to this merger, DTB, which will be renamed Eurex Germany, and SOFFEX, which will be renamed Eurex Switzerland, will be operated through one common electronic trading and clearing platform based on the DTB system. The legal and technical changes that will facilitate this merger will take place in various stages during the coming months. You have inquired about the status of the DTB Letter in light of these major changes in DTB's structure and operations.

Your April 30, 1998 letter identified eleven firms whose applications for DTB membership were pending.² With respect to these eleven firms, the Division hereby confirms that, once they become DTB members, they will be eligible to rely on the no-action position with respect to DTB terminal placement, subject to the conditions set forth in the DTB Letter including the submission of identification filings and Acknowledgments as outlined in that Letter.³ From the date of this letter forward, if any entity other than the eleven firms identified in the April 30, 1998 letter wishes to place DTB terminals in the U.S. under the DTB Letter, the DTB must make a separate written request to the Division for an extension of the no-action letter and may not proceed prior to receiving written approval from the Division. Thus, current or future SOFFEX members who become DTB/Eurex members as a result of the merger are not eligible to take advantage of the no-action position with respect to DTB terminal placement under the DTB Letter unless they are among the eleven firms identified in your April 30, 1998 letter or unless they receive separate written approval from the Division. In addition, other new DTB members may not rely on that no-action position.

The Division also wishes to clarify that the DTB Letter by its terms applies only to the execution by DTB members of transactions involving DTB futures and options products, subject to

compliance with the conditions set forth in the no-action letter. The DTB Letter does not and will not allow SOFFEX products to be traded on the DTB/Eurex terminals in the U.S., either prior to or after completion of the merger. If DTB/Eurex wishes to trade via terminals in the U.S. any products beyond the DTB products traded on DTB terminals as of the date of this letter, DTB/Eurex must make a written request to the Division to do so, and such products may not be traded on terminals in the U.S. prior to receipt of written approval from the Division. This stricture applies both to products of SOFFEX and to new products developed by DTB or Eurex.

Finally, as you know, the Commission may soon promulgate proposed rules under which, subject to appropriate terms and conditions, foreign exchanges will be able to seek CFTC permission to place terminals in the U.S. for customer and proprietary trading. It is important to note that the Division will not recommend that DTB members, Eurex members and their terminals be "grandfathered" under any new regulatory scheme. Rather, DTB/Eurex and its members will be eligible to continue their operation of terminals in the U.S., as well as to apply for new terminal placements, only upon compliance with the applicable provisions of the new rules, if and when they become effective.

Sincerely
yours,

I. Michael
Greenberger

Director

¹ CFTC Interpretative Letter No. 96-28, [1996-1997 Transfer Binder], Comm. Fut. L. Rep. (CCH) ¶26,669 (February 29, 1996).

² Our records reflect that, to date, three of the eleven firms ("A," "B" and "C") have completed the DTB admission process and have filed materials for terminal placement in the U.S. under the DTB Letter with the National Futures Association ("NFA") for review.

³ Identification filings and Acknowledgments must be filed with NFA. NFA is authorized to verify such filings and to perform fitness reviews of the identified DTB member firms. 62 Fed. Reg. 47792 (September 11, 1997). Please note that this letter merely confirms that the eleven firms identified herein are eligible to take advantage of the DTB Letter. These firms remain fully subject to the fitness check and other provisions of the DTB Letter.