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**U.S. COMMODITY FUTURES TRADING COMMISSION**

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DIVISION OF
TRADING & MARKETS



COMMODITY FUTURES TRADING COMMISSION RECEIVED FOR PUBLIC RECORD
AUG 27 9 51 AM '98


Re: DTB Membership and Terminal

Dear :

This is in response to your letter received by the Division of Trading and Markets (Division) of the Commodity Futures Trading Commission (Commission) on July 6, 1998, on behalf of "LLC" concerning LLC's efforts to become a member of Deutsche Terminbörse (DTB)[1] and to obtain a DTB trading terminal in the U.S. You stated in your letter that LLC has been formed to carry out the proprietary trading activities of the "FCM", a registered futures commission merchant, in electronic markets.[2] The FCM already is a member of DTB and currently uses a DTB trading terminal in its offices.

As you are aware, in 1996 the Division issued a "no-action" letter to DTB in response to DTB's request that the Division not recommend enforcement action to the Commission if, under certain conditions, DTB placed computer terminals in the U.S. offices of its members without seeking designation as a U.S. contract market.[3] The FCM has obtained a trading terminal for its U.S. office pursuant to the 1996 no-action letter. LLC now requests approval to place DTB computer terminals in LLC's offices following DTB's approval of LLC's membership application.

It has been determined that issues concerning the placement in the U.S. of foreign board of trade computerized trading systems should be addressed through the Commission's notice-and-comment rulemaking process rather than by staff no-action letters issued on a case-by-case basis. To that end, on July 17, 1998, the Commission issued a concept release requesting public comment on these issues by September 22, 1998.[4] We anticipate that the Commission ultimately

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1 DTB recently changed its name to Eurex Deutschland. For purposes of this letter, we will continue to refer to DTB, as you do in your letter.

2 We will refer to the latter firm as the FCM. The ownership of LLC and the FCM is identical.

3 CFTC Interpretative Letter No. 96-28, [1994-1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶26,669 (Feb. 29, 1996).

4 63 Fed. Reg. 39779 (July 24, 1998).

may adopt final rules that, among other things, will establish specific requirements (1) for foreign boards of trade that wish to offer access to their products electronically from within the U.S. without being required to be designated as a U.S. contract market, and (2) for members of such foreign boards of trade and their affiliates that wish to utilize these electronic systems.

Because of the issuance of the concept release, the Division recently issued a follow-up letter to DTB regarding the 1996 no-action letter.[5] With the exception of eleven firms identified by DTB whose DTB applications were pending as of April 30, 1998, that letter is intended to maintain the status quo and to prevent new members of DTB from using DTB terminals in the U.S. until the Commission further addresses these issues. Thus, absent extraordinary circumstances the Division will not issue no-action relief allowing the placement of further DTB terminals in the U.S., and we are therefore unable to grant your request.[6]

As stated above, the comment period is now open for the Commission's concept release and we invite your comments thereon. If you have any questions concerning this correspondence, please contact me or Associate Chief Counsel, Lawrence B. Patent, at (202) 418-5450.

Sincerely yours,

David M. Battan
Chief Counsel

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[5] The follow-up letter is CFTC Interpretative Letter No. 98-42, 1998 WL 377865 (June 3, 1998).

[6] We note that the FCM has been able to conduct both proprietary and customer business using the DTB terminal obtained in accordance with the 1996 no-action letter and that it can continue to operate in that manner.