

CFTC Letter No. 99-11**February 24, 1999****Division of Trading & Markets**Re: Inquiry Regarding the Ability to Obtain Eurex Terminals in the United States

Dear :

In response to your e-mail message received by the Division of Trading and Markets ("Division") on February 10, 1999, please note the following. In 1996, the Division issued a "no-action" letter to the Deutsche Terminbörse ("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. It has been determined that issues concerning the placement in the U.S. of computerized trading systems belonging to boards of trade that operate primarily outside of the U.S. 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. The Federal Register notice concerning this rulemaking can be found on the Commission's website at www.cftc.gov/foia/fedreg98/foi980724a. We anticipate that the Commission ultimately may adopt final rules that, among other things, will establish specific requirements (1) for boards of trade that operate primarily outside of the U. S. 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 boards of trade and their affiliates that wish to utilize these electronic systems.

Because of the issuance of the concept release, the Division issued a follow-up letter dated June 3, 1998 to DTB regarding the 1996 no-action letter. This new letter was issued in light of the pending merger between the DTB and the Swiss Options and Financial Futures Exchange ("SOFFEX") to create a futures exchange organization called Eurex. The Division confirmed that eleven firms with pending DTB memberships as of April 30, 1998, which were identified by the DTB to the Division, will be eligible to rely on the 1996 no-action position with respect to DTB/Eurex terminal placement once they become DTB members and otherwise satisfy the conditions set forth in the 1996 letter. Other new DTB or Eurex members, including current or future SOFFEX members, are not eligible to take advantage of the 1996 no-action position with respect to DTB/Eurex terminal placement unless they receive separate written approval from the Division. The Division also clarified that the 1996 letter by its terms applies only to the execution by DTB members of transactions involving DTB futures and options products, and it does not extend to SOFFEX products or to new DTB/Eurex products unless the DTB/Eurex receives separate written approval from the

Division. This letter is intended to maintain the *status quo* and to prevent new members of DTB/Eurex from using DTB/Eurex 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/Eurex terminals in the U.S. Of course, you may trade Eurex products as a customer through a futures commission merchant ("FCM") or a foreign firm that is exempt from FCM registration pursuant to Commission Rule 30.10 that has a Eurex terminal.

I trust that the foregoing information is responsive to your message. If you have any further questions concerning this matter, please call me at (202) 418-5425.

Very
truly
yours,

Charles
T.
O'Brien

Staff
Attorney

Division
of
Trading
and
Markets