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CHICAGO MERCANTILE EXCHANGE

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COMMENT

October 5, 1999

Ms. Jean A. Webb
Office of the Secretariat
COMMODITY FUTURES TRADING COMMISSION
1155 21st Street, N.W.
Washington, D.C. 20581

RE: Petition of the CBOT, CME and NYMEX for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act.

Dear Ms. Webb:

The Chicago Mercantile Exchange ("CME") is pleased to respond to the Commission's invitation for comments on the above matter. By letter dated June 25, 1999, the CME, Chicago Board of Trade and New York Mercantile Exchange (collectively referred to as the "Exchanges") submitted a joint petition ("Petition") to the Commission pursuant to Section 4(c) of the Commodity Exchange Act ("Act"). The Petition was made in response to the Commission's order dated June 2, 1999, which instructed CFTC staff "to begin immediately processing no-action requests from foreign boards of trade seeking to place trading terminals in the United States." That order also committed the Commission "to simultaneously initiate processes to address the comparative regulatory levels between U.S. and foreign electronic trading systems so as not to provide one with a competitive advantage."

The Exchanges need the regulatory relief requested in the Petition in order to compete on equal terms with the foreign boards of trade that will be able to offer competing products via direct electronic access to persons in the U.S. The Petition seeks exemptive relief in the following areas:

1. The Exchanges should be allowed to list new contracts for trading without Commission pre-approval.

2. The Exchanges should be allowed to adopt new rules or rule changes upon submitting them to the Commission ten days in advance of their effective date.

3. The Exchanges should be allowed to implement trading rules and procedures comparable to those of a competing foreign exchange, provided that such rules and procedures apply only to the contracts that are subject to direct competition from the foreign exchange.

In the Commission's release on the Petition, the Commission requested comment on eleven specific issues. The CME comments on all eleven issues below. Our comments are organized so that the comments on all issues pertaining to a particular part of the Petition are grouped together.

A. Contract Market Designation Process for New Contracts

The first part of the Petition requests that boards of trade that have been designated as contract markets be exempted, to the extent of the Commission's power under Section 4(c)(1), from complying with the contract market designation process for new contract submissions under Sections 5 and 6 of the Act as well as any related regulations or statutory provisions, including Section 2(a)(8)(B)(ii) of the Act. The Exchanges believe that the existing process of Commission pre-approval of new contracts can be too time-consuming and can put U.S. exchanges at a competitive disadvantage as compared to OTC and foreign markets.

In **Issue 2** set forth in the release, the Commission noted that it had recently proposed a two-year pilot program to permit the immediate listing of certain new contracts for trading for a specified period of time prior to obtaining Commission approval and asked whether that proposal addresses the Exchanges' need for relief in this area. As stated in the CME's comment letter on the proposed pilot program dated August 12, 1999, we believe that the CFTC proposal represents a modest step in the right direction, but it does not eliminate the need for more significant relief as requested in the Petition.

There is a large philosophical difference between the approach suggested by the Commission's proposed pilot program and the relief requested in the Petition. Under the pilot program, the requirement that all new contracts must be approved by the Commission would be preserved; only the timing of such approval would be modified. A participating exchange must file with the CFTC an application for contract market designation within 45 days of initially listing the new contract for trading. It is still possible that the CFTC could disapprove a new contract or require its terms to be amended. As noted in many of the comment letters on the pilot program, that possibility is likely to discourage market participants from trading the new contract.

The Commission's position appears to be that CFTC approval of new contract applications serves an important public purpose by providing an opportunity for public comment and by improving contract design. The CME disagrees. We believe that Commission review and approval of new contract applications by existing exchanges[1] serves no useful purpose. Although we appreciate the importance of properly designed contract terms, and we agree that it is extremely important to consult with commercial users of the market in order to design appropriate contract terms, CFTC review of new contract applications is not necessary to accomplish those objectives. When the CME is developing a new contract, it talks with market users at length and takes great care in designing contract terms so that they will be acceptable to the commercial users. The CME has a strong business interest in designing its contracts so that they are not readily susceptible to manipulation, knowing that a contract that can be easily manipulated will be neither attractive to market users nor in the long-term best interests of the CME.

The market should be the true arbiter of whether a new contract is properly designed. In discussing its proposed pilot program, the CFTC provided an example intended to show the benefits of CFTC review of new contract applications. In that example, market participants opposed a proposed potato contract's terms in public comments filed with the CFTC because the proposed discounts for non-par varieties and locations did not conform to cash market practices. If that contract had been allowed to trade under its original terms, market participants presumably would not have used it because of its flawed contract design. In that event, either the listing exchange would amend the contract terms, or another exchange would introduce a potato contract with an improved design. There is no evidence that any public harm would have occurred by letting the exchange list and try to promote a poorly designed product.

This part of the Petition has attracted broad support from the futures industry. The Ad Hoc Subcommittee on Regulatory Parity of the Global Markets Advisory Committee ("GMAC"), which includes representatives from U.S. exchanges, foreign exchanges, FCMs, end-users, FIA, MFA and NFA, voted 11-1 in favor of a resolution almost identical to the first part of the Petition. No one on the Subcommittee believed that Commission review of new contract applications was necessary or appropriate. The only person voting against the resolution was not opposed to its substance, but felt that relief under Section 4(c) of the Act was not the appropriate means of accomplishing the objective.

B. <u>Contract Market Rule Review Procedures</u>

The second part of the Petition requests that boards of trade that have been designated as contract markets be exempted, to the extent of the Commission's power under Section 4(c)(1), from the rule approval provisions of Section 5a(a)(12) of the Act and related regulations, except the provisions relating to emergency rules, if the contract market provides notice of new rules or rule changes to the Commission ten days in advance of the effective date. The Petition further

[1] It should be noted that start-up exchanges are not included in the Petition's request for exemptive relief because we believe that it is appropriate for the Commission to review and approve a board of trade's initial designation as a contract market. A new exchange's trading and clearing systems and its self-regulatory programs need to be vetted before it can begin live trading.

provides that rules submitted pursuant to this exemption shall not be stayed or delayed unless the Commission finds that the exemption is likely to cause fraud, render trading readily susceptible to manipulation or threaten the financial integrity of the market. The Petition notes that the Commission's power to alter or supplement any rule change implemented pursuant to this exemption shall not be diminished.

The current U.S. regulatory model which requires advance CFTC review of all substantive rule changes of exchanges makes it increasingly difficult for U.S. exchanges to compete against less-regulated OTC and foreign markets. An alternative – and we believe more desirable – model for regulatory oversight of financial markets is provided by the U.K. Financial Services Act. Exchanges in the U.K., such as the London International Financial Futures and Options Exchange ("LIFFE"), can adopt new contracts and new rules and can amend existing contracts and rules without any prior approval from their government regulator. The CFTC's Division of Trading and Markets ("Division") recently issued a no-action letter allowing LIFFE to place trading terminals in the U.S. without being designated as a contract market. The no-action letter specifically noted that LIFFE is not subject to a pre-approval requirement when it wishes to list new contracts or amend its rules, but nonetheless concluded that LIFFE and its market participants "are subject to oversight in the United Kingdom by a legitimate regulatory authority that is responsible for ensuring their compliance with an extensive regulatory regime."[2] There is no reason to believe that the high regulatory standards of the U.S. exchanges would suffer if they operated under a regulatory regime in which they could adopt new rules and new contracts without prior CFTC review and approval.

The Commission's release raised several issues concerning this part of the Petition. In **Issue 3**, the Commission noted that under the Petition an exchange rule amendment could not be stayed or delayed unless the Commission determines that the rule was "likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market." The Commission asked whether this standard is sufficient for the Commission to carry out its statutory obligations and whether the Commission should take other issues into consideration in determining whether to delay the immediate implementation of proposed rule amendments.

This is another area where there appears to be a major philosophical disagreement between the Commission and the Exchanges. The Commission takes a very broad view of its authority to review and disapprove contract market rule amendments. In an interpretation adopted in 1980, the Commission rejected the view that its authority to disapprove a contract market rule is limited to those rules which are directly contrary to a specific substantive or procedural requirement of the Act or the Commission's regulations. Instead, the Commission adopted the view that it has a "statutory responsibility to disapprove as well those contract market rules which conflict or are inconsistent with any of the policies, purposes and public interest considerations embodied in the Act and the Commission's regulations." 45 *Federal*

[2] Letter dated July 23, 1999, from I. Michael Greenberger, Director, Division of Trading and Markets, to Arthur W. Hahn, counsel for LIFFE, at page 24.

Register 34873, 34874 (May 23, 1980). In other words, the Commission believes that it is authorized to disapprove contract market rules that conflict with the Commission's opinion as to what is in the public interest, regardless of whether a specific section of the Act or regulations is violated.

The Commission's expansive view of its authority has led it to micromanage exchange rules involving business issues that have nothing to do with the core objectives of the Act – to prevent fraud and manipulation and to promote financial integrity. The CME provided a good example of CFTC micromanagement of business issues in our comment letter dated August 12, 1999. The CME decided to adjust the tick size of its E-Mini S&P 500 futures contract from .10 index points to .25 index points. This amendment was made before trading in the new contract began, thereby eliminating any concern over how open positions might be affected. Nevertheless, apparently motivated by some vague "public interest" concern, the CFTC decided that the rule amendment could not be approved without first publishing it in the *Federal Register* and inviting public comments. In our view, this is the sort of issue that should be decided by an exchange's business judgment. It clearly raised no concerns involving the core regulatory objectives of the Act noted above. Rule amendments of this type should be allowed to be put into effect immediately, or after a short review period during which the Commission can determine that the rule is not likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market.

With respect to **Issue 4** and the possible impact of legal uncertainty on market users if the Commission were to undertake disapproval of contract market rules after their implementation, the CME believes that this problem can be mitigated by having the CFTC recognize that such action should be taken only if it determines that the rule was causing fraud, manipulation or danger to the financial integrity of the market. The Commission already has the authority under Section 8a(7) of the Act to alter or supplement the rules of a contract market, and it has used such authority rarely. We have not observed any legal uncertainty caused by the possibility that this authority could be used to alter or amend exchange rules, and we believe that this would remain the case if the Petition were granted. Of course, in the rare instance where the Commission may undertake disapproval of contract market rules after their implementation, it should tailor its actions so as not to cause any dislocation to market participants who had acted in reliance on such rules.[3]

In **Issue 6**, the Commission asked whether its ability to discharge its regulatory responsibilities would be harmed by not having public comments on contract market rule changes. The CME's experience has been that significant rule amendments are reviewed by one or more committees and by the CME's Board of Directors before they are adopted, and this process provides interested parties with an opportunity to express their views on the proposed rules. We believe that there is little or no value added by having the CFTC also invite public comments on the proposed rule through publication in the *Federal Register*, and the publication

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[3] See, for example, Section 5a(a)(10) of the Act, which provides that a CFTC order to change a contract's delivery points shall not apply to contract months with open positions.

process obviously creates additional costs and delay. Accordingly, except for rules that the Commission determines are likely to cause fraud, manipulation or threaten the financial integrity of the market, we believe that publishing proposed rules for comment is neither necessary nor appropriate.

In **Issue 11**, the Commission asked whether it should continue to review newly created electronic trading systems based on the standards developed by the International Organization of Securities Commissions ("IOSCO"). The CME believes that there is a significant distinction between the role that the Commission should play in reviewing a newly created electronic trading system as compared to reviewing enhancements made to an established electronic trading system. The CME does not object to the Commission's use of the IOSCO standards in reviewing newly created electronic trading systems. For example, that type of in-depth review was conducted by the Commission before live trading began on the CME's GLOBEX® System or the CBOT's Project A System. However, once the Commission has determined that an electronic trading system satisfies the applicable standards, it is not necessary for the Commission to review every upgrade and enhancement of such system. For example, the CME and CBOT recently upgraded the GLOBEX and Project A systems in preparation for side-by-side trading of Eurodollar and Treasury Bond futures, respectively. The CFTC staff took the position that the CME and CBOT would not be permitted to begin such side-by-side trading until the CFTC staff had reviewed the results of system performance tests and had determined that the respective systems had the capacity to handle the anticipated level of trading activity in side-by-side trading. Making sure that electronic trading systems have adequate capacity is obviously an important issue, but it is primarily a business issue that can best be resolved through the exercise of prudent business judgment by the exchanges sponsoring the systems. Requiring an additional level of system review by the CFTC staff in Washington adds additional cost and delay, but provides no discernable benefit.

This part of the Petition is also broadly supported by the futures industry. The GMAC's Ad Hoc Subcommittee on Regulatory Parity voted 11-1 in favor of a resolution almost identical to the second part of the Petition.

C. Adopting Rules Comparable to Those of a Foreign Exchange With Respect to a Directly Competitive Contract

The third part of the Petition requests that boards of trade that have been designated as contract markets be exempted, to the extent of the Commission's power under Section 4(c)(1), from provisions of the Act that would prevent such contract markets from responding to competition from any foreign exchange authorized to locate trading terminals in the U.S. Granting this exemptive relief would allow a designated contract market to implement trading rules and procedures comparable to those of the competing foreign exchange, provided that such rules and procedures shall apply only to contracts listed by the contract market that are subject to direct competition from a contract listed by such foreign exchange. The contract market could adopt and implement such rules and procedures immediately upon its submission to the

Commission of (i) the text of the rules and procedures being adopted and (ii) its certification that the foreign exchange employs comparable rules and procedures for trading a contract that competes directly with the contract listed by the U.S. exchange.

The Division of Trading and Markets has recently granted no-action relief to several foreign exchanges to allow them to place electronic trading terminals in the U.S. to provide access to U.S. persons. Before granting the no-action relief, the Division reviewed the regulatory structure applicable to each foreign exchange to verify that the regulatory structure includes: financial and other fitness criteria for industry participants; reporting and recordkeeping requirements; procedures governing the treatment of customer funds and property; sales practice and other conduct of business standards; provisions designed to protect the integrity of the markets; and statutory prohibitions on fraud, abuse and market manipulation. The Division presumably would not have granted no-action relief to a foreign exchange if it had found that the exchange's rules were likely to cause fraud, manipulation or threaten the financial integrity of the market. Given that the Commission is comfortable with allowing foreign exchanges to offer their products to U.S. customers from terminals located in the U.S. pursuant to their rules, the Exchanges believe that the Commission should be equally comfortable with allowing U.S. contract markets to make their directly competitive products available pursuant to the same rules.

In **Issue 1**, the Commission noted that the no-action letters issued to the foreign exchanges contained certain conditions requiring the exchanges to obtain supplementary no-action relief for any new products that they wish to make available in the U.S. through their electronic trading systems and requiring the periodic reporting of the level of their business activity in the U.S. The Commission asked whether these limitations on the no-action relief granted to the foreign exchanges alter the need for the exemptive relief sought in the Petition. Our answer is "no." Neither the Division nor the Commission has taken the position that future requests of foreign exchanges for no-action relief will be denied if the requests concern contracts that compete directly with contracts traded at U.S. contract markets. If such direct competition were to arise, it would be imperative that the U.S. contract markets be able to act immediately to respond to the competition. If a foreign exchange offers a trading rule that is more attractive to market participants, the U.S. exchange must have the flexibility to offer the same rule immediately, without a lengthy review process or discussion about whether such rule is or is not consistent with the Commission's opinion as to what is in the public interest. It should be noted that if no foreign exchange ever lists on a trading terminal located in the U.S. a contract that competes directly with a contract traded by a U.S. exchange, then the exemptive relief requested in the third part of the Petition would never be used. However, the CME strongly believes that the exemptive relief should be granted now so that it would be available for use immediately should the need arise in the future.

In **Issue 5(a)**, the Commission noted that, if the Petition were granted, it might be possible for a single U.S. contract to be subject to rules drawn from a number of different competing foreign exchanges and that different contracts trading side-by-side at a particular U.S. contract market might be subject to different sets of rules. In our view, these possible consequences would have no impact on the ability of the Commission, the contract markets or

Commission registrants to discharge their regulatory responsibilities. U.S. contract markets today have different contracts trading side-by-side that are subject to different sets of rules. The CME, for example, trades a diverse group of futures and options contracts based on agricultural commodities, equity indices, foreign currencies and interest rate instruments. Because the market participants in these different product groups have different needs, the CME has tailored its rules accordingly. All-or-none trading is allowed for some contracts, but not for others. Dual trading restrictions apply to some contracts (and to specific contract months), but not to others. The rules for trading a contract on the CME's GLOBEX® Electronic Trading System are different than the rules for trading the same, or fungible, contracts in open outcry. It is the responsibility of market participants trading a particular contract to know the specific rules that apply to that contract.

The Commission also expressed concern, in **Issue 5(b)**, that a contract market's adoption of comparable trading rules of a competing foreign exchange might be inconsistent with the Act's prohibitions against fraud and manipulation. As discussed above, the only rules that could be adopted under the third part of the Petition are those of foreign exchanges trading directly competitive contracts from terminals located in the U.S. If the Commission believes that a particular rule of a foreign exchange would have adverse regulatory consequences, it should not grant such foreign exchange's no-action request to use U.S. trading terminals to trade a contract that competes directly with a contract of a U.S. exchange.

In **Issue 5(c)**, the Commission raised a concern that, if the Petition were granted, rules established for electronic trading on foreign exchanges could be applied to open outcry markets. The CME believes that this concern is misplaced. Many types of rules can be applied to both open outcry and electronic trading. For example, a foreign exchange might permit pre-arrangement of trades such that the price and execution quantity can be guaranteed in advance. If all of the conditions contained in the Petition are satisfied, a U.S. contract market that trades a directly competitive contract could choose to adopt a comparable rule permitting pre-arranged trading. That rule could then be applied to whatever forms of trading are available at the U.S. exchange, including both open outcry and electronic trading.

The Commission appears to be concerned that a U.S. contract market might attempt to use the exemptive relief to escape from regulatory restrictions applicable to open outcry trading that have no counterpart in electronic trading. For example, the rules of a foreign electronic exchange will not contain provisions dictating how floor brokers and floor traders are to fill out their trading cards, for the obvious reason that there are no floor brokers or floor traders at an electronic exchange. How audit trail data are captured will vary depending on the trading system used. The Petition would allow a U.S. contract market to implement trading rules and procedures "comparable to those of the competing foreign exchange," provided that certain specified conditions are met. In the example noted above, a U.S. exchange could not use the exemptive relief requested in the Petition to eliminate all rules pertaining to filling out trading cards by floor brokers and floor traders on the ground that the foreign exchange does not have such rules. That is because the rules of the U.S. exchange would not be "comparable" to those of the foreign exchange (i.e., the rules would not provide for an electronic audit trail comparable to that of the foreign exchange).

The Commission noted in **Issue 7** that the Petition had indicated that U.S. contract markets may be disadvantaged by the ability of foreign exchanges to pay for order flow and/or provide inducements for market makers or customers to trade their products. The Commission further noted that it had approved various market maker programs for U.S. exchanges and asked how the programs of foreign exchanges differ from those approved for U.S. exchanges. We are not aware of all of the specific programs offered by foreign exchanges to pay for order flow or to provide inducements to trade their products. We do know, however, that it took a long time to obtain Commission approval of the market maker programs operated by U.S. exchanges. We further understand that Division staff has adopted an informal policy of refusing to approve contract market incentive programs on a fast track basis if the incentive includes a payment of more than $5 per contract traded. Accordingly, the relief sought in the Petition is clearly needed in this area. If a foreign exchange uses trading terminals located in the U.S. to trade a contract that competes directly with a contract traded at a U.S. contract market, and the foreign exchange offers to pay for order flow and/or to pay traders to trade their contract, the U.S. exchange must have the flexibility to respond in kind immediately.

In **Issues 8 and 9**, the Commission referred to the Advisory on Alternative Execution, or Block Trading, Procedures for the Futures Industry ("Block Trading Advisory") that it issued in June 1999. The Commission suggested that the Block Trading Advisory, with appropriate modifications, might address the concerns expressed in the Petition that U.S. contract markets are unable to adopt rules to allow guaranteed price and/or execution quantity (**Issue 8**) and that U.S. contract markets are not permitted to delay the reporting of transaction information in order to accommodate market participants who desire to withhold information about their transactions until they have been able to act in another market or execute additional transactions (**Issue 9**). The Block Trading Advisory provides no comfort whatsoever to the Exchanges; it simply provides that the Commission will evaluate exchange proposals for alternative execution procedures for large size or other types of orders on a case-by-case basis. That, of course, is the same procedure that the Commission has always used in evaluating contract market rule proposals.

An example from a few years ago illustrates why the Exchanges are not satisfied with continuing the "status quo" approach used by the Commission in reviewing exchange proposals. The CME developed a rule that allowed members to trade currency futures in large size at a single price through an electronic trading system (not GLOBEX). This rule was developed by the CME in response to customer demands for certain features that exist in the OTC FOREX market. The CME learned that market-makers were reluctant to participate in these large lot transactions if the trade price was immediately disseminated for fear that their position would become known in the OTC FOREX market, thus adversely affecting their ability to obtain a favorable price in laying off the risk of their futures position in the OTC market. Accordingly, in February 1996, the CME submitted a proposed rule interpretation providing that the trade price at which a currency large lot transaction was executed shall not be displayed on the CME floor or transmitted over the CME's price dissemination system until 15 seconds after the transaction was executed so that the parties to the transaction may enter into offsetting transactions in the cash market before the trade price becomes known. Members of the Commission and its staff raised numerous questions, expressed concern about a lack of "transparency" and demanded written justifications of why the interpretation was needed. The CME responded to each round of requests by letters dated March 19, April 25 and May 23, 1996. Among other things, the CME pointed out that the reporting of block trades on the London Stock Exchange is permitted to be delayed by 60 minutes. In addition, trade prices are never publicly disseminated in the OTC FOREX market. At no time did the CFTC identify a specific section of the Act or regulations that would be violated by the proposed interpretation. Finally, 107 days after the interpretation was submitted, the CFTC notified the CME that it could put the interpretation into effect for a two-month pilot program after which the CME would have to compile and analyze extensive data concerning large lot transactions and the impact, if any, of the 15 second delay in reporting large lot trade prices. Nothing in the Block Trading Advisory provides any assurance that the CME would not experience the same delays and burdens the next time it proposes something out of the ordinary. Such delays would be intolerable in the context of a direct competitive threat from a foreign exchange.

Issue 10 relates to the CFTC requirement that account identification information must be entered into the trading terminals of a U.S. contract market's electronic trading system prior to execution of customer orders. Foreign exchanges, including some that were recently granted no-action relief by the Division to allow them to place trading terminals in the U.S., are not subject to such a requirement. Because this requirement can slow down the process of entering customer orders into an electronic trading system, the Exchanges are concerned that they will be placed at a severe competitive disadvantage if they remain subject to such a requirement, while foreign exchanges that may offer directly competing products are not. The Commission referred to action that it took in August 1998 to permit certain bunched orders to be placed on U.S. contract markets without individual customer account identifiers, provided that the orders are allocated to customer accounts no later than the end of the day.[4] That action, however, had nothing to do with the separate requirement that firms entering regular (not bunched) customer orders into an electronic trading system operated by a U.S. contract market must enter specific account identification information prior to the order being executed.

The Commission's insistence on entry of account identification information prior to the execution of customer orders was demonstrated when the Commission refused to extend, or make permanent, a pilot program in effect at the CME. The CME's rules generally require that account numbers be entered into GLOBEX at the same time as the order information is entered. However, it is not practical to impose that requirement in all cases for E-Mini S&P 500 contracts. Because the underlying S&P 500 futures market moves very rapidly, the extra seconds that it takes manually to enter a customer's account number can mean that the customer

[4] It should be noted that this Commission action was taken six and one-half years after the CME had submitted a rule proposal in 1992 for end-of-day allocations. This is yet another example of how long it can take the Commission to respond to a proposal that is out of the ordinary.

order will get filled at a significantly worse price. The system design for GLOBEX does not allow a terminal operator to enter an order, have it matched in the system, and then use his GLOBEX terminal to enter the account number for that order. Once a trade is matched in GLOBEX, it is automatically sent to the CME's clearing system. In 1997, the CME adopted an Interpretation that waived the requirement immediately to enter an account number into GLOBEX for E-Mini S&P 500 orders in certain specified cases, provided that the members and clearing firms handling the customer orders complied with certain conditions. Additional information had to be written on the order ticket to "tether" the order to a specific transaction executed on GLOBEX. The account number information must be entered into the CME's clearing system within 30-60 minutes after the order was executed on GLOBEX.

At the CFTC's suggestion, the Interpretation was allowed to go into effect as a pilot program with a set termination date. When the termination date approached, the CME submitted a proposal to the Commission seeking to make the Interpretation permanent. The CME was sensitive to the Commission's concern that the Interpretation not be used as a means of misallocating trades to the wrong account. During the CME's 16 months of experience with the Interpretation, we detected no indication that the Interpretation was being misused for that purpose. Moreover, the requirements that additional information must be written on the order ticket to "tether" the order to a specific transaction executed on GLOBEX and that the account number information must be entered into the CME's clearing system within 30-60 minutes after the order was executed on GLOBEX provided additional assurance that any significant attempt to use the Interpretation to misallocate trades to the wrong account would be detected. Despite the fact that foreign exchanges operating electronic trading systems were not subject to a requirement that specific account identification information must be entered into the trading terminals prior to the execution of customer orders, the Commission refused to allow the CME to continue to operate under the Interpretation.

Conclusion

Foreign exchanges are rapidly installing additional trading terminals in the U.S. pursuant to the no-action letters issued by the Division of Trading and Markets. Prompt action on the Petition is needed. We urge the Commission to act immediately to grant the exemptive relief requested in all three parts of the Petition.

Respectfully submitted,

M. Scott Gordon

MSG/CAR/df:4453

cc: Chairman William J. Rainer
Commissioner Barbara P. Holum
Commissioner David D. Spears
Commissioner James E. Newsome
Commissioner Thomas J. Erickson