

 **Chicago Board of Trade**

Thomas R. Donovan  
President and  
Chief Executive Officer

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RECORDS SECTION

October 25, 1999

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OFFICE OF THE SECRETARIAT

Ms. Jean A. Webb  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Re: CFTC Proposed Rules - Exemption from Registration for  
Certain Foreign FCMs and IBs 64 Fed. Reg. 46618 (August 26, 1999)

Dear Ms. Webb:

The Chicago Board of Trade is pleased to submit these comments on the Commission's proposed Rule 30.12, which would permit foreign brokers to accept orders directly from U.S. customers for foreign futures and options transactions without having to register as an FCM or IB, subject to certain conditions. We generally support the proposal and have only the following comments to offer.

First, we believe the definition of "authorized customers" who may directly transmit their orders to the foreign brokers is too narrow. For example, we do not see any reason to exclude floor brokers and floor traders from the definition as proposed. Furthermore, the proposed definition adds to the confusion already caused by the plethora of CFTC definitions that exist today to try to capture the concept of a "sophisticated person." We concur with NFA's recommendation that the Commission should adopt a uniform definition that applies for all purposes of the CFTC's rules where the concept of a sophisticated person is relevant. We favor the definition that NFA proposed in its June 5, 1998 rulemaking petition to the Commission, including for purposes of proposed Rule 30.12.

Second, we note that the proposal applies only to direct transmittal of orders by telephone, facsimile and electronic mail, and does not address electronic order transmittal from within the U.S. over "automated order routing systems" ("AORS"). This seems an appropriate limitation in light of our understanding that the Commission staff has been dealing with the issue of AORS on a case-by-case basis as it considers and acts upon requests from foreign exchanges to be able to access customers electronically from within the U.S. without having to register as a contract market. If the Commission reconsiders this limitation for purposes of its Rule 30.12, the Commission should seek additional comment on that change given the divergent views that were expressed during the comment process last spring on the Commission's foreign terminal rule-making proposal (since rescinded) on how the Commission should deal with the AORS issue. For example, in our April 30, 1999 comment letter, we stated our position that additional regulation was not necessary for AORS used within the U.S. to transmit orders for non-U.S. based products, but that use of AORS should not be allowed for transmitting foreign futures and option orders for U.S.

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based products until regulatory parity is established between the foreign exchange at issue and U.S. contract markets.

We are happy to discuss our comments with the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas R. Donovan". The signature is written in a cursive style with a large, stylized initial "T".

Thomas R. Donovan