

# COMMENT



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January 5, 2009

Via eRulemaking Portal  
Gabrielle A. Sudik, Special Counsel  
Division of Market Oversight  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

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**Re: Proposed Rules on Block Trading and EFP and EFS Transactions, 73 FR 54097, September 18, 2008**

Dear Special Counsel Sudik,

ELX Futures, L.P. ("Electronic Liquidity Exchange" or "ELX") was formed in December, 2007 by eight dealers, three trading firms, and a major electronic and voice broker and technology provider, and is now in the process of applying for designation with the Commodity Futures Trading Commission ("CFTC") as a Board of Trade and Contract Market for exchange trading in, among other products, U.S. Treasury Futures Contracts. Once it is approved, ELX will be a fully electronic exchange, and will not support a trading floor.

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ELX submits these comments with respect to the Commission's above-referenced proposed rules concerning Block Trading and EFP and EFS transactions. With the exceptions noted below, ELX supports the proposed rules and commends the Commission for proposing rules which are sensitive to a variety of market needs and circumstances, and which give the contract markets latitude in fashioning rules that meet the needs of their marketplaces and individual circumstances.

ELX supports integrating the requirements of large market participants within the structure of the centralized market facility. Bright line, one size fits all rule sets only serve to disenfranchise the largest users of the regulated markets and incent them to move their business off-exchange or off-shore. Clearly, if we are worried about liquidity, driving business off-exchange harms market liquidity and price transparency more than any other outcome. Given that they are promptly price reported, block transactions that take place on an exchange provide price discovery by the marketplace for large trades that otherwise would be unseen if they were executed off-exchange. Retaining for the

regulated exchange the open interest that results from block trades can benefit exchange markets by providing potential liquidity inasmuch as positions that are established by block trades may well be modified or rolled forward or offset by on-exchange trades later on in a type of "secondary market effect." This secondary market effect can enhance liquidity overall notwithstanding that the initial block trade was not executed openly on the exchange.

The exchange is in the best position to determine the appropriate minimum size for block trades because of its intimate knowledge of its own marketplace. The exchange can best judge how block trading impacts liquidity given its understanding of the secondary effect of later liquidity from the open interest created by the block. The necessary balancing of factors in determining minimum block size requires judgment and expertise, and is not best accomplished by a formulaic test, as the proposed rules recognize. The threshold for block trading rules should be in the hands of the contract market that is responsible for the oversight of the marketplace.

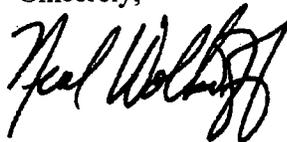
When ELX becomes a live enterprise, we intend to bring an added measure of competition to the futures exchange space, which should insure that decisions on block size will be made and reconsidered in light of market competition between exchanges, and not on a hypothetical basis. We think this makes for a healthy backdrop by which the Commission's philosophy will play out, and we look forward to reacting to the Commission's proposed rule set in a competitive environment.

Regarding the proposals on block trading among affiliates, ELX questions the provision that seeks to prohibit affiliate trades if executed by a single trader as inconsistent with the structure of the proposal which looks to have oversight programs tailored to specific situations rather than to bright line blanket prohibitions. We believe that this provision needs to be reconsidered.

Regarding EFP and EFS transitory trades, this has been an area of limited clarity for some time. It would be helpful at the least if the proposal explicitly stated that mechanisms including and like the NYMEX Clearport™ platform, which converts cash trades to futures positions or offsets via transitory EFP and EFS transactions, would still be protected under the proposed approach.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Neal Wolcott". The signature is fluid and cursive, with the first name "Neal" being more prominent and the last name "Wolcott" written in a similar style.