Dear Sirs,

I enclose an Open Letter to the CFTC which concerns the current pending application of the US Futures Exchange. I intend to publish it in my editorial on my monthly magazine http://www.appliederivatives.com on November 3rd for the edification of our 20,000 readers in some 130 countries
world-wide.

While I realize the comment period per se has ended (I was travelling most of this time), I have taken the liberty of addressing the letter to Ms. Jean A. Webb.

I hope you will not find it in any way unreasonable or disingenuous of us to make this letter public to all our readers. Rather, we have long felt part of our duty as publishers is to help lead debate in the industry and wherever possible try to promote what we feel are beneficial developments in financial markets. To that end, in a debate which is of great significance to our marketplace we feel it important to comment and comment publicly, particularly ahead of next week's committee hearings.

You are welcome to distribute this letter as you so desire or include it in any form of submissions concerning this issue.

Yours faithfully,

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- - Covering letter ends, submission letter begins: - -

"Exchanges really are a rather low form of life. There is a tendency to look
at exchanges as one of three things: as a utility, as an institution, or
even, God forbid, as part of the social fabric. Rather the business is high
yield, low value. The exchange is a servant of markets."
- Sir Brian Williamson, former Chairman of Euronext LIFFE, 1999.

Dear Ms. Webb,

I find myself consistently brought back to the above rather crisp quotation
from Sir Brian Williamson, a man who found himself in the midst of the original storms of the Capital Market Revolution during the late 1990s but
yet still managed to right his ship and not merely survive but indeed sail
with great success to more prosperous waters having radically re-engineered
his exchange into a profitable business.

On behalf of myself and indeed in accordance with the principles of the

Capital Market Revolution which my publishing group erivatives.com have long espoused, we are passionate about financial innovation, the progress of technology and the benefits these have brought to financial markets. We see sound regulation as being an essential aspect to the maintenance of financial markets but we are vigorously opposed to any artificial restraints which might impede competition.

The financial markets have developed at a truly incredible pace since the end of the Bretton Woods agreement. In part this has been driven by deregulation – changes which were so often opposed by many industry participants only to see the entire business grow almost exponentially as a result of these reforms.

The pace of change in the derivatives business whether on exchange or OTC has been simply incredible for the past thirty years and the many benefits that futures, options and other derivatives trading has brought in terms of risk transfer are frequently underappreciated by the world at large.

Since the late 1990's, the ongoing pace of technological change has helped drive what has in effect been a revolution in financial markets. In the modern era, the old fashioned exchange "clubs" have become for profit corporations and in many instances in Europe (and one in the USA, the CME) exchanges have even listed their shares for public trading on a stock exchange.

We acknowledge that this revolutionary change in market structure has made life extremely difficult for regulators who are trying to accommodate the needs and wishes of market users while maintaining a strong framework of regulation that ensures sound investor protection. However, protecting investors from charlatans is a very different business to that of protecting marketplaces from competition.

The whole world of financial markets is built on free, open competition. We note that in all cases where open competition has been allowed to take place, the customer has always been in a better position than in markets where access is restricted to a limited number of participants. True, in London this resulted in the pain of seeing the once largest exchange in the world, LIFFE being almost destroyed by the DTB in the late 1990s but the exchange reinvented itself and has managed not merely to prosper but provide a significant benefit to customers the world over. Had DTB not been allowed to enter the UK marketplace freely (as a result of harmonization of European Union law) end users throughout the world of these markets would not have benefited from the increased competition which led to lower end user costs and improved customer service.

In the USA we note that right now an exchange which has origins beyond the United States of America wishes to enter the US marketplace to compete with the established exchanges in Chicago, New York and the other US mercantile cities. In many ways, this is a glowing tribute to the free market capitalism in financial markets that the USA has exported to the world. The very concept that modern day futures and options markets, an American invention, would ever draw in competition from overseas is a fascinating development and one which we feel can only provide benefits for all types of customers in the USA and throughout the world. Secondly, the fact that the current application is for an all electronic exchange provides a perfect opportunity to test the thesis of which dealing platform is preferred by the end user customer. Without a clear test of open outcry trading against a fully fledged unrestricted electronic platform it will be impossible to judge which model best serves the customer in the US market.

This application marks a watershed in the development of exchanges in all types of financial market. The desire for the US Futures Exchange to be regulated within the USA is a testimony to the global confidence in the US regulatory system and particularly that of the CFTC whose Commodity Futures Modernization Act we applauded on its passing precisely because it was going to open up the possibility for such competition in financial markets which would ultimately benefit the end user.

Much is made by detractors of open outcry of the bottleneck that exists on the floors of many markets and there is an emotive issue concerning the future role for intermediaries in financial markets. However, that should not be allowed to cloud judgment on the future regulatory status of a new exchange. This is truly not an issue about foreign ownership of an exchange in America. After all we already have NQLX ultimately owned by the Amsterdam domiciled Euronext consortium of bourses. Indeed, I have long argued that the greatest threat to the existing exchanges comes not necessarily from competition between existing exchanges but from companies emerging from “left field” who may never have had a direct operating interest in an exchange before. Therefore, we argue that the market should be given a clear chance to decide. The fact that the first applicant to run an exclusively electronic exchange has parentage from beyond the USA must not be allowed to cloud judgment on what is a simple clash of business models where the end user has a right to make their decision on which is better for them.

One must feel a certain sympathy for those US exchanges which are in danger of being “blindsided” by the fact that members have sought to defend open outcry and now are scared by the prospect of a direct, low-cost electronic platform threatening their livelihood. We argue that it will only be through a clear competition between open outcry and an electronic platform that we will see what method is preferred by end users. Similarly, the US Futures Exchange is bringing forward a business model which has proven remarkably successful in Europe – where unfettered cross border competition has benefited not merely local end users but also the existing US exchange marketplaces. Now, we feel it is time for the largest national market in the world, the USA to respond and open itself up to free competition for exchanges regardless of their shareholder base.

We believe this free competition is the only way that the futures and options trading world can reach its greatest possible critical mass and maximize the potential for cost effective risk transfer opportunities. By refusing access to any market participant seeking to be bound by US regulation, we feel it would be sending the wrong message not merely to the rest of the world’s markets but also to the American consumer. End users deserve the maximum of choice to make their decision as to how they wish to structure their investments and trading activities. We believe that the US Futures Exchange is one key step in keeping the financial infrastructure of the USA a diverse and dynamic business which will continue to lead the world in its innovations for many years to come.

In essence, our commitment is to free markets and exchanges are indeed servants of markets. We believe that the marketplace should be open for us to choose whichever properly regulated market best serves our needs.

Thank you for your consideration in reading this letter. I would be delighted to provide further information if you feel this would be beneficial to this procedure and indeed any other workings of the CFTC.

Yours sincerely,

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erivatives.com
Author:
"Single Stock Futures - A Traders Guide" (2003)
"The New Capital Market Revolution!" (2003)
"The Promiscuous Investor" (2002)
"Capital Market Revolution!" (1999)
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