



Neal L. Wolkoff
Chief Executive Officer
ELX Futures L.P.
www.elxfutures.com

T. 212 294 8056
F. 212 294 8058

110 East 59th Street
New York, NY 10022
nwolkoff@elxfutures.com

February 23, 2009

David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Application of ELX Futures, L.P. for Designation as a Contract Market

Dear Mr. Stawick:

This letter is submitted on behalf of ELX Futures, L.P. ("ELX"), in response to the comment filed by the CME Group ("CME"), dated February 9, 2009, on the Application of ELX for designation as a Designated Contract Market ("DCM"). In its comment letter, CME takes the position that its rules should govern the rule-making of competing exchanges on such fundamental issues as block trading minimum sizes and position accountability levels. We fundamentally disagree with this assertion and believe that it is anti-competitive and contrary to the principles advanced by the Commission in its recent proposed rules on block trading and related matters (73 Fed. Reg. 54097 (Sept. 18, 2008) (the "Block Trading Release")).

In the Block Trading Release, the Commission noted that its proposal is premised on each DCM determining the minimum block trade size that is appropriate for its market, taking into account the relevant considerations, such as liquidity in the market:

One method by which DCMs could determine what number of contracts is an appropriate minimum size would be to assess the market liquidity (the number of contracts the centralized market is able to absorb at the best execution price) and market depth (which measures the potential price slippage if a large order were to be executed in the centralized market). . . . For new contracts that have no trading history,

a DCM should strive to set its initial minimum block trade size based on what the DCM reasonably believes will be a "large" order (i.e., the order size that would likely move the market price). . . . As such, the proposed guidance notes that minimum block trade sizes should be larger than the size at which a single buy or sell order is customarily able to be filled in its entirety at a single price (though not necessarily with a single counterparty) in that contract's centralized market, and exchanges should determine a fixed minimum number of contracts needed to meet this threshold.

Block Trading Release, at 54,100.

In other words, each DCM should determine the appropriate block trading level based on trading and market conditions in its own markets and the Commission's proposed guidance directs a DCM as to the factors to be considered in making this determination. ELX fully intends to comply with the Commission's final rules on this subject, at such time as they are adopted. ELX is currently investigating the block trading levels that are appropriate to its markets, based on the guidance provided in the Block Trading Release. However, there is no basis for ELX to adopt automatically the standards set by the CME, which would be completely contrary to the approach set out in the Block Trading Release. ELX has filed a lengthy letter dated January 27, 2009 with the Office of the Secretary in response to CME's Comment Letter on the Block Trading Release, in which the CME originally set forth its belief that its rules on block trading should govern ELX. Rather than repeat our arguments, please find our letter attached hereto for your reference.

With respect to position accountability standards, ELX has determined to adopt standards which are at this time the same as the CME levels because such levels appear to us to be reasonable for purposes of trading on ELX. The CME's view on accountability levels is thus moot; however we wish to make clear that our decision on accountability levels is substantive, and should not be viewed as endorsing an argument that any exchange should be empowered to control the rules of another exchange as CME suggests. In this respect as well, ELX will make its determination of the appropriate accountability levels based solely on the Commission's final rules and on the factors related to trading on ELX that it believes relevant to the decision.

We understand that the composition of the CME's shareholders and legacy members may cause it to advocate policies that serve the interests of these legacy members, such as extraordinarily large block trading sizes. Of course, the CME couches its arguments in the context of market integrity or regulatory necessity, but it is clear that its judgments are driven in large part by institutional political considerations. Regardless of the merits of those judgments or the process by which they are reached, the CME's determination on block trading levels should in no way bind other exchanges, which are not subject to the same constraints and might not have the same goals.

ELX applauds the Commission for proposing a block trading standard that is based on the overall nature and needs of the relevant market, and, as noted, we intend to be guided by and comply with the standards advanced by the Commission, and only by those standards.

Please let us know if we can be of further assistance in this process.

Very truly yours,

A handwritten signature in black ink, appearing to read "Neil Walkoff". The signature is written in a cursive, slightly slanted style.