



Media Derivatives, Inc.
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April 2, 2010

Chairman Gary Gensler
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Re: **Media Derivatives, Inc. Application for Approval as a Designated Contract Market**

Dear Chairman Gensler:

On behalf of Media Derivatives, Inc. ("MDEX"), I am writing to respectfully urge the Commodity Futures Trading Commission ("Commission" or "CFTC") to approve MDEX's application to become a designated contract market ("DCM") on or before April 9, 2010. There is no legal basis to postpone acting on or to disapprove our DCM application. We have more than amply demonstrated that MDEX satisfies all of the requirements under the Commodity Exchange Act ("CEA") to become registered as a DCM, including the designation criteria and core principles set forth in CEA §5, as the Commission's experienced staff from all divisions has determined after extensive and thorough review of our application.

As you know, the CFTC has a statutory obligation to act upon our DCM application within the 180-day timeframe mandated by CEA §6(a). We appreciate that the Commissioners have asked for additional time to consider our DCM application after receiving the March 23, 2010 letter from the Motion Picture Association of America, Inc. ("MPAA"), which raised various issues about certain products that MDEX and the Cantor Futures Exchange separately plan to offer. Accordingly, we have agreed to extend the statutory deadline for MDEX's application to April 9, 2010, to provide reasonable time for Commission review of the responses we submitted to the MPAA issues. We understand that the MPAA has submitted an additional letter to the Commission requesting extension of the DCM deadline to April 16, 2010. We object to any unilateral extension of the deadline beyond April 9th. Importantly, MPAA will have full opportunity for its product concerns to be addressed through a Commission review process that follows rather than subverts CEA procedural requirements, specifically, during the Commission review process of our product submission.

The MDEX DCM application was filed on September 25, 2009. It has been posted on the CFTC website since last October (immediately below the posting of the Cantor Exchange's pending DCM application) with explicit notice that comments would be accepted on the MDEX

application through November 5, 2009. The MPAA waited to submit its letter until nearly five months after the close of the public comment period, on the eve of the 180-day statutory deadline for CFTC action on our DCM application, at literally the last point of the process when the designation order was being circulated for seriatim Commission approval. MPAA's actions should not be allowed to unilaterally disrupt the DCM application procedures and deadlines clearly set forth in the CEA. It is our understanding that in the normal course of business, the Commission does not accept comment letters submitted after the close of the applicable public comment period. The unfair disruptive consequences of the MPAA's egregiously late filing compounded by its further efforts to delay action on our DCM application validate the wisdom of that policy. The CFTC is at risk of establishing a new far reaching precedent whereby commenters can operate outside prescribed procedures and time their submissions deliberately late to force legally-prescribed deadlines to be ignored.

Importantly, the MPAA issues are specific to one particular set of risk management products that MDEX plans to offer, when as a DCM MDEX plans to rollout a range of risk management products for the entertainment industry. We agree that the product-specific concerns raised by the MPAA warrant appropriate consideration, but those issues are not grounds to interfere with action on MDEX's DCM application. The DCM application has been thoroughly analyzed by Commission staff throughout the course of an intensive, rigorous Commission review process spanning over 10 months, including four months of review prior to our formal filing on September 25, 2009.¹ Throughout that entire process, Commission staff from all divisions meticulously evaluated all facets of MDEX's application and operations under all DCM designation criteria and core principles. MDEX has worked diligently to resolve to Commission staff's exacting standards the many tough and detailed questions raised so as to assure that MDEX would meet all legal standards to operate as a DCM. The result of this extensive process was staff's recommendation to the Commissioners, supported by staff's detailed written analysis, to grant MDEX's application.

The MPAA's product concerns can and should be thoroughly addressed as part of the product review process for our Opening Weekend Motion Picture Box Office Revenue Contracts (the "OW Contracts"), in accordance with established, CEA-compliant procedures. In this regard, when MDEX filed its formal DCM application on September 25, 2009, we represented that we would submit our product rules for the OW Contracts to the Commission for approval, a condition we understand will be imposed on us within the designation order that was prepared approving MDEX as a DCM. We determined at the time of our DCM submission that MDEX would submit its proposed initial products for approval, but separately at or near the conclusion of the DCM process, so as not to slow the DCM approval process with extraneous product issues. In fact, we submitted the product listing rules for the OW Contracts for approval on March 4, 2010, followed by submission on March 9, 2010 of specific terms and conditions for OW Contracts on a particular movie established in accordance with the detailed requirements of the proposed listing rules (together, the "Product Submission").

¹ The process began on May 18, 2009 when we submitted our DCM application in draft form for Commission review and feedback, as recommended in the Commission's Appendix A to Part 38 "Guidance on Compliance with Designation Criteria" under Designation Criterion.

The Product Submission is currently available via the Commission website and is open for comment through April 8, 2010. In anticipation of timely approval of our DCM and to assure a thorough review of the product issues that MPAA has raised, MDEX recommends:

1. That the Commission consider our Product Submission under the extended 90-day review process available under Commission Regulation 40.3(c), using March 9, 2010 as the start of that process. We originally requested review under the 45-day process.
2. That the Commission extend the current April 8, 2010 comment deadline on our Product Submission to allow sufficient time for all interested parties to submit their views.
3. That the Commission publish notice of our Product Submission in the Federal Register to solicit comments.

These recommendations allow all parties to be treated fairly and maintain the integrity of CEA and CFTC mandated review procedures and deadlines. We have had positive discussions regarding the risk management value of the OW Contracts with firms representing a cross-section of the movie industry, including: studios (both members and non-members of MPAA), firms that provide or arrange for financing for motion picture productions, banking institutions, hedge funds, large theater chain operators, talent agencies, producers, distributors and others. The MPAA concerns are no different than similar concerns historically expressed by other such groups when contracts related to their industry products were developed. The appropriate structure to allow comment regarding products is currently open; ultimately though, the market will efficiently determine the merit of such products once approved. Regardless, product related discussions should not be permitted to disrupt the DCM approval process.

The review processes for the MDEX and Cantor Exchange products should remain separate. Just as there are significant market structure differences between MDEX and the Cantor Exchange, there are significant differences between the revenue-based contracts that each market has independently developed, including contract size and anticipated market users. The media attention given to the proposed Cantor products may very well have caused confusion with regard to our contracts that have not been discussed in any public forum or media outlet. The responses to the issues that MPAA has raised will vary for our respective products, and each exchange's products should be evaluated on their respective merits. We understand that the Cantor Exchange has also agreed to submit its initial products for Commission review, which will assure the opportunity for MPAA's issues to be addressed as applicable to those products.

We believe that as a DCM MDEX will embody the type of regulated, centralized market that you have presented as safe, transparent, needed alternatives to OTC transactions to groups such as the American Chamber of Commerce as a means to protect our financial institutions. As a regulated DCM, MDEX will have an obligation to assure that it complies with all requirements under the CEA and Commission regulations and orders on an on-going, continuous basis, the same as any other DCM. If a DCM fails to meet any core principle under CEA §5(d), the Commission has the authority to institute proceedings against the exchange under CEA §5c(d) to require the exchange to take appropriate corrective action. More broadly, if a DCM fails to meet any of its on-going requirements under the CEA framework, it faces the very serious risk of having its contract market designation suspended or revoked by the Commission pursuant to

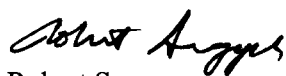
CEA §6(b). These mechanisms serve to assure responsible DCM conduct that complies with CEA and CFTC requirements, including with respect to listing of products.

We trust the Commissioners appreciate the substantial costs and commitments involved to establish a new exchange. In our case, MDEX has committed substantial time, effort and financial resources over the past three years to research and build out the necessary infrastructure, and to obtain qualified board members, management, staff, consultants and vendors with extensive experience in the entertainment and futures industries. Significant investments have been made to establish and implement compliance programs, product settlement verification procedures, clearing arrangements, regulatory services and a trading platform. Additional expenditures have been deployed in preparing an extensive educational program that will greatly assist the various segments of the movie industry, such as the constituents of the MPAA and firms that provide film production financing, gain working knowledge of how the exchange's markets may be used for risk management. We have based our implementation planning on the reasonable expectation that we would be afforded the certainty of Commission action on the DCM application within the maximum timeframe prescribed by the CEA, the same as all other DCM applicants approved before us.

If the Commission ignores the procedural safeguards of the statute it is entrusted to administer, it will establish a dangerous precedent signaling to other DCM applicants that they should exercise extreme caution in committing substantial resources to implement their ventures, as they may never obtain the timely finality of a decision.

In conclusion, it is imperative that the Commission maintain the separation of the product approval process from the DCM approval process and approve our DCM application. MDEX has demonstrated that it meets the designation criteria and core principles set forth in CEA §5 to be approved as a DCM. The 180-day deadline prescribed by CEA §6(a) ended on March 24, 2010, which we have now extended twice to April 9, 2010. Nothing in the CEA authorizes the Commission to unilaterally delay action beyond that date. The MPAA's product issues will receive the full airing they deserve through respecting the process of the Commission's review of our Product Submission and the Cantor Exchange's separate product submission. The time has come for the Commissioners to approve MDEX's DCM application. Following our approval, and in compliance with CEA and CFTC procedures, the Commission can then turn its full attention to address the product issues presented by the MPAA.

Sincerely,



Robert Swagger
Chief Executive Officer

cc: Commissioner Michael Dunn
Commissioner Jill Sommers
Commissioner Bart Chilton
Commissioner Scott O'Malia
Mr. Richard Shilts
Ms. Riva Spear Adriance
Ms. Jane Croessmann