

Demonstration that the contracts are not readily susceptible to manipulation. In addition, for each contract, Eurex is required to describe each investigation, action, proceeding or case involving manipulation and involving such contract in the three years preceding the application date, whether initiated by the FBOT, a regulatory or self-regulatory agency or other government or prosecutorial agency. For each such action, proceeding or case, describing the alleged manipulative activity and the current status or resolution thereof.

As described above, all Eurex products currently offered to US customers have met and continue to meet the criteria established by the CFTC with respect to levels of susceptibility to manipulation.

Although German privacy laws applying to exchanges (Section 10 of the German Stock Exchange Act) have a specific exemption for the sharing of information among regulators, and Eurex routinely cooperates in such efforts, Eurex believes it is precluded from supplying the requested information in the context of its foreign board of trade application as according to Section 7 of the German Securities Trading Act the sole competence to share information with foreign regulators rests with Bafin.

Therefore, Eurex would prefer to offer the requested information, through the auspices of Bafin. In that context, Eurex is willing and able to provide the requested information.