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Chicago Board of Trade

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Bernard W. Dan
President and
Chief Executive Officer

COMMENT

September 7, 2004

Ms. Jean Webb
Secretariat
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, D.C. 20581

Re: Proposed Rules for Confidential Information and Commission Records and Information
69 F.R. 44981 (July 28, 2004)

Dear Ms. Webb:

The Board of Trade of the City of Chicago, Inc. ("CBOT®" or "Exchange") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission") proposal to revise its rules governing the handling of confidential information and Commission records and information.

A portion of the proposed rulemaking would expand Rule 40.8 to provide guidance to applicants and the public about the availability of materials relating to applications for status as a designated contract market (DCM), a derivatives clearing organization (DCO) or a derivatives transaction execution facility (DTEF). In the proposed rulemaking, the Commission states that the following documents in relation to such applications will be released: transmittal letter, proposed rules, regulatory compliance chart, documents establishing the applicant's legal status and documents setting forth the applicant's governance structure. The Commission notes that release of these documents has consistently been determined not to cause any competitive harm to the applicant.

The CBOT agrees that the documents listed above should be made public and that doing so does not cause competitive harm to applicants. Further, the CBOT supports the comments of the Chicago Mercantile Exchange, Inc. ("CME") that additional documents should regularly be made public. As CME notes, documents detailing important operational and structural features of the proposed exchange, as well as documents detailing plans that could adversely impact market integrity, should be released so that the public may provide meaningful comment on them. In particular, the CBOT agrees with CME that documentation of applicants' plans to offer payment for order flow, or other incentives that could encourage wash trading or compromise the fiduciary responsibilities of intermediaries, should be made public. In addition, the CBOT agrees with the CME that documentation of outsourcing arrangements on which the applicant intends to rely should be made public. Those agreements are critical to the applicant's ability to carry out its obligations, can have implications for the industry beyond a single marketplace, and should be part of the public record.

Further, the CBOT believes that plans to allow or encourage trading off the centralized market should be made available to the public. Such plans can gravely threaten the operation of open, competitive and efficient markets and can jeopardize transparency and integrity of markets. Often, such plans have the capacity to impact multiple market centers, and at times, the entire

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futures industry. As such, it is appropriate to allow the public the opportunity to evaluate and comment on those plans.

The CBOT commends the Commission's efforts to update its rules on these matters to ensure transparency in the application process. The CBOT believes that expanding the scope of material made public to include those items described above as well as those in the CME's comments would benefit industry participants and the public at large in evaluating and offering comment on applications for CFTC-recognized markets and clearinghouses.

The CBOT appreciates the opportunity to comment on the proposed rules. If you have any questions regarding these comments, or wish to discuss this matter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Bernard W. Dan". The signature is written in a cursive style with a large, stylized "D" at the end.

Bernard W. Dan