Requests to Appear

Commodity Futures Trading Commission

Public Hearing

June 27, 2006

Chicago Board of Trade

141 W. Jackson Blvd.
Chicago, Illinois 60604-2994
TEL: 312 435 3500
FAX: 312 341 3027

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Chairman
Commission
DMO
OIA
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OS
C. Kim
Cooper

June 12, 2006

Ms. Eileen Donovan
Acting Secretariat
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Hearing -"What Constitutes a Board of Trade Located Outside of the United States"

Dear Ms. Donovan:

As President and CEO of the Board of Trade of the City of Chicago, Inc. ("CBOT"), I hereby request the opportunity to appear at the hearing on what constitutes a board of trade located outside of the United States to be held by the Commodity Futures Trading Commission on June 27, 2006.

As a major global futures exchange, the CBOT both competes with and has complementary relationships with other exchanges here in the U.S. and abroad. As such, we are keenly interested in how exchanges and other trading platforms are regulated in this country and in other jurisdictions. The CBOT commends the Commission for continuing to analyze the appropriate regulation of domestic and foreign trading facilities, especially in light of the many and varied cross-border business initiatives that exist today and the overall globalization of the marketplace. The CBOT believes that efforts to identify and manage potential regulatory disparities, and to foster cross-jurisdictional regulatory coordination, are important components of ensuring fair competition and continued growth in this rapidly changing environment.

As always, the CBOT appreciates the opportunity to participate in the dialogue on issues of importance to our industry.

Sincerely,

Bernard W. Dan

via email: Chairman
Commissioners
Van Wagner
Andrison
Mesa
Rosenfeld

Chicago Mercantile
Exchange Holdings Inc.

Kathleen M. Cronin, Esq.
Managing Director, General Counsel
& Corporate Secretary
312/930-3488
FAX: 312 /930-4556
kcronin@cme.com

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June 9, 2006

Via Electronic Transmission

Commodity Futures Trading Commission
Attn: Office of the Secretariat
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Re: Hearing on What Constitutes a Board of Trade Located Outside of the United States

To Whom it May Concern:

The Chicago Mercantile Exchange, by Kathleen Cronin, Managing Director, General Counsel and Corporate Secretary, requests the opportunity to appear at the Commission's June 27, 2006, public hearing on the issue of what constitutes a "board of trade, exchange, or market located outside the United States" as that phrase is used in Section 4(a) of the Commodity Exchange Act. We understand that the broader, underlying question is how to allocate and/or manage regulatory jurisdiction in an era in which exchanges and clearing houses can manage their choice of domicile and in which cross-border trading and clearing proliferates.

CME has been the industry innovator, both in developing new products, new systems and new trading opportunities. In 1984, after more than a year of planning and negotiation, the CFTC approved CME's mutual offset system for clearing with the Singapore International Monetary Exchange. In order to overcome the temporal limits of pit based trading systems, CME invented a system that permitted trading to move to the logical time zone as the clock ticked while preserving the ability to offset positions regardless of which exchange was the site of the trade. The CME/SIMEX linkage is still in place. CME also developed cross access trading to permit its members and the members of MATIF access to each others products trading on CME's Globex system.

CME has invested very substantial time, money and effort to offer its products to foreign customers. It has invested millions of dollars to secure permission to place and operate its trading screens in other jurisdictions. It has been subjected to long delays and/or exclusions at the behest of local markets that feared competition.

CME has long been active in the public discussion regarding the appropriate role of Congress and the Commission in an age of international electronic exchanges that are essentially portable and able to choose their regulator. Twelve years ago, when exchanges were real-estate-bound aggregations of market makers, the coincidence of the natural business day with the logical trading day for local products created a strong home court advantage. U.S. Treasury

Bonds were going to be traded on a U.S. time zone exchange. Competition might come from the over-the-counter market, but foreign exchanges had no chance at the U.S. product base. Cheap communications, dispersal of market makers and replacement of skilled brokers with simple algorithms ended the local monopoly and inspired international competition.

The dominance of U.S. futures exchanges has ended. A great deal of ground was lost before the Commodity Futures Modernization Act. While the playing field has been significantly leveled, the ability of U.S. based exchanges to compete with markets governed by other regulators is still strongly influenced by discrepancies between the U.S. regulatory policy applied to U.S. exchanges and the policy of the local regulator of the foreign exchange, to the extent that it is not tempered to accommodate more rigorous U.S. policy considerations.

Then Acting CFTC Chairman, James E. Newsome, anticipated the question that will be considered at this public hearing in his remarks, "The Challenge of Cross-Border Markets: Strengthening Regulatory Cooperation," Before the European Financial Markets Convention Panel Discussion on Transatlantic Relations, on June 15, 2001, in Paris, France. Chairman Newsome described "the evolution of the CFTC's regulatory response to the increase in cross-border business" and the agency's understanding that Congress established the CFTC in 1974 "as an independent regulator for futures markets and related intermediaries, at least partly in response to perceived global developments in the grain futures and gold options markets and to the emergence of futures markets in world commodities, such as cocoa, coffee, and foreign currency. From the outset, therefore, the CFTC's powers reflected that futures trading was a global business."

Chairman Newsome clearly explained the CFTC's position: "The CFTC, while ceding no jurisdiction over cross-border transactions and arrangements, has concluded, therefore, that to be effective, oversight arrangements must be founded on cooperation with other regulatory authorities." He recognized that: "In adopting the CFMA, Congress explicitly recognized the importance of global cooperation by adopting a sense of Congress provision that made clear that the CFTC was to continue its cooperative efforts with foreign authorities and its participation in international organizations to encourage, among other things, the facilitation of cross-border transactions through the removal or lessening of any unnecessary legal or practical obstacles, the development of internationally accepted standards of best practice, and the enhancement of international supervisory cooperation."

On January 17, 2006, Chairman Reuben Jeffery, III, delivered an address, "Global Derivatives Markets: Challenges for Regulators and Exchanges," to the Futures Industry Association, Japan Chapter in Tokyo, Japan. He shared the "CFTC's perspectives on expansion of global markets and some of the Agency's thinking behind its policies towards cross-border initiatives." He first reemphasized that: "From its earliest years, the CFTC has advocated a measured and innovative approach to cross-border initiatives. This forward-leaning policy is based on the notion that globalization is inevitable and has great potential to enhance market depth and competition." He went on to describe the elements that shape CFTC policies with "respect to cross-border initiatives" the regulatory complexities added by cross-border activities and the implications for disturbing the level playing field. He sounded the theme that: "Globalization demands that international regulators take a cooperative and creative approach to achieving market integrity and customer protection. Cross-border competition and innovation are

unnecessarily stifled and the global market cannot grow if jurisdictions impose redundant or inconsistent regulatory burdens."

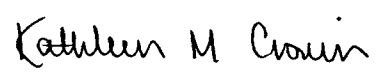
Some foreign regulators have quickly and accurately balanced legitimate business needs against the obligation to provide customer and market protection. Clever foreign regulators crafted their tax and regulatory policies to capture business. In London, recognition of the realities of international business flows combined with a "benign political attitude permits an accommodating tax and regulatory framework and a relatively predictable and sensible legal system." Some regulators may have moved the balance slightly in favor of business needs to the detriment of market integrity. There would be no issue here if world-wide regulation was equivalent in all material respects. It is not.

CME disfavors policies that merely protect local exchanges from foreign competition. CME generally favors a market based solution that permits market users to find the right market with the appropriate mix of protection and freedom. It is not yet clear, however, that unfettered application of this principle is consistent with the CFTC's obligations under the CEA.

There are enough legitimate competing interests around this issue to defeat a simple solution. CME's principal focus is on opening foreign markets and it is opposed to any action that would provoke even greater levels of protectionism abroad. We understand and share the Commission's concern that futures exchanges, with a substantial U.S. customer based, may register in regulatory havens to gain an advantage over their competitors and minimize or eliminate CFTC oversight. If a flight to regulatory havens is unchecked, many of the market protections (anti-manipulation and customer protection) and market benefits (price discovery) that the CFTC is supposed to provide may be negated.

CME believes, based on its experience and interest, that it can play a useful role at the public hearing.

Very truly yours,



Kathleen M. Cronin
Managing Director, General Counsel and
Corporate Secretary

via email: Commissioners
Chairman
Cooper
Mia
C. Kim
Van Wagner
Andersen
OS
Rosenfeld

Futures Industry Association
2001 Pennsylvania Ave. NW
Suite 600
Washington, DC 20006-1823

202.466.5460
202.296.3184 fax
www.futuresindustry.org

June 8, 2006

RECEIVED
C.F.T.C.
2006 JUN -8 PM 2:33
OFC. OF THE SECRETARIAT

Ms. Eileen A. Donovan
Acting Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street N.W.
Washington, DC 20581

Re: What Constitutes a Board of Trade Located Outside of the United States

Dear Ms. Donovan:

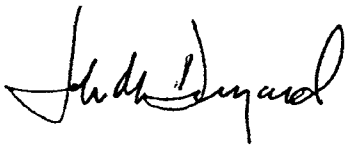
The Futures Industry Association requests that FIA Chairman Richard Berliand, appear before the Commission on the issue of "what constitutes a board of trade located outside of the United States under section 4(a) of the CEA. We understand the hearing is to be held at the CFTC at 9:00 AM on June 27, 2006.

FIA is a principal spokesman for the commodity futures and options industry. Our regular membership is comprised of approximately 40 of the largest futures commission merchants ("FCMs") in the United States. Among our approximately 150 associate members are representatives of virtually all other segments of the futures industry, both national and international, including US and international exchanges, banks, legal and accounting firms, introducing brokers, commodity trading advisors, commodity pool operators and other market participants, and information and equipment providers.

The FIA has filed extensive comments on the previous CFTC requests for comment on issues involving CFTC regulation of automated order routing systems, the placement of foreign terminals in the United States, US customers access to international markets, and competition issues between exchanges and between marketplaces. FIA estimates that our members affect more than 90 percent of all customer transactions executed on US contract markets. In addition, we believe our FCM firms and their affiliates overseas, through the use of order routing systems

and through access to foreign exchange terminals, are responsible for a majority of US customers trading on non-US exchanges. Therefore, we respectfully request that Mr. Berliand, Managing Director- Futures and Options, JP Morgan Securities Ltd., be permitted to appear at the hearing on behalf of the FIA.

Sincerely,



John M. Damgard
President

Cc: David Van Wagner, Chief Counsel, Division of Market Oversight
Duane Andresen, Special Counsel, Division of Market Oversight

JPMorgan

RICHARD BERLIAND

Managing Director - Futures & Options and Prime Brokerage

Educational Qualifications

- M.A. (Cantab) - Downing College, Cambridge - Law

Professional Experience

- 1984 – 1987 – Pacol Limited, London UK
  - Soft commodities trader between 1984 and 1986. Ran Pacol's LIFFE Floor team between 1986 and 1987
- 1987 to present – J.P. Morgan & Co Inc. (J.P. Morgan Chase & Co from 2001)
  - *1987 to 1991 – J.P. Morgan Futures Inc., London*

    Sales person and subsequently sales manager of JPMorgan's Futures & Options brokerage business in London covering both front office and clearing sales
  - *1991 to 1994 – J.P. Morgan Futures Inc., New York*

    Sales manager of JPMorgan's Futures & Options brokerage business in New York and subsequently joint head of the North American business
  - *1994 to 1995 – J.P. Morgan Securities Inc., San Francisco, California*

    Regional branch manager for JPMorgan's Fixed Income business in the Western United States
  - *1995 to 2001 – J.P. Morgan Securities Ltd., London*

    European head of JPMorgan's Futures & Options business covering Fixed Income, Equity and Commodity products. Also, from 1999 to 2001, responsible for European distribution of OTC flow interest rate products (e.g. Government Bonds, Debt Options, etc) and for JPMorgan's global e-distribution marketing
  - *2001 to present – J.P. Morgan Securities Ltd., London/New York*

    2001, responsible for JPMorgan's Futures & Options business

    December 2003, responsible for JPMorgan's Prime Brokerage business

    April 2006, responsible for JPMorgan's Cash Equities business

JPMorgan Directorships

- J.P. Morgan Securities Ltd: November 2001 to present
- J.P. Morgan Futures Inc.: August 2001 to present

Non Executive External Directorships

- Futures Industry Association, Inc.: October 2001 to present
  (Director since October 2001, Chairman since March 2006)
- Deutsche Börse AG: September 2005 to present
- Brambletye School Trust Ltd: June 1999 – present
  (Chairman of the Executive Committee since June 2005)

Past External Directorships

- LIFFE (Holdings) plc: May 1997 to October 2003
- The London Commodity Exchange (1986) Ltd: May 1997 to September 2001
- The London Clearing House Limited: June 1999 to December 2003
- BondClick Ltd: June 2000 to April 2001
- LIFFE Trustees Ltd: September 2001 to September 2002
- National Futures Association: November 2003 to June 2004
- LIFFE Administration and Management: 1997 to October 2005

Updated: March 2006

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OFC. OF THE SECRETARIAT

To whom it may concern

I am writing on behalf of the Futures and Options Association (FOA), which is a European industry association with over 170 international members including investment banks, brokerage houses, commodity trade houses, oil and energy companies, exchanges, clearing houses and professional service providers engaged in supporting the carrying on of exchange-traded and derivatives business, to notify the CFTC of our wish to testify at the forthcoming public hearing on the issue of what constitutes a 'Board of Trade, Exchange or Market Located Outside the United States'.

The CFTC has indicated that any individual or organisation wishing to appear before it on this issue should provide certain key information and that is set out in the attached Memorandum.

The CFTC has also indicated that its objective in holding the proposed public hearing is to provide it with an opportunity to hear the 'diverse views of various interested or potentially affected parties as it moves forward in the formal process of defining what constitutes a board of traded located outside the United Sates under Section 4(A) of the CEA'. The FOA believes that, as the only European industry association dedicated to representing the interests of a broad cross-section of market participants (and exchanges) engaged in the carrying on of business (or facilitating trading) in exchange traded futures and options, it is well placed to contribute to the Commission's objective in holding this hearing.

In the circumstances and pursuant to the attached summary of our views, we hope that the CFTC will afford the FOA with an opportunity to testify at the forthcoming public hearing.

Yours sincerely

Anthony Belchambers

Chief Executive

Futures and Options Association

PS We realise that we are submitting this slightly later than the June 12 deadline but were given permission to do this by Bruce Fekrat. This allows for the time difference between the UK/US.

2 attachments

<<Memo CFTC 120606 v2.doc>> <<Annex A.pdf>>

International Derivatives Week 2006
FIA/FOA @ the QEII

Wednesday 21 June and Thursday 22 June 2006

For Programme details and to register please visit www.futuresindustry.org/london or www.foa.co.uk

If you do not wish to receive electronic communications from the FOA in future, please email our database administrator (briggsf@foa.co.uk) with the word "REMOVE" in the subject field.

The Futures and Options Association

CFTC HEARING ON FOREIGN BOARDS OF TRADE

Memorandum of Information

12 June 2006

Applicant Organisation

The Futures and Options Association (FOA) is the industry association for 160 international firms and institutions which engage in the carrying on of derivatives business, particularly in relation to exchange-traded transactions, and whose membership includes banks, brokerage houses and other financial institutions, commodity trade houses, power and energy companies, exchanges and clearing houses, as well as a number of firms and organisations supplying services into the futures and options sector.

For further information, please see Annex A which comprises a short introductory flyer. Additional information, including our Report on Activities, can be found on our website, www.foa.co.uk.

Applicant Witness

The FOA proposes that its Chief Executive Officer, Anthony Belchambers, whose details are set out below, would serve as its representative for the purpose of giving evidence at the proposed public hearing.

Anthony Belchambers is a barrister and currently Chief Executive of the FOA. Previously he served as General Counsel for the UK Joint Exchanges Committee (JEC) where his responsibilities included co-ordinating exchange activities and lobbying on behalf of the London-based derivatives markets in relation to international, EU and UK regulation and taxation issues. Prior to joining the JEC, he held the position of Company Secretary and General Counsel to the Association of Futures Brokers and Dealers (AFBD), where he played a major role in securing the licensing of the first UK regulatory authority to cover derivatives and drafting the UK regulations for derivatives.

He is also Chair of MiFID Connect, a member of the Court of the Guild of International Bankers (GIB) and a co-founder, in their original forms, of both the Alternative Investment Management Association (AIMA) and the European Parliamentary Financial Services Forum (EPFSF). He initiated the establishment of the UK Parliament's Associate Parliamentary Group on Wholesale Financial Markets and Services and the EU/US Coalition on Financial Services.

Summary of Statement by the Futures and Options Association

1. The Futures and Options Association (FOA) recognises the critical importance of Boards of Trade, Exchanges and Markets engaged in facilitating the trading of futures, options and other derivatives being licensed and regulated according to internationally accepted standards in order to meet the public good need for market integrity, high standards in governance, effective management of conflicts of interest and fair and open trading practices and procedures. It is the primacy of the need to fulfil these standards that governs the submission of the FOA.

2. United States regulation of derivatives Boards of Trade and Exchanges is the responsibility of the Commodity Futures Trading Commission (CFTC), pursuant to the Commodity Exchange Act (CEA) and the Commodity Futures Modernisation Act (CFMA) on the basis of core principles, which take into account the nature and risk of the market, the products traded on it and the types of market participant engaged in trading them.

3. The FOA is strongly supportive of the current policy of the CFTC, which enables a Foreign Board of Trade (FBOT) to make its products available for trading in the US by permitting direct access to its electronic trading system from the US (direct access) through the use of terminal placement no-action letters. Such letters are conditional upon the provision of certain critical information by the FBOT regarding its membership criteria, its automated trading and order-matching systems, its settlement and clearing arrangements, the applicable regulatory regime and on the range and extent of information-sharing agreements in force that cover its market; and on continued compliance with any conditions that may be attached to the letter.

4. The FOA believes the terminal placement no-action letters have worked well (with no evidence of any consequential market failure), is consistent with the evolution of an increasingly international marketplace and has worked to the general good of market participants and their customers in the US and elsewhere.

5. Following the successful launching by ICE Futures of its cash-settled WTI futures contract on 3rd February – which is founded on a product traded principally in the US and priced off a NYMEX settlement price – the CFTC now wishes to determine the criteria by which a FBOT which makes its products available for trading in the US via a terminal placement no-action letter should be treated as not being 'located outside the US'.

6. The FOA believes that this review poses two questions, namely:

   (a) Are there appropriate (and measurable/workable) criteria by which a FBOT may be deemed to be no longer 'located outside the US'?;

   (b) If it is deemed to be 'located' inside the US, is it regulated by its natural home state authority to a standard which would be sufficient for the purposes of unilateral or mutual regulatory recognition and, if not, would any perceived essential deficiency be capable of being cured by a more comprehensive information-sharing arrangement or by the mandated or voluntary observance of 'top up' requirements – avoiding the damaging introduction of burdensome and costly additional tiers of regulation (see para 9).

7. With reference to paragraph 6(b) above, it is a critical part of the submission of the FOA that, where the rules and guidance which govern the licensing and regulation of Boards of Trade and Exchanges located outside the US by their licensing authorities conform to internationally accepted standards and, even though not necessarily being the same as those prevailing in the US, are comparable in terms of overall output (and are supported by comprehensive Memoranda of Understanding), mutual recognition should prevail for the purpose of avoiding unnecessary regulatory duplication and conflict.

8. In terms of defining the location of a Board of Trade, Exchange or Market the primary purpose must be to determine its natural home state regulatory authority. A parallel but secondary purpose is then whether it has a sufficiently extensive commercial 'reach' into another jurisdiction that would justify the exercise of further due diligence (along the lines indicated in para 6(b)) by another regulatory authority. For this purpose, the primary tests for determining the natural home state regulatory authority would be the location of the relevant Market's headquarters, the location of its core 'business practise' and the location of the corporate 'mind' of the Market.

   Secondary factors might include the location of 'screens' but should not include the outsourcing of administration or process functions or the location of servers, which are designed to sustain the Market's international competitiveness.

9. In its Request for Comment, the CFTC in Section II, the CFTC states that the *"Commission recognises that cross-border trading is a growing segment of the trading volume for all futures exchanges, both foreign and domestic. Accordingly, in formulating its regulatory approach the Commission will strive to ensure that that it neither inhibits cross-border trading nor imposes unnecessary regulatory burdens".* It states further, on page 14 that it *"would seek to avoid any measures"* that have these consequences. The FOA wholly supports these laudable objectives and believe that they should govern the CFTC's approach when determining whether or not an FBOT should be deemed to be a US market.

10. For the reasons set out below, the FOA does not believe that such criteria as source of trade volume/location of users, the nature of an exchange contract or the use of electronic order routing systems are appropriate (or even workable) for the purpose of defining the location of an exchange.

11. The CFTC questions whether the US location of the users of an FBOT or trade volume that is sourced from within the US is relevant in assessing whether a Board of Trade's contacts in the US are so extensive that the FBOT should be required to be registered as a DCM. At the same time, the CFTC recognises that in a globalised market place, increasing numbers of exchanges will be looking to internationalise the spread of contracts that may be traded on their market and that, inevitably, will generate significant business flows from outside the immediate jurisdiction of the exchange.

    For example, EUREX Frankfurt AG is, without doubt, a German licensed and regulated market, yet a major proportion of its volume is generated out of the UK, albeit by international investment banks and proprietary traders (some of which may originate from the US). It is not suggested that it should therefore become a UK Recognised Investment Exchange (RIE). Euronext.liffe, for its part, has a broad spread of international contracts and, as the CFTC will know, at one point, was the leading exchange for the trading of German Bunds and enjoyed significant consequential volume sourced out of

Germany, yet it was not suggested that it should become a German licensed exchange.

Indeed, trading volume of most of the major exchanges originates from a large number of jurisdictions generated largely by the increasingly international rights of trading access (not dependent on location) afforded by exchanges. Aside from internationalising business flows, it is anticipated that the US, because of the sheer size of its economy, will be sourcing large amounts of liquidity volume across a broad cross-section of exchanges around the world. The FOA does not believe therefore that trading volume is an appropriate or even a workable measure in a globalised international market place for determining the location of an exchange for regulatory purposes, particularly since the source of that volume will vary from year to year (for example, driven by national economic pressures/priorities).

12. The CFTC also questions whether or not the nature of an exchange contract should be used as a criterion for determining whether or not an FBOT should be deemed to be located in the US (i.e. where it has a significant economic effect in the US). The listing of such contracts may justify additional "top up" information disclosure requirements and additional due diligence on whether the home state regulatory authority has adequate powers to take action in relation to those contracts, but the FOA does not believe that it is an appropriate test for determining the "location" of an exchange.

    The FOA would reiterate its view that in a globalised trading environment where exchanges are competing for volume and liquidity, the larger markets will inevitably list contracts, which have an economic impact in countries outside the jurisdiction of the exchange. In the case of specially designed contracts with multi-jurisdictional impact or where an exchange lists several contracts, each of which may have an economic impact in another jurisdiction, regulatory reliance on the nature of those contracts for determining the issue of "location" will generate the unworkable consequence of multi-jurisdictional regulation (in whole or in part) of a significant number of exchanges around the world (including in the US) and, through those exchanges, their market participants.

13. The CFTC also poses the question as to exactly what is meant by providing direct access to an electronic trading system from the US. The FOA believes that, while the location of trading screens of FBOTs in the US have sometimes been traditionally regarded as 'extending the trading floor' into another jurisdiction, orders transmitted via electronic order routing systems from the US to firms located outside the US for entry into the trading system of a FBOT, while it may be 'US generated volume', is not the consequence of the FBOT extending its 'location' into the US. The use of electronic order routing systems is merely an electronic alternative to the transmission of orders by telephone.

14. As an aside, the FOA would also emphasise that it does not believe that it is appropriate to use ownership as a criterion for determining the location of an exchange. This would not only be an unworkable rule, but it would seriously inhibit cross-border corporate activity, particularly by US enterprises.

15. As the CFTC will be aware, the FOA initiated the establishment of the EU/US Coalition on Financial Regulation to encourage the regulatory authorities to take all reasonable steps to avoid unnecessary regulatory duplication or conflict as regards the carrying on of cross-border transatlantic business. The FOA is concerned that the CFTC may, in using any of the suggested criteria

(referred to above) for asserting that a non-US located market has a location in the US:

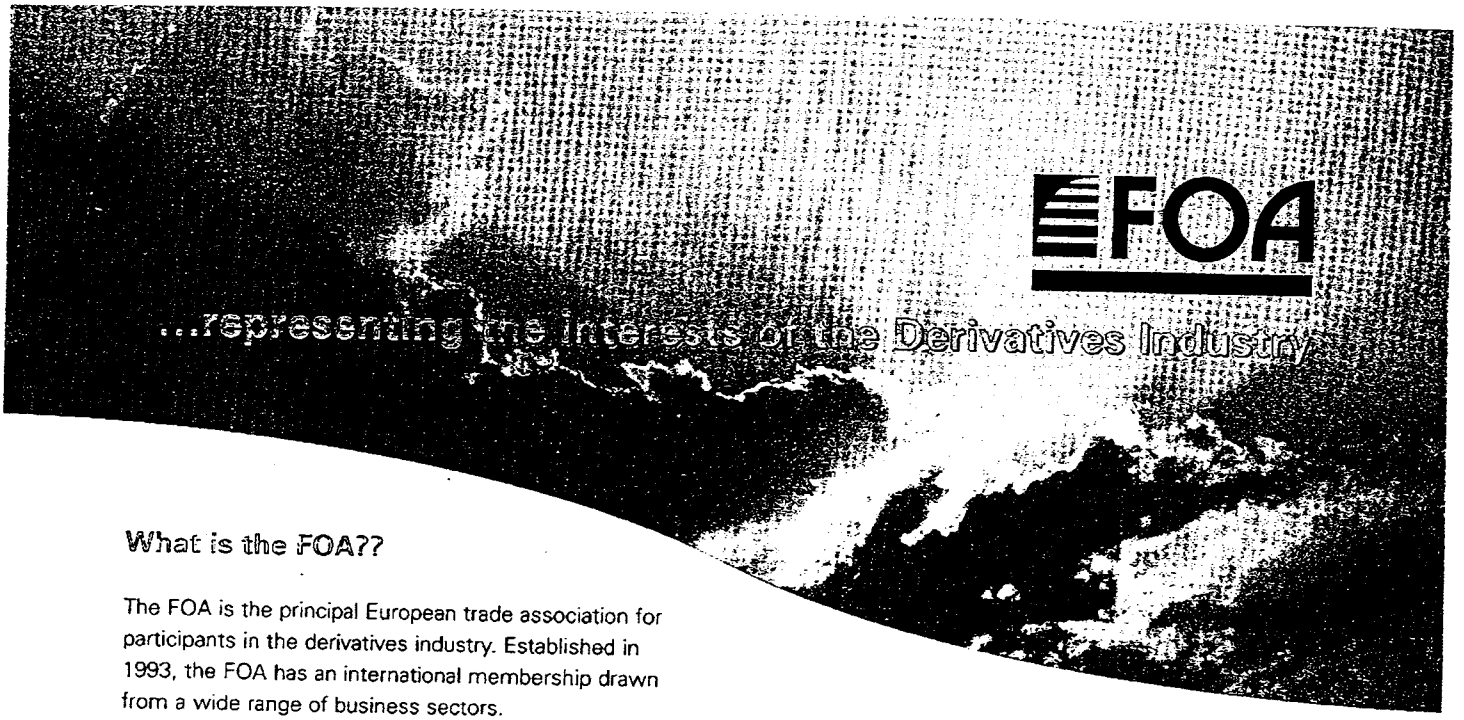
- impair the ability of exchanges to compete with each other to the benefit of their users and customers by facilitating the trading of international or non-domestic contracts;

- by introducing regulatory duplication/conflict, exacerbate legal and regulatory uncertainty and/or increase trading costs unnecessarily to the disadvantage of market intermediaries and their customers;

- obstruct the ability of market operators in the US to expand their operations outside the US because of non-US concerns that market acquisitions by US operators will bring in train duplicative or conflicting regulation and impair the prospect of establishing an efficiently regulated market because of its transatlantic involvement;

- generate a comparable interpretation in the EU, which will "mirror" the criterion adopted by the CFTC and which will impair therefore the ability of US exchanges to internationalise their own markets and facilitate trading in non-domestic contracts.

16. In keeping with the indications set out in CFTC release #5184-06, the FOA has restricted its observations for the purpose of fulfilling the CFTC mandate for respondents to provide only 'a brief summary or abstract' of the respondent's case. The FOA confirms, however, its intention to provide a much more detailed statement of evidence in due course and hopes that it will have the opportunity of appearing at the proposed public hearing through its Chief Executive Officer to enlarge upon the points set out in their memorandum.



What is the FOA??

The FOA is the principal European trade association for participants in the derivatives industry. Established in 1993, the FOA has an international membership drawn from a wide range of business sectors.

Who does the FOA represent??

The FOA's core international membership includes banks, brokers, fund managers, energy and power market participants, spread betters, commodity trading companies, exchanges and clearing houses. The FOA is also supported through the membership of accountancy and consultancy firms, lawyers and system vendors that service the derivatives industry.

What does the FOA do??

- Lobbies regulators and government bodies to improve the regulatory and tax environment for firms in the derivatives sector.
- Develops guidelines to help firms navigate their way successfully through their regulatory obligations.
- Provides standard industry documentation to help firms reduce costs.
- Offers a comprehensive series of complimentary forums that focus on Clearing & Settlement, Compliance, Energy, Power Trading and Prudential Regulation and Risk.
- Offers FOA members a confidential 'helpline' offering advice on regulatory matters.
- Provides a free subscription to the FOA technical journal, discounts on training, publications and other services.
- Raises parliamentary awareness and understanding of the derivatives business via a programme of briefings. The FOA is a founder member of the European Parliamentary Financial Services Forum and in the UK acts as the Secretariat to the Associate Parliamentary Group on Wholesale Financial Markets and Services.

What are the benefits of membership??

- Ability to influence legislative and regulatory change via Board, Committees and Working Party representation.
- Access to the latest industry information via the combination of FOA forums, specialist workshops, conferences, regulatory papers and publications.
- Opportunities to discuss and address business and industry issues through liaison with your counterparts in other firms.
- Allows you to keep up with industry good practice and hence match the business standards of your peers.
- Helps to reduce firms' business overheads through the delivery of pooled-cost projects.

How much is an annual membership subscription??

- Clearing firms – between £7,000 and £29,000 depending upon the volume cleared.
- Non-clearing firms – £7,000.
- Firms providing support services to the derivatives industry – £2,000.

How do I find out more information??

Address:	The FOA 2nd Floor 36-38 Botolph Lane London EC3R 8DE
Telephone:	+44 (0)20 7929 0081
Fax:	+44 (0)20 7621 0223
FOA website:	www.foa.co.uk

** *See overleaf for the 'Who's Who of the FOA membership'* **

FOA MEMBERSHIP

FINANCIAL INSTITUTIONS

Abbey Financial Markets
ABN AMRO Futures Limited
ADM Investor Services International Ltd
AMT Futures Limited
Bache Financial Limited
Banc of America Futures, Incorporated
Banca Caboto s.p.a London Branch
Banca d'Intermediazione Mobiliare IMI SpA
Barclays Capital
Bear, Stearns International Limited
Berkeley Futures Ltd
BGC International
BNP Paribas Commodity Futures Limited
Calyon Financial SNC
Citigroup
City Index Limited
CMC Group Plc
Commerzbank AG
Credit Suisse Securities (Europe) Limited
Cube Financial Limited
Daiwa Securities SMBC Europe Limited
Deutsche Bank AG
Dresdner Kleinwort Wasserstein
FIMAT International Banque SA, UK Branch
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GFI Securities Limited
Global Trader Europe Ltd
Goldman Sachs International
Halewood International Futures Limited
HBOS Treasury Services Plc
HSBC Bank Plc
ICAP Securities Limited
IFX Markets Ltd
IG Group Holdings Plc
JP Morgan Securities Ltd
Lehman Brothers International (Europe)
Liquid Capital Markets Ltd
Macquarie Bank Limited
Mako Global Derivatives Limited
Man Financial Ltd
Marex Financial Limited
Merrill Lynch Pierce Fenner & Smith (B&D) Limited
Mitsubishi UFL Securities International Plc
Mizuho Securities USA, Inc London
Monument Securities Limited
Morgan Stanley & Co International Limited
Nomura International Plc
ODL Securities Limited
Rabobank International
RBS Greenwich Futures
S E B Futures
SG London
Standard Bank Plc
Starmark Trading Limited
The Bank of Nova Scotia
The Kyte Group Limited
Tullett Liberty (Securities) Ltd
UBS Limited
Wachovia Securities International Limited
WestLB AG

EXCHANGE/CLEARING HOUSES

APX Group
Chicago Board of Trade
Chicago Mercantile Exchange
Dalian Commodity Exchange
EDX London
Eurex Frankfurt AG
Euronext.liffe
FINEX Europe
ICE Futures
LCH.Clearnet Group
MEFF RV
NYMEX Europe Limited
Powernext SA
RTS Stock Exchange
Shanghai Futures Exchange
Singapore Exchange Limited
The London Metal Exchange
The South African Futures Exchange
The Tokyo Commodity Exchange
The Tokyo Grain Exchange

SPECIALIST COMMODITY HOUSES

Amalgamated Metal Trading Ltd
ED & F Man Commodity Advisers Limited
Engelhard International Limited
Glencore Commodities Ltd
Koch Metals Trading Ltd
Manro Haydan Group
Metdist Trading Limited
Mitsui Bussan Commodities Limited
Natexis Commdity Markets Limited
Phibro GMBH
Sempra Metals Limited
Sucden (UK) Ltd
Toyota Tsusho Metals Ltd
Triland Metals Ltd
TRX Futures Ltd

ENERGY COMPANIES

Accord Energy Ltd
Atel Trading AG
BP Oil International Ltd
British Energy Power and Energy Trading Limited
British Nuclear Group
ChevronTexaco
ConocoPhillips Limited
E.ON U.K
EDF Energy
EDF Energy Merchants Ltd
Energy Data Company Ltd
Gaselys
International Power plc
Merrill Lynch Commodities (Europe) Limited
National Grid Electricity Transmission Plc
RWE Trading GMBH
Scottish Power Energy Trading Ltd
Shell International Trading & Shipping Co Ltd
SmartestEnergy Limited
Statoil (U.K.) Limited

FUND MANAGERS

Close Fund Management
M & G Investment Management Ltd

PROFESSIONAL SERVICE COMPANIES

Ashurst
Baker & McKenzie
Barlow Lyde & Gilbert
BDO Stoy Hayward
BPP Professional Education
Cass Business School
Clifford Chance
Clyde & Co
CMS Cameron McKenna
Complinet
Deloitte
Denton Wilde Sapte
Dewey Ballantine
DLA Piper Rudnick Gray Cary UK LLP
EDS
Ernst and Young LLP
Eukleia Training Limited
Exchange Consulting Group Ltd
Exchange Systems Technology Ltd
FfastFill
Field Fisher Waterhouse
FOW Ltd
Freshfields Bruckhaus Deringer
Henry Davis York
Hunton & Williams LLP
International Capital Market Association
JLT Risk Solutions Ltd
Katten Muchin Rosenman Cornish LLP
KPMG
Landwell
Linklaters
Morgan Lewis & Bockius LLP
Mpac Consultancy LLP
Norton Rose
Patsystems (UK) Ltd
Pekin & Pekin
Rolfe & Nolan Plc
Rostron Parry Ltd
Shearman & Sterling (London) LLP
Simmons & Simmons
SJ Berwin & Company
Stephenson Harwood
SunGard Futures Systems
Taylor Wessing
Travers Smith Braithwaite
Ubitrade - GL TRADE Group
Wilmer Cutler Pickering Hale and Dorr LLP
Wragge & Co

Chairman
Commission
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OFC. OF THE SECRETARIAT

ICE

Atlanta Chicago Houston London New York Singapore

June 8th, 2006

Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581
Attention: Office of the Secretariat

Re: Public Hearing on June 27, 2006/
<u>What Constitutes a Board of Trade Located Outside the United States</u>

To the Commodity Futures Trading Commission:

Pursuant to Release No. 5184-06, dated May 26, 2006, ICE Futures hereby notifies the Commodity Futures Trading Commission (the "Commission") that Sir Bob Reid, Chairman of ICE Futures wishes to appear before the Commission at the public hearing scheduled for June 27, 2006 on the issue of what constitutes "a board of trade, exchange, or market located outside the United States." ICE Futures is a Recognised Investment Exchange subject, following the introduction of the United Kingdom Financial Services Act 1986, to the jurisdiction of the United Kingdom Securities and Investments Board ("SIB") and its successor the Financial Services Authority ("FSA"), and offers market participants a variety of energy futures and options contracts. Contracts listed on ICE Futures may be traded electronically from within the United States pursuant to no-action relief granted to ICE Futures by the Commission's staff. ICE Futures therefore has a strong interest in the subject matter of the Commission's public hearing and is qualified to address this issue on the basis of its experience and current business activities. Sir Bob Reid will, among other things, state ICE Futures' position that it is an exchange located outside the United States by virtue of (i) the location of its principal place of business, and (ii) the fact that ICE Futures is subject to a comprehensive regulatory scheme overseen and administered by its home-country regulator the FSA, which the Commission has determined to be comparable to the Commission's regulatory scheme. In addition, Sir Bob will explain the manner in which ICE Futures is regulated, the protections afforded to United States persons trading on ICE Futures, and the existing extent of the Commission's jurisdiction over ICE Futures. Sir Bob will also address the manner in which ICE Futures provides information for the benefit of the Commission and the continuing appropriateness of the no-action relief. Sir Bob will be accompanied at the hearing by David Peniket, President and Chief Operating Officer of ICE Futures.

ICE Futures looks forward to the opportunity to appear before the Commission at its public hearing.

Sincerely,

David J. Peniket
President & Chief Operating Officer

ICE Futures, Recognised Investment Exchange
under the Financial Services & Markets Act 2000
Registered in England No. 1328617

ICE Futures
International House
1 St Katharine's Way
London E1W 1UY, UK

phone +44 (0)20 7481 0643
fax +44 (0)20 7481 8485
online www.theice.com

Commissioners
Chairman
Cooper
Mesa
C. Kim
Andresen
Van Wagner
Rosenfeld
OS

Industrial Energy Consumers of America
1155 15th Street, NW, Suite 500, Washington, D.C. 20005
Telephone 202-223-1661 Fax 202-223-1420 www.ieca-us.org

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OFC. OF THE SECRETARIAT

June 8, 2006

Commodity Futures Trading Commission
Office of the Secretariat
Three Lafayette Centre
1155 21st Street, NW
Washington DC 20581

Subject: June 27, 2006 Hearing on "What Constitutes a Board of Trade Located Outside the United States"

In behalf of the Industrial Energy Consumers of America (IECA), we request an opportunity to testify in the June 27, 2006 hearing on "What Constitutes a Board of Trade Located Outside the United States". Pat Byrne, Manager, Materials and Procurement, General Shale Brick will testify in behalf of the organization.

IECA is a 501 (C) (6) nonprofit organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, chemicals, fertilizer, insulation, steel, glass, industrial gases, aluminum, brick, pharmaceutical, and brewing. Attached is a list of the company membership.

Statement of interest and qualifications:
As some of the worlds' largest consumers of energy and other commodities, IECA member companies are impacted directly and indirectly by how well markets are working. All market inefficiencies are paid for by us, the consumer. As a result, consumers have a vested interest in the outcome of this hearing.

Summary of statement:
The US natural gas market is regional, not global. Secondly, all of the trading exchanges such as NYMEX and ICE, and all natural gas related products that deal with physical product, futures or derivatives that include forward contracts, swaps and options are linked. They do not operate independently. This concludes that it is vital that all trading exchanges and products have oversight by one US regulatory body that will provide continuity and certainty that markets and consumers are protected from market manipulation. A UK regulatory agency overseeing only part of the market is inadequate at best. Also, the interests of UK regulators are disconnected to the interests of the US public. Therefore, having a UK regulatory agency continuing to oversee ICE is not

satisfactory. As consumers, we hold the CFTC and the US Congress accountable for the safe keeping of our markets, not the UK regulators or any other country. IECA supports Congressional action that would extend CFTC's oversight beyond NYMEX to include ICE and the over-the-counter (OTC) market that includes forward contracts, swaps and options. This action is needed to protect markets and consumers from potential abuse.

As stated, all natural gas markets and related products are linked. CFTC enforcement people have publicly said that "because trades on exchanges and over the counter are interdependent, each energy enforcement case brought by the agency included violations that occurred on the OTC market." This raises the question, without CFTC oversight, what OTC violations have we missed?

Existing CFTC market oversight fails to address the needs and concerns of consumers. CFTC's jurisdictional oversight of the natural gas market applies only to the NYMEX leaving about two-thirds of the trading volume with no jurisdictional oversight. Given the physical constraints of the natural gas market that leave consumers vulnerable, it is in the interests of the public to give the CFTC oversight of the over-the-counter (OTC) market that includes forward contracts, swaps and options in order to protect markets and consumers from potential abuse.

A market without CFTC oversight and transparency is a market waiting for manipulation. Unless the CFTC knows what positions (volumes) large traders hold, it has no way of knowing if market manipulation is occurring or not. Today, only NYMEX is required to report large trader volumes to the CFTC, which leaves two-thirds of the volume unaccounted for. Transparency is the key. IECA is also concerned that UK regulators do not limit the size of positions investors can take. The constrained US supply situation and the combination of no intra-market transparency and no limit on how large a position an investor can take creates heightened concern.

IECA does not support government regulation of markets or prices. However, we believe markets work better when players know there is strong US government oversight and monitoring that has the ability to catch and severely penalize market manipulation. In our view, neither sufficient government oversight nor penalties are in place to deter manipulation.

We look forward to hearing from you as to whether we will testify.

Sincerely,

Paul N. Cicio
President

Industrial Energy Consumers of America
One Thomas Circle, NW, Tenth Floor, Washington, D.C. 20005
Telephone 202-223-1661 Fax 202-530-0659 www.ieca-us.org

Board of Directors
2006

The Industrial Energy Consumers of America (IECA) is a nonprofit organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or hydrocarbon feedstock play a significant role in their ability to compete in domestic and world markets.

Corporate Membership

1. Abbott Laboratories
2. Ag Processing Inc
3. Air Liquide America L.P.
4. Air Products Corporation
5. BASF Corporation
6. Celanese
7. Coors Brewing Company
8. The Dow Chemical Company
9. Dow Corning Corporation
10. Eastman Chemical Company
11. FMC Corporation
12. Gallo Glass Corporation
13. General Shale Brick
14. Huntsman Corporation
15. Holcim
16. International Paper Company
17. IPSCO Steel Company
18. Lyondell Chemical Company
19. MeadWestvaco Corporation
20. NewPage Corporation
21. Nucor Corporation
22. Ormet Corporation
23. Owens Corning Corporation
24. Riceland Foods, Inc.
25. Rohm & Haas
26. Sasol North America
27. Terra Industries, Inc.
28. The Timken Company
29. Tyson Foods, Inc.

Katten Muchin Rosenman LLP

525 W. Monroe Street
Chicago, IL 60661-3693
312.902.5200 tel
312.902.1061 fax

ARTHUR W. HAHN
arthur.hahn@kattenlaw.com
312.902.5241 direct
312.577.8892 fax

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OFC. OF THE SECRETARIAT

Chairman
Commissioners
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OS
C. Kim
Cooper

June 12, 2006

Commodity Futures Trading Commission
Three Lafayette Centre
1151 21st Street, NW
Washington DC 20581

Re: Public Hearing on June 27, 2006
<u>What Constitutes a Board of Trade Located Outside the United States</u>

To the Commodity Futures Trading Commission:

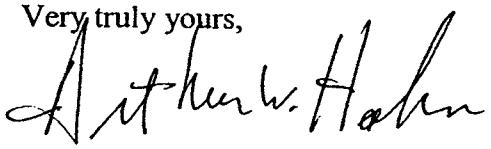
I am writing on behalf of Euronext Paris, Euronext Amsterdam and Liffe Administration and Management (collectively "Euronext LIFFE Exchanges") to notify the Commodity Futures Trading Commission ("Commission") that Mr. John Foyle, Deputy Chief Executive of LIFFE and Mr. Nicholas Weinreb, Group Head of Regulation for Euronext, wish to appear at the public hearing scheduled by the Commission on June 27, 2006, to speak to the issue of what constitutes "a board of trade, exchange or market located outside the United States". The Euronext LIFFE Exchanges are each regulated by a home state regulator, do business in the United States electronically and have functioned pursuant to no-action relief that has been granted by the Commission. Accordingly, the issues that will be considered by the Commission on June 27, 2006 will be of central importance to the Euronext LIFFE Exchanges. As set forth below, the two individuals who wish to appear have extensive regulatory and business experience in addressing the questions that will be presented at the hearing.

Mr. John Foyle is a chartered accountant and has served in a senior executive capacity since LIFFE's inception in 1981. Additionally, at the request of British regulatory authorities, Mr. Foyle also served with the London Metal Exchange as a special advisor to review market regulatory matters including market manipulation issues. Mr. Foyle also served as a director of the AFBD, the SRO responsible for the oversight of the futures business during the 1980's.

Mr. Weinreb is an economist who, prior to joining LIFFE in 1990, served for 13 years as a senior executive at the Bank of England. Throughout his career at LIFFE, Mr. Weinreb had responsibility for regulatory matters and following Euronext's acquisition of LIFFE, he became responsible for regulatory matters for the group as a whole. In that capacity, Mr. Weinreb has dealt specifically with coordination of the oversight of exchange activities by multiple regulators.

It is the hope of the Euronext LIFFE Exchanges that Messrs. Foyle and Weinreb can be a resource to the Commission in addressing the complex international issues that will be presented at the hearing and they look forward to the opportunity to appear.

Very truly yours,



Arthur W. Hahn

cc: Chairman Reuben Jeffery III
Commissioner Sharon Brown-Hruska
Commissioner Walter L. Lukken
Commissioner Michael Dunn
Commissioner Fred Hatfield

Jacqueline Hamra Mesa, Director,
Office of International Affairs

Eileen A. Donovan, Acting Secretary
Office of the Secretariat

John Foyle, Deputy Chief Executive
LIFFE

Nicholas Weinreb, Group Head of Regulation
Euronext

George Anagnos, Executive Vice President
Euronext.liffe

Verena Ross, Head of Department,
Clearing & Settlement Services
Financial Services Authority

Chairman
Kim
Commissioners
Van Wagner
Mesa
Rosenfeld
Andresen
OS

New York
Mercantile Exchange

NYMEX/COMEX. Two divisions, one marketplace

June 12, 2006

OFC. OF THE SECRETARIAT
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CFTC

Ms. Eileen Donovan
Acting Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Public Hearing on What Constitutes a Board of Trade Located Outside of the U.S.

The New York Mercantile Exchange, Inc. (NYMEX or Exchange) requests the appearance of Exchange President Dr. James E. Newsome at the public hearing on what constitutes a "board of trade, exchange or market located outside the United States" being held on June 27, 2006, by the Commodity Futures Trading Commission (CFTC).

Dr. Newsome, a former chairman of the CFTC, has been president of NYMEX since August 2004. A concise statement of Dr. Newsome's interest and qualifications follows, along with a brief summary of his statement.

Statement of Interest

As president of NYMEX, Dr. Newsome represents the world's largest forum for trading and clearing physical commodity-based futures contracts, including energy and metals products. NYMEX has a 133-year history as a reliable price-discovery and risk management trading forum. NYMEX, a global market place with an expanding international business model, provides the benchmark for energy and metals prices around the world. It is regulated at the highest level of oversight by the CFTC as a designated contract market (DCM). NYMEX welcomes competition, but fears that differences in regulatory regimes have lead to unforeseen opportunities for regulatory arbitrage and raised fundamental policy questions that should be addressed.

Qualifications

Dr. James E. Newsome has been president of the NYMEX since August 2004. Prior to that, he served as Chairman of the CFTC from December 2001 to August 2004. He was a Commissioner of the CFTC from August 1998. During his CFTC tenure, Dr. Newsome served as Chairman of both the Technology and the Agricultural Advisory Committees.

New York Mercantile Exchange, Inc.
World Financial Center
One North End Avenue
New York, NY 10282-1101
(212) 299-2000

The New York Mercantile Exchange, Inc., is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, propane, platinum and palladium. The COMEX Division offers trading in gold, silver, copper, aluminum, and the FTSE Eurotop 100® index, and the FTSE Eurotop 300® index.

In addition to his responsibilities at the CFTC, Dr. Newsome served as a member of the President's Working Group on Financial Markets, along with the Secretary of the Treasury, the Chairman of the Federal Reserve Board, and the Chairman of the Securities and Exchange Commission. He also was appointed to serve on the President's Corporate Fraud Task Force to coordinate corporate fraud investigations.

Dr. Newsome received his Bachelor of Science degree in food and resource economics from the University of Florida and his Masters of Science and Doctorate of Philosophy degrees from Mississippi State University.

Summary of Dr. Newsome's Statement

In his statement for the CFTC's public hearing on what constitutes a foreign board of trade, Mr Newsome will address:

- NYMEX's strong support for increased competition and the ongoing globalization of derivatives markets, as well as our belief that where possible regulation should not impede expansion of markets and competitors.

- NYMEX's support for the staff no-action process, which has worked successfully in most instances, and our concern that the staff no-action letters unwittingly may have provided an unfair competitive advantage to foreign markets as a result of an unlevel regulatory playing field.

- NYMEX's view that, as a policy matter, the Commodity Exchange Act carve-out for exchanges "located outside of U.S." is not a mechanical geographical test but instead must be applied in relation to the relevant regulatory policy concerns that may require a market to be regulated by the CFTC.

In closing, NYMEX requests that Dr. Newsome be given the opportunity to participate in this public hearing.

Sincerely,

Christopher K. Bowen
General Counsel and
Chief Administrative Officer

cc: David Van Wagner