Chicago Mercantile Exchange

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VIA ELECTRONIC DELIVERY

Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Proposed CESR/CFTC Work Programme

Dear Ms. Webb:

The Chicago Mercantile Exchange Inc. ("CME" or "Exchange") welcomes the opportunity to comment upon the Committee of European Securities Regulators' ("CESR") and the Commodity Futures Trading Commission's (the "Commission") proposed work program to facilitate trans-Atlantic derivatives business. (the "Rule"). CME is currently the largest futures exchange in the United States and the largest derivatives clearing organization in the world. As an international marketplace, CME brings together buyers and sellers on its CME® Globex® electronic trading platform and trading floors. CME offers futures and options on futures primarily in four product areas: interest rates, stock indexes, foreign exchange and commodities. As a pioneer in the globalization of the futures markets, CME has helped to expand the customer base for futures products beyond traditional boundaries. CME Globex, for example, is available to users around the world for more than 23 hours a day and five days a week. To satisfy the increasing demands of the international marketplace, CME has established and operates Globex trading hubs in seven foreign jurisdictions: Amsterdam, Dublin, Frankfurt, Gibraltar, London, Milan and Paris. CME believes that its significant global expertise and experience will provide the CESR and the CFTC with a unique and valuable perspective on the matters discussed herein.

According to the Communiqué, the CESR and the CFTC desire to constitute a task force, drawn from the CESR and CFTC (the "Task Force"), to examine three areas. First, the Task Force intends to review the availability and clarity of the regulatory information that permits market professionals and end-users located outside of a jurisdiction to know when registration is required, the types of products that may be traded, the rules that govern trading, and whom to contact for additional information and guidance.

CME supports the effort to enhance the transparency of a jurisdiction's regulatory requirements. When market participants have easier access and a better understanding of a jurisdiction's requirements, we believe that the pace of access will be increased and market access costs will be reduced. Moreover, in seeking to promote transparency, we believe that the Task Force should examine asymmetrical disclosure requirements. For example, in the

United States, an individual can obtain the identity and disciplinary history of any registered entity (through the National Futures Association). In the European Union, however, such a mechanism does not exist. Ensuring that transparency is both adequate to protect market integrity and consistent across jurisdictions will benefit customers, intermediaries and markets alike.

Second, the Task Force proposes to review, with an eye to simplifying, the information that CESR members and the CFTC require markets and intermediaries to submit to the agencies in order to commence and operate cross border business.

CME supports the Task Force's desire to explore ways to simplify the process for obtaining the authority to operate a cross-border business. In simplifying any such process, however, the CESR and the CFTC should closely guard market integrity and seek best-practice solutions that discourage regulatory arbitrage. While simplification is a laudable and important goal, it should not be used to justify reducing customer protection or market integrity.

Finally, the Task Force proposes to take steps to ensure that CESR and CFTC are aware of matters that may have substantial cross-border impact, and that the agencies consult with each other about such matters.

CME agrees that the CESR and the CFTC should coordinate efforts with respect to significant cross-border issues. We believe, however, that the industry should have the opportunity to participate in all such matters, as well as the major initiatives of the Task Force. Agency consultation without adequate input from markets and intermediaries is likely to result in non-optimal solutions.

Although not specifically discussed in the Communiqué, but in response to the CESR's and the CFTC's request for additional views on the proposed plans of the Task Force, CME believes that the Task Force should more broadly review some important differences between the regulatory regimes of the U.S. and the EU. For example, a non-U.S. market seeking to register and operate as a designated or exempt contract market in the U.S. is only required to obtain regulatory approval from a single governmental agency, the CFTC. After receiving regulatory approval from the CFTC to operate in the U.S., the non-U.S. market is then able to transact business throughout the U.S. in all fifty states. However, the process of registering and operating a market in the EU member states requires multiple approvals from multiple regulatory agencies. Although the EU's Intermarket Services Directive ("ISD") seeks to allow an entity to register in one EU member state and then "pass-port" throughout the other EU member states, the entity is still required to register in each EU member state that it seeks to conduct business, as well as maintain compliance with the various member states' prudential standards, which may relate to issues of fitness, authorization, capital requirements and the protection of client assets. Moreover, because the ISD is merely a directive—and not the law of the EU—the member states have broad discretion with respect to the implementation and enforcement of the ISD's provisions. Registering and operating a non-EU entity can thus be time-consuming and costly.

Moreover, in contrast to the U.S., the EU's regulatory regime does not impose certain information collection requirements, such as large trader reporting, person-specific user IDs, and underlying account numbers. In the U.S., these data elements help exchanges to detect various types of violative conduct, including front-running, trading ahead and wash trades. To the extent that exchanges in both the U.S. and the EU have access to such data elements, we believe that such access would promote the detection of inter-exchange cross-border misconduct. We thus believe that ascertaining the comparability of such requirements should be a focus of the Task Force.

<u>Conclusion</u>

CME appreciates the opportunity to comment upon the proposal. If you have any questions or comments, please do not hesitate to contact me, Matthew F. Kluchenek, Director and Associate General Counsel, at (312) 338-2861, or Eric Wolff, Managing Director, Market Regulation, at (312) 930-3255.

Sincerely,

Craig S. Donohue

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