

**Order of the Commodity Futures :  
Trading Commission Concerning :  
the Trading of Futures and Option :  
Contracts Based on Weather Indices :  
On Exempt Boards of Trade :**

**Order of the Commodity Futures Trading Commission Under 17 CFR 36.2(a)(2)(ii)  
Determining That Weather Indices are Eligible to be Traded on Exempt Boards of Trade**

The Commodity Futures Trading Commission (Commission) hereby determines, under Commission Rule 36.2(a)(2)(ii) (17 CFR 36.2), that indices based on measures of weather are eligible for trading on exempt boards of trade under the provisions of Section 5d of the Commodity Exchange Act (Act).

**I. Background**

Section 5d(a) of the Act provides that a board of trade may operate as an exempt board of trade upon the Commission's receipt of a notice that the board of trade intends to operate as an exempt board of trade. Section 5d(b)(1) further specifies that, to qualify for an exemption to operate as an exempt board of trade, a board of trade shall limit trading on or through the facilities of the board of trade to contracts of sale of a commodity for future delivery (or options on such contracts or on a commodity) for which the underlying commodity has:

- A. A nearly inexhaustible deliverable supply;
- B. A deliverable supply that is sufficiently large, and a cash market sufficiently liquid, to render any contract traded on the commodity highly unlikely to be susceptible to the threat of manipulation; or

C. No cash market.<sup>2</sup>

Commission Regulation 36.2(a)(2) provides that the commodities that meet the requirements of section 5d(b)(1) noted above are: (1) commodities defined in section 1a(13) of the Act as excluded commodities (other than a security, including any group or index thereof or any interest in, or based on the value of, any securities or group or index of securities); and (2) such other commodity or commodities as the Commission may determine by rule, regulation, or order.

On April 19, 2002, the Commission received from Weather Board of Trade, LLC (WBOT) a “Notification of Operation as an Exempt Board of Trade” in which the WBOT states that it intends to offer for trading futures or option contracts based on certain specified *Financial Weather Indices*. Weather indices are not excluded commodities under the definition set forth in Section 1a(13) of the Act. Thus, the Commission must determine whether weather indices are eligible commodities for trading on exempt boards of trade.

The WBOT currently calculates and reports on its website 12 NORDIX weather indices that measure temperature and precipitation within six specified regions of the U.S.<sup>3</sup> The indices are calculated using weather data for four specified cities in each such region as reported daily by the National Climatic Data Center of the U.S. National Oceanographic and Atmospheric

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<sup>2</sup> In addition to the above eligibility standards, Section 5d(b) of the Act requires that transactions on exempt boards of trade may be entered into only between persons that are eligible contract participants (ECPs) at the time at which such persons enter into the contract, and that the contracts traded on such entities must not be contracts of sale (or options on such a contract or on a commodity) for future delivery of any security, including any group or index of securities or any interest in, or based on the value of, any security or any group or index of securities.

<sup>3</sup> The background information on WBOT contained in this Order was obtained from the WBOT website. NORDIX is a trademark of Zipspeed, an entity affiliated with the WBOT.

Administration.<sup>4</sup> The indices are calculated as a daily accumulation of departure-from-normal temperature or precipitation levels. Specifically, numerical values of the indices are based on calculations of daily differences of temperature or precipitation relative to a moving average of temperature or precipitation for identical days for the preceding 30 years.<sup>5</sup>

Information published on the WBOT's website indicates that it plans to begin trading of contracts based on its weather indices in the summer or fall of 2002. The WBOT indicates that it may offer, at a later date, similar products based on weather data for locations in Europe and Asia, as well as indices on other weather measures such as wind speed and sunlight hours.

## II. Analysis

The Commission has considered whether weather indices, such as those upon which the WBOT intends to base its futures and/or option contracts, comply with the eligibility criteria set forth in section 5d(b)(1) of the Act. In this regard, weather indices appear to meet the requirement set forth in part (C) of section 5d(b)(1) since such indices have no underlying cash market. Instead, weather indices are based on unbiased measures of temperature, precipitation or some other

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<sup>4</sup> The specific U.S. regions and weather stations used to obtain the data required to calculate the regional NORDIX index values are: Northeast (Buffalo, Boston, New York and Baltimore); South (Memphis, Raleigh, Atlanta and Tampa); West (Dallas, Albuquerque, Tucson and Los Angeles); Pacific (Seattle, Portland, Reno and San Francisco); Mountain (Boise, Idaho, Salt Lake City, Grand Junction, and Denver); and Central (Minneapolis, Kansas City, Chicago and Pittsburgh). Information published by WBOT indicates that it has identified certain unspecified backup weather stations from which the required data will be obtained if the WBOT is unable to obtain the required data for any of the weather stations enumerated above for any reason. All 12 NORDIX index values are computed overnight using data for the prior day, and updated index values are posted on WBOT's website each morning.

<sup>5</sup> For example, the NORDIX *temperature index* for a particular region starts with a baseline value of 1,000. Each day, WBOT calculates for each region the mean temperature for that day and its difference from the mean for the prior 30 years. The index value for a particular day is calculated by subtracting from, or adding to, 1,000 the region's temperature difference from the 30-year average value for that day. Thus, for a particular day, an increase of three degrees in the region means that the average of the temperatures reported for the four weather stations in that region is three degrees warmer than the average temperature for the 30 previous years on that day.

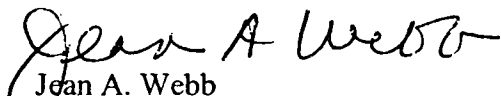
natural, weather-related phenomena at specified locations. For example, the weather indices developed by WBOT are calculated using data published by the National Climatic Data Center of the U. S. National Oceanographic and Atmospheric Administration. These data are readily available to the public and, thus, can be readily used in compiling geographically aggregated measures of weather, such as the daily NORDIX regional temperature and precipitation indices developed by WBOT.

### **III. Conclusion**

Based on its review, the Commission has determined under Commission Rule 36.2(a)(2)(ii) that weather indices, such as those specified by the WBOT, meet the eligibility criteria specified in section 5d(b)(1) of the Act for trading on exempt boards of trade.

Dated: May 30, 2002

By the Commission,

  
Jean A. Webb  
Secretary of the Commission