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REPORT OF
CFTC GLOBAL MARKETS ADVISORY COMMITTEE
WORKING GROUP ON ELECTRONIC TERMINALS

The Working Group on Electronic Terminals (Working Group) met for three hours on September 24, 1998 in Chicago. The meeting was chaired by Leo Melamed. The persons attending the meeting are listed in Exhibit A. The agenda for the meeting is attached as Exhibit B.

The primary focus of the meeting was to discuss the issues raised in the CFTC's concept release regarding the placement of trading terminals of foreign exchanges in the U.S. Although there was not unanimous agreement on every point, a majority of the Working Group agreed on the following points:

1. The CFTC has a legitimate regulatory interest in adopting standards for the placement of foreign board of trade terminals in the U.S.

2. A foreign exchange seeking to place terminals in the U.S. should submit a petition to the CFTC that includes the information identified in the concept release. The petition should be published for public comment, but the process should be conducted as promptly as possible to avoid undue delay.

3. A majority of the Working Group felt that the CFTC should insist on reciprocity with the foreign exchange's country of origin – that is, the CFTC should not allow a foreign exchange to place terminals in the U.S. if the jurisdiction in which the foreign exchange is located does not allow U.S. exchanges to place terminals there.

4. A firm that uses a terminal located in the U.S. to execute customer orders must be registered with the CFTC as an FCM. A clearing member of the foreign board of trade that is registered as an FCM may (if the board of trade's rules so provide) authorize the placement of terminals with non-member customers, provided that the clearing member screens the customer orders (e.g., through automated credit controls) before they are transmitted to the electronic trading system for execution. The Working Group did not reach a consensus on the question of whether a foreign exchange clearing member should be allowed to authorize the placement of a trading terminal at a non-member customer location in the U.S. for the customer's proprietary trading, when neither the foreign exchange clearing member nor the customer is registered as a U.S. FCM.

5. The Working Group recognized that there are differences between electronic trading systems operated by exchanges and electronic order entry systems that may or may not be operated by exchanges. The Working Group agreed that, regardless of the technology employed, all orders originating from U.S. customers and transmitted to a foreign board of trade's electronic trading system should flow through a U.S. FCM or a foreign broker with an exemption under Part 30 of the CFTC's rules.

6. The CFTC should establish criteria for determining when a foreign exchange's activities in the U.S. require it to be designated as a U.S. contract market. The Working Group did not reach a consensus on what the criteria should be or whether the criteria should be quantitative or qualitative. Some of the factors that were mentioned as being relevant are: the percentage of the foreign exchange's trading volume that originates in the U.S., whether the cash markets for the instruments traded by the foreign exchange are primarily located in the U.S., and whether the trading activity of the foreign exchange has a significant impact on U.S. commerce.

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Exhibit A

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PARTICIPANTS:

Leo Melamed
Chair

Patrick Arbor
CBOT

Peter Borish [via conference call]
President
Computer Trading Corp.

David Downey
Timber Hill

Scott Gordon
CME

Ronald Hersch [via conference call]
Chairman, FIA
Bear Sterns

Peter Lee
Merrill Lynch

Daniel Rappaport
NYMEX

Adolph G. Reinhardt [via conference call]
Vice Chair
NY Board of Trade

Barbara Holum, Commissioner
Andrea Corcoran
Deana Dow
David Battan
Chuck O'Brien

Paul O'Kelly
Legal, CME

Terry Livingston
CBT

ABSENT:

Albert Weis, Chair
NY Board of Trade

Exhibit B

CFTC GLOBAL MARKETS ADVISORY COMMITTEE

WORKING GROUP I (ELECTRONIC TERMINALS)

Agenda for Meeting

Thursday, September 24, 1998
11:00 a.m. - 2:00 p.m.

Chicago Mercantile Exchange Board Room
4th Floor
30 South Wacker Drive
Chicago, Illinois

A. **Welcoming Remarks**

B. **CFTC Concept Release - General**

1. A number of foreign exchanges have asked permission to place trading terminals in the U.S. to encourage U.S. participants to trade their products.

2. Does the CFTC have a legitimate regulatory interest in reviewing such requests? Is a formal procedure such as the one proposed in the Concept Release appropriate?

C. **CFTC's Proposed Approach**

1. Under the proposed approach, a foreign board of trade would submit a petition to the CFTC for permission to place terminals in the U.S. The petition would include specified information, including applicable regulatory requirements.

2. Should such petitions be published in the Federal Register for public comment?

3. By what standard should the CFTC decide to grant such a petition? Should it be based on the "totality of the circumstances" as described in the petition? Should the CFTC insist on the same requirements for electronic trading systems operated by foreign exchanges in the U.S. as it does for electronic trading systems operated by U.S. exchanges?

4. Should the CFTC insist on reciprocity -- that is, should the CFTC allow a foreign exchange to place terminals in the U.S. if the jurisdiction in which the foreign exchange is located does not allow U.S. exchanges to place terminals there?

5. If the CFTC grants a foreign board of trade's petition, what conditions should be imposed? Must the terminals be located only in the offices of members of the foreign board of trade and their affiliates? Must any member or affiliate of the foreign board of trade that uses a terminal to execute customer orders be registered as an FCM?

D. Definitional and Other Issues

1. How can the CFTC determine whether a firm is a bona fide member or affiliate of a member of a foreign board of trade?

2. What types of computer terminals should be covered by the proposed rule? Should it cover all types of systems that provide electronic access for participants in the U.S. to the foreign board of trade, including electronic order routing systems?

3. Should a foreign board of trade be required to be designated as a U.S. contract market when it reaches a certain level of U.S. activity? If so, how should that level be determined?

4. Should the same requirements apply to a foreign board of trade whose products are traded in the U.S. pursuant to a linkage arrangement with a U.S. exchange?

E. New Business and Plans for Future Meetings

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