

Press Release

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FESE Welcomes the Publication of the U.S. CFTC's Statement of Policy on Direct Access to Foreign Boards of Trade

FESE welcomes the recent **Statement of Policy issued by the U.S. Commodity Futures Trading Commission (CFTC)** which:

- i) affirms the use of the staff no-action process for foreign boards of trade (FBOT) that seek to provide direct access to their electronic trading systems;
- ii) provides transparency and guidance with regard to the scope of review; and
- iii) adds certain enhancements concerning information sharing and the appropriate response to trading that may adversely affect U.S. markets or the CFTC's supervisory responsibilities.

In August 2006, FESE responded to the CFTC's Request for Comment by highlighting the requirements for an open, competitive and innovative derivatives business across the Atlantic. On the basis of the very positive experience of several of our members which have received no-action letters in the past as well as our members' broader interest in offering a range of their services internationally, we advocated **the continuation of the existing arrangements used by the CFTC in allowing foreign exchanges access to the US market**. We saw the CFTC's no-action letter practice as a coherent, transparent and efficient policy and a very positive example of international supervisory cooperation, and thus cautioned against changes to it that might undermine its flexibility and lead to duplicative regulatory burdens for foreign exchanges.

The approach taken by the CFTC in its Statement of Policy issued on 31 October 2006 addresses all of these concerns and confirms that the CFTC is committed to facilitating international trade in financial products. We particularly welcome the following features of the CFTC's decision:

- The CFTC's reaffirmed commitment to the **no-action letter process**;
- The endorsement of the principle of looking at the **totality of the circumstances**, rather than one single element or one single measure, in identifying whether a foreign exchange qualifies for the regime;
- The **rejection of the proposal of fixed definitions relying on quantitative thresholds**, which would have taken away flexibility from the CFTC and at the same time placed undue burdens on the foreign exchanges due to the technical difficulties in implementing such a regime;
- The confirmation of the principle of **regulatory equivalence** and the explicit recognition that it should be assessed on the basis of the **totality of the rules of the foreign jurisdiction** and that similar objectives can be achieved by **different means**, and the related finding that the no-action letter practice as designed raises **no risks to the level playing field for the US exchanges**.

In conclusion, we applaud the CFTC for the open and transparent process by which it reviewed its regime used for allowing foreign exchanges access to its markets and for the proportionate, well-reasoned and flexible policy conclusions it has reached as a result of this process. The outcome will serve not only the interests of **the US investors, traders and economy** as whole, but also the further development of **an open and well-supervised global derivatives market**, and puts the CFTC at the cutting edge of the process of **global supervisory cooperation**.

Information for the Editor:

The Federation of European Securities Exchanges (FESE) represents operators of the European regulated markets and other market segments, comprising the markets for securities, financial derivatives and energy and commodity derivatives. With 24 members, FESE represents close to 40 securities exchanges from all the countries of the EU, Iceland, Norway, and Switzerland. Through its members' activities on a global scale, FESE enjoys links with the regulatory community and industry from around the world.

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