



SUPPLÉMENT À LA SECTION VALEURS MOBILIÈRES
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*U.S. Futures Exchange, LLC – Demande d'autorisation d'exercer des
activités de bourse au Québec*



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September 27, 2005

Via Electronic Mail

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RE: Eurex US Application for Authorization as a Foreign-based Exchange

Dear Me Bouffard:

The U.S. Futures Exchange, LLC ("Eurex US") is filing the attached application to request authorization as a foreign-based exchange with the Autorite Marches des Financiers ("AMF") pursuant to Section 169 of the Securities Act. On behalf of Eurex US, I grant permission to the AMF to publish the attached application.

Please contact me if you have any questions.

Yours faithfully,

Matt Lisle
Chief of Compliance

CC: Elaine Lanouette

Part 0 Preface

Attached please find copies of the

- Bylaws of U.S. Futures Exchange, L.L.C (exhibit 0.1)
- U.S. Futures Exchange, L.L.C Rules (exhibit 0.2)
- Service Level Agreement between Deutsche Börse AG and Eurex US (exhibit 0.3)
- Service Agreement between Eurex US and Eurex Frankfurt AG (exhibit 0.4)

All Rules not otherwise specified are those of U.S. Futures Exchange, L.L.C (hereinafter "Eurex US"). The index of this Document refers to the questionnaire the Exchange received with the letter of the Autorité des Marchés Financiers, Québec, as of April 8, 2004. The headlines of the paragraphs do sometimes simplify the underlying questions; therefore the questionnaire shall be put into consideration while examining the answers. The Exhibits attached to this document are labeled according to were the reference is made the index.

Part 1 Regulation and oversight

1.2.1 Detailed description of the regulatory regime of the CFTC applicable to Eurex US and the NFA

A. Regulatory Regime applicable to Eurex US

1. General

U.S. Futures Exchange. L.L.C. (hereinafter “Eurex US”) has been designated as a Contract Market pursuant to Sections 5 and 6(a) of the United States Commodity Exchange Act (hereinafter the “CEA”). The CEA was introduced to set up a regulatory system that provides fair and financially secure trading facilities that enable the industry to manage price risks, to discover prices and to disseminate pricing information through trading, Sec. 3 CEA. The CEA describes the regulatory system its aims to create as “effective self regulation”, Sec. 3 (b) CEA.

To become a Designated Contract Market (hereinafter “DCM”), Eurex US was required to meet the criteria for designation set forth in Section 5(b) of the CEA as interpreted and implemented by the U.S.’s Commodity Futures Trading Commission (hereinafter the “CFTC”) in Part 38 of the CFTC Regulations. The criteria for designation include *inter alia* demonstrating that Eurex US has the capacity to prevent market manipulation, Sec. 5 (b) (2) CEA; that Eurex US can ensure fair and equitable trading, Sec. 5 (b) (3)CEA; that Eurex US has the capacity to detect, investigate and discipline any person that violates its rules, Sec. 5 (b) (6) CEA; that Eurex US can ensure the financial integrity of transactions entered into through its facilities, Sec. 5 (b) (5) CEA; and that Eurex US has the authority to obtain any necessary information to perform its regulatory functions, including the capacity to carry out international information-sharing agreements, Sec. 5 (b) (8) CEA.

In order to obtain U.S. designation, Eurex US was also required to demonstrate that it would comply with various “Core Principles”, Sec. 5 (d) (1) – (18) CEA. applicable to all U.S. designated contract markets

2. CFTC

The CFTC has been established according to Sec. 2 (a) (2) (A) CEA as an independent agency of the US Government and assigned with administering and enforcing the CEA. The CFTC has direct regulatory and oversight responsibility over contract markets seeking to become a DCM and maintaining this status, Sec. 5 (a) CEA.

3. Regulations

To implement the CEA, the CFTC has promulgated regulations and guidelines that further interpret the Core Principles and govern the conduct of DCMs such as Eurex US. The CFTC monitors trading on Eurex US and receives daily reports from Eurex US on its activities. The CFTC also undertakes periodic in depth audits or “rule reviews” of Eurex US’s compliance with the Core Principles for DCMs.

4. Approval process

During the course of the designation approval process, the CFTC was provided with Eurex US's Rules, Bylaws and shareholder and member agreements, according to § 38.3 (a) (1) (iii) of the Regulations. Not only were these documents reviewed by the CFTC on whether they comply with CEA and the Regulations, CFTC also reviewed all outsourcing arrangements, technical materials, security and disaster recovery programs and conducted on site inspections in order to determine whether Eurex US satisfies the criteria for designation of Sec. 5 (b) CEA and the core principles for operation according to Sec. 5 (d) CEA.

5. Rule changes

Once a contract market has been designated, rule or contract changes must either be pre-approved by the CFTC or provided in advance to the CFTC with a certification that the changes comply with the CEA and applicable regulations. The CFTC may notify the contract market that the change does not comply with the CEA or its regulations and may require the market to take action to comply with the law. The CFTC also has the authority to fine, suspend or revoke the designation of a contract market for violations of the CEA or CFTC Regulations.

Eurex US is required to provide information about it and its activities to the CFTC pursuant to Section 5c(c) of the CEA and Parts 38 and 40 of the CFTC Regulations, which require that any changes to Eurex US's constitutional provisions, bylaws and rules, including trading protocols, agreements, interpretations or resolutions must be either certified to the CFTC as being in compliance with the CEA and CFTC Regulations or submitted to the CFTC for its approval. Any emergency action of Eurex US must be immediately reported to the CFTC. The CFTC may investigate any action of Eurex US, alter or supplement the rules of Eurex US, suspend or revoke its registration, direct Eurex US to take whatever action the CFTC determines is necessary to maintain or restore orderly trading in the event of an emergency and suspend, expel or discipline any member of Eurex US. See Sections 8a and 8c of the CEA. These requirements thus ensure that Eurex US has open relations with the CFTC and pursues CFTC inquiries diligently.

6. Core Principles

A DCM must meet and continually abide by the CFTC Core Principles. The CFTC performed a thorough review of Eurex US in connection with the Exchange's compliance with the CFTC Core Principles. A copy of this review is attached as exhibit 1.2.1 A..

B. NFA Regulatory Regime

The NFA is a self-regulatory organisation for the commodity futures industry. It is a not-for-profit membership corporation formed in 1976 to become the United States futures industry's self-regulatory organisation under Section 17 of the CEA. Section 17 provides for the registration and CFTC oversight of self-regulatory associations of futures professionals. The NFA's formal designation as a "registered futures association" was granted by the CFTC on 22 September 1981 and the first of the NFA's regulatory operations began on 1 October 1982. The NFA has demonstrated to Eurex US's satisfaction that it has sufficient resources to be able to perform the function of regulatory services provider, as further described in Part VII. B. b. of the

Designation Memorandum of the CFTC as of February 2, 2004 (attached hereto as exhibit 1.2.1.B).

Since the establishment of the NFA, the CFTC has delegated a number of the CFTC's regulatory functions to the NFA, most notably those functions related to the registration of futures professionals and entities. The CFTC's oversight of the NFA is continuous with respect to these delegated functions and the CFTC also periodically reviews the NFA's performance with respect to its self-regulatory functions.

The Board of Eurex US considers that the NFA is a person fit, proper, able and willing to provide regulatory services to Eurex US, as demonstrated by its supervision and provision of regulatory services to four other investment exchanges in the U.S. The Board of Eurex US have noted that the NFA appears to be managed by persons who are of sufficient skill, competence and integrity to perform the outsourced function of regulatory services. The NFA has entered into regulatory services agreements with four other exchanges and the CFTC has performed an extensive review of NFA's programs prior to approving the applications of each of those exchanges. The NFA has demonstrated that it is a person to whom an outsourcing of regulatory services for Eurex US is appropriate.

Description of NFA outsourced functions

Pursuant to the Regulatory Services Agreement Eurex US has contracted for certain services to be performed by NFA staff as a means of fulfilling certain of Eurex US's statutory duties as a designated contract market in the U.S.

Specifically, the NFA will provide the following services for Eurex US:

- trade practice surveillance;
- market surveillance;
- disciplinary investigations and actions;
- membership background checks;
- market participant dispute resolution services;
- financial surveillance and audits.

The contracting out of such services is specifically contemplated and permitted by the CEA (as set out in CFTC Core Principle 11 of Section 5(d) of the CEA and CFTC Regulation 1.52).

In Eurex US's dealings with the NFA, the NFA has demonstrated that it has adequate systems and controls to manage these functions and is able to report on its performance to Eurex US via regular meetings and procedures under the Regulatory Services Agreement.

In carrying out its duties under the Regulatory Services Agreement, the NFA applies, and ensures compliance with, the Rules. Ultimately, however, Eurex US is responsible to the CFTC for ensuring that its "Core Principles for Designated Contract Markets" are being met. Accordingly, Eurex US supervises and reports on the NFA in the performance of these functions.

Moreover, the CFTC periodically performs reviews of exchange rule enforcement activities. The CFTC will thus oversee both Eurex US and the NFA in the performance of their regulatory responsibilities.

The NFA has agreed to provide disaster recovery facilities to protect confidential regulatory information (Clause 6 of the Regulatory Services Agreement) and has substantial confidentiality obligations (Clause 12). Eurex US has arrangements with the NFA for creating, maintaining and safeguarding an audit trail of transactions for a period of five years pursuant to the Regulatory Services Agreement. The respective U.S. standards are set out in Core Principle 10 and CFTC Regulations 1.31 and 1.34. Regulations 1.31 and 1.34 require that Eurex US maintain for five years records showing, among other things for each trade, the transaction date, time, quantity, underlying commodity, delivery month, price, the member buying and selling, whether the person was trading for his own account or for a customer and the time of execution. Under these arrangements, the NFA stores audit trail information, including records from The Clearing Corporation. The reports from Eurex US and The Clearing Corporation are scrutinised by the NFA before storage.

An audit trail is also created automatically by the trading system. This trail will exist on the computer system and computer tapes.

Enforcement staff of the Compliance Department and the Disciplinary Committee of Eurex US are given effective powers of investigation and monitoring and oversight of compliance with the Rules pursuant to Rules 601 to 603. NFA will conduct investigations and litigate certain disciplinary cases in accordance with the Rules and the Regulatory Services Agreement.

1.2.2 Letters dated January 23 and 26, 2004 as referred to in CFTC Order of Designation dated February 4, 2004

Please see exhibits 1.2.2.A and 1.2.2.B.

Part 2 Corporate Governance

2.1.1 Updated organizational chart of Eurex US and list of shareholders

The current organisation of Eurex US can be described as follows: Eurex US, a Delaware Limited Liability Company, is 80% owned by U.S. Exchange Holdings, Inc., itself a 100% subsidiary of Eurex Frankfurt AG and 20% owned by Exchange Place Holdings L.P., which was the former Broker Tec Exchange. Eurex Frankfurt AG is a 100% subsidiary of Eurex Zuerich AG which is 50% owned by Deutsche Börse AG and 50% owned by SWX Swiss Exchange Holdings.

For the requested chart of the holding structure please see exhibit 2.1.1.A.

For the management structure of Eurex US please see exhibit 2.1.1.B.

2.1.2 Structure of the Board / Number of independent directors / Quorum

a. Structure of the Board

In accordance with Sect. 5.2 of the Eurex US' bylaws (which are attached hereto in its current version as Exhibit XX, which is also available on Eurex US' website under http://www.eurexus.com/about/company_info/rules.html) Eurex US' Board of Directors consists of 12 Directors. Sec. 5.2 of the Eurex US bylaws also states that six Directors are to be elected by Class A Shareholders (Class A Directors), three are to be elected by Class B Shareholders (Class B Directors) and three must be directors, officers or employees from one of three market participants, i.e. Arbitrage Firms, Institutional Investors and Independent Clearers (Class C Directors). Class C Directors are elected in accordance with Section 5.2 (e) of the Eurex US bylaws by nomination by the Class B Shareholders and election by the Class A Shareholders.

The Board currently consists of the following persons, who's primarily field of practice are can be described as follows:

Class A Directors

Rudolf Ferscha, (Chairman of the Board) Chief Executive Officer of Eurex Frankfurt AG

Satish S. Nandapurkar, Chief Executive Officer of Eurex US

Peter Reitz, Member of the Board of Directors of Eurex Frankfurt AG

Michael G. McErlean, Executive Officer, Eurex US

Juergen Rothig, Managing Director, Deutsche Börse AG, Frankfurt

[vacant]

Class B Directors

Kaushik K. Amin, Managing Director and Global Co-Head of Interest Rate Products, Lehman Brothers, New York

Bradford S. Levy, Vice President, Fixed Income Commodities & Currencies Division, Goldman Sachs, New York

Jeffrey D. Jennings, Managing Director with Fixed Income Division, Morgan Stanley & Co., New York

Class C Directors

William Sexton, COO, Refco Group, New York

Breece R. McKinney Executive Vice President of TransMarket Group LLC, Chicago

Christopher Fitzmorris, Citibank

b. Independent Directors

The Eurex US Board consists of three distinct classes of directors (Class A, Class B, and Class C). Of the 12 member Board of Directors, there are three independent (Class C) directors. Class C Directors are nominated by Class B Directors and elected by Class A Directors. Under the Bylaws, Class C Directors must come from the following groups of market participants: Arbitrage Firms; Institutional Investors, and/or Independent Clearers. Class C Directors are neither officers of or employed by the Exchange and they are not Class A or Class B Shareholders.

c. Quorum

In accordance with Sec. 6.5 of the Eurex US bylaws, a majority of the entire Board shall constitute a quorum and therefore necessarily must include one Class A Director. The existence of three classes of Directors does not otherwise impact on the quorum or voting requirements. A majority vote of the Directors present at any such duly constituted Board meeting, if a quorum is present, will constitute the act of the Board in accordance with Sections 5.1(d) and 6.5 of the Bylaws, regardless of which Directors are part of such majority vote. To state explicitly, the vote of an executive Director is not necessary to constitute a valid act of the Board.

There are no issues set forth in the Bylaws that are reserved for one particular class of Directors. All Directors are permitted to address and vote on all issues. The only special voting right included in the Bylaws is that if a vote of the Board is evenly divided, then the Class A Directors will have a one vote majority, (i.e. a Casting Vote as defined in the Bylaws) on the matter at issue, except in relation to specified trading rules described in Section 5.1(d)(i)(xii) of the Bylaws.

2.1.3 Committees

The Eurex US Rules establish a Disciplinary Committee and an Appeals Committee, Rule 203 and 204. The Advisory Committee is established in accordance with Sec. 7.1 of the Eurex US Bylaws.

The Disciplinary Committee is “authorized to determine whether violations of Bylaws or” the Eurex US “Rules

have been committed, to accept offers of settlement” and “to set and impose appropriate penalties”, Rule 203 Eurex US Rules. The Appeals Committee is authorized to review the petition of an applicant against the denial of its application to become a Member of Eurex US according to Rule 304 of the Eurex US Rules. The Board shall consult the Advisory Committee if it intends to change the Eurex US Rules with respect to Trading.

The Disciplinary Committee currently consists of the following officers and employees of Eurex US:

1. Michael McErlean
2. Hank Mlynarski
3. Sean Smith
4. Thomas Bakas
5. Kenneth Sorenson

The Appeals Committee has yet to be constituted.

The Advisory Committee currently consists of the following officers and employees of Eurex US:

1. William McCoy, Morgan Stanley & Co.
2. Bonnie Litt, Goldman Sachs
3. Ron Filler, Lehmann Brothers
4. Dennis Klejna, Refco Group
5. Gregory Collett, Deutsche Bank
6. Robert F. Klein, Citigroup
7. James Falvey, General Counsel Eurex US, Chicago
8. Matt Lisle, Chief of Compliance Eurex US, Chicago
9. Paul Architzel, Eurex US, Chicago

2.2 Appropriate Provisions for Directors and Officers

With regard to the requested list of Directors and their positions we refer to 2.1.2 a. above.

2.3 Fitness

Reference is made to Sec. 5.6 of the Eurex US Bylaws which provide a set of criteria that excludes an individual from being a member of the Board of Directors, any arbitration or oversight panel or the Disciplinary Committee. In addition to this provision we refer to Sec. 5 (d) (14) CEA and the comments and recommendations of the CFTC with regard to Core Principle 14 for Designated Contract Markets in Appendix B to Part 38 of the CFTC Regulations, which set the standards for Eurex US fitness related self regulation.

2.4 Conflicts of Interest

Again we refer to Part 2 of the Eurex US Rules, especially to Rule 207.

Part 3 Fees

3.1 Current fees

Eurex US has published its [Fee & Pricing List](http://www.eurexus.com/download/pdf/fee_and_pricing_list.pdf) on its website at: http://www.eurexus.com/download/pdf/fee_and_pricing_list.pdf. In connection with transaction fees, Eurex US differentiates by product type. For Fixed Income products, the Exchange charges \$0.05 per contract for trades on the Trading System and \$0.50 per contract for trades using the OTC facility. For Russell products, the Exchange charges \$0.025 per contract for proprietary trades and \$0.50 per contract for customer trades executed on the Trading System and \$0.30 per contract for proprietary OTC trading and \$0.80 per contract for customer OTC trading. When launched on September 23, 2005, the Exchange will charge the following rates for FX products: \$0.10 per contract for proprietary trades and \$0.50 per contract for customer trades on the Trading System and \$0.50 per contract for all OTC transactions.

The fixed costs for electronic access to Eurex US vary with regard to the access lines chosen. A Member may choose a dedicated line infrastructure, which requires two lines at a cost of \$ 1,000.00 per month per line. Alternatively a Member may choose to be connected via internet. In this case one line will be enough which costs \$ 500.00 per month. The Member may also decide to have one dedicated and one internet line, which would amount to \$ 1,500.00 per month.

Para. 40.6 of the CFTC Regulations gives substantial discretion to Designated Contract Markets (DCMs) in setting execution fees, that are less than \$ 1.00 per contract. In such cases, Designated Contract Markets only have to self-certify new fees and changes to the fee regime with the CFTC.

The Board of Directors of Eurex US has delegated to the Chief Executive Officer the authority to set fees, practically, however, the Chief Executive Officer prior to imposing any changes will seek the opinion of the Board of Directors.

3.2 Fees applicable to Québec members

Eurex US's fee regime described above is equally applicable to all Eurex US members, including future remote members located in Québec. Eurex US will not charge foreign remote members any additional fees.

Part 4 Regulation of products

4.1 Approval of products

The requirements for the admission of new products at Eurex US' can be found in Sec. 5c (c) CEA and Part 40 of the CFTC Regulations. In short, these rules provide that an Designated Contract Market like Eurex US is not required to have its products pre approved by the CFTC unless the products involve underlying agricultural commodities. Despite the lack of a requirement, under Sec. 5c (c) (2) CEA, § 40.3 CFTC Regulations, a Designated Contract Market may request a review and approval of the new product and its terms and conditions by the CFTC.

4.2 Product specifications

4.2.1 Products currently listed on Eurex US

Eurex US currently offers access to benchmark USD denominated derivatives products on the U.S. yield curve. The complete range of USD denominated fixed income futures and options on futures available to Eurex US members includes to date:

- 2 Year U.S. Treasury Note Futures (FTNS)
- 5 Year U.S. Treasury Note Futures (FTNM)
- 10 Year U.S. Treasury Note Futures (FTNL)
- 30 Year U.S. Treasury Bond Futures (FTBX)
- Option on 2 Year U.S. Treasury Note Futures (OTNS)
- Option on 5 Year U.S. Treasury Note Futures (OTNM)
- Option on 10 Year U.S. Treasury Note Futures (OTNL)
- Option on 30 Year U.S. Treasury Bond Futures (OTBX)

Eurex US also offers two futures contracts on Russell® stock indexes as follows:

- Russell 1000 Index Futures (FWR1)
- Russell 2000 Index Futures (FWR2)

The contract specifications are part of the Eurex US Rules, please see Eurex US Rules Part 9 (attached hereto as exhibit 0.2).

4.2.2 Updated list on the website

An updated list of the products traded on Eurex US can be found under <http://www.eurexus.com/products/USD.html>.

4.2.3 Products available to remote members in Québec

Eurex US aims to offer its prospective Members domiciled in Québec the same products offered to any other of its Members. However, if AMF requests Eurex US to exclude Members under its regulatory authority from access to certain products, Eurex US will comply with such request.

4.2.4 Future products

Eurex US intends to launch further products. On September 23, 2005, Eurex US plans to launch trading in futures on foreign currencies. Furthermore, the trading in options on futures on the Russell 1000 and the Russell 2000 indexes is under consideration. Eurex US currently has no plans to launch any contracts based on Canadian underlying products.

4.3 Risks Associated with trading products

4.3.1 Establishment of position limits

There are no position limits that apply to the trading of U.S. Treasury Bonds Note futures and options on futures.

The Exchange has established a system of market surveillance to prevent manipulation, price distortion, and disruption of the delivery or cash-settlement process, that adheres Core Principle 4 for DCMs provided by Sec. 5 (d) (4) CEA. This system of market surveillance consist of two lines of surveillance. The first line is based on the Exchange's Large Trader Reporting (LTR) requirement under Eurex US Rule 307(e). This requirement is fully set forth to all Members in Bulletin 04-002, which provides the process for reporting such information to the Exchange. The Eurex US LTR program is administered by The National Futures Association (NFA). As part of the surveillance process, NFA monitors the positions of all traders whose positions in any single Eurex US futures or options contract exceed the reporting level. Eurex US has adopted the same reporting levels set by the CFTC. The second line of surveillance is triggered when a trader exceeds so-called accountability levels. At that point, the Exchange has the authority to inquire as to the intentions of the trader in connection with the position. In addition Eurex US has the authority to order a reduction of liquidation of the position.

4.3.2 Publishing of information

If Eurex US is going to establish position limits, the current members at this time will be informed by letter and the bulletin stating the limits will be available for download on the homepage of Eurex US.

Part 5 Access

5.1 Fair access

5.1.1 Direct access of Québec customers

Direct access to Eurex US will be granted to Québec customers that have been admitted as Members of the Exchange under the standard Membership Agreement (cp. Exhibit 5.1.1). With regard to non U.S.-Members, the compliance with the laws, rules and regulations applicable in the homeland of the non U.S.-Member, remain the responsibility of the respective Member.

Members situated in Québec are therefore responsible to obtain and to maintain the appropriate registration/designation/allowance to trade contracts on Eurex US from AMF. With regard to this issue we refer to Para 6, 3rd bullet point of the Membership Agreement.

We assume that – like in many other jurisdictions – the direct access to a futures exchange of an individual or company situated in Québec is subject to the approval of the respective financial authority, especially if the member of the exchange wants to act as an agent/broker for its customers.

If the term “customer” in your question 5.1.1 is used with regard to private investors (hereinafter “Consumers”) situated in Québec, such Consumers will not have direct access to the Exchange.

5.1.2 Rule 301 Status of Members / BrokerTec Futures Exchange

To your request regarding the membership criteria of BrokerTec Futures Exchange (hereinafter “BrokerTec Exchange”) we reply as follows:

Eurex US and BrokerTec Exchange were merged by their shareholders by entering into three agreements as of January 30, 2004. Eurex Frankfurt AG, the former sole shareholder of Eurex US, acquired BrokerTec Exchange by merging it with a subsidiary of Eurex US and by issuing 20% of the membership interest of Eurex US to the former BrokerTec Exchange shareholders. Accordingly BrokerTec Exchange does not exist any longer and it is not possible to become a member of BrokerTec Exchange any more. Taking this into consideration, we assume that it is not necessary to describe the former membership and access requirements of BrokerTec Exchange.

5.1.3 Operations of BrokerTecFutures Exchange

We refer to the above comments in para. 5.1.2 and assume that a detailed description of the operations of BrokerTec Exchange is not required due to the fact that there are no independent operations of BrokerTec Exchange any longer.

5.2 Details of access criteria

5.2.1

i. Written standards for granting access

The written standards for granting access to the trading facilities can be found in Part 2 of the Eurex US Rules. The most important provision in this respect can be described as follows:

To comply with CFTC Core Principle No. 5 for the designation as a DCM (Financial Integrity of Transactions, Sec. 5 (b) (5) CEA), Eurex US has implemented Rule 302 that provides the following requirements an applicant must fulfill to become a Member of Eurex US:

- Be of good character and of the age of majority (if a natural person);
- be duly organised, existing and in good standing (if an entity);
- have good commercial standing and business experience;
- be registered, licensed or otherwise permitted by the appropriate government agency to conduct business on the trading system or subject to the rules of the company;
- have certain operational capabilities (e.g. hardware, software, communications systems and staffing) as Eurex US may determine from time to time; and
- meet such other criteria as determined by Eurex US from time to time.

According to Rule 304 Eurex US is entitled to deny membership to any person who:

- Has been convicted of any financial crime or misdemeanour;
- has been fined, censured or otherwise sanctioned or subject to disciplinary action by any Governmental Agency or self-regulating organisation;
- has been subject to any material unsatisfied judgments;
- has made any false or misleading statement in connection with any application; or
- it would otherwise not be in the best interests of Eurex US to admit as a Member.

These written Membership criteria act as a filter to protect Eurex US and the interests of investors and other Members and have been approved by the CFTC.

The relevant U.S. legislative provision to which Eurex US is subject which relates to the ability of Eurex US to enforce its Rules contractually is Section 5 of the CEA and Part 38 of the CFTC Regulations, which require generally that Eurex US have and enforce rules sufficient to satisfy the various designation criteria and Core Principles. To satisfy this section of the Act, the CFTC requires that Eurex US's Rules clearly prohibit violations of the Rules and provide sanctions and disciplinary procedures and the necessary staff to enforce the Rules. See also Designation Criterion 6. Members are therefore persons over whom Eurex US can, with reasonable certainty, enforce its Rules contractually. Eurex US has regard to Members' size and

sophistication and the nature of their business, as well as their financial resources in relation to any potential exposure to The Clearing Corporation, the central counterparty. The technical competence of Members is not subject to specific legislative provisions. However, Eurex US ensures that Members have sufficient technical competence to use its facilities by undertaking training programmes in conjunction with the Member's Coordinator of Training (see Section 3.2 of the Information Manual for details of delegation of this role for each Member). Furthermore, each Member must train its employees in, *inter alia*, proper use of the trading system (Rule 307(h)).

Eurex US limits access to persons:

- over whom it can with reasonable certainty enforce its rules contractually by instigation of the Disciplinary Proceedings contained in Part 6 of the Rules which in themselves are expressly binding on a Member by virtue of Part 8 of the Membership Agreement;
- who have, and agree to maintain, sufficient technical and equipment capabilities to use its facilities (Section 4.1 of the Membership Agreement);
- whom it is appropriate to admit to membership having regard to the size and sophistication of users of its facilities and the nature of the business effected by means of, or cleared through, its facilities; and
- who have adequate financial resources in relation to their exposure to Eurex US and maintain their financial resources at or in excess of the amount prescribed by Eurex US (Rule 307(l)).

The eligibility standards are in the Rules, were reviewed by the CFTC and are subject to CFTC review if amended, to ensure that potential Members are admitted or rejected in an objective and non-discriminatory manner. Although no U.S. legislative provision specifically mentions these concepts in this context, this is implicit in the CFTC review process. The Board of Eurex US confirms that the criteria for membership of Eurex US are objective and are and will be applied in an objective and non-discriminatory manner.

In principle, Remote members domiciled in Quebec will be granted the same access on the same terms as all other exchange members including members domiciled in the US. However, any non-US member of Eurex US, including members located in Quebec has to enter into a written agency agreement appointing a third party as its U.S. agent for service of process for purposes of CFTC Rule 15.05 and provide Eurex US with a copy of the agreements (Rule 305(a)(ii)). In addition, any non-US member that is not registered with the CFTC as futures commission merchant or introducing broker must provide the Eurex US in the form and manner specified the true name, address and occupation of any Customer executing, carrying or clearing Futures or Options contracts through the member; provided however, this requirement shall not apply if the positions of the non-US member's customers are maintained in or carried by a registered futures commission merchant on a fully-disclosed basis or introduced by a registered introducing broker (Rule 307 (a)).

ii. Financial integrity standards

Reference is made to the answer to Para 5.2.1. i. above. As described, the applicant has to have adequate financial resources; this criteria has to be fulfilled at the time of application, Eurex US Rule 302 (a) (iv), and ongoing as provided by Eurex US Rule 307 (l). Eurex US detailed the financial requirement in its Bulletin as of August 3, 2004 (cp. exhibit 5.2.1).

As mentioned above, Eurex US assumes that only those individuals or legal entities situated in Québec will become Members of the Exchange that maintain the respective mandatory allowance under the laws of Québec. The financial requirements connected to these allowances will serve as additional integrity standards.

ii. No unreasonable prohibition or limitation of access

All Members of the Exchange are treated in the same way. A limitation of access may occur as result of a disciplinary process during which the Respondent will be heard and has the right to be represented by legal counsel.

iii. Records of access

The Chief of Compliance as head of the Enforcement Staff of the Compliance Department keeps records of all disciplinary proceeding as does the Disciplinary Committee. The Exchange and its Appeals Committee also keep records of cases with regard to denied admissions.

iv. Adequately trained systems user

See Eurex US Rule 307 (h).

5.2.2 Equal access for remote members situated in Québec in comparison with other domestic or foreign remote members of Eurex US

Members situated in Québec will have the same access to the Trading System, the Order Book and all other facilities of the Exchange as the other Members.

5.2.3 Documents

Please see the various documents attached hereto as exhibit 5.2.3.

5.3 Access for Québec members

5.3.1 Self regulation

To become a Members of Eurex US is not subject to a membership with a certain self regulatory organization (SRO). We refer to our answer to 5.2.1 that describes the membership requirements of Eurex US. Whether those requirements are consistent with the provisions of the Canadian SROs, is a question that is addressed to the intended Member. While Eurex US is not subject to the rules and regulations of Canadian SROs, it shall not interfere with the relationship between the respective SRO and its member.

5.3.2 Registration

Québec registered firms do not have to be registered in the U.S. to become a Member of Eurex US and to trade on the Exchange. The acceptance of an application to become a Member of Eurex US is not subject to a specific registration. Whether Québec Members of Eurex have to be registered with the CFTC, depends on the sort of business the respective Member conducts.

5.3.3 Retail clients

Retail consumers could potentially acquire direct access to the Exchange. However, with some exceptions, such an occurrence would be unlikely. Eurex US devotes most of its marketing and promotional efforts to individual professional traders, to trading firms, the financial services industry, and commercial end users. In addition, to qualify to execute proprietary business on the Exchange as a Member of Eurex US requires at least \$ 50 K in net capital.

5.3.4 Duties of members

Rule 307 (a) of the Eurex US Rules will fully apply to Members of Eurex US situated in Québec that are not registered with the CFTC. Rule 307 (a) governs that non-U.S. Members shall provide Eurex US with name, address and occupation of any of its Customers trading on Eurex US in the form and manner the Exchange specifies. Our impression is that this requirement does not affect IDA By-law 35 and/or Rule 7470 of the Montréal Exchange. The exception that the requirement to provide Eurex US with name, address and occupation of the customer “shall not apply if the positions of the non-U.S. Members’s customers are maintained in or carried by a registered futures commission merchant on a fully-disclosed basis or introduced by a registered introducing broker” may not be applicable to Québec Members that are subject to the aforementioned rules of the IDA and the Montréal Exchange.

5.3.5 Privacy legislation in Québec

The Personal Information Protection and Electronic Documents Act provides that knowledge and consent of the individual are required for the collection, use, or disclosures of personal information, Para 4.3 Personal Information Protection and Electronic Documents Act. A Canadian member will be expected to abide by all Eurex US Rules, including the requirement to inform the Exchange of the contact data for its customers that trade on Eurex US. It will be then incumbent on the Canadian member to obtain the necessary consent from its customer to abide by this rule. We are of the opinion that Rule 307 (a) of the Eurex US Rules does not interfere with privacy legislation applicable in Québec

5.3.6. Expected Québec member population

Eurex US intends to promote its business incl. membership opportunities to the following typical customers of futures and options products: (i) Investment Banks, (ii) Brokers or other Financial Service Providers, (iii)

Proprietary trading operations.

Part 6 Rulemaking

6.1 Purpose of Rules

6.1.1 Process of rule development, approval and industry consultation

The Rules of the Exchange (Eurex US Rules) will be periodically reviewed by Eurex US in consultation with regulators and Members, to ensure that they remain current and reflect best practices in the futures industry. The CFTC also undertakes periodic rule reviews of all self-regulatory organisations, including Eurex US.

Eurex US Rule 802 provides that the Eurex US Rules are capable of amendment, adoption or repeal pursuant to the Eurex US Bylaws. Section 5.1(c) of the Eurex US Bylaws provides that the Board of Directors of Eurex US (Board) has the right to adopt, amend or repeal any Eurex US Rule as it may deem necessary or appropriate in the best interests of Eurex US. Certain restrictions apply to retrospective effect of such amendments, as described in Rule 802 Eurex US Rules. All rule changes must be submitted to the CFTC. In accordance with Sec. 5c (c) CEA the Exchange may either self certify the amendment (see. Sec. 5c (c) (1) CEA and § 40.6 CFTC Regulations) or request that the Commission grant prior approval (see Sec. 5c (c) (2) CEA and § 40.5 CFTC Regulations).

Members are bound by the Eurex US Rules as they are amended from time to time and the Eurex US Rules control over any conflicting provisions of the Membership Agreement. As noted above, any such changes must be approved by the Board and comply with the CEA and the CFTC Regulations.

The Eurex US Board of Directors represents a variety of important user constituent groups in the futures industry, including brokers, clearers, institutional investors, arbitrage and proprietary trading firms and individuals. Thus, the Board would expect to obtain the viewpoint of significant user groups within the futures community when considering significant action. It has also established an advisory committee to obtain additional user input.

Decisions about making and amending the Rules can be made in three ways.

- The Board is able, by resolution, to approve amendments, deletions or additions to the Eurex US Rules. Decisions of the Board in respect of changes to Eurex US Rules are capable of being delegated to a committee of Directors, pursuant to Sec. 7.1 of the Eurex US Bylaws.
- Unanimous written consent of the Board of Directors, pursuant to Sec. 6.7 of the Eurex US Bylaws.
- The Chief Executive Officer (CEO) is able to modify any of the Eurex US Rules pursuant to Rule 804(b)(xii) Eurex US Rules on the occurrence of an emergency. No official consultation process applies for such action. However, any such modifications would be limited to the events and circumstances designated an “emergency” by the Chief Executive Officer that require immediate action because of a threat to fair and orderly trading in any contract or the liquidation of or delivery pursuant to any contract.

Eurex US is not required to consult with all Members or all other users of Eurex US’s facilities in relation to proposed changes. Safeguards are instead ensured for investors by the composition of the Board of Eurex US, which includes 50% participation of Members of Eurex US. Furthermore, substantially or material

changes are usually discussed informally with relevant market associations, such as the Futures Industry Association (FIA) in the U.S. and the Futures and Options Association in the United Kingdom, to ensure the consideration of the views of all participants in the market.

It is in the best interests of Eurex US that member and industry consultations take place in order to maintain relations with Members and other users. Eurex US will determine the extent of such consultation processes on the facts of each such change, according to the nature of any potential impact of such proposed change on relevant industry sectors, the urgency with which such change would need to be implemented and any other factors relevant in the context in which each proposed change arises.

6.1.2 Applicable Eurex US rules for each subsection of Part 6

The applicable rules for each subsection of Part 6.1 are as follows:

- i. ensure compliance with the rules of the Exchange and legislation

Eurex US Rules: 203, 205, 303, 305, 307, 601 et seqq.

- ii. prevent fraudulent and manipulative acts and practices

Eurex US Rules: 203, 205, 303, 307, 308, 309, 311, 601 et seqq.

- iii. promote just and equitable principles of trade

Eurex US Rules: All Rules in Part 4, especially: 401, 403, 404, 405, 408, 409,

- iv. foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, the products trade on the Exchange

Eurex US Rules: 504
Eurex US Bylaws: Sec. 5.2

- v. provide for appropriate discipline

Eurex US Rules: 601, 605, 611

- vi. ensure a fair and orderly market

Eurex US Rules: All Rule in Part 4 and Part 5, especially: 401, 403, 404, 405, 408, 409, 503, 504, 505

- vii. ensure that the Exchange business is conducted in a manner so as to afford protection to investors

Overall the Eurex US Rules and its Bylaws are created to ensure that its business is conducted in accordance with the CEA and the CFTC Regulations. The main purpose of the CEA and the CFTC Regulations is in return investor protection. Therefore it could be said that the Eurex US Rules as a whole shall ensure that the Exchange conducts its business in a manner so as to afford protection to investors.

6.1.3 Applicable NFA rules for each subsection of Part 6

NFA rules may apply but not in the context of any activity that occurs in connection with Eurex US.

6.2 No discrimination of Burden or Competition

Members situated in Québec will be subject to the same rules as Members from the U.S.

Part 7 Systems and Technology

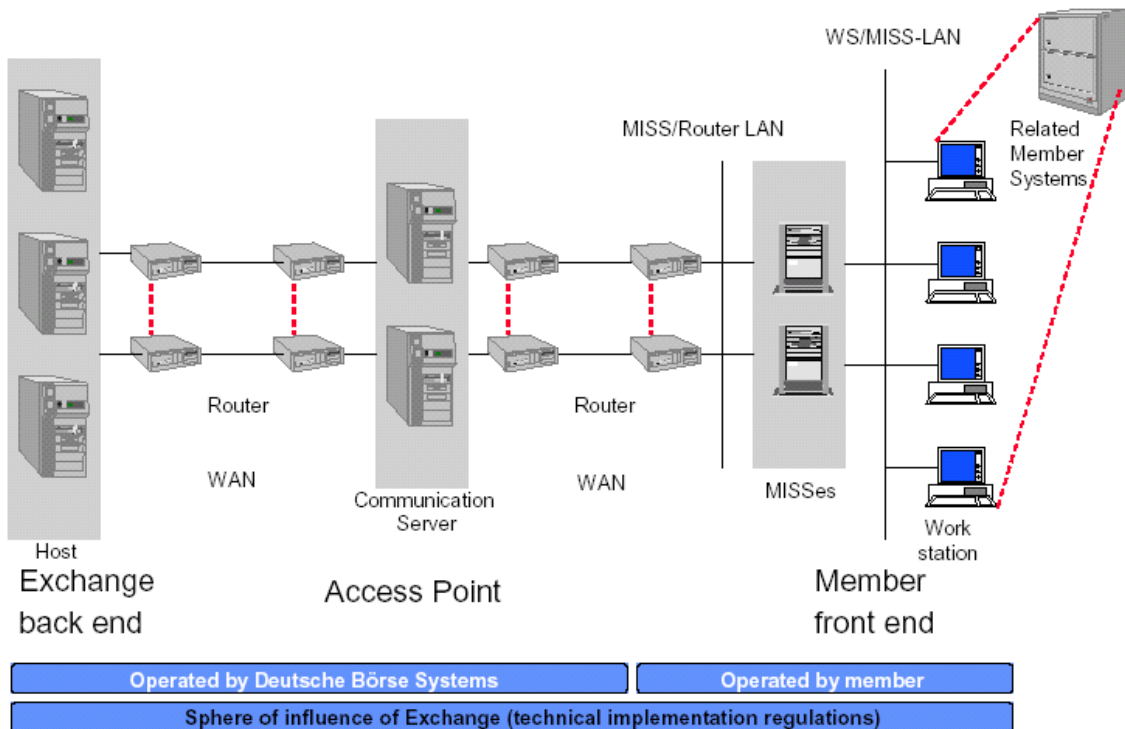
The trading system of Eurex US (hereinafter the "Trading System") operates on an identical platform as the trading system of Eurex Frankfurt AG. Eurex Frankfurt AG continuously upgrades its trading software, releasing and installing significantly upgraded versions about every fifteen months. Eurex US uses a customized version of the software and intends to exploit the cycle of continuous improvement to the extent possible. The Trading System is technically designed, installed and operated by Deutsche Boerse Systems (hereinafter "DBS"), which provides similar services to Eurex Frankfurt AG. Whatever version of the Eurex Frankfurt AG software is operated by Eurex US it will be modified to correspond to US business and regulatory requirements.

Eurex US has set operating and service standards, which are enforced in accordance with the vendor contract and service level agreements, which have been agreed between Eurex US and DBS. Eurex US will piggyback on testing and development performed by DBS on the Eurex Frankfurt AG trading system. Accordingly, some of the answers provided below will make extensive reference to Eurex Frankfurt AG.

Eurex US operates the Trading System with completely independent hardware and software installations. To a small extent Eurex US shares its communication network with Eurex Frankfurt AG and other marketplaces running the Eurex Frankfurt AG trading system, where it seeks to capture certain efficiencies.

7.1.1 System architecture

Please find below the requested diagram reflecting the architecture of the Eurex US Trading System.



The Trading System is a wide area distributed system, where the workstations and the Member Integration Systems Servers (MISS's) are owned and operated by the Members. The Members run the exchange-provided trading software. MISS's and workstations can be either Intel/Windows2000 or Sun Solaris systems. Additionally the System supports Windows XP for workstations. The MISS's are connected via private leased lines or alternatively via Virtual Private Networks (VPNs) to the access points distributed worldwide. At the access points (set up at two independent sites in each city in order to be disaster-tolerant) the communication servers (OpenVMS AlphaServers) are responsible for concentrating messages, distributing broadcasts and transferring files. The communication servers act as fire walls between the members and the exchange. The access points are connected to the backend systems via leased lines only. The backend systems are also OpenVMS AlphaServers in a disaster-tolerant cluster configuration. They are responsible for the transaction handling and the data storage.

7.1.2 System capability / criteria (i) – (vii)

(i) reasonable current and future capacity estimates

The current Trading System has been built to meet the same capacity and performance levels as the system actually used by Eurex Frankfurt AG. The following performance figures have been observed on the trading system of Eurex Frankfurt AG with more than 180 active member firms and more than 2000 workstation sessions. A sustained transaction rate of more than 22 order/sec (>1.6 million transactions over a 20 hour trading day) and peak transaction rates of more than 100 order/sec have been observed. The average host roundtrip time has been observed at about 100ms with an average response time of about 300ms at the MISS server of the member firm. The Trading System is built for an estimated maximum throughput of about 150 Hz transaction rate and the daily total number of system transactions of about 5,000,000.

Due to the inherent scalability of the three-tier client-server architectures, the number of simultaneous workstation sessions is not limited. The number of systems on each of the three tiers (central host, geographically distributed Access Points, MISS servers at the site of the Members) can be increased to accommodate additional load. The Members will be advised with regard to the capacity of their MISS servers and they will be provided with sizing guidelines.

The technical capacity is evaluated every day, new peak rates are analyzed and capacity adjustments are evaluated. Eurex US and its system provider and operator, DBS, will respond to anticipate bottlenecks either by adjusting the hardware capabilities or by optimizing the software.

(ii) capability tests

The system capacity is intended to be maintained at no less than 160% of the highest observed transaction levels as measured on a daily basis. When a breach of this threshold is threatened, conditions are closely monitored by DBS staff and reported immediately to responsible Eurex US management. Mimicking this procedure, Eurex US will require DBS immediately to report any observed breaches of the 160% barrier and to advise Eurex US on alternative courses of action.

(iii) review with respect to internal and external threats, (iv) safeguards, (v) configuration, (vi) development and testing methodology, (vii) back-up, contingency, disaster recovery

The base structure of the system hardware is a well-defined and tested disaster-tolerant configuration, where cabling and system parameterization is well documented. Upgrade is possible by replacing existing system components with more powerful versions, e.g. replacement of CPUs with newer models featuring higher clock speed. (AlphaServers are available in a wide range of performance.) Concerning software changes, an independent department, Configuration Management and Quality Assurance (CMQA), controls, verifies and maintains the set-up of the application software. The CMQA department is organized in a separate division, independent from software development / maintenance and the operations department and reports to management. For daily configuration management activities for the platforms UNIX and Windows 2000/XP, the tool "CCC/Harvest", an industry standard configuration management tool provided by Computer Associates, the VMS platforms, the CMS code management system is used. Additionally all software changes are subject to the four-eye principle and are controlled and managed by a central Problem Tracking system, owned and controlled by the CMQA department. All actions directly applied to the system, reboots, responses to application or hardware errors are reported and reviewed by an independent IT security department. This IT security department is organized such as the CMQA department in a separate division as a staff unit and reports directly to management.

7.1.3 Outages and degradations during market hours

The Eurex US hardware system consists of two physically separated sites, which operate side by side and balance out system load. Neither of these sites is a conventional hot-backup site, which runs stand-by only to

takeover in a disaster recovery scenario. Each site is fully operational and is connected via two independent data communication lines each. In case of a complete loss of one location the system of the other location is still 100% functional. Both sites are equipped with state of art devices that will immediately supply power in case of a breakdown of the outside supply. Deutsche Boerse Systems performs several disaster recovery tests. A power shut down is simulated every month to ensure independence of public power supplies. In addition to this, power failure tests of other technical components like hosts, servers and routers will be performed to test the failover of the second production site. This ensures the non-existence of a single point of failure.

In the very unusual case of a complete failure, restart of trading is possible via the additional trading phase "HALT" that puts the market for all participants on hold, which is automatically applied to a product state. After the system is restarted, the market opens with an auction phase for each product and it is guaranteed that all open orders will remain in the system. From that phase, normal trading can be resumed. The possibility of any intermediate procedure until recovery does not apply, because the disaster-tolerant configuration continues and the data is always secured on disk on both sites.

7.2 Information technology risk management procedures

7.2.1 Trading errors, trading halts and circuit breakers

Trading errors

Eurex US Rule 408 deals with trading errors. Para (b) (ii) of Rule 408 defines the acceptable ranges outside of which the Exchange would consider an erroneous trade. In addition the Member which entered the erroneous order or quote into the Trading System must notify Eurex US by telephone within 15 minutes of the execution of the transaction. If these conditions are met Eurex US shall cancel the given transaction and in accordance with Ruel 408 (c) any trades that were executed outside the defined range, resulting from contingent orders having been selected for execution because of the cancelled transaction.

Trading halts and circuit breakers

Eurex US Rule 409 provides for the intervention of Eurex US in case of extraordinary volatility of a Futures Contract traded on the Trading System. The explicit circumstances under which an interruption occurs are specified upon "discretion" of the Exchange. The volatility interrupt rule is applicable to both steep rises and declines in the market. While the consequences of an unusual volatility occurrence are defined in the rule, the trigger points with regard to the time slots and to the respective price range are confidential and not published. Currently, this feature compares the price of the last execution to a price range calculated on the basis of the highest and the lowest price of the executed contracts (i) during the last 10 seconds (ii) during the last 99 seconds. If the price of the last execution is out of the calculated range, then the system will halt trading¹ and

¹ By trading halt, only executions are prohibited during this time.

immediately reset into pre opening. It should be noted that the parameters for the calculation of the price range vary by product on the basis of historical analysis in order to ensure that an interrupt would only occur in unusual market situations.

If trading is interrupted, then Market Supervision will use its best efforts to restart trading. It will first assess the cause of the interruption. If the interruption was due to user error, then trading will resume quickly. If the cause was due to market conditions, then Market Supervision will first seek to assess the intentions of the traders with orders in the order book that have the potential to affect the market. All market participants have the opportunity to cancel or amend existing orders, then a new Transition will be commenced in accordance with Rule 401 (b) (ii).

7.2.2 Adequate supervision of the system users

Pursuant to Eurex US Rule 205, the Exchange has established a Compliance Department. The Chief of the Compliance Department is responsible for overseeing market surveillance activities. This oversight includes interaction with the Exchange's Market Supervision Department, which provides real-time surveillance of all activities conducted on the Trading System. Such surveillance includes ensuring that trades are executed properly under Exchange rules. Market Supervision has appropriate Eurex US Board-delegated authority to halt trading and to declare mistrades *ex officio* under certain circumstances, including if trades occur outside of a reasonable range.

In addition to the real-time surveillance conducted by the Market Supervision Department, Eurex US has executed a Regulatory Services Agreement (RSA) with the National Futures Exchange (NFA) under which the NFA performs certain regulatory services on behalf of Eurex US, including the following:

- Market surveillance
- Trade practice surveillance
- Disciplinary investigations
- Market participant dispute resolution services
- Financial surveillance and audits

For purposes of market and trade practice surveillance, the NFA utilizes online quotation systems, computer-generated reports and other tools to conduct daily monitoring of prices, volume, open interest, clearing member and large trader positions, and market news for all contracts listed on the Exchange. Such data is analyzed each day by NFA using its Trade Analysis and Profiling System (TAPS). TAPS has the following capabilities for surveillance purposes:

- Triggers an alert if upward or downward price moves exceed preset parameters
- Ranks positions in each contract by concentration and alerts NFA staff if concentration exceeds a preset level
- Informs NFA if any trader's position exceeds reportable levels for large trader surveillance purposes
- Aggregates all positions held by the same beneficial owner for purposes of monitoring large positions
- Generates daily exception reports to identify potential trading abuses, including:
 - Trading ahead of customers

- Wash trading
- Marking the close
- Can be programmed to conduct customized reviews or searches of audit trail data
- Triggers an alert if a trader deviates from his/her normal pattern

The NFA also reviews trades that are conducted through the Exchange's OTC facility (*i.e.* block trades, EFPs, EFSs, etc.) to ensure that they comply with relevant requirements.

Using these surveillance techniques, if NFA suspects activity that violates Eurex US or CFTC rules, it will commence an investigation. First, the NFA will contact the trader or traders responsible for such activity and conduct a formal interview with the trader or traders. A full report of the NFA investigation and findings will be written and sent to the Chief of Compliance. The Chief of Compliance will then forward the NFA report to the Eurex US Disciplinary Committee for a decision as to whether to prosecute. If warranted, prosecutions will be conducted by NFA staff on behalf of the Exchange before a panel of three members of the Disciplinary Committee. The Disciplinary Committee is empowered to enact a full range of penalties in cases where Eurex US have been violated.

It should be noted that the contracting out of such services is specifically contemplated and permitted by CFTC Core Principle 11. In addition, the NFA reports on its surveillance activities to the Compliance Department by means of weekly and *ad hoc* meetings, e-mails, and phone calls with the Eurex US Compliance Department.

7.2.3 Competence, Integrity and Authority of System Users

The administrative system that is employed to prevent and to detect the unauthorized use of the Trading System can be described as follows:

An independent IT security department evaluates logs of the various systems and of the application and generates a weekly management report. All deviations from the standards are documented, reported and analyzed. The ticket-of-the-day key is modified for each transaction, thus preventing real-time hacking. The exchange network is a private network; communication is via dedicated leased lines. For connectivity via the Internet a virtual private network channel is used to prevent unauthorized use of the system. NFA will be conducting T plus 1 review of all trading activity to determine if there has been unusual trading activity based upon profiles or if access is for unusual periods of time etc. They will alert Eurex US and the respective member to any unusual activities.

The efforts to maintain communications security can be described as follows:

Transaction data records, sent over the network to the members are compressed and encrypted individually per logical link, where the key is negotiated on start-up on a daily base. To protect the backend system, the communication servers act as firewalls.

Data integrity on and between the sub-systems in the event of a failure is provide as follows:

All relevant data is stored on the backend servers. The member servers have functions to reload lost data.

The backend servers are configured as a disaster-tolerant cluster, i.e. the surviving cluster nodes continue the complete service automatically after the failure of some nodes or even a complete site. The only impact would be a reduced system CPU capacity. Data is host based shadowed (OpenVMS operating system feature) across both sites, which ensures the data being always consistent - no resynchronization or replication is needed.

Part 8 Financial viability

8.1 Eurex US financial statement

At this time, Eurex US will not make available its financial statement unless the Autorite des Marches Financiers will ensure that it can maintain the confidentiality of such a statement and that it will not be accessible to the public, either by means of publishing this application for comment or otherwise.

8.2 Maintenance of appropriate financial resources

Under CFTC Core Principles, a DCM must ensure that it maintains sufficient resources. In addition, Deutsche Börse AG provided a non-binding informal letter of comfort on behalf of Eurex US to FSA providing that Deutsche Börse AG would make its best efforts to maintain Eurex US capital at appropriate levels under FSA guidelines. Moreover Deutsche Börse AG has entered into a subordinated loan agreement with Eurex US. Finally, Eurex US was recapitalized with \$28MM in March 2005.

Part 9 Clearing and settlement

9.1 Relationship with the Clearing Corporation

9.1.1 Clearing and settlement procedures for Québec members and membership requirements

Transactions executed by future Members of Eurex US situated in Québec will be cleared and settled in the same way as transactions of the other Members of Eurex US. The system of clearing and settlement applicable can be described as follows:

Every transaction executed on the trading system must be cleared either through a Member authorised by The Clearing Corporation to act as a Clearing Member for the given product (a “**Clearing Member**” as defined in Rule 101 of the Rules of Eurex US) or through a Member that has, in effect, prior to trading, an agreement with a Clearing Member that will guarantee and clear the transactions of the trading Member trading for its own account or for the account of its customers effected through the trading system (a “**Authorised Clearing Member**”, as defined Rule 503 of the Eurex US Rules). The Authorised Clearing Member must guarantee and assume financial responsibility for all contracts traded through the trading system by the trading Member it authorises.

Every Member has the responsibility of aiding its Authorised Clearing Member in the clearing of the Member's trades. Every Member must have a contact person available to assist in resolving questions concerning contracts at all times. If the Member's contact person cannot be reached, the Member's Authorised Clearing Member has the right and power to resolve any disputes regarding transactions by the Member in a manner it deems appropriate. This resolution does not determine the ultimate liability of any party to the transaction.

Settlement prices are established by The Clearing Corporation as provided under The Clearing Corporation Rule 9-404. Eurex US will provide The Clearing Corporation with a recommendation in relation to the settlement price at the time established by Eurex US with respect to each product as provided in contract specifications. The time set for determining the settlement price does not need to coincide with the end of a trading session or trading day.

Eurex US's recommendation to The Clearing Corporation with respect to the daily settlement price for contracts is the final price if a closing auction procedure is used for the contract pursuant to Exchange Rule 401(d). Otherwise, in making its recommendation, Eurex US or its designee considers the volume weighted average price of the last five trades preceding the time established by Eurex US for determining the settlement price, as provided in contract specifications, provided that these five trades are not older than 15 minutes. However, if more than five trades are traded during the final minute, then the volume-weighted average price is calculated using all trades during the final minute. If a settlement cannot be determined using the above procedures, or if the price determined in Eurex US's discretion does not reflect true market conditions, then Eurex US recommends a settlement price at its discretion.

The procedures for recommending a final settlement price are the same as those outlined above, except that the number of trades required to be averaged cannot be less than 10 during the last 30 minutes of trading or, if there were more than 10 trades during the last minute of trading, all such trades.

On the final day of trading in a delivery month of a contract listed for trading on the Trading System, each Authorised Clearing Member not in a position to fulfil its contractual obligation on any maturing contract by prescribed notice and tender, is responsible for having a liquidating order entered on the trading system.

9.1.2 Operations of the Clearing Corporation and the Process of Clearing

The Clearing Corporation (formerly Board of Trade Clearing Corporation) is a Derivatives Clearing Organisation registered with the CFTC and has cleared a/c/e traded contracts since 2000.

The Clearing Corporation centralises credit risk by becoming the counterparty to each clearing participant that clears Exchange contracts traded through the Trading System. Once The Clearing Corporation steps in as the central counterparty, guaranteeing the trade, the clearing member's obligation to the original counterparty to the transaction is released and its sole obligation is to The Clearing Corporation. The Clearing Member is required to provide collateral in cash, securities or letters of credit from approved issuers to The Clearing Corporation to secure that obligation and also makes any necessary daily cash settlement payments in accordance with twice-daily statements of trades and positions it receives from The Clearing Corporation. Clearing Members are in turn required to obtain collateral from their customers in amounts determined by Eurex US.

The entire process of clearing is computerised. The Clearing Corporation interfaces with Eurex US's electronic system through real-time computer networks. Clearing Member firms' positions are sent by The Clearing Corporation to the firms' risk management systems. The Clearing Corporation utilises a sophisticated risk management system that includes daily collection of original margin, twice daily marking to market of all open positions and payment and collection of all related gains and losses, monitoring of Clearing Members net mark to market obligations throughout the trading day and monitoring of all large trader positions. It also actively communicates with Eurex US and with NFA to ensure coordination of risk management and financial surveillance activities for all Exchange trading. The Clearing Corporation has approximately 67 clearing participants, including many of the world's largest financial institutions.

With regard to the process of clearing we refer to the answer to 9.1.1 above.

9.1.3 Transmitting of matched trades to the Clearing Corporation

As mentioned above, the entire process of clearing is computerised. The Clearing Corporation interfaces with Eurex US's electronic system through real-time computer networks.

9.1.4 Currency for collection of margin from Québec members

According to Rule 405 of the Clearing Corporation Rules, the margins will be calculated in U.S. Dollars and the Clearing Member shall pay "an amount in U.S. Dollars, or foreign currency acceptable to the Clearing Corporation, sufficient to cover such deficit to the Clearing Corporation". Therefore a Member situated in Québec that becomes a Clearing Member shall agree with the Clearing Corporation whether and under which conditions margins may be paid in Canadian Dollars. If the Canadian Members of Eurex US clear their trades through a Clearing Member, they shall agree with the respective Clearing Member the currency for the collection of margins. There are not Rules in place that provide U.S. Dollar as the only currency for margin

payments, but the calculation will be in U.S. Dollars.

9.1.5 Clearing Service Agreement

Please find attached a copy of the Clearing Services Agreement (exhibit **XX**) between Eurex US and CCorp.

9.3 Authority of CFTC

The Clearing Corporation is a derivatives clearing organization (hereinafter “DCO”) registered with the CFTC in accordance with Sec. 5b (a) CEA. It is under a continuing obligation to comply with the core principles for DCOs as provided by Sec. 5b (c) 2 CEA. The core principles provide that a DCO has

- adequate financial, operational and managerial resources,
- established appropriate admission and continuing eligibility standards for Clearing Members,
- the ability to manage the risks associated with discharging the responsibilities of a DCO, through the use of appropriate tools and procedures,
- the ability to complete settlements on a timely basis under varying circumstances, maintain an adequate record of the flow of funds associated with the transactions,
- standards and procedures in place to protect and ensure the safety of the funds of the Clearing Members,
- rules and procedures designed to allow for efficient, fair and safe management of situations when a Clearing Member becomes insolvent,
- entered into adequate arrangements for effective monitoring and enforcement of compliance with its rules and has the authority and ability for disciplinary actions,
- established and will maintain a program over signing the automated systems,
- developed sufficient emergency and disaster recovery plans,
- the ability to provide the CFTC with reports for the conduct of oversight functions of the CFTC,
- the ability to maintain records of all activities,
- be able to inform market participants about relevant information with regard to its rules and operations,
- entered into appropriate information sharing agreements with domestic and foreign organizations.

The CFTC Regulations provide further information with regard to the core principles for DCOs. Appendix A to Part 39 of the CFTC Regulations elaborates the core principles, please see Exhibit 9.3.

With regard to the procedure of registration as DCO we refer to Para 39.3 of the CFTC Regulations. The details with regard to information requests by the CFTC are described in Para 39.4 of the CFTC Regulations. Para 39.4 of the CFTC Regulations deals with the enforceability of contracts submitted to a DCO and Para 39.5 with fraud in connection with the clearing. Furthermore we refer to Part 40 of the CFTC Regulations, that provides rules common to DCMs and DCOs as for example the self certification of rule changes and amendments.

The CFTC reviews the compliance of The Clearing Corporation with the core principles from time to time.

9.4 Restrictions on access to a foreign member

We refer to the answer to 9.1.1 above. Members of Eurex US situated in Québec will have the same options with regard to the clearing of transactions executed on the Trading System as all Eurex US Members, they may become a Clearing Member or have their contracts cleared through a Authorised Clearing Member.

9.5 Sophistication of technology of The Clearing Corporation

Eurex US has assured itself that the information technology used by The Clearing Corporation reflects state of the art and provides adequate safeguards. With respect to the continuous development of the software, The Clearing Corp is under the surveillance of the CFTC and it is obliged under Sec. 2 (c) of the Clearing Service Agreement to comply with all regulatory requirements to improve its systems, software and equipment.

9.6 Risk management of The Clearing Corporation

9.6.1 Description of

(a) default arrangements, including details of the default fund and any default insurance held by The Clearing Corporation;

The Clearing Corporation uses a sophisticated risk management system. Key components of this risk management system include: at least once daily collection or original margins; at least twice daily marking-to-market of all open positions and payment and collection of related gains and losses; and monitoring of the net mark-to-market obligations of the Clearing Members throughout the trading day. This system of risk management allows The Clearing Corporation to analyze the net open trading positions of the Clearing Members and determine the respective market exposure. In addition, the continuous flow of information to and from The Clearing Corporation and the Clearing Members allows the active monitoring of trading positions and the associated financial risk. The continuous exchange of information also permits active communication with other self regulatory organizations and regulatory authorities to ensure coordination of risk management activities.

Throughout its more than 75-year history, The Clearing Corporation has developed and maintained a sophisticated credit and guarantee system. Since The Clearing Corporation's formation in 1925, no customer has lost money as a result of a default by a counterpart for which The Clearing Corporation was obliged to guarantee. Upon its inception in 1925, The Clearing Corporation had an initial capitalization of \$ 2,500,000. As the scale of business handled by The Clearing Corporation has grown, so too has its equity and its default resources. By February 2004, The Clearing Corporation had stockholder equity in excess of \$ 100 million, while the Guaranty Fund totalled more than \$ 125 million. The CFTC and The Clearing Corporation regard these amounts as sufficient protection against the risks associated with the current business of The Clearing Corporation. Nevertheless the sufficiency of the Guaranty Fund is under continuous scrutiny.

(b) the calculation and frequency of review of the default fund calculation;

Reference is made to our answer above.

(c) the rules and responsibilities of Eurex US and The Clearing Corporation in the event of a default occurring.

Core Principle 11 of the requirements for contract markets requires that Eurex US ensure the financial integrity of its contracts and intermediaries, including having appropriate default rules and procedures. Part 190 of the CFTC Regulations set forth detailed rules and procedures concerning bankruptcies in the futures context.

Bankruptcy of a clearing member is governed by Title 17 of the U.S. Code (the “**Bankruptcy Code**”), with particular reference to subchapter IV, chapter 7 of Title 11 of the U.S. Code. The Bankruptcy Code and subchapter IV are attached as Annex 60.

Upon the commencement of a clearing member’s bankruptcy case, a bankruptcy trustee (the “**Trustee**”) is immediately appointed. The Trustee is an officer of the court who has fiduciary duties to the debtor’s creditors. He immediately assumes control of the debtor and its property. The Trustee is required, within a matter of days, to either transfer or liquidate open commodity contracts. The Trustee must also “promptly” liquidate the debtor’s property, including collateral posted with respect to commodity contracts. Finally, the Trustee distributes the proceeds of liquidation to creditors.

Without a court order or statutory exemption (some of which are described below), the automatic stay enjoins creditors from taking any action to collect debts from the debtor or from otherwise exercising any contractual remedies against the debtor. The automatic stay remains in effect for the duration of the case unless the court, for cause, orders otherwise.

Certain special protections are provided by the Bankruptcy Code in respect of a clearing member’s bankruptcy:

- Despite the automatic stay, under Section 362(b)(6) of the Bankruptcy Code, a “commodity broker” is permitted to exercise any substantive right it may have to set off its claims against the debtor clearing member for margin and settlement payments arising out of commodity contracts against cash, securities, or other property held by or due from the debtor clearing member to margin, guaranty, secure or settle contracts.
- Despite the automatic stay, under Section 556 of the Bankruptcy Code, a commodity broker is permitted to exercise any substantive right it may have to liquidate the commodity contracts it has entered into with the debtor clearing member.
- Under Section 546(e) of the Bankruptcy Code, entities that received margin or settlement payments from the debtor clearing member prior to the debtor’s bankruptcy filing are not subject to any avoidance actions, provided such transfers were made in the ordinary course of business.
- Entities that qualify as “customers” of the debtor clearing member would benefit from special priority distribution rules set forth in Section 766 of the Bankruptcy Code and CFTC Regulation 190.08. The CFTC is authorised by Section 20 of the Commodity Exchange Act to adopt regulations to implement the special “commodity broker” liquidation provisions of the Bankruptcy Code.

- Customer property is defined by Section 761(10) of the Bankruptcy Code and CFTC Regulation 190.01(n) to include margin payments (both initial and variation margin) posted by customers on account of commodity contracts, as well as open contracts and any accruals on such contracts.
- Customer property would be distributed in the following manner pursuant to Sections 761(10), 766(h) and 766(j) of the Bankruptcy Code and CFTC Regulation 190.08:
 - first, to pay expenses attributable to the administration of customer property;
 - second, to be paid to customers based on their “allowed net equity”; and
 - third, if customer claims are paid in full, the remaining customer property is available for distribution to non-customer creditors.
- Property that does not constitute customer property will generally be distributed in accordance with the following more general priority scheme pursuant to sections 507 and 726 of the Bankruptcy Code:
 - first, to secured creditors;
 - second, to administrative expense claimants; and
 - third, to general unsecured creditors.

Paragraph 7 of the Membership Agreement provides for action to be taken by Eurex US where a Member is or appears to be unable to meet its obligations. Powers of Eurex US arise on:

- any breach or failure by a Member to perform timely any of its obligations under the Membership Agreement or the Rules;
- failure by a Member to deposit any amount or failure to maintain any required margin;
- failure by a Member to make any other payment;
- bankruptcy, insolvency, receivership etc. of a Member; or
- where Eurex US notifies the relevant Member, offers an opportunity to respond and reasonably considers such action necessary for the protection of other Members or Eurex US.

In such circumstances, Eurex US has the right to:

- close out any or all open contracts;
- cancel any outstanding orders;
- treat any obligations to Eurex US as immediately due and payable;
- set off any obligations due to Eurex US;
- request the relevant authorised clearing member to liquidate any collateral held by that authorised clearing member on behalf of a relevant defaulting Member to satisfy that Member’s obligations to Eurex US;
- terminate any of Eurex US’s obligations in respect of future performance;
- terminate access to Eurex US; or
- undertake any other action in accordance with the Rules.

The Rules further provide that trades must be settled on a timely basis in accordance with the schedule of the clearing organisation (Rule 411). Various penalty provisions exist (Rules 612, 614), and emergency powers of Eurex US (Rule 804) and summary actions (Rule 615) may be capable of being invoked rapidly in

circumstances of default. Rule 314(a)(ii) further allows termination of membership if the Member ceases to be of good commercial standing, or have adequate financial resources and credit.

9.7 Global Clearing Link

Eurex US and The Clearing Corporation have jointly applied to the CFTC for approval of a clearing link between The Clearing Corporation and Eurex Clearing AG, the clearing arm of Eurex Frankfurt AG. The approval process has been bifurcated into two parts. Phase I consists of the link between the members of The Clearing Corporation (“Clearing Participants”) and Eurex Clearing AG. Phase I has been approved by the CFTC and is currently operational. Phase II would involve a link between the Clearing Members of Eurex Clearing AG and The Clearing Corporation. Phase II is currently under review by the CFTC, but there has been no indication of whether, and if so when, approval is forthcoming. From an operational standpoint, the link permits the members of one clearing house to clear their customer’s transaction that occur on the other exchange. Under Phase I, Clearing Participant customers may clear transactions on Eurex Frankfurt through the link.

Part 10 Trading practices

10.1 Trading practices

10.1.1 Trade flow diagram

Not available.

10.1.2 Trading rules

Part 4 of the Eurex US Rules contains the rules with regard to Trading.

10.1.3 Pre-opening, transition, end of opening period, closing, trading and contract expiry periods

Please see Eurex US Rule 401. In this provision the different periods during a business day and the details of the respective mechanisms applicable during the different periods are described.

10.1.4 Trading algorithm, interaction of orders on the system

Reference is made to Rule 404 of the Eurex US Rules. The Trading System provides two different matching procedures, the price/time priority matcher (hereinafter "Price/Time Priority Matcher") and the pro rata futures matching (hereinafter "Pro Rata Futures Matching"). The first is used for options matching, whereas both may be used for futures matching, depending on the type of underlying product.

Price /Time Priority Matcher

The Price/Time Priority Matcher algorithm conforms to the price and time priority rule. This matching algorithm is used for all options traded on Eurex US and some futures if these futures are assigned to this matcher. When a new order is entered, the Trading System first checks the price against the orders in the electronic order book and will execute the orders with the best prices. In addition a timestamp is assigned to all orders entered into the Trading System to determine the chronological priority of the order, which is used to prioritize orders in the book with the same price.

Market orders have the highest priority for matching. If several market orders are booked in the order book the Trading System takes into account the timestamp of the orders as a further criterion for establishing matching priority. Consequently, the first market order entered receives the highest priority. In the case of limit orders, orders with the best possible prices (i.e. highest price limit for buy orders and lowest price limit for sell orders) take precedence in the matching process over other orders with worse prices. Again, if limit orders are the same price limit, the extra criterion used for establishing matching priority is the order timestamp.

The orders already present in the order book are always executed at the given limit price never at a worse price. Orders going into the order book are always matched at the appropriate prices available in the order book, up to the specified limit price.

Pro Rata Futures Matching

When matching against an incoming order, the Pro Rata Futures Matching algorithm takes into account each book order at the inside market price according to its percentage of the overall volume bid or offered at the price, regardless of its time stamp. The elimination of time priority results in a larger number of book orders contributing to a trade, since an incoming order is partially matched against a proportion of all orders in the book at the current inside market price. Market orders for pro rata matched products must be entered with the restriction code IOC (mandatory). Therefore, no market orders are stored in the order books for products associated with Pro Rata Futures Matching. When a market order, or part of it, can only be matched outside the defined price range, the remaining quantity is cancelled. When market orders are entered and no reference price is available, the market order is cancelled. The restriction FOK is not supported for futures; it is available only for options. Stop Orders are not available for pro rata matched products.

Opening Auction: The opening auction for pro rata products is conducted with price/time priority following highest execution principle.

Spread trading for pro rata products is available for combination pairs of consecutive expiration months. This means that the maximum number of spreads possible is equal to the number of expiration months minus one.

10.1.5 Preferential execution

None of the current incentive schemes for market makers provides for a preferential execution.

10.1.6 “Pulling an order”

A participant must send an electronic order to the Trading System to cancel an existing order.

10.1.7 Cancellation of trades

Reference is made to Eurex US Rule 408. To ensure fair and orderly market conditions, Eurex US has the authority to cancel a transaction *ex officio* if the price of the transaction may affect the Trading System and if it is out of the price range provided by subsection (b) (ii) of Rule 408. Eurex US may use this right on its discretion.

The Exchange shall cancel any mistrade, if the Member who entered the erroneous order or quote into the Trading System informs the Exchange within 15 minutes after the execution. A mistrade is defined as a transaction with a price outside of the ranges provided by subsection (b) (ii) of Rule 408.

Subsection (c) of Rule 408 provides that if the cancellation of a transaction is due to a mistrade, the Exchange may also cancel subsequent trades.

With regard to the further details of Rule 408, especially in connection with penalties, the timely manner of the cancellation, notifications, block trades and the interaction with disciplinary actions, we refer to the text of the

subsections (e) to (i) or Rule 408 of the Eurex US Rules.

Additionally we want to mention that certain safeguards are in place to prevent mistrades and as a result also prevent the cancellation of trades, that can be described as follows:

Prior to matching, each order is checked by the Trading System for reasonableness. If an order would be matched outside a pre-defined price range around the last traded price, this order would fail the reasonability check. For futures, this range is identical to the Market Order Matching Range: the maximum divergence from the reference price (usually the last traded price) that is permitted for the matching of market orders. For options, the maximum spread for market-makers (at the relevant price) is used. To override a failure of reasonability check, the user has to confirm the order by resubmitting it (users must verify the correctness of the order before doing so). Quantities above the “maximum order quantity” defined by the Member’s security coordinator also cause an authorization check to fail. In this case there is no “override” function.

Additional safeguards for futures trading at the Exchange back end include product specific maximum order quantities for market and stop orders, and a maximum divergence for order limits from the best ask limit (for buy orders), or from the best bid limit (for sell orders). There is no “override” for this check.

10.1.8 Limit Order

The details with regard to Limit Orders are provided by Rule 403 (b) (iii) of the Eurex US Rules. How long a Limit Order remains in the Order Book depends on whether the order is entered into the Trading System as unrestricted or restricted Limit Order.

When entered as a unrestricted Limit Order, the Member can choose between “Good-for-Day” (valid until end of trading), “Good-till-cancelled” (valid until withdrawn) or “Good-till-date” (valid for a certain period).

When entered as a restricted Limit Order the Member has to choose between the following types of execution: “Fill-or-Kill” (immediate execution in full or cancellation of the order) or “Immediate-or-cancel” (immediate execution of the order to the extent possible and cancellation of the unexecuted part).

10.1.9 OTC trading facilities

See Eurex US Rules 415, 416, 417, 418 and para. 10.1.13, 10.1.14 below.

10.1.10 Rule 403 Orders, para. (a) (ii) (A) and (a) (iv)

See Part 7 of the Eurex US @X-ceed Trading User Guide (attached hereto as exhibit 10.1.10) for greater details on order entry as provided in Rule 403. Every Members is provided with the user Guide.

10.1.11 Rule 408 (b) (ii) Cancellation

The ranges referred to in Rule 408 (b) (ii) are stated in the table that forms part of this provision. The current data can be obtained by everyone on the website of Eurex US in the section “About Eurex US”, “Rules and Regulations”, “Rule Book” (http://www.eurexus.com/about/company_info/rules.html).

10.1.12 Rule 408 Cancellation, para (f)

The handling of ancillary transactions triggered by the mistrade is covered by Rule 408 (c) of the Eurex US Rules. According to this Rule, “the Exchange shall cancel any and all trades that were executed outside the applicable range enumerated in paragraph (b) (ii) of this Rule resulting from contingent orders having been selected for execution because of the cancelled transaction.

10.1.13 Rule 415 block trade facility

a) How does this provision apply to members situated in Québec who will not be ECP’s

Assumed that the future Members situated in Québec are no ECPs in the meaning of Sec. 1a (12) CEA, they are not allowed to conduct Block Trades in accordance with Rule 415 (a) of the Eurex US Rules.

Additional we want to address that future Members of Eurex US may be ECP’s in meaning of Sec. 1a (12) CEA. The definition of ECPs covers *inter alia* insurance companies regulated by a foreign government if they are subject to comparable regulation as determined by the CFTC. With regard to the North American Free Trade Agreement (NAFTA), especially to Articles 1404 and 1416 NAFTA, we assume that an insurance company under the law of Québec will be an ECP as the CFTC will acknowledge the applicable regulation as comparable.

b) Minimum number and information

The minimum number of contracts to qualify as a Block Trade under Rule 415 of the Eurex US Rule is laid out in a table that forms part of the Rule. Please see the attached Rulebook of Eurex US (Exhibit 0.2). The current Rule Book can be seen and downloaded on the website of Eurex US under http://www.eurexus.com/about/company_info/rules.html.

10.1.14 Rule 416 Exchange of futures for physicals facility, para (b) (ii) and (f) Rule 417 Exchange for futures for Swaps, para (f) Rule 418 Volatility trading, para (b) (i)

Part of the once “[reserved]” information has been inserted into the current Rules of Eurex US. Please see Exhibit 0.2 or visit http://www.eurexus.com/about/company_info/rules.html. The Rules of Eurex and all amendments are published via the Eurex US website. The Members of Eurex US are informed about any changes and amendments.

10.1.15 Key decision-makers, policies and procedures

Please see Market Supervision Trading Business Procedures attached hereto as exhibit 10.1.15.

10.2 Market making provisions

10.2.1 Incentive schemes

Eurex US Rule 312 provides that the Exchange “may adopt a program granting one or more Members, designated as Market Makers, benefits in return for assuming and adequately performing obligations.” Furthermore Rule 312 describes in an abstract way the content of a Market Maker program.

The Market Makers have an important role to play in generating liquidity on the market during the establishment of Eurex US as a futures exchange. In order to incentive Market Makers Eurex US has introduced programs that fall into four primary categories: (i) fee waivers; (ii) Market Maker stipends; (iii) revenue sharing; and (iv) an iPod promotional giveaway. For details please see the letter of Eurex US to Ms. Webb, Secretary of the CFTC as of June 24, 2004, attached as exhibit 10.2.1

Market Making Members are treated in the exactly the same way as any other Members by the Trading System. The principal distinction between a Market Making Member and a normal Member is the transaction fee and compensation or revenue share received. There is no distinction with respect to the execution of orders and the access to the order book.

10.2.2 Statutory provisions for incentive schemes

There are no provisions that expressly address incentive schemes for Market Makers under the CEA. However, the Core Principles, as elaborated in Part 1, oblige Eurex US *inter alia* to provide a competitive, open, and efficient market and mechanism for executing transactions. The Market Maker programs are part of the efforts of Eurex US to provide a market in accordance with the Core Principles.

The Order of Designation of the CFTC introducing Eurex US as DCM was given on condition that the Exchange “provide to the Commission, one month in advance of its proposed effective date, any non-traditional form of incentive programs that the USFE plans to implement.”

Traditional incentive programs will mostly be linked to an amendment of the Eurex US Rules and are therefore subject to either self certification or formal approval by the CFTC as the Exchange may decide.

10.2.3 RCA participants and RCA agreement

As part of the merger of Eurex US with the former BrokerTec Exchange, seven of the shareholder firms of the former BrokerTec Exchange entered into RCAs with Eurex US. Under the RCAs, the seven firms are obliged to prepay trading fees to the Exchange that are creditable towards transactions in U.S. Treasury complex

futures and options. The term of the RCAs is 36 month and collectively obliges the firms to pay approximately \$ 18 million in prepaid trading fee. The prepaid trading fees would be creditable against RCA participant's proprietary transactions and certain non-discretionary customer transactions. In return (and in the context of the wider merger), the minority shareholder entity (created for the purpose of the merger and owned and controlled by the former BrokerTec Exchange) received a 20% equity stake in Eurex US, the right to appoint three of the Board's 12 directors, and the right to nominate, but not select, the Board's three public directors. For greater detail please see Sec. 5.2 of the Eurex US Bylaws, attached hereto as exhibit 0.1.

10.4 Pre-trade and post-trade transparency

Reference is made to Rule 310 that stresses the proprietary nature of market data. The pre-trade and post-trade market data is only available to Members.

10.5 Market limits / Procedures in place to deal with market volatility and disorderly trading

With regard to volatility and disorderly trading, reference is made to Rule 409 Volatility Interruption and Rule 408 Cancellation of Transactions.

Rule 409 provides the framework for the intervention of Eurex US in case of extraordinary volatility of a Futures Contract traded on the Trading System. The explicit circumstances under which an interruption occurs are specified upon "discretion" of the Exchange. The volatility interrupt rule is applicable to both steep rises and declines in the market. While the consequences of the occurrence of an unusual volatility are defined in the rule, the trigger points with regard to the time slots and to the respective price range are confidential and not published. Currently, this feature compares the price of the last execution to a price range calculated on the basis of the highest and the lowest price of the executed contracts (i) during the last 10 seconds (ii) during the last 99 seconds. If the price of the last execution is out of the calculated range, then the system will halt trading² and immediately reset into pre opening. It should be noted that the parameters for the calculation of the price range vary by product on the basis of historical analysis in order to ensure that an interrupt would only occur in unusual market situations.

If trading is interrupted, then Market Supervision will use its best efforts to restart trading. It will first assess the cause of the interruption. If the interruption was due to user error, then trading will resume quickly. If the cause was due to market conditions, then Market Supervision will first seek to assess the intentions of the traders with orders in the order book that have the potential to affect the market. All market participants have the opportunity to cancel or amend existing orders, then a new Transition will be commenced in accordance with Rule 401 (b) (ii).

Rule 408 subsections (a) and (b) provide the criteria under which the Exchange may cancel a transaction if it seems to be a result of an erroneous entry of an order.

² By trading halt, only executions are prohibited during this time.

Part 11 Compliance, surveillance and enforcement

11.1 Jurisdiction

11.1.1 Eurex US and NFA jurisdiction

Eurex US bases its jurisdiction on the operation of the Membership Agreement, executed by each Member prior using the Trading System. Para. 2 of the Membership Agreement provides that the Members “consent to the jurisdiction of the Exchange and its agents in all matters arising under this Agreement and the Rules.” The Term “Rules” is defined in Para 1. of the Membership Agreement as the conditions of the Membership Agreement, the Eurex US Bylaws and the Eurex US Rules.

11.1.2 Regulation of Members situated in Québec

The relationship of Eurex US and Members of situated in Québec is also based on the Membership Agreement as described in Para 11.1.1 above.

11.1.3 Application of “Commission rules” to members situated in Québec

By entering into the Membership Agreement the respective Member also agrees “to any applicable law, rule or regulation, including, but not limited to the” CEA and the CFTC Regulations (Para 1, subpara. 2, sentence 1 of the Membership Agreement). Therefore the CFTC Regulations apply to Members situated in Québec as result of entering into the Membership Agreement and not directly as a matter of law.

11.1.4 Documents, references to documentation and website links with regard to disciplinary proceedings

Reference is made to Part 6 of the Eurex US Rules. The Eurex US Rules are attached hereto as exhibit XX and are also available for download on the Eurex US website under http://www.eurexus.com/download/pdf/futures_exchange_rules.pdf.

11.1.5 Conflict resolution process

The applicable U.S. laws and regulations and the Canadian legislation have the same intent. Both seek to provide protection for investors and markets. The Exchange does not expect inconsistencies or differences that are mutually exclusive. If there are any regulatory differences Eurex US is ready and willing to cooperate with any and all Canadian authorities, where appropriate.

11.2 Member and marked regulation

11.2.1 Allocation of responsibilities

Before describing the functions of Eurex US's Compliance Department and NFA and the different lines of market surveillance in detail it should be noted that regardless of the work or function of NFA, Eurex US remains responsible for monitoring, surveillance and enforcement. In other words, the service agreement with NFA does not release Eurex US from its obligations under the CEA and the CFTC Regulations.

As described in para. 7.2.2 Eurex US has established a Compliance Department, the Chief of which is responsible for overseeing market surveillance activities. This oversight includes interaction with the Exchange's Market Supervision Department, which provides real-time surveillance of all activities conducted on the Trading System. Such surveillance includes ensuring that trades are executed properly under Exchange rules. Market Supervision has appropriate Eurex US Board-delegated authority to halt trading and to declare mistrades *ex officio* under certain circumstances, including if trades occur outside of a reasonable range.

In addition to the real-time surveillance conducted by the Market Supervision Department, Eurex US has executed a Regulatory Services Agreement (RSA) with the National Futures Exchange (NFA) under which the NFA performs certain regulatory services on behalf of Eurex US, including the following:

- Market surveillance
- Trade practice surveillance
- Disciplinary investigations
- Market participant dispute resolution services
- Financial surveillance and audits
- For purposes of market and trade practice surveillance, the NFA utilizes online quotation systems, computer-generated reports and other tools to conduct daily monitoring of prices, volume, open interest, clearing member and large trader positions, and market news for all contracts listed on the Exchange. Such data is analyzed each day by NFA using its Trade Analysis and Profiling System (TAPS).

The NFA also reviews trades that are conducted through the Exchange's OTC facility (*i.e.* block trades, EFPs, EFSs, etc.) to ensure that they comply with relevant requirements.

Using these surveillance techniques, if NFA suspects activity that violates Eurex US or CFTC rules, it will commence an investigation. First, the NFA will contact the trader or traders responsible for such activity and conduct a formal interview with the trader or traders. A full report of the NFA investigation and findings will be written and sent to the Chief of Compliance. The Chief of Compliance will then forward the NFA report to the Eurex US Disciplinary Committee for a decision as to whether to prosecute. If warranted, prosecutions will be conducted by NFA staff on behalf of the Exchange before a panel of three members of the Disciplinary Committee. The Disciplinary Committee is empowered to enact a full range of penalties in cases where Eurex US Rules have been violated.

It should be noted that the contracting out of such services is specifically contemplated and permitted by

CFTC Core Principle 11. In addition, the NFA reports on its surveillance activities to the Compliance Department by means of weekly and *ad hoc* meetings, e-mails, and phone calls with the Eurex US Compliance Department.

Under CFTC Core Principle 4, the Exchange has a duty to monitor trading to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process. In carrying out its duty, the Exchange has established a system of market surveillance that consists of two lines of surveillance.

1st Line of Surveillance – Large Trader Reporting

The first line of surveillance is based on the Exchange’s Large Trader Reporting (LTR) requirement under Eurex US Rule 307(e). This requirement is fully set forth to all Members in Bulletin 04-002, which provides the process for reporting such information to the Exchange. The Eurex US LTR program is administered by The National Futures Association (NFA). As part of the surveillance process, NFA monitors the positions of all traders whose positions in any single Eurex US futures or options contract exceed the reporting level. Eurex US has adopted the same reporting levels set by the CFTC as follows:

Eurex US Product	Reportable Position Level
30-Year US Treasury Bond Futures & Options	1,000
10-Year US Treasury Note Futures & Options	1,000
5-Year US Treasury Note Futures & Options	800
2-Year US Treasury Note Futures & Options	500

Under Eurex US Rule 307(e), as long as a trader³ holds a position in excess of the reportable position level, he or she must continue to report that position on a daily basis to the NFA.

The Exchange Compliance Department has immediate access to this data if necessary. The Exchange and NFA also engage in weekly as well as *ad hoc* meetings at which time certain large trader reporting issues may be discussed, such as the failure to report or issues that may arise in conjunction with such large positions. All written correspondence seeking LTR information is catalogued by the Exchange in the Trading Compliance Journal.

2d Line of Surveillance - Position Accountability

A second line of surveillance is triggered if a trader or traders exceed certain Position Accountability levels pursuant to Eurex US Rule 414. These position levels are much greater than Reportable Position Levels. The actual level of accountability varies by contract and can be found in the Eurex US contract specifications. The following table reflects current levels:

Contract	Accountability Level – Futures	Accountability Level – Options (Combined for all months and strike prices)
2-Year U.S. Treasury Note Future (FTNS)	7500	25,000
5-Year U.S. Treasury Note Future (FTNM)	7500	20,000
10-Year U.S. Treasury Note Future (FTNL)	7500	20,000
30-Year U.S. Treasury	10,000	20,000

³ A “trader” as used here means anyone who owns a position and can be either a member or a non-member.

Bond Future (FTBX)		
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Once a trader exceeds the Accountability Level, then the Exchange's Department of Compliance will review the position in the context of the following:

- Overall open interest
- Concentration
- Time remaining to delivery
- Market volatility

The Chief of Compliance may, at his discretion, elect to continue watching the position or to seek further information from the trader. In either case, such a decision, while ultimately lying within the discretion of the Chief of Compliance, is made in consultation with relevant NFA staff.⁴ If the decision is made to continue monitoring the position, then the Chief of Compliance will make a note of such decision for the Trading Compliance Journal. If the Chief of Compliance deems it necessary, the trader will be contacted by the Chief of Compliance or relevant NFA staff. The purpose of the call is to inquire as to information concerning:

- The nature of the position
- Trading strategy or hedging activities⁵

Such a call is made under the authority of Eurex US Rule 414⁶ and is made to the compliance officer for the trader's firm and not to the trader. It is standard practice to receive written answers to such questions. Confidentiality must be maintained at all times.

If the position continues to increase or becomes more concentrated after the initial discussions, then the Exchange should, in most cases, take further action. Such action should be based on the potential threat to the entire marketplace. Of particular importance is ensuring that a highly concentrated position does not create a price distortion during a delivery month or disrupt deliveries. This may happen if significant or abrupt

⁴ Relevant personnel includes Yvonne Downs, Daniel Unti, Ed Dasso, and Russell Rose.

⁵ A sampling of questions for the trader could include the following:

- What is the firm's specific trading strategy being deployed with regard to the futures position on Eurex US?
- What positions in the relevant contracts do you have in other markets, such as those on another exchange, cash forward or OTC markets? What is that specific trading strategy?
- Do you intend to hold these positions until delivery or roll into the following month? If you will roll, when do you anticipate beginning? If you intend to liquidate, when will that begin?
- Do your internal procedures or the trading strategy itself restrict or limit a certain % of o/i?
- Are you capable of making or taking delivery of these positions?

⁶ Rule 414, in whole, provides:

- (a) The Exchange may establish a Position Accountability level for any Contract. Any Person, including a Member, who owns or controls Contracts in excess of the applicable Position Accountability level shall provide to the Exchange at its request any information regarding the nature of the position, trading strategy, or hedging activities, if applicable, and if ordered by the Exchange, shall not increase the size of any such position.
- (b) For purposes of this Rule, all positions in accounts for which a Person, by power of attorney or otherwise, directly or indirectly controls trading shall be included with the positions held by such Person. The provisions of this Rule shall apply to positions held by two or more Persons acting pursuant to an expressed or implied agreement or understanding, as if the positions were held by a single Person.

price movements occur, which either benefit or move against the large position. Under such circumstances, market or economic factors may permit one side of the market to extract a heavy “premium” or additional cost for the other side to liquidate. This could lead to a price disruption or lead to disorderly liquidation or delivery circumstances.

The Chief of Compliance may elect to initiate further discussions to ascertain the nature of the trader’s total position or exposure. If necessary, the Chief of Compliance may order the trader to stop increasing the size of the position. Additionally, the Chief of Compliance may order the trader to reduce its position to ensure the orderliness of the Eurex US market. Any and all resolutions or orders by the Chief of Compliance will be written and disseminated to all interested parties (trader’s compliance officer and/or clearing member), kept confidential from all non-interested parties, and filed in the Trading Journal. Such actions will take place after consultation with relevant NFA staff. Such discussions may include relevant CFTC staff,⁷ but that decision will be made on a case-by-case basis.

As the contract approaches final settlement and there is a highly concentrated position that threatens to lead to price disruptions or a disorderly delivery period. At this point, if it has not been informed beforehand, the Exchange’s Risk Management Committee should be consulted for advice and decisions as to how to proceed. The Chief of Compliance must take care to protect the confidentiality of the information when communicating with the Risk Management Committee and ensure that the members of the Committee do not use such information in inappropriate ways. Depending on the situation, the Eurex US Board opinion on the issue may also be sought.

In an urgent case, the Exchange has the authority to initiate summary action to order the party holding the large position to liquidate or roll forward such positions. If the party holding the large position is a member, then this can be effected through a straightforward member responsibility action, as provided for by Eurex US Rule 615. In these cases, any of the Exchange CEO, General Counsel, Chief of Compliance, or the Chief of Market Supervision has Board delegated authority to act summarily “to protect the best interests of the marketplace.” Such action may be taken prior to a hearing in emergency circumstances, but shall be succeeded promptly by a hearing before the Disciplinary Committee of the Exchange.

If the offending party is a non-member, then the Exchange has a choice of two actions. Each non-member may only transact business on the Exchange through a Member. Under Rule 615 above, the Exchange may take action either against the Member broker or the Clearing Member for the non-member, or both, ordering the Member to liquidate or roll forward the positions for the non-member. In addition, the Enforcement Staff may compel the non-member and any Member that handles or clears the trades of the non-member to appear at a Compliance Department interview or at a hearing before the Disciplinary Committee under Eurex US Rule 616. Subsequent to a hearing, if the Exchange finds that the non-member’s actions violate the rules or the Act, are likely to cause a manipulation, or otherwise threaten the integrity or liquidity of a contract on the Exchange, then the Disciplinary Committee may:

1. Order any clearing member to liquidate all or any portion of such non-member’s position;
2. Order that no Member accept new positions on behalf of any such non-member;
3. Deny or terminate access of such non-member to the Trading System;
4. Order such other action as is necessary to prevent a threat to the Contract or further violations of the Act or Eurex US Rules.

11.2.2 Regulation Services Agreement (Schedules A and B)

⁷ Margie Sweet of CFTC Chicago office.

Schedules A and B of the Service Agreement with NFA are attached as exhibits 11.2.2.A and 11.2.2.B.

11.2.3 Conduct of regulation of members

Member regulation will be conducted on the basis of the Membership Agreement and the Eurex US Rules. Members situated in Québec will be treated in the same way as any other Members.

11.2.4 Rule 205 Compliance Department

Reference is made to para 11.2.1 above. There is no division of responsibilities between the Compliance Department and NFA. If NFA provides services for Eurex US, the Exchange remains responsible.

11.2.5 Termination of the Regulation Service Agreement / ongoing investigations

As Eurex US is responsible for the enforcement of its rules and NFA is providing services, the Compliance Department would assume all responsibilities for all ongoing investigations and other compliance related functions.

11.2.6 Complains about the performace

Eurex US carefully reviews and responds to all complaints. Furthermore, Members are free to send or register complaints with the CFTC or other appropriate governmental relgulator.

11.3 Recordkeeping

11.3.1 Recordkeeping procedures

Eurex US Rule 307 (d) requires that each Member keep a record showing the details of all contracts and related cash transactions entered into or carried by the Member. This provision serves the same purpose as Core Principle 11 for DCMs. The type of records to be maintained are specified in the User Guide (see para 7.1 of the @xeed Trading User Guide, attached hereto as exhibit 10.1.10) and include for each order, among other things, whether the order is to buy or sell, contract identification, quantity, price (limit orders), expiration of order, CTI code, and customer account number. All details of every trade are captured in a comprehensive electronic audit trail.

The CFTC reviewed the record keeping provisions during the registration process. The Commission concluded that the “record procedures are fully compliant with Core Principle 10 and will provide the Exchange and the NFA with adequate information to prevent and detect customer and market abuses” (see Staff Memorandum page 100, 101, attached hereto as exhibit 11.3.1).

11.3.2 Rule 307 (c) Commission Reporting Requirements

To comply with Eurex US Rule 307 (c) and Rule 307 (d) are contractual obligations of all Members, whether they are situated in Québec, in the U.S. or somewhere else. By entering into the Membership Agreement, each participant agrees to file reports as the CFTC may require under the CFTC Regulations.

11.3.3 Rule 307 (e) Exchange Reporting Requirements Rule 307 (f) Exchange Record-keeping Requirements

The record keeping requirements according to Eurex US Rule 307 (f) are prescribed by the Order Entry provisions as set forth in para. 7.1 of the @ X-ceed Trading User Guide. Every Member will be provided with a version of the current user guide.

The reporting requirements in accordance with Eurex US Rule 307 (e) are prescribed by the bulletin of Eurex US as of February 5, 2004 with regard to Large Trader Reporting. The Bulletin has been send out to all Members and is available for download and/or printout on the website of Eurex US under http://www.eurexus.com/about/company_info/regulatory_bulletins.html.

11.4 Availability of Information to Regulator

11.4.1 Processes to provide NFA with information for surveillance

Reference is made to para. 11.2.1 above. The real time surveillance is conducted by the Market Supervision Department of the Exchange. NFA conducts the surveillance under the service agreement with Eurex US on a T+1 basis.

11.4.2 Date of execution of the International Information Sharing Memorandum of Understanding and Agreement

Eurex US entered into the International Information Sharing Memorandum of Understanding and Agreement as of April, 2004.

11.4.3 Rule 307 (g) Responding to Information Requests

Eurex US Rule 307 (g) requires Members to provide NFA with information, insofar as NFA is acting on behalf of Eurex US. NFA does not have own authority to request information from Members under aforesaid Rule.