

Eurex US appreciates this opportunity to testify before the Senate Committee on Agriculture, Nutrition and Forestry on reauthorization of the Commodity Exchange Act. The Committee is to be commended for undertaking a thorough review of the Act, particularly the amendments enacted as the Commodity Futures Modernization Act of 2000 ("CFMA"). In the opinion of Eurex US, those amendments are working as Congress intended, namely by promoting competition, innovation, and efficiency for end users. The Commodity Futures Trading Commission ("CFTC") has adequate authority to ensure investor protection and fair competition among market participants are protected. The Committee should stay the course and encourage competition and innovation to transform the U.S. futures market further.

Introduction to Eurex US

Eurex US began operation in February 2004 as a U.S. futures exchange, registered with and regulated by the CFTC as a "designated contract market." Our designation followed application to the CFTC, with public notice and comment. Eurex US is headquartered in the Sears Tower in Chicago and run by a U.S. management team reporting to a U.S. board of directors.

Eurex US features a completely electronic trading platform. This offers all market participants equal, low-cost access to trading and to information. Trading on Eurex US does not require payment of any membership fee. Trading on Eurex US began in February 2004 with four U.S. Treasury futures products, namely futures on the 2-, 5-, and 10-year Treasury notes and on the 30-year Treasury bond, as well as options on those futures. Just last month, Eurex US made significant expansions to its product line. We launched trading in the world's first derivative product based on 3-year U.S. Treasury notes. We also began trading futures on two equity indices, the large-cap Russell 1000 index and the small-cap Russell 2000 index. Trading volume on Eurex US reached a monthly high in November 2004 of 1.15 million contracts. Daily records were also set that month in overall volume and open interest.

Clearance and settlement services for all trades on Eurex US are provided by the Clearing Corporation in Chicago, a CFTC-registered "derivatives clearing organization." The Clearing Corporation is a venerable financial institution that has been in operation in Chicago for 80 years and is widely regarded as a preeminent U.S. provider of futures clearing services to the financial and agricultural trading communities. Eurex US has contracted with the National Futures Association, a CFTC-licensed self-regulatory organization headquartered in Chicago, to conduct market and trade practice surveillance of the exchange and to perform other regulatory duties. The NFA is widely regarded as the leading provider of outsourced self-regulatory services to U.S. futures exchanges.

Eurex US is majority owned indirectly by Eurex Frankfurt AG, the world's largest derivatives

exchange. A minority ownership stake in Eurex US is held by a group of 17 U.S. and international financial institutions, including Citigroup Global Markets, Inc.; Goldman Sachs & Co.; Lehman Brothers Inc.; Morgan Stanley & Co. Inc.; and Refco LLC. These shareholders are entitled to appoint 3 of the 12 members of the Eurex US Board of Directors. Eurex Frankfurt AG nominates an additional six members of the board. Finally, three directors represent proprietary trading/arbitrage firms; institutional investors; and independent clearers respectively. Eurex US believes it has the most diverse and broadly representative board of any U.S. futures exchange.

Eurex US business model: equal access and level playing field

The Eurex US business model offers U.S. market participants, customers, and end-users a variety of benefits, including enhanced market efficiency, greater market transparency, equal market access and lower costs. Currently trading a 21-hour day, on April 3, 2005 Eurex US will begin operating a 23-hour trading day, beginning at 5:00 p.m. Chicago time and continuing until 4:00 p.m. the next calendar day. Eurex US will thus offer trading during the core business hours of all time zones. This creates more trading opportunities for market participants and improves their ability to manage their risk.

Access to Eurex US is available to all market participants who satisfy our non-discriminatory eligibility requirements. All market participants may have the benefit of direct access to the exchange, its favorable rate structure, and its competitive and non-discriminatory execution environment. Access is not artificially restricted to a limited number of market participants who benefit from the restricted membership. There are no privileges and no distinction between direct and immediate access of members and indirect access of non-members as is the case on other major U.S. futures exchanges. All market participants experience an equal level of transparency and there are no informational or other trading advantages for any constituency of traders.

Trading on Eurex US is completely anonymous from the time of order entry all the way through contract settlement and delivery. Eurex US has a full, immediate, and unalterable audit trail of all activity and transactions that occur on the trading platform, ensuring that our customers enjoy the highest level of market integrity and protection.

A further important piece of our efforts to provide open, electronic access to trading and to reduce costs for U.S. market participants is the Global Clearing Link between the Clearing Corporation and Eurex Clearing AG. The benefits of clearing links have been recognized by futures industry market participants and regulators for over 25 years. They allow market

participants to enhance liquidity and reduce costs across borders. The Global Clearing Link will facilitate low-cost clearing access to Eurex for U.S. market participants. Customers will benefit from portfolio margining between dollar-denominated and euro-denominated products and one common collateral pool, greatly reducing costs. It will bring new business opportunities to the U.S. by providing the U.S. clearing community with direct access to European trading. By reducing unnecessary payments, it will also reduce systemic risk. Implementation of the Global Clearing Link is subject to regulatory approval from the CFTC and European regulators.

Key Provisions of CFMA and their Impact

The Commodity Futures Modernization Act contained several key provisions. These included:

- o Reducing the barriers to entry for new U.S. futures exchanges by requiring the CFTC to act expeditiously on applications;
- o Establishing a tiered, streamlined regulatory structure for U.S. futures exchanges;
- o Providing exchanges greater autonomy to innovate by greater reliance on private sector market discipline to shape their behavior and less reliance on overly prescriptive governmental intervention;
- o Allowing exchanges to demutualize and utilize different forms of governance;
- o Establishing separate registration and regulation of clearinghouses ("derivatives clearing organizations") distinct from exchanges; and
- o Providing legal certainty to derivatives contracts traded over the counter.

In our view, and in the view of most commentators, the CFMA unleashed a new degree of competition in the U.S. futures marketplace, resulting in greater innovation and efficiency for market participants. In fact, the CFMA was motivated in part by a desire to enable U.S. futures markets to compete more effectively, and without undue regulatory burdens, with foreign futures markets. Since enactment of the CFMA, the CFTC has designated eight additional futures exchanges as contract markets, including Eurex US. The CFTC has also registered eight clearinghouses as "derivatives clearing organizations" during that time. This increase in competition among exchanges has, not surprisingly, been accompanied by product innovation and lower costs. Over 600 new products (including securities futures products) have been filed with the CFTC since enactment of the CFMA, with the majority "self-certified" by exchanges for immediate trading.

There have been major fee reductions, including an 80% reduction in fees charged by the Chicago Board of Trade with regard to the Treasury futures products in which Eurex US competes for trading, just days before our launch.

The increased competition is transforming the U.S. futures industry in other ways as well. Market participants have had the opportunity to express their preference for immediate, anonymous, and efficient electronic trading and the exchanges have been forced to respond. Even at certain futures exchanges that maintain open outcry trading floors, electronic trading now represents over half of all trading. The result has been a phenomenal increase in U.S. futures trading volumes, from 600 million futures and options contracts traded on U.S. exchanges in 2000 to over 1.6 billion in 2004. Exchange-traded futures volume has grown much faster in the five years since 2000 than in the five years preceding it, with 2004 representing a record year for major U.S. futures exchanges.

We believed that U.S. market participants would welcome the opportunity to trade U.S. and European contracts on a low-cost, efficient, electronic designated contract market. We suspected that our entry would not only lower trading costs for U.S. market participants but would act as an engine for overall growth in the U.S. futures market, to the benefit of all markets and market users. Such seems to be the case.

Looking forward: Congress should stay the course

In our view, there are three basic requirements for futures trading:

- o A critical mass of companies and individuals willing and able to use the markets efficiently;
- o A tradition of operating transparent financial markets open to all; and
- o A regulatory structure that protects market users without encumbering the operation of markets.

Thirty years ago, the United States was the only country in the world that satisfied these requirements. Today, the idea of futures markets has spread across the globe and new markets have developed around the world. European exchanges in particular introduced electronic trading systems that attracted traders not just from their European home markets but from the rest of the world and the United States as well.

The U.S. Congress responded to these developments overseas by placing its faith in

competition. By reducing barriers to competition, the CFMA ensured that greater innovation and efficiency would be the engine of growth for the U.S. futures industry.

The CFMA put the U.S. futures industry in the forefront of new developments. In its way, Eurex US is trying to realize the potential created by the CFMA. We are offering the U.S. marketplace an open access, all-electronic trading venue; new products; and competitive trading in existing products. The CFMA has greatly facilitated our ability to do all these things.

Eurex US urges the Committee, in reauthorizing the Commodity Exchange Act, to stay the course: continued reliance on the benefits of competition will preserve the U.S.'s leadership role.

Abandoning competition to return to prescriptive regulation or to promote protectionism would threaten the benefits that Congress foresaw and that U.S. market participants are now enjoying. The Committee should ensure that U.S. market participants continue to enjoy the benefits of competition. The faith that the Congress placed in the virtues of competition five years ago has been amply demonstrated to have been deserved. Competition will continue to yield greater efficiencies for consumers and the markets as a whole.