

The Division of Trading and Markets Memorandum dated October 28, 1997; and upon review of each element of CME's trade monitoring system and of CME's trade monitoring system as a whole, the Commission hereby finds that CME meets the standards for granting a dual trading exemption contained in Section 4j(a) of the Act as interpreted in Regulation 155.5 for its S&P 500 futures contract market.

Subject to CME's continuing ability to demonstrate that it meets applicable requirements, the Commission specifically finds with respect to the S&P 500 futures contract market that CME maintains a trade monitoring system which is capable of detecting and deterring, and is used on a regular basis to detect and to deter, all types of violations attributable to dual trading and, to the full extent feasible, other violations involving the making of trades and execution of customer orders, as required by Section 5a(b) of the Act and Regulation 155.5.2<sup>4</sup> The Commission further finds that CME's trade monitoring system includes audit trail and recordkeeping systems that satisfy the Act and regulations.

With regard to the S&P 500 futures contract market, each required component of CME's trade monitoring system, with the exception of one-minute execution time accuracy, is described in the Commission's Notice of Intent to Condition and proposed Order being submitted for publication together with this Order. With respect to one-minute execution time accuracy, the Commission finds as follows:

#### One-Minute Execution Time Accuracy

CME's Regulatory Trade Timing system ("RTT") imputes an execution time for every trade.<sup>5</sup> Trade times are imputed based upon entry and exit timestamps on order tickets; time and sales reports; times that the trades were submitted for clearing; trading card numbers and sequence of trades on trading cards; 15-minute bracket codes; manual execution times for certain types of trades; calculated differentials for spread trades; identification of spread legs and types of spread trades; and available times resulting from

electronic order entry or trading systems, if any.

The Commission has made clear that a "reliably accurate" imputed trade execution time can be demonstrated only by a timing window that narrows the time assigned to the trade to a two-minute period within which the trade is most likely to have occurred. For the S&P 500 futures contract, CME's audit trail system records reliably accurate trade times in increments of no more than one minute in length as required by Section 5a(b)(2) of the Act, Regulation 1.35(g), and Appendix A to Regulation 155.5.<sup>6</sup> Specifically, the Exchange has established for the S&P 500 futures contract market that 90 percent or more of imputed trade times, as assigned by RTT, are reliable, precise, and verifiable as demonstrated by being imputed within a timing window of two minutes or less ("90 percent performance standard").

In order to demonstrate attainment of the 90 percent performance standard, the Exchange has provided windows data for the S&P 500 futures contract market in response to Commission requests. For both December 10, 1996, and March 12, 1997, the percentage of trades with timing windows of two minutes or less was 90 percent. On June 30, 1997, the Exchange provided windows data for three specific trade dates selected by the Commission using a random sampling method. The windows data revealed that the percentage of trades with timing windows of two minutes or less was 91 percent on May 28, 1997, and June 5, 1997, and 92 percent on June 10, 1997. Thus, the Exchange has demonstrated consistent compliance with the 90

<sup>6</sup>Commission Regulation 1.35(g) requires that "[a]ctual times of execution shall be stated in increments of no more than one minute in length." Section 5a(b)(2) of the Act, among other things, codified that timing requirement by stating that an exchange's audit trail system shall, "consistent with Commission regulation, accurately record the times of trades in increments of no more than one minute in length." Section II of Appendix A to Commission Regulation 155.5 requires that a contract market, in describing its audit trail system in a petition for exemption from the dual trading prohibition, "[d]emonstrate the highest degree of accuracy practicable (but in no event less than 90% accuracy) of trade execution times required under regulation 1.35(g) (within one minute, plus or minus, of execution) \* \* \* ." In addition, the contract market must "[d]emonstrate the effective integration of such trade timing data into the contract market's surveillance system with respect to dual trading-related abuses." For contract markets that impute trade execution times, Appendix A requires that the contract market provide a description of the trade imputation algorithm, "including how and why it reliably establishes the accuracy of the imputed trade execution times."

<sup>4</sup>The Commission considers CME Rule 541 to be an integral part of the Exchange's trade monitoring system. In the event of any material change in such system, the Commission may revisit its determination to grant this exemption for the S&P 500 futures contract.

<sup>5</sup>An imputed timing system does not capture the actual trade execution time but derives a time from other timing and trade data.

percent performance standard for the S&P 500 futures contract.

Accordingly, on this date, the Commission HEREBY GRANTS CME's Petition for Exemption from the dual trading prohibition for trading in its S&P 500 futures contract.

For this exemption to remain in effect, CME must demonstrate on a continuing basis that it meets the relevant statutory and regulatory requirements. The Commission will monitor continued compliance through its rule enforcement review program and any other information it may obtain about CME's program.

Unless otherwise specified, the provisions of this Order shall be effective on the date on which it is issued and shall remain in effect unless and until it is revoked in accordance with Section 8e(b)(3)(B) of the Commodity Exchange Act, 7 U.S.C. § 12e(b)(3)(B).

*It is so ordered.*

Dated: November 7, 1997.

**Edward W. Colbert,**

*Deputy Secretary to the Commission.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meeting

**AGENCY:** U.S. Consumer Product Safety Commission, Washington, DC 20207.

**TIME AND DATE:** Friday, November 21, 1997, 10:00 a.m.

**LOCATION:** Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Closed to the Public.

#### MATTER TO BE CONSIDERED:

##### *Compliance Status Report*

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504-0709.

#### CONTACT PERSON FOR ADDITIONAL

**INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504-0800.

Dated: November 10, 1997.

**Sadye E. Dunn,**

*Secretary.*

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