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January 27, 2010

Richard A. Shilts
Acting Director
Division of Market Oversight

Ananda Radhakrishnan
Director
Division of Clearing and Intermediary Oversight

U.S. Commodity Futures Trading Commission
Division of Market Oversight
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: CME's Misleading Press Release of January 26, 2010 concerning EFF Transactions

Dear Mr. Shilts & Mr. Radhakrishnan:

Yesterday's press release by the CME contained several misleading statements which gave the impression that the threat of disciplinary action was still in force notwithstanding the letter from CFTC Staff that CME received regarding its lack of a justification to follow through on that threat. Perhaps CME will in the future offer a sufficient justification to support its Market Advisory - although I find the likelihood to be remote - but at present, the Advisory has no basis, and should not be permitted to be used in an ongoing manner to prevent the market, through threats and intimidation, from using an approved rule.

I find it especially disheartening to see the CME putting vague words into the mouth of the CFTC, which could reasonably cause the market to continue to be chilled in its use of the EFF. The CFTC's letter should not be undone by an ambiguous disclosure of a purported private conversation. The CME is saying that its ability to still prosecute its member firms is supported by the CFTC when in fact the letter invalidated the justification for prosecution.

In particular, the press release is materially misleading in the ways set forth below. The announcement mischaracterizes the EFF Rule and would reasonably be expected to confuse the market.

1) CME has not been asked to stop enforcing its rules, but the fact that it still can enforce its rules is completely beside the point. The CME's Market Advisory and public statements claimed that the EFF violated the Commodity Exchange Act. The CME still implies that the EFF is violative by raising the specter that the transaction would violate CME's "trade practice rules." However, CME has been told that its Advisory, which was self-certified and has the status of a rule, has no basis of support. The CME's announcement would have the reader believe that the EFF is still illegal, and that CME's Market Advisory can still be the basis for rule enforcement action even though its justification was found to be meritless. We object to CME enforcing the Market Advisory, not its other rules which are irrelevant to the EFF;

2) The statement that CME has not received direction from ELX to transfer positions mischaracterizes the EFF transaction. An EFF is a trade, not a position transfer. The trade results in a new position or a closeout, but the communication is between a clearing member and the clearinghouse. This statement makes it appear that ELX needs to take steps to make the EFF happen, but that we have not taken necessary steps, something akin to an official expression of disinterest. ELX has no communicative role with the CME in order for an EFF to occur; and

3) The interpretation of Core Principle 18, while an opinion, is not a fact, nor is it Commission doctrine, as CME states. The language of Core Principle 18 does not mirror the Sherman Act, and there is no case law that says that a regulator can't have a pro-competitive standard that creates a separate standard of conduct from the Sherman Act. While conduct that violates the antitrust laws may also violate Core Principle 18, conduct can violate that Core Principle without being in violation of antitrust laws.

For the foregoing reasons, I ask that CME be required to post a corrective release to remove these misleading statements and cease chilling the marketplace in its use of the EFF Rule.

Sincerely,



Neal L. Wolkoff
CEO
ELX Futures, L.P.

cc: Riva Adriance, Eric Juzenas

Encl.

CME's Release:

News Release Issued: January 26, 2010 11:06 AM ET

**CME Group Statement on CFTC Position on
Exchange of Futures for Futures**

CHICAGO, Jan. 26 /PRNewswire-FirstCall/ -- CME Group released the following statement regarding the Commodity Futures Trading Commission's (CFTC) position on the exchange of futures for futures (EFFs):

"We have been assured by the Commission that CBOT's rules respecting block trading and improper trade practices remain in full force and effect and must be enforced. The Commission has not required CBOT to accept block trades that violate those rules or to accept block trades that otherwise violate CBOT trade practice rules. CBOT and CME clearing have not been directed to accept directions from ELX or any of its members to transfer open positions.

"We are confident that CBOT is operating in strict compliance with all of the Core Principles. We believe, that upon full consideration, the Commission will agree that Core Principle 18 is directed at conduct which is considered to be anticompetitive under the antitrust laws and that CBOT's rules do not facilitate any anticompetitive activity. Antitrust laws do not require us to take action to enable new entrants to take advantage of our substantial investments in innovation and marketing through which we have developed deep liquidity, broad customer relationships and distribution networks and established a world-class central counterparty clearing systems."

As the world's largest and most diverse derivatives marketplace, CME Group (www.cmegroup.com) is where the world comes to manage risk. CME Group exchanges offer the widest range of global benchmark products across all major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, energy, agricultural commodities, metals, weather and real estate. CME Group brings buyers and sellers together through its CME Globex® electronic trading platform and its trading facilities in New York and Chicago. CME Group also operates CME Clearing, one of the largest central counterparty clearing services in the world, which provides clearing and settlement services for exchange-traded contracts, as well as for over-the-counter derivatives transactions through CME ClearPort®. These products and services ensure that businesses everywhere can substantially mitigate counterparty credit risk in both listed and over-the-counter derivatives markets.

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