

From: Stephanie.Hammer@eurexchange.com
Sent: Monday, July 12, 2010 3:15 PM
To: colocation <colocation@CFTC.gov>; secretary <secretary@CFTC.gov>
Cc: Vassilis.Vergotis@eurexchange.com; Thom.Thompson.ext@deutsche-boerse.com; paul.architzel@alston.com
Subject: Colocation Proximity Hosting - Eurex Comment Letter
Attach: Comment Letter re Colocation_FINAL.pdf

Dear Sir or Madam,

On behalf of Eurex, please find Eurex's comment letter on the topic of colocation Proximity Hosting Services.

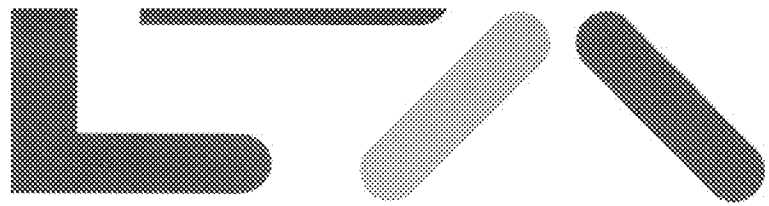
(See attached file: Comment Letter re Colocation_FINAL.pdf)

Best regards,

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X-pand into the Future



David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

July 9, 2010

Proposed Rules for Co-Location/Proximity Hosting Services, 75 Fed. Reg. 33198 (June 11, 2010)

Dear Mr. Stawick:

Eurex Deutschland appreciates the opportunity to comment on the Commodity Futures Trading Commission's (the "Commission") request for comment in connection with its Notice of Proposed Rulemaking entitled "Co-location/Proximity Hosting Services" (the "Notice").

Eurex Deutschland is a futures and options exchange operated by Eurex Frankfurt AG (hereinafter "Eurex Deutschland" and "Eurex Frankfurt AG" together are referred to as "Eurex"). Eurex operates an electronic trading system for derivative instruments. This market operates independently of a member's location, permitting international participation. As of April 7, 2010, Eurex currently has 418 members with more than 8,500 registered traders in 25 countries. 69 members are U.S. resident entities.

Eurex has been a prominent fixture on the U.S. financial markets landscape for nearly fifteen years. In 1998, Eurex's predecessor entity, Deutsche Terminbörse GmbH ("DTB"), received the first no-action letter from the Commission allowing a foreign board of trade ("FBOT") to install trading screens in the U.S. without an additional registration as a board of trade with the Commission. This was the first of many such no-action letters that foreign exchanges have received from the CFTC. In 1999, the DTB no-action letter was reissued to Eurex and the scope of relief therein expanded.¹

¹ See Commission Staff Letter No. 99-48, http://www.cftc.gov/press/letters/99/99048/eurex_no_action.htm



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Background

The motivation for and the practice of co-location mimic traditional exchange organization -- to be as close to the action as possible. Proprietary traders either needed to be on the trading floor in order to execute their orders, or they relied on brokers who were present. Brokerage houses located their offices nearby to the exchange floors to assure better speed of execution. Electronic traders simply want to be closer to the exchange matcher to similarly minimize time to execution.

In light of physical constraints on space utilization at its own physical plant, Eurex itself does not provide the physical setting for co-location. Instead, Eurex has agreements with several service providers which rent space in very close proximity to the exchanges' servers from which they offer co-location services.² Eurex essentially outsources its co-location services to better assure that as many market participants as possible can have access to these services. In vetting and approving service providers, Eurex assures that they can meet high technical standards. It then allows market forces to optimize availability to all of Eurex's members.

In Eurex's view, co-location services do not fundamentally differ from other measures that members may take to reduce network latency as it affects their trading. Latency can arise at many different points both inside and outside the trading firm. Member firms can choose to invest more or less in the solutions available to them in order to mitigate latency.

Co-location is especially beneficial to U.S. members of Eurex because it allows them to trade on the same basis -- in particular with regard to network latency -- as members from locations closer to Frankfurt. In fact, after co-location was introduced at Eurex, trading volumes by U.S. members grew faster than they had previously.

Eurex believes that long-term investors benefit directly, albeit slightly, from co-location to the extent that co-location forms part of a broker's infrastructure and is integral to the broker's strategy to speed execution. Long-term investors benefit indirectly from the improved price quality and liquidity that is facilitated by co-location.

Commission's proposed rules

While Eurex does not currently operate any marketplace that is subject to the Commission's proposed rulemaking, it does agree with the policies embodied in the proposal. Eurex's current policies and practices regarding co-location reflect our long-standing adherence to principles of fairness and transparency. While the Commission's proposed rules reflect good business practices Eurex notes that it has implemented such policies on its own without government regulations. The Commission might be cautioned against implementing new rules where there has not been demonstrable market failure. In Eurex's efforts to provide an efficient, reliable, transparent market environment which attracts the broadest possible participation, competitive forces ensure that co-location policies and practices exemplify the principles of fairness.

² Eurex's current offering is a "proximity" service as described by the Commission's release although, for convenience, the term co-location is used throughout this letter to mean both proximity and co-location.

Below are Eurex's comments on several of the proposed individual measures.

Equal Access. A [marketplace] that offers co-location services to market participants shall allow access to such services to all market participants and third-party proximity hosting service providers eligible to use the services.

Eurex offers co-location services to all members, both brokers and proprietary traders, on the same basis. In light of their relatively high volumes of trades and the importance of speed of execution to their strategies, co-location services seem to be more valuable to proprietary traders than to brokers and consequently fewer brokers choose to use co-location services even though such services are available to them on the same basis as proprietary traders. With this being said, some brokers have customers which want to trade in proximity to Eurex's matching engine, so these brokers avail themselves of the services on behalf of their algorithmic or high frequency customers. At Eurex co-location is open to all members and to further facilitate its availability Eurex permits qualified software vendors to host multiple members' connections in co-location.

In contrast to the practice in the U.S., and as an example of Eurex's neutrality with regard to market structure, there is no structural barrier for long-term investors to become a member of Eurex. In practice, relatively few investors actually choose to become members ostensibly because, among other things, their low volumes of trading and demands for ancillary services make brokerage economically more attractive than direct trading, and they value the services that brokers provide to them. By trading through co-located brokers, even long-term investors enjoy the benefits of faster connections and shorter roundtrip execution times.

Fees. A [marketplace] that offers co-location services to market participants shall ensure that the fees to market participants are imposed in a uniform, non-discriminatory manner. Fees shall not be used as an artificial barrier to access by any market participants. A [marketplace] shall not offer preferential connectivity pricing arrangements to any market participant on any basis, including user profile, payment for order flow, or any other specialized pricing scheme.

In its long experience operating electronic markets, Eurex has noted that members and their customers demand a wide spectrum of services, among which are proximity services, and that they are willing to pay very different amounts to achieve their goals.

However, the pricing for co-location is independent of the number of transactions a member executes, member's nation of origin, financial wherewithal of the member, and whether the member trades customer and/or proprietary business. In fact, in order to assure that co-location remains financially feasible for all of its members, Eurex discounts line charges for members receiving proximity services. The third party providers charge fees for differing levels of service. Ultimately it is up to the individual member to determine whether the value of co-location would be economically justifiable.

The demand for co-location services has led to a market-driven approach to keep co-location services affordable for all members, even in the absence of a regulatory mandate. Certain technology firms have rented space from our third-party providers of co-location services and offered their technology services to members. These technology firms have leveraged their

geographic position to provide members value-added co-location services. We understand this approach is also commonplace on U.S. exchanges.

Latency transparency. A [marketplace] that offers co-location services to market participants shall disclose monthly to the public on its Web site the longest, shortest, and average latencies for each connectivity option provided by the designated contract market.

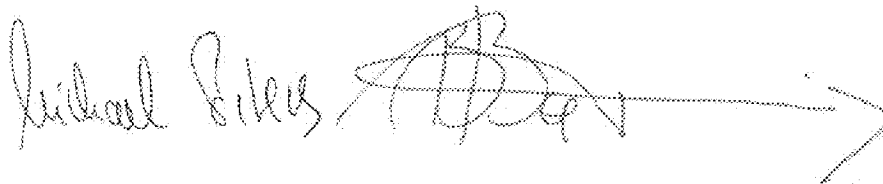
Eurex agrees that latency transparency is important for members in managing their connections throughout the network. The posting of monthly statistics proposed by the Commission may provide some valuable information but such statistics may be subject to misinterpretation and becoming stale.

Eurex's specific approach differs somewhat from the Commission's proposal regarding transparency of latency. Eurex currently makes available to its members several tools which make it simple and convenient for them to monitor connection quality in real time or on a daily statistical basis. One of the tools is a TCP/IP roundtrip time monitor, which shows each member his own daily average "last mile" TCP/IP latency characteristics as well as the best in class average for the member's location (e.g. London, Chicago ...) as well as best in class TCP/IP roundtrip time average for co-location.

Conclusion

On behalf of Eurex, we would like you thank you and the Commission for considering our comments on co-location/proximity hosting services. If you have any questions or if we can assist you in any way, please do not hesitate to contact either of us.

Yours sincerely,



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