



January 7, 2011

Filed electronically

David A. Stawick
Secretary, Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Foreign Futures and Options Contracts on a Non-Narrow-Based Security Index; Commission Certification Procedures, 75 Fed. Reg. 77,588 (Dec. 13, 2010); RIN No. 3038-AC54

Dear Mr. Stawick:

BM&F Bovespa S.A. - Bolsa de Valores, Mercadorias e Futuros ("BVMF") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission") proposed "Foreign Futures and Options Contracts on a Non-Narrow-Based Security Index; Commission Certification Procedures," 75 Fed. Reg. 77,588 (Dec. 13, 2010) ("Proposed Rules"). The Proposed Rules create a certification procedure to replace the existing Office of General Counsel no-action letter process for security index futures contracts traded on, or subject to the rules of, a foreign board of trade ("FBOT") which may be offered or sold to persons located within the United States.¹ Specifically, the Proposed Rules provide for an expedited procedure for an FBOT to request and receive a Commission certification forty-five days after submission of the request, absent a contrary action or an extension of time by the Commission. BVMF supports the Proposed Rules and commends the Commission for its proposal.

BVMF

BVMF was created in 2008 as the result of the merger between the Brazilian Mercantile and Futures Exchange ("BM&F") and the São Paulo Stock Exchange ("BOVESPA"). BVMF received no-action relief from the CFTC Division of Market Oversight, allowing it to provide direct access to their electronic trading and order matching systems from within the United States as a FBOT.² BVMF also received no-action relief from the Commission's Office of General Counsel permitting it to offer the Ibovespa security index futures contract to U.S. persons.³

¹ After many years of experience with requesting and receiving no-action relief for various security index futures contracts traded on that board to persons located in the United States, Eurex Deutschland petitioned the Commission to establish a fast-track procedure for Commission review of such requests. See Letter from Paul M. Architzel, to David Stawick, Secretary, Commodity Futures Trading Commission (March 28, 2008). This petition forms the basis for the Proposed Rules. See Proposed Rules, at 77,591.

² Letter from Paul M. Architzel, Esq., Alston & Bird LLP, to Richard A. Shilts, Director, Division of Market Oversight, Commodity Futures Trading Commission (Sept. 26, 2008).

³ Letter from Paul M. Architzel, Esq. to Dan M. Berkovitz, General Counsel, CFTC (Aug. 26, 2009). BVMF also has pending another request for no-action relief under review with the Commission.



David A. Stawick
Page 2

Support for the Proposed Rules

BVMF's comment is informed by its experience with the OGC no-action process. BVMF supports the Proposed Rules because they maintain existing market protections for the public while, at the same time, enhancing the administrative efficiency of the Commission approval process and expanding legal certainty for FBOTs. Notably, Proposed Regulation § 30.13 retains the existing substantive review process to confirm that the security index futures contract meets the requirements of the Commodity Exchange Act ("the Act") and is consistent with Congressional guidance on this issue.⁴ In addition, the expedited review process for qualified FBOTs efficiently allocates Commission resources to those priorities with higher regulatory risk and legal complexity and significantly reduces the "time to market" for FBOTs. Finally, the certification process successfully provides a greater degree of legal assurance than that which is currently available under no-action letters.⁵

Conclusion

BVMF supports the Proposed Rules and believes they will be conducive to the goal of transparent, efficient and safe global markets. We commend the Commission for its continued leadership in this area and respectfully urge it to adopt the Proposed Rules.

Please feel free to contact me with any questions.

Respectfully submitted,


Marta Alves

Marta Alves
Diretora Executiva
de Produtos

⁴ Proposed Rules at 77,590-91.

⁵ *Id.* at 77.590.