



April 18, 2011

David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

RE: (RIN number 3038-AD09) Core Principles and Other Requirements for Designated Contract Markets

Dear Mr. Stawick:

Green Exchange LLC ("GreenX") welcomes the opportunity to comment on the Commission's proposed rule release regarding core principles and other requirements for designated contract markets (the "Release"), as supplemented by the Commission's publication of the "off-market volume data" (the "Supplemental Data") regarding the percentage of off-exchange transactions in 570 listed designated contract market ("DCM") contracts.¹ This letter, which supplements GreenX's initial comment letter,² specifically addresses the Supplemental Data and the "85% Requirement" set forth in Proposed Rule 38.502(a) under Core Principle 9 for DCMs.³

GreenX was approved as a DCM by the Commission on July 22, 2010. GreenX is the most recent DCM to receive Commission approval and therefore is able to offer an important perspective on the impact of proposed regulation §38.502 on newly-formed DCMs and newly-launched contracts. GreenX listed for trading futures and options contracts on emissions allowances and credits beginning on January 24, 2011. GreenX also believes it can offer a unique perspective because its contracts are in new and developing product markets.

¹ Core Principles and Other Requirements for Designated Contract Markets, 75 Fed. Reg. 80572 (December 22, 2010); Core Principles and Other Requirements for Designated Contract Markets, 76 Fed. Reg. 14825 (March 18, 2011).

² Green Exchange LLC Comment No. 27924 (February 22, 2011), <http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=27924>.

³ Under proposed regulation §38.502, for each newly listed contract, a DCM would be required to determine the percentage of the total volume, in all contract months combined, that is attributable to centralized market trading for a 12 month period commencing one year following the date of a contract's initial listing on the DCM, and for each 12 month period ending on the anniversary of such contract's listing thereafter. Unless an average of 85% or greater of the total volume of such contract is traded on the DCM's centralized market, as calculated over the 12-month period (the "85% Requirement"), the DCM would be required to delist or liquidate the contract.



In the Release, the Commission primarily discussed two categories of contracts: (i) 410 contracts that were primarily off-exchange traded, which were mostly energy, weather and forex related; and (ii) 128 contracts where the off-exchange trading ranged from 0% - 15% over the three-month measurement period. A third category of 32 remaining contracts where the off-exchange trading ranged from 15% - 60% over the three-month measurement period, were not discussed in detail by the Commission in the Release. It is unclear how the Commission viewed these contracts in proposing the 85% Requirement.

The Commission stated that it selected 570 contracts on eight DCMs (CME, CBOT, NYMEX, COMEX, ICEUS, One Chicago, Kansas City Board of Trade and the Minneapolis Grain Exchange) covering 10 asset classes (agricultural, alternative markets (i.e., environmental products), currency, energy, financial, index, interest rates, metal, real estate and weather). Although the Commission stated it “attempted to sample a cross-section of trading data from the eight DCMs,” it did not explain the process for selecting the 570 contracts that it analyzed for the Release. It is not clear whether the Commission analyzed these 570 contracts to arrive at the 85% Requirement, or rather selected these 570 contracts to support the 85% Requirement.

It also is unclear, based on the Supplemental Data, the extent to which any of the 570 contracts reviewed were newly launched in the year prior to or during the three-month measurement period. This final point is particularly important to GreenX given our January 24, 2011 product launch and our infancy as DCM.

The Commission relies on the 128 highly liquid contracts, which presumably are exchange benchmark contracts, to establish the 85% Requirement. It is impossible, however, based on the Supplemental Data to determine the length of time it took each of those contracts to reach this level of competitively traded volume. For some of these contracts, there likely was a ramp-up period, but this does not appear to have been analyzed by the Commission in the Supplemental Data. As the Interagency Working Group for the Study on Oversight of Carbon Markets (“Interagency Working Group”), which the Commission chaired, recently stated in its Report on the Oversight of Existing and Prospective Carbon Markets, “the ability to engage in OTC trading can be particularly important in the early years of a market. Because exchanges use multilateral trading platforms and central clearing, they generally rely on standardized contracts. The OTC market permits new transaction types to emerge, which, over time, may become sufficiently standardized and commonplace to sustain migration to an exchange platform.”⁴

⁴ “Report on the Oversight of Existing and Prospective Carbon Markets,” Interagency Working Group for the Study on Oversight of Carbon Markets (January 18, 2011), at 18-19.



GreenX agrees with the Interagency Working Group that there is a natural evolution from off-exchange to the centralized market as volume and open interest increases, and as price discovery increases, to the point where participants choose to watch trading screens rather than execute off-exchange. It is unclear from the Supplemental Data how the Commission analyzed the time that this transition takes when crafting the 85% Requirement, although, based upon the Interagency Working Group's Report, the Commission acknowledges and understands this reality of the development of markets. An additional data point of "launch date" for each contract in the Supplemental Data would be tremendously useful in evaluating the ramp-up period.

During the time-period covered by the Supplemental Data, there were sixteen DCMs. Of these sixteen DCMs, the Commission reviewed contracts at eight DCMs, seven of which are very mature DCMs. These well-established DCMs enjoy long-standing membership and existing relationships, existing products, and existing and tested technology. All of these factors make the listing of a new product easier on an established DCM than a newly-formed DCM.

The Supplemental Data includes the Dubai Mercantile Exchange ("DME") Oman Crude Oil Futures Contract, DME's flagship contract. DME was launched in June 2007 and currently is a joint venture between Tatweer (a member of Dubai Holding), Oman Investment Fund and CME Group, and has among its equity shareholders firms such as Goldman Sachs, J.P. Morgan, Morgan Stanley, Shell, Vitol and Concord Energy. Despite this backing, the Oman Crude Oil Futures Contract would fail the 85% Requirement with 55.34% average volume trading off-market.⁵

The Supplemental Data also includes two futures contracts listed on OneChicago LLC Futures ("OneChicago"), both of which would fail the 85% Requirement with 99.98% and 27.22% respective average volume trading off-market. GreenX believes that OneChicago is representative of newly-formed DCMs, including GreenX. OneChicago, which became a DCM on June 11, 2002, offers security futures, including single stock futures. Single-stock futures are a new market permitted under the Commodity Futures Modernization Act of 2000. OneChicago was a start up venture backed by experienced corporations and professionals that entered a new market and offered novel products. The Supplemental Data shows that OneChicago's single stock futures index still would fail the 85% Requirement, despite the relatively high percentage of 72.78% competitive trading.

GreenX suggests the Commission consider how many years it took the DME and OneChicago contracts to achieve their current levels of competitive trading. Given that

⁵ GreenX notes that DME is not a DCM, but rather is a Foreign Board of Trade ("FBOT"). Therefore, if adopted, the 85% Requirement would not be applicable to DME. To hold DCMs to the 85% requirement would put DCMs at a competitive disadvantage to FBOTs.



the Commission's analysis of the Supplemental Data has not been made public, it is unclear if the Commission considered these aspects in its review. It is also unclear whether the Commission reviewed OneChicago's or DME's contracts in any substantive manner, given that these three contracts do not fall into either of the particularly noted 410 contract category or the 128 contract category.

The data on the OneChicago and DME contracts, in GreenX's opinion, directly supports the contention that it typically takes DCMs a significant amount of time and expense before it develops enough momentum to garner sustainable competitively traded market share in a new contract, and for a newly-formed DCM and in emerging markets, the challenge is far greater. There is a natural initiation period in which the newly-formed DCM registers participants, solves connection issues, markets new products, and begins to establish itself as a recognized DCM. This can be even more challenging and time-consuming for exchanges focused on emerging product categories.

GreenX also notes that subsequent to the Release, the Commission updated the Supplemental Data to include statistics on options contracts traded on CME Group DCMs. The Release indicates that the Commission only considered the 570 futures contract in creating the 85% Requirement, thus the Commission's purpose in now including data on options contracts is unclear. In any event, GreenX reiterates its comments in its initial letter that proposed regulation §38.502 should not apply to options contracts.

To hold all DCMs and all contracts, regardless of circumstance or age, options or futures, to the 85% Requirement would stifle innovation and product development by DCMs, as they likely will be unwilling to invest the time and resources to develop, market and launch a new contract if there is a concern that it may be required to be delisted after just two years. This also may prevent new DCMs from registering and will make funding of a newly formed DCM much more difficult.

The 85% Requirement, therefore, will result in fewer DCMs, fewer contracts listed on DCMs, more uncleared OTC contracts, a loss of transparency and a loss of price discovery. This appears contrary to the goal of the Dodd-Frank Act (the "DFA"), which was to require or incentivize more clearing and more platform trading.

It is unclear to GreenX how the Supplemental Data supports the 85% Requirement or why, based on this data, the 85% Requirement is appropriate for all contracts on all DCMs. GreenX suggests that the Commission review the Supplemental Data and appropriate additional data further and over a longer measurement period, as well as over appropriate measurement periods, taking into consideration contract time to market, length of listing, age of DCM and other varying circumstances, prior to adopting a rule that may run counter to the goals of DFA and that has received no support during the public comment process.



Thank you for the opportunity to provide these comments to the Commission. Should the Commission have any questions regarding GreenX's comments, please contact me at 212-299-2510 or Kari.Larsen@theGreenX.com.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kari S. Larsen', written over a light gray background.

Kari S. Larsen
General Counsel, Chief Regulatory Officer