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**By Electronic Mail**

June 3, 2011

Mr. David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street NW  
Washington, D.C. 20581

**Re: RIN 3038–AC98: General Regulations and Derivatives Clearing Organizations (75 Fed. Reg. 77576 (December 13, 2010))**

Dear Mr. Stawick:

New York Portfolio Clearing, LLC (“NYPC”) appreciates the opportunity, afforded by the extended comment period,<sup>1</sup> to submit the following comments regarding the above-referenced notice of proposed rulemaking by the Commodity Futures Trading Commission (the “Commission”).

NYPC is a registered derivatives clearing organization that is owned equally by NYSE Euronext and The Depository Trust & Clearing Corporation (“DTCC”). NYPC clears U.S. dollar-denominated interest rate futures contracts and cross-margins eligible positions against U.S. Treasury and other fixed income securities and repurchase agreements cleared by DTCC’s subsidiary, the Fixed Income Clearing Corporation (“FICC”).

In particular, NYPC is party to a Cross-Margining Agreement with FICC pursuant to which joint members of NYPC and FICC (as well as certain affiliates) may elect, at the discretion of NYPC and FICC and in accordance with the provisions of the NYPC and FICC rules, to have certain futures and cash positions at NYPC and FICC, respectively, cross-margined based upon the net risk presented by such positions. Utilizing a uniform risk methodology across clearinghouses, this “one-pot” cross-margining arrangement provides increased margin and operational efficiencies for market participants and enhances market and regulatory transparency with respect to the clearing of fixed income portfolios.

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<sup>1</sup> Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act, 76 Fed. Reg. 25274 (May 4, 2011).



NYPC and FICC anticipate that they may wish to expand their cross-margining arrangement, which currently applies only to the proprietary futures positions of NYPC clearing members, to include the positions of appropriate market professionals, similar to the cross-margining arrangements that are currently in place at other derivatives clearing organizations.<sup>2</sup>

Thus, while NYPC fully supports the Commission's effort to establish rules for customer portfolio margining of futures contracts and related securities positions, and agrees with the Commission that it is important to undertake a careful assessment of potential substantive requirements with respect to customer portfolio margining arrangements, we would also request that the Commission continue to review and approve requests for permission to establish cross-margining programs for market professionals, consistent with the Commission's practice to date, until such time as the Commission and the Securities and Exchange Commission ("SEC") have implemented a portfolio margining program.<sup>3</sup> Section 713(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act allows for cross-margining "pursuant to an exemption granted by the Commission . . . or pursuant to a rule or regulation." Therefore, while the Commission is empowered to adopt rules establishing a portfolio margining program, it is also explicitly authorized to continue approving cross-margining arrangements pursuant to its current exemptive authority.

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<sup>2</sup> See, e.g., In the Matter of ICE Clear US, Inc. Non-Proprietary Cross-Margining Agreement with the Options Clearing Corporation, Professionals, Comm. Fut. L. Rep. ¶ 30,786 (Feb. 29, 2008); 56 Fed. Reg. 61404 (Dec. 3, 1991) (order approving expansion of Options Clearing Corporation-Chicago Mercantile Exchange market professional cross-margining).

<sup>3</sup> As noted above, NYPC and FICC recently launched a successful cross-margining program for which we previously received the approval of the Commission and the SEC, respectively. It is our understanding that the proposed rules that are the subject of the current rulemaking will not necessitate our seeking any further approvals in relation to our existing cross-margining program.



NYPC appreciates the opportunity to submit these comments in connection with the proposed rules regarding derivatives clearing organizations' portfolio margining programs. If the Commission has any questions concerning the matters discussed in this letter, please contact the undersigned (at 212-855-5210 or [wlukken@nypclear.com](mailto:wlukken@nypclear.com)) or Laura C. Klimpel, NYPC's Chief Compliance Officer and Counsel (at 212-855-5230 or [lklimpel@nypclear.com](mailto:lklimpel@nypclear.com)).

Very truly yours,

A handwritten signature in blue ink that reads "Walt L. Lukken". The signature is written in a cursive, flowing style.

Walter Lukken  
Chief Executive Officer

cc: Honorable Gary Gensler, CFTC Chairman  
Honorable Michael Dunn, CFTC Commissioner  
Honorable Jill E. Sommers, CFTC Commissioner  
Honorable Bart Chilton, CFTC Commissioner  
Honorable Scott O'Malia, CFTC Commissioner

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