



NEW ZEALAND'S EXCHANGE
TE PAEHOKO O AOTEAROA

NZX Limited
Level 1, NZX Centre
11 Cable Street
Wellington 6140
New Zealand

www.nzx.com

22 April 2024

Commodity Futures Trading Commission,
Three Lafayette Center,
1155 21st Street NW,
Washington, DC 2058
United States of America

Ref.: Foreign Boards of Trade, RIN 3038-AF37

NZX Submission: Regulatory amendments to CFTC regulations to permit direct market access for introducing brokers and establish an FBOT registration revocation process

1. NZX Limited (**NZX**) submits this response to the Commodities Futures Trading Commission (**CFTC**) consultation on the proposed amendments to the CFTC Regulations, that would: enable direct access for registered introducing brokers (**IBs**); introduce a process for a registered Foreign Board of Trade (**FBOT**) to revoke their registration; and remove outdated references within the Regulations. We thank the CFTC for the opportunity to provide this submission.
2. As New Zealand's stock exchange, NZX is a licensed market operator under the Financial Markets Conduct 2013 and has been a designated FBOT in respect of the NZX Derivatives Market since 2014. NZX migrated its dairy derivatives contracts to Singapore Exchange Derivatives Trading Limited in November 2021, and currently does not have any U.S. accredited Participants trading within our derivatives market (or any derivatives contracts that are accredited under our FBOT registration). NZX remains compliant with Part 48 of the Commission's regulations and continues to retain its FBOT accreditation as it intends to quote additional derivatives instruments in the future.
3. Nothing in this submission is confidential.

Response to Consultation

FCM guarantee equivalency within NZX markets

4. The proposed amendment to § 48.4(b) would enable increased participation in NZX's Derivatives Market by enabling eligible IB's to submit orders on behalf of U.S. customers by direct access. NZX supports the objectives of the proposed amendments to the Regulations. The proposal includes a condition that all U.S. customer orders submitted by IBs will be guaranteed by a registered futures commission merchant (**FCM**), or a firm exempt from FCM registration pursuant to § 30.10 who acts as a clearing firm.

5. We note that the current provisions of NZX's Derivatives Market Rules¹ align with the CFTC's objective of ensuring responsible trading practices, however, do not contain any specific "guarantee" provisions. Rather, counterparty risk is managed effectively through the process of novation. Under the NZX Derivatives Market Rules, once a trade has occurred the resulting transaction is novated from the Trading Participant to its Clearing Participant. That transaction is in turn novated into a settlement transaction between the Clearing Participant and NZX Clearing using a central counterparty model under the NZX Clearing and Settlement Rules².
6. We understand that these arrangements would be sufficient in order for the proposed condition relating to a "guarantee" by a FCM clearing participant to be satisfied in relation to an IB's Orders. While the mechanisms of both systems differ, NZX understands that the outcomes are comparable given the Trading Participant's obligation to take responsibility the orders of its DMA Authorised Clients (such as IBs). In addition, the clearing of trades through NZX Clearing (a regulated financial markets infrastructure) using a central counterparty model ensures appropriate management of counterparty risk.
7. We note that under our arrangements, there is also no requirement for direct relationship between a Clearing Participant and the client of a Trading Participant, such as an IB. The responsibility to ensure that appropriate clearing arrangements are in place falls on the Trading Participant, who must either be a Clearing Participant or have an agreement in place with a Clearing Participant. We understand that these arrangements would again satisfy the CFTC's condition that an IB's orders are guaranteed by a FCM Clearing Participant because within NZX's model, the Trading Participant would be responsible for an IB client's Orders, and because there are suitable clearing arrangements in place, as discussed above.

FBOT explicit authority to enable IBs to access trading systems

8. We note the CFTC's commentary³ relating to the interpretation of direct access, and that the CFTC considers that express authority has been granted where an FBOT authorises member firms to enter orders on behalf of U.S. customers. We understand that NZX's practice of allowing a Trading Participant to allow DMA Authorised Persons to directly enter orders by way of direct market access (**DMA**) through Direct Client Order

¹ NZX Derivatives Market Rules

² NZX Clearing and Settlement Rule 3.3

³ column 1 on page 15085 of the Consultation Paper.



NEW ZEALAND'S EXCHANGE
TE PAEHOKO O AOTEAROA

Processing would meet this standard. We note that a Trading Participant must assume full responsibility for the orders placed by its DMA Authorised Persons.⁴

Revocation and Conformance Amendments

9. NZX also supports the additional amendments to the CFTC regulations to introduce a revocation process for FBOTs, which will provide greater certainty for accredited entities who no longer wish to retain their regulated status. We also support the removal of the now obsolete § 48.6 relating to “No-Action Relief”, and the subsequent removal of § 48.2(h) as a conformance amendment.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jasveet Sandhu', written in a cursive style.

Jasveet Sandhu
Solicitor, Policy and Regulatory Affairs
NZX Limited

⁴ [NZX Derivatives Market Rule 8.4.3](#)