

**TESTIMONY OF THOMAS BOOK,
MEMBER OF THE EXECUTIVE BOARD,
ON BEHALF OF EUREX AND EUREX CLEARING
BEFORE THE UNITED STATES HOUSE OF
REPRESENTATIVES
COMMITTEE ON AGRICULTURE**

FEBRUARY 4, 2009

CHAIRMAN PETERSON, RANKING MEMBER LUCAS, MEMBERS OF THE COMMITTEE, I APPRECIATE THE OPPORTUNITY TO TESTIFY BEFORE YOU TODAY AND I THANK THE COMMITTEE FOR CALLING THIS HEARING ON THIS IMPORTANT PIECE OF LEGISLATION.

I AM THOMAS BOOK, A MEMBER OF THE EXECUTIVE BOARDS OF EUREX AND EUREX CLEARING. I HAVE OVERALL RESPONSIBILITY FOR MANAGEMENT OF THE CLEARING BUSINESS.

EUREX CLEARING IS ONE OF THE LEADING CLEARINGHOUSES IN THE WORLD AND BY FAR THE LARGEST EUROPEAN CLEARINGHOUSE. IT IS LICENSED AND SUPERVISED BY THE GERMAN FEDERAL FINANCIAL SUPERVISORY AUTHORITY. IT IS ALSO RECOGNIZED BY THE U.K.'S FINANCIAL SERVICES AUTHORITY.

EUREX AND EUREX CLEARING UNDERSTAND THE IMPORTANCE OF PUBLIC CONFIDENCE IN THE DERIVATIVES MARKETS. WE SUPPORT THE COMMITTEE'S EFFORTS TO INCREASE TRANSPARENCY AND ENSURE APPROPRIATE REGULATION OF THE OVER-THE-COUNTER MARKETS.

EUREX CLEARING STRONGLY ENDORSES THE PROVISION OF SECTION 13 OF THE DRAFT BILL THAT PERMITS ANY NUMBER OF CLEARING HOUSES TO ACT AS A CCP FOR OTC TRANSACTIONS IN EXCLUDED COMMODITIES. ELIGIBLE CCPs COULD BE SUPERVISED BY THE CFTC, THE SEC, THE FEDERAL RESERVE OR BY A FOREIGN REGULATOR THAT MEETS APPROPRIATE STANDARDS. SUCH A NON-U.S. CLEARINGHOUSE IS TERMED A “MULTI-LATERAL CLEARING ORGANIZATION.” THIS APPROACH RECOGNIZES THE HIGH DEGREE OF COMPETENCE OF EACH OF THE U.S. FINANCIAL REGULATORS, AND OF MANY FOREIGN REGULATORS, TO ESTABLISH AND ENFORCE AN APPROPRIATE LEVEL OF SUPERVISION AND OVERSIGHT OF THE ACTIVITIES OF THE CCPs.

HOWEVER, FOR OTC TRANSACTIONS IN EXEMPT COMMODITIES, SUCH AS CONTRACTS ON ENERGY AND PRECIOUS OR BASE METALS, THE BILL WOULD PERMIT ONLY A CFTC-RECOGNIZED DERIVATIVES CLEARING ORGANIZATION TO ACT AS A CCP. EUREX CLEARING STRONGLY ENCOURAGES THE COMMITTEE TO AMEND THE BILL AND PERMIT NON-U.S. MULTI-LATERAL CLEARING ORGANIZATIONS TO CLEAR OTC CONTRACTS ON EXEMPT COMMODITIES IF THE CFTC HAS FOUND THAT THE APPLICABLE FOREIGN REGULATOR MEETS APPROPRIATE STANDARDS.

TURNING NOW TO SECTION 3 OF THE BILL, FOREIGN BOARDS OF TRADE SUCH AS EUREX THAT ARE ELIGIBLE TO PERMIT THEIR U.S. MEMBERS TO DIRECTLY ACCESS THEIR MARKETS, WOULD BE REQUIRED TO MEET CERTAIN ENHANCED CONDITIONS WITH RESPECT TO CONTRACTS THAT SETTLE TO THE PRICES OF A U.S. MARKET.

IT SHOULD BE NOTED THAT THE INFORMATION COLLECTION SYSTEMS OF OTHER COUNTRIES MAY DIFFER. FOR EXAMPLE, NON-U.S. MARKETS MAY COLLECT INFORMATION ON LARGE POSITIONS ONLY DURING THE SPOT MONTH OR ONLY DURING THE PERIOD PRECEDING CONTRACT EXPIRATION. ACCORDINGLY, WE RECOMMEND THAT THE BILL BE MODIFIED TO INCLUDE ROOM FOR SUCH DIFFERENCES BY EXPLICITLY PERMITTING THE CFTC TO ACCEPT COMPARABLE OR ALTERNATIVE METHODS OF MARKET SURVEILLANCE ON THE PART OF THE FOREIGN BOARD OF TRADE OR THE FOREIGN REGULATORY AUTHORITY.

ONE OF THE BOLDEST PROVISIONS OF THE PROPOSED BILL IS THE SECTION 13 REQUIREMENT THAT ALL DERIVATIVES TRANSACTIONS, UNLESS EXEMPTED BY THE CFTC, BE SUBMITTED FOR CENTRAL COUNTERPARTY CLEARING. EUREX CLEARING STRONGLY SUPPORTS CLEARING OF OTC TRANSACTIONS AS A MEANS OF SAFEGUARDING MARKET INTEGRITY AND THE STABILITY OF THE FINANCIAL SYSTEM. WE FIRMLY BELIEVE THAT THE ENHANCED TRANSPARENCY OF A NEUTRAL CLEARINGHOUSE WOULD HAVE ALERTED MARKET PARTICIPANTS TO THE RISK OF THEIR POSITIONS AT AN EARLIER TIME, RESULTING IN MUCH SMALLER LOSSES.

HOWEVER, NOT ALL OTC TRANSACTIONS WILL BE SUITABLE FOR CCP-STYLE CLEARING. SUCH NON-CLEARED TRANSACTIONS NEVERTHELESS SERVE *BONA FIDE* ECONOMIC PURPOSES. TO ADDRESS THIS REALITY, THE BILL PROVIDES A MECHANISM WHEREBY THE CFTC CAN EXEMPT CERTAIN TYPES OF NON-STANDARDIZED TRANSACTIONS FROM THE CLEARING REQUIREMENT.

EUREX CLEARING BELIEVES THAT IT IS IMPORTANT THAT THIS EXEMPTIVE AUTHORITY BE IMPLEMENTED IN A PRACTICAL WAY THAT PRESERVES THE VITALITY OF THE OTC MARKETS. WE BELIEVE THAT THE CFTC SHOULD USE THIS EXEMPTIVE AUTHORITY LIBERALLY.

I WOULD ALSO NOTE THAT WE ARE CONCERNED BY THE PROPOSAL IN THE DRAFT BILL TO PROHIBIT NAKED PURCHASES OF CREDIT DEFAULT SWAPS. WE BELIEVE THAT THIS PROVISION WOULD SERIOUSLY IMPAIR THE FUNCTIONING OF THE CDS MARKET TO THE DETRIMENT OF ITS MANY LEGITIMATE AND VALUABLE USES.

FINALLY, I WOULD LIKE TO SHARE WITH YOU THE SAME THOUGHTS WE HAVE EXPRESSED TO THE EUROPEAN COMMISSION. WE HAVE STRONGLY SUPPORTED THE INTERNAL MARKETS COMMISSIONER CHARLIE MCCREEVY'S CALL FOR ACTION TO IMPROVE MARKET INFRASTRUCTURE FOR OTC CLEARING AND IN PARTICULAR FOR CREDIT DEFAULT SWAP CLEARING. WE BELIEVE THAT IMPROVEMENTS IN EUROPE ARE OF COMMON INTEREST TO ALL MARKET PARTICIPANTS BECAUSE THEY WILL ALSO CONTRIBUTE TO MARKET STABILITY ON A GLOBAL SCALE.

THIS COMMITTEE'S DELIBERATIONS PROVIDE AN IMPORTANT OPPORTUNITY TO IMPROVE MARKET INFRASTRUCTURE AND THE EFFICIENCY OF OUR GLOBAL FINANCIAL SYSTEM. FOR THIS REASON WE APPLAUD CHAIRMAN PETERSON FOR DRIVING MUCH NEEDED CHANGE TO THE OTC MARKETS. I APPRECIATE THE OPPORTUNITY TO DISCUSS THESE CRITICALLY IMPORTANT ISSUES WITH THE COMMITTEE AND AM HAPPY TO ANSWER YOUR QUESTIONS.

