contract market rules that have been made effective under the Act. There will be a two business day allowance at the beginning of each calendar month for computation and member notification purposes.

c. Affected Contract Market Month (Front Month)

Front month means, for each affected contract market, the month which is either the expiration or delivery month which is nearest to expiration or at the Exchange's discretion the expiration or delivery month which is next nearest to expiration when the contract month nearest to expiration is five business days or less from the first notice day or last trading day for cash settled contracts for futures contracts or the expiration date for futures options contracts. If a front month is not subject to a prohibition pursuant paragraph b. above, then it shall, nonetheless, be an affected contract market month and be subject to a prohibition unless, on the basis of historical data, that front month reasonably can be expected to have an average daily trading volume of less than 500 contracts.

d. Exceptions

Dual trading shall be permitted under exceptions consistent with Commission Regulation 155.5(c)(4) in accordance with Exchange rules which the Commission has permitted to go into effect pursuant to Section 5a(a)(12)(A) of the Act and Regulation 1.41.

Notice of Intent To Condition and Proposed Order Granting Conditional Dual Trading Exemptions to the Chicago Board of Trade, Supplemental Statement of Commissioner John E. Tull, Jr.

I am happy to support the Commission's action proposing to grant the CBOT conditional dual trading exemptions for its affected markets. I am troubled, however, by that part of the Commission's Proposed Order which orders the CBOT to conduct floor surveillance daily on the open and close for each affected market when such surveillance is not required by the Act or the Commission's Regulations. Appendix A to Regulation 155.5 states that such surveillance should be conducted to the extent practicable. In my opinion, the Commission should not attempt to instruct an exchange regarding the allocation of its resources with such specificity. Such management decisions are better left to the exchange leadership, which has hands-on, daily contact with the markets at issue. Management should have the discretion to assign exchange personnel as needed to monitor ''hot'' markets or pits with trading activity of concern.

Opinion of Commissioner Barbara Pedersen Holum, Concurring in Part and Dissenting in Part, on the Disposition of the Chicago Board of Trade's Dual Trading Petition

For the reasons set out below, I concur with the findings of the proposed Order but I dissent from the proposed Order's imposition of a Commission-designed dual trading restriction.

Section 4j(a)(3) of the Commodity Exchange Act requires the Commission to exempt a contract market conditionally from the dual trading prohibition of Section 4j(a) of the Act upon finding that: (1) There is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at the contract market, and (2) other corrective actions are sufficient and appropriate to bring the contract market into compliance with the standards of Section 5a(b) of the Act by effectively detecting and deterring dual trading-related abuses. The Commission has determined that the Chicago Board of Trade's trade monitoring system fails to satisfy the standards necessary for an unconditional exemption, but that it meets the criteria for granting a conditional exemption. In addition, the Commission has determined to impose a dual trading restriction on the CBT a as condition to the exemption. Given these findings, I agree with the majority's view that the CBT should be granted a conditional exemption. However, I dissent from the proposed Order because it would impose a Commission-designed dual trading restriction on the CBT as a condition to the exemption.

Consistent with the statutory framework of self-regulation, I believe that the CBT should adopt its own rules to detect and deter dual trading abuses. When the CBT's trade monitoring system as a whole is determined by the Commission to meet the objectives of the Act by detecting and deterring dual trading abuses, the CBT would be granted an unconditional exemption.

[FR Doc. 97–29893 Filed 11–12–97; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Petition for Exemption From the Dual Trading Prohibition Set Forth in Section 4j(a) of the Commodity Exchange Act and Commission Regulation 155.5

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is granting the petition of the Chicago Mercantile Exchange (''CME'' or ''Exchange'') for exemption from the prohibition against dual trading in its S&P 500 futures contract.

DATES: This Order is to be effective November 7, 1997.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Special Counsel, or Rachel Fanaroff Berdansky, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., N.W., Washington, DC 20581; telephone (202) 418–5490.

SUPPLEMENTARY INFORMATION: On October 20, 1993, CME submitted a Petition for Exemption from the Dual Trading Prohibition contained in Section 4j of the Commodity Exchange Act (''Act'') and Regulation 155.5 for its affected contract markets, including the S&P 500 futures contract market.[1] The Exchange corrected that petition on December 1, 1993. Subsequently, the Exchange amended its petition on January 21, 1994. CME updated its petition on January 21, 1997. Notice of the public availability of the CME's updated exemption petition was published in the **Federal Register** on February 20, 1997.[2]

Upon consideration of CME's petition, as supplemented, and other data and analysis, including, but not limited to:

Exchange audit trail test results reconciling imputed times to underlying trade documentation and verifying data on ''window sizes''; actions taken in response to the Commission's November 1994 *Report to Congress on Futures Exchange Audit Trails,* June 1995 *Report on Audit Trail Accuracy and Sequencing Tests* (''Audit Trail Report''), and August 12, 1996 *Report on Audit Trail Status and Re-Test* (''Audit Trail Re-Test Report''); Commission trade practice investigations and compliance reviews conducted in conjunction with rule enforcement reviews or other investigatory or surveillance activities.

The Exchange's S&P 500 futures contract trading restrictions.[3]

[1] *Affected contract market* means a contract market with an average daily volume equal to or in excess of 8,000 contracts for each of four quarters during the most recent volume year. Commission Regulation 155.5(a)(9). See Section 4j(a)(4). The Commission is granting CME conditional exemptions from the dual trading prohibition for its remaining seven affected contract markets. A Notice of Intent to Condition and proposed Order granting such conditional exemptions is being submitted for publication together with this Order.

[2] 62 FR 7755 (February 20, 1997). The Commission did not address the Exchange's dual trading exemption petition in 1994 in large part because of the Exchange's prior representation that it intended to automate the entry of trade execution times by developing a handheld electronic trading terminal. In June 1994, the Commission was informed that the proposed handheld terminal would not be in place by the October 1995 deadline for compliance with the heightened audit trail standards set forth in Section 5a(b)(3) of the Act. Because CME had not sufficiently demonstrated that its existing audit trail system met current and future standards, the Commission required the Exchange to demonstrate its ability to meet the audit trail requirements using Commission-designed tests and, thus, deferred consideration of the Exchange's petition. Subsequent to evaluating the results of the tests, the Commission offered CME the opportunity to supplement its petition.

[3] Under CME Rule 541 (S&P 500 Top Step rule), a member cannot trade an S&P futures contract for his or her own account while on the top step of the S&P 500 futures pit, except to liquidate a position that resulted from an error. Further, a member who has executed a customer order for an S&P 500 futures contract while on the top step of the S&P 500 futures pit may not on the same day trade such contracts for his or her own account.

The Division of Trading and Markets Memorandum dated October 28, 1997; and upon review of each element of CME'S trade monitoring system and of CME's trade monitoring system as a whole, the Commission hereby finds that CME meets the standards for granting a dual trading exemption contained in Section 4j(a) of the Act as interpreted in Regulation 155.5 for its S&P 500 futures contract market.

Subject to CME's continuing ability to demonstrate that it meets applicable requirements, the Commission specifically finds with respect to the S&P 500 futures contract market that CME maintains a trade monitoring system which is capable of detecting and deterring, and is used on a regular basis to detect and to deter, all types of violations attributable to dual trading and, to the full extent feasible, other violations involving the making of trades and execution of customer orders, as required by Section 5a(b) of the Act and Regulation 155.5.2 [4] The Commission further finds that CME's trade monitoring system includes audit trail and recordkeeping systems that satisfy the Act and regulations.

With regard to the S&P 500 futures contract market, each required component of CME's trade monitoring system, with the exception of one-minute execution time accuracy, is described in the Commission's Notice of Intent to Condition and proposed Order being submitted for publication together with this Order. With respect to one-minute execution time accuracy, the Commission finds as follows:

One-Minute Execution Time Accuracy

CME's Regulatory Trade Timing system (''RTT'') imputes an execution time for every trade.[5] Trade times are imputed based upon entry and exit timestamps on order tickets; time and sales reports; times that the trades were submitted for clearing; trading card numbers and sequence of trades on trading cards; 15-minute bracket codes; manual execution times for certain types of trades; calculated differentials for spread trades; identification of spread legs and types of spread trades; and available times resulting from electronic order entry or trading systems, if any.

The Commission has made clear that a ''reliably accurate'' imputed trade execution time can be demonstrated only by a timing window that narrows the time assigned to the trade to a two-minute period within which the trade is most likely to have occurred. For the S&P 500 futures contract, CME's audit trail system records reliably accurate trade times in increments of no more than one minute in length as required by Section 5a(b)(2) of the Act, Regulation 1.35(g), and Appendix A to Regulation 155.5.[6] Specifically, the Exchange has established for the S&P 500 futures contract market that 90 percent or more of imputed trade times, as assigned by RTT, are reliable, precise, and verifiable as demonstrated by being imputed within a timing window of two minutes or less (''90 percent performance standard'').

In order to demonstrate attainment of the 90 percent performance standard, the Exchange has provided windows data for the S&P 500 futures contract market in response to Commission requests. For both December 10, 1996, and March 12, 1997, the percentage of trades with timing windows of two minutes or less was 90 percent. On June 30, 1997, the Exchange provided windows data for three specific trade dates selected by the Commission using a random sampling method. The windows data revealed that the percentage of trades with timing windows of two minutes or less was 91 percent on May 28, 1997, and June 5, 1997, and 92 percent on June 10, 1997. Thus, the Exchange has demonstrated consistent compliance with the 90 percent performance standard for the S&P 500 futures contract.

Accordingly, on this date, the Commission HEREBY GRANTS CME's Petition for Exemption from the dual trading prohibition for trading in its S&P 500 futures contract.

For this exemption to remain in effect, CME must demonstrate on a continuing basis that it meets the relevant statutory and regulatory requirements. The Commission will monitor continued compliance through its rule enforcement review program and any other information it may obtain about CME's program.

Unless otherwise specified, the provisions of this Order shall be effective on the date on which it is issued and shall remain in effect unless and until it is revoked in accordance with Section 8e(b)(3)(B) of the Commodity Exchange Act, 7 U.S.C. § 12e(b)(3)(B).

It is so ordered.

Dated: November 7, 1997.

Edward W. Colbert,

Deputy Secretary to the Commission.

[FR Doc. 97–29894 Filed 11–12–97; 8:45 am]

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[4] The Commission considers CME Rule 541 to be an integral part of the Exchange's trade monitoring system. In the event of any material change in such system, the Commission may revisit its determination to grant this exemption for the S&P 500 futures contract.

[5] An imputed timing system does not capture the actual trade execution time but derives a time from other timing and trade data.

[6] Commission Regulation 1.35(g) requires that ''[a]ctual times of execution shall be stated in increments of no more than one minute in length.'' Section 5a(b)(2) of the Act, among other things, codified that timing requirement by stating that an exchange's audit trail system shall, ''consistent with Commission regulation, accurately record the times of trades in increments of no more than one minute in length.'' Section II of Appendix A to Commission Regulation 155.5 requires that a contract market, in describing its audit trail system in a petition for exemption from the dual trading prohibition, ''[d]emonstrate the highest degree of accuracy practicable (but in no event less than 90% accuracy) of trade execution times required under regulation 1.35(g) (within one minute, plus or minus, of execution) * * *. ..'' In addition, the contract market must ''[d]emonstrate the effective integration of such trade timing data into the contract market's surveillance system with respect to dual trading-related abuses.'' For contract markets that impute trade execution times, Appendix A requires that the contract market provide a description of the trade imputation algorithm, ''including how and why it reliably establishes the accuracy of the imputed trade execution times.''

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Friday, November 21, 1997, 10:00 a.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: November 10, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–30037 Filed 11–10–97; 2:38 pm]

BILLING CODE 6355–01–M