

# CIRCULAR



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**To: All Members**

**No: 306/98**

## **Legal Update Series**

**Deutsche Terminbörse (German Futures  
Exchange) (DTB)**

**Swiss Options and Financial Futures  
Exchange (SOFFEX)**

Attached is Legal Update L6/98 in relation to the change of the name of Deutsche Terminbörse and Swiss Options and Financial Futures Exchange to **Eurex Deutschland** and **Eurex Zürich** respectively. It is the opinion of the Exchange that as the bodies corporate of both exchanges remains the same a breach of section 1258 of the Corporations Law will not take place where a broker trades on either Eurex Deutschland or Eurex Zürich on behalf of another person. The Exchange has requested that this change in names be reflected in Schedule 11 of the Corporations Regulations.

Please circulate to the relevant staff, in particular compliance and legal personnel in your office as soon as possible. Where Members have indicated relevant staff, the update will be directly circulated to those staff as well.



# Legal Update

No: L6/98

Issued: 29 October 1998

## EUREX DEUTSCHLAND AND EUREX ZÜRICH AS RECOGNISED FUTURES EXCHANGES UNDER SCHEDULE 11

### Introduction

Eurex Deutschland has replaced Deutsche Terminbörse (German Futures Exchange) (DTB) and Eurex Zürich has replaced the Swiss Options and Financial Futures Exchange (SOFFEX). At the present time Schedule 11 of the Corporations Regulations, which lists those exchanges which are Recognised Futures Exchanges, recognises under Item No. 10 the Deutsche Terminbörse and under Item No. 40 the Swiss Options and Financial Futures Exchange.

### Operation of Exchanges

Information received from Eurex indicates that Eurex provides the joint trading and clearing platform of Eurex Deutschland and Eurex Zürich. However, it is Eurex Frankfurt AG which provides the staff and administration for Eurex Deutschland while Eurex Zürich AG provides the operating institution (administration, staff, facilities and premises) for the operation of Eurex Zürich. Both exchanges are authorised to operate within their respective jurisdictions.

### Shareholding in Exchanges

It is evident from correspondence received from Eurex that there has been a change in the shareholding of the exchanges. Eurex Zürich AG (which is owned in equal parts by Deutsche Börse AG and the Swiss Exchange) is a 100 percent shareholder of Eurex Frankfurt AG. However, it would appear that the exchanges themselves still represent what was formerly described as Deutsche Terminbörse and Swiss Options and Financial Futures Exchange.

### Recognition under Schedule 11

Section 1258 of the Corporations Law prohibits a futures broker from dealing in futures contracts on behalf of another person unless the dealing is effected on a futures market of a futures exchange or a **recognised futures exchange** or an exempt futures market or as permitted by the business rules of a futures organisation of which the broker is a member. Section 9 of the Corporations Law defines **recognised futures exchange** to mean; "a body corporate that: (a) conducts a futures market outside Australia; and (b) is

prescribed for the purposes of this definition". Corporations Regulation 8.2.02 states that, "[F]or the purposes of paragraph (b) of the definition of "**recognised futures exchange**" in section 9 of the Corporations Law, the bodies corporate specified in Schedule 11 are prescribed."

Based on information we have received, it is the view of the Exchange that the bodies corporate in relation to Deutsche Terminbörse and Swiss Options and Financial Futures Exchange have not changed although the names of the exchanges have changed. Therefore a breach of section 1258 will not occur where a broker continues to trade on behalf of other persons on the markets of those exchanges.

### **Change of Name**

The Exchange has requested that Schedule 11 be amended to reflect the change in name of Deutsche Terminbörse and Swiss Options and Financial Futures Exchange to that of Eurex Deutschland and Eurex Zürich respectively. When the amendment has taken place a circular will be issued informing members.

**If there are any queries regarding this issue, please contact Francis Cox, Senior Manager- Regulation on (02) 9256-0505 or e-mail fcox@sfe.com.au.**

NB: The above information is for the guidance of Members and does not purport to be legal advice. The note should be read in conjunction with the Corporations Law and any ASIC practice Notes and Policy Statements. Further information in relation to Eurex may be obtained from the Eurex US Representative Office through Patrick Deierling whose e-mail address is Patrick\_Deierling@exchange.de. Where appropriate, legal or other professional advice should be sought.

**Tony Dreise  
General Counsel; GM Legal**

**28/10/98**

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