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November 17, 2006  
Ms. Elizabeth K. King  
Associate Director  
Office of Market Supervision  
Division of Market Regulation  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: Tokyo Stock Exchange, Inc.— Request for No-Action Advice With Respect to Japan Securities Clearing Corporation and Updated Tokyo Stock Exchange, Inc. Options Disclosure Document

Dear Ms. King:

As a preliminary matter, we note that Tokyo Stock Exchange, Inc. (hereinafter referred to as, "TSE" or the "Exchange") ceased to act as the clearing agency for any transactions on the Exchange created or closed on or after February 2, 2004. On that date, NIHON SHØ KEN KURIARINGU KIKØ (in English, "Japan Securities Clearing Corporation") ("JSCC"), became the clearing agency for all such transactions. Because of such change, since February 2, 2004, TSE does not have clearing participants. TSE and a subsidiary and an affiliate of TSE carry out certain clearance and settlement activities on behalf of JSCC.

In order for a trading participant of TSE to clear or settle any transaction executed on the Exchange that clears or settles after February 1, 2004, such trading participant must be a clearing participant of JSCC, with appropriate clearing qualification status with JSCC that authorizes it to clear and settle such transaction, or else it must clear and settle such transactions through a firm that has such status. All entities that were clearing participants of TSE on February 1, 2004, became clearing participants of JSCC, which authorized them to clear transactions of the same category for which they had been clearing participants of TSE. JSCC becomes counter party to all option contracts between its clearing participants created after February 1, 2004 and has replaced TSE as counter party for all option contracts outstanding at the close of business on the last business day before February 2, 2004.

The request for relief made herein supplements the requests for no-action relief with respect to option contracts on options on individual stocks listed on the Exchange ("Equity Options"), options contracts on the Tokyo Stock Price Index, known as IOPIX,

and option contracts on the S&P/TOPIX 150 Index<sup>1</sup> (such contracts on the TOPIX Index and the S&P/TOPIX Index, the “Index Options Contracts” or “Index Options” and, together with the Equity Options, the “Options Contracts” or “Options”), that were granted by the Division of Market Regulation (“Division”) of the Securities and Exchange Commission (“Commission”) in No-Action Letters, dated July 27, 1999<sup>2</sup> and November 15, 2002<sup>3</sup> (“Prior No-Action Letters”), which permitted the activities specified therein with respect to Option Contracts traded on the Exchange for which TSE acted as clearing agency.

### **Request for No-Action Relief**

TSE, the organization responsible for the management and surveillance of the Exchange and its markets, on behalf of itself and its officers, directors, TSE Representatives (as described in the July 1999 No-Action Letter) and Trading Participants (as described in the November 2002 No-Action Letter), with respect to the relief requested in the following clauses (i) and (ii), and on behalf of JSCC and JSCC’s officers, directors and representatives with respect to the relief requested in the following clause (iii), requests that the Division confirm that subject to the terms and conditions set forth in this letter, (i) the no-action relief provided in the Prior No-Action Letters for TSE and its officers, directors, TSE Representatives and Trading Participants applies with respect to Options Contracts for which JSCC acts as clearing agency (ii) the TSE Disclosure Document “TOKYO STOCK EXCHANGE, INC. (Kabushiki-gaisha TØ-KYØ SHØ KEN TORI HIKI JO) SPECIAL CHARACTERISTICS AND RISKS OF TOKYO STOCK EXCHANGE EQUITY OPTIONS AND STOCK INDEX OPTIONS”, dated November 30, 2005 (the “Current Disclosure Document”)<sup>4</sup> shall be used in place of the Updated

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<sup>1</sup> Trading in options contracts on the S&P/TOPIX 150 Index began in June 2001 and ceased in July 2002. Although such Index Options continue to be listed on the Exchange, contracts for such Index Options are not currently open for trading. TSE may, in the future, open new contract months for trading in such Index Options.

<sup>2</sup> No-Action Letter dated July 27, 1999 from Robert Colby, Deputy Director, Division, Commission to Richard P. Streicher, Loeb & Loeb LLP (the “July 1999 No-Action Letter”) which is incorporated herein by reference (copy enclosed).

<sup>3</sup> No-Action Letter dated November 15, 2002 from Elizabeth K. King, Associate Director, Division, Commission to Richard P. Streicher, U. S Legal Counsel, TSE (the “November 2002 No-Action Letter”) which is incorporated herein by reference (copy enclosed).

<sup>4</sup> The Division reviewed the Updated Disclosure Document (“TOKYO STOCK EXCHANGE, INC. (Kabushiki-gaisha TØ-KYØ SHØ KEN TORI HIKI JO) SPECIAL CHARACTERISTICS AND RISKS OF TOKYO STOCK EXCHANGE EQUITY OPTIONS AND STOCK INDEX OPTIONS”, dated March 2002 (copy enclosed) in connection with the issuance of the November 2002 No-Action Letter. The Current Disclosure Document updates and changes relevant information in the Updated Disclosure Document.

Disclosure Document referred to in the November 2002 No-Action Letter, and (iii) the Division will not recommend enforcement action to the Commission against JSCC or any officer, director or representative of JSCC by reason of JSCC not registering as a clearing agency under Section 17A of the Securities Exchange Act of 1934 (the "Exchange Act") if TSE, any ISE Representative or Trading Participant of ISE undertakes the limited activities contemplated by the Prior No-Action Letters and this letter to familiarize certain Eligible Broker-Dealers and Eligible Institutions (as defined in the Prior No-Action Letters) in the United States with ISE and the Options...

The factual basis and representations for our requests for relief herein are the same as set forth in the July 1999 No-Action Letter (as modified by the November 2002 No-Action Letter) and the November 2002 No-Action Letter, except as indicated herein.

The relief sought herein is similar to the relief previously granted by the Division with respect to other non-U.S. clearing agencies<sup>5</sup>.

### **JSCC and Clearance and Settlement of Transactions in Options**

JSCC, a Japanese joint stock company incorporated on July 1, 2002, is the first securities clearing organization licensed by the Prime Minister of Japan under the Securities and Exchange Law of Japan (Law No. 25 of 1948, as amended) (the "Securities and Exchange Law"). JSCC is the central clearing organization that provides cross-market clearance services for all the stock markets in Japan and the ISE derivative markets. JSCC is owned by all the stock exchanges in Japan as follows: ISE, 86.3%; Osaka Securities Exchange Co., Ltd., 9.5%; Jasdax Securities Exchange, Inc, 3.4%; and other stock exchanges, 0.8%. The principal reason for the establishment of a unified clearing organization was the increasing expectations of securities firms, banks and others, for further streamlining of clearance operations in Japan.

Under the Securities and Exchange Law, the Prime Minister has continuing supervisory authority over all clearing organizations in Japan. The Prime Minister has delegated that authority to the Commissioner of the Financial Services Agency.

Pursuant to an Agreement on Designation of a Clearing House between JSCC and ISE, JSCC is responsible for clearance, settlement and guarantee of all transactions in Options Contracts executed on the Exchange. As to all purchases or sales of Option Contracts, JSCC is interposed on a principal-to-principal basis as the buyer to each Clearing Participant (described below) seller of an Option Contract and seller to each Clearing

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<sup>5</sup> See, SEC No-Action Letter, Eurex, publicly available July 27, 2005; Borsa Italiana S.p. A., publicly available September 24, 2004 (Cassa di Compensazione e Garanzia); SEC No-Action Letter, EDX London Limited and OM London Exchange Limited, publicly available October 29, 2003 (OM London Exchange Limited); SEC No-Action Letter, Orrick, Herrington & Sutcliffe, publicly available December 6, 1999 (Clearnet SA); SEC No-Action Letter, Hong Kong Futures Exchange limited, available September 26, 1995 (HKFE Clearing Corporation).

Participant buyer of an Option Contract. As principal, JSCC in effect guarantees such trades to such Clearing Participants. JSCC interposes as counter party between buying and selling Clearing Participants immediately after an Option Contract trade takes place. There is no contractual link between JSCC and a Non-Clearing Participant (described below) or any customer of a Clearing Participant or of a Non-Clearing Participant, except that the customer has the right to claim the return of any of its margin deposited to JSCC through a Clearing Participant in case of the suspension of qualification for trading of its executing Trading Participant or for clearing entrustment of the settling Trading Participant. JSCC has no responsibility for settlements between any intermediary (including a Trading Participant) and its customers, or for the funds or securities of a customer that are held by such intermediary. However, each Trading Participant guarantees the final settlement of its customers' TSE transactions.

Although JSCC is solely responsible to Clearing Participants for calculating margin and other amounts relating to the clearance and settlement of transactions executed at the Exchange market, JSCC has entrusted performance of some of these functions to third parties pursuant to various contracts. Unless the context otherwise requires, reference to JSCC performing various clearance and settlement functions with respect to Options Contracts includes those that have been so entrusted, and reference to TSE or others performing clearance and settlement functions with respect to Options Contracts means performing such functions on behalf of JSCC.

JSCC does not currently own a computer clearance or settlement system. Instead, pursuant to an agreement between JSCC and TSE, JSCC makes use of various clearance and other functions of certain of TSE's computer systems. Pursuant to this agreement, JSCC has entrusted TSE with various tasks including, accumulating the trade data, calculating the relevant amounts and generating the necessary documents required for clearance and settlement of Options and other transactions on the Exchange cleared and settled by JSCC, accepting the notice of a transaction that opens or closes an Options position, accepting and assigning an Options exercise notice and maintaining the TSE computer systems insofar as they are used for such purposes. In accordance with the agreement, TSE has re-entrusted certain of such tasks to Tosho Computer System Co., Ltd. ("TCS"), an affiliate of TSE, pursuant to an agreement between TSE and TCS.

Pursuant to an agreement between JSCC and Japan Securities Settlement & Custody, Inc ("JSSC") (formerly named Japan Securities Clearing Corporation), a wholly-owned subsidiary of TSE, JSCC has entrusted JSSC with certain other clearance and settlement tasks, such as the delivery to Clearing Participants of trade detail reports, assignment notices and other reports containing the calculation and tabulation of the settlement amounts to be paid or received by Clearing Participants on a net basis which have been generated by TCS. Stocks underlying exercised Equity Options are delivered by book-entry through JSCC's account at the Japan Securities Depository Center ("JASDEC"), a stock corporation contributed to by securities companies, banks, stock exchanges, and others, which has been designated as a securities depository by the Minister of Justice and the Prime Minister. JASDEC, although fully responsible for the physical safekeeping, delivery and withdrawal of certificated stocks and for book-entry, has

entrusted the operational aspect of these physical operations to JSSC pursuant to an agreement between JASDEC and JSSC. Thus, JSSC provides clearance and settlement services to JSCC and custody services to JASDEC. None of TSE (since February 2, 2004), TCS, JSSC or JASDEC becomes counter party to an Options transaction.

JASDEC is regulated by the Commissioner of the Financial Services Agency (“FSA”) and the Minister of Justice of Japan pursuant to the Law Concerning Central Securities Depository and Book-Entry Transfer of Stock Certificates and Other Securities (“Central Depository Law”). Any delegation by JASDEC to a third party of any part of JASDEC’s book-entry business requires the approval of the Commissioner of the FSA. The delegation to JSSC of the activities of JASDEC referred to above, was reviewed and approved by the FSA. Although JSSC is not regulated under the Central Depository Law, the FSA may, among other things, directly require any subsidiary of TSE, including, JSSC, to submit reports and material with respect to its own business or assets or the business or assets of TSE. Also, JSSC and the other subsidiaries of TSE may be deemed to be subject to regulation indirectly by the FSA by virtue of its ability to regulate TSE.

In addition to the clearance and settlement of, and becoming counter party for, all transactions in Options, JSCC acts as the central clearing house and clears, settles and becomes counter party for all transactions: (i) in all other TSE futures and options derivative instruments and cash market products traded at the Exchange, and (ii) in all cash market products traded at all other stock exchanges in Japan. Clearing Participants that also trade in such other products at the Exchange or other securities markets in Japan also may have clearing qualification status with JSCC that authorizes them to clear and settle their transactions in such products through JSCC.

Equity Options and Index Options are not fungible or interchangeable with options that are traded on any other market. Thus, any Equity Options or Index Options position opened on TSE can be closed only on TSE or exercised only by a Trading Participant giving an exercise notice to the Exchange. There is no cross-settlement with respect to Option Contracts between the Exchange’s markets and any other securities market, except (i) because all shares of stock of domestic issuers in Japan deliverable and receivable among participants in JSCC, whether as a result of a transaction on the Exchange or another stock exchange in Japan, is on a settlement date net balance basis by issue, any shares deliverable and receivable upon exercise of an Equity Option are included in calculating such net balance, and (ii) because all funds payable and receivable for the purchase and sale of stocks and convertible bonds among participants in JSCC, whether as the result of a transaction on the Exchange or another stock exchange in Japan is on a settlement date net balance basis, any funds payable and receivable in connection with such exercise are included in calculating such net balance.

Payment of funds from Clearing Participants to JSCC and payment of funds from JSCC to Clearing Participants due in connection with settlements is carried out on the

settlement date by account transfer at the Bank of Japan or settlement banks designated by JSCC. Payments of funds due to JSCC from Clearing Participants or by JSCC to Clearing Participants having the same settlement date due from the following types of transactions on all exchanges for which JSCC acts as clearing house are netted within their respective category (and only within such category):

Category: Premium on purchase and sale of options, variation margin on futures, and cash amount of exercised index options.

Category: Delivery against payment ordinary stock market transactions and exercise of equity options (“DVP”).

Delivery of stock from Clearing Participants to JSCC and delivery of stock from JSCC to Clearing Participants due in connection with settlements is carried out on the settlement date pursuant to instructions by JSCC, by book-entry. Such delivery takes place at JASDEC. . . Delivery of stock by Clearing Participants due to JSCC or by JSCC to Clearing Participants having the same settlement date due from ordinary market transactions and exercise of equity options on all exchanges for which JSCC acts as clearing house are netted.

Settlement times with respect to Options among JSCC and its Clearing Participants are as follows:

(a) Purchase and sale of an Option- payment of the premium is due to JSCC from the paying Clearing Participant by 1:00 p.m. and receivable from JSCC by the receiving Clearing Participant by 2:45 p.m. on the business day following the trade day;

(b) Exercise of an Equity Option (such exercise can occur only on the day of expiration of the Option as all Options are European-style) - payment is due to JSCC from the paying Clearing Participant by 2:15 p.m. and receivable from JSCC by the receiving Clearing Participant at 2:45 p.m. and delivery of the stock underlying the Option is due to JSCC from the delivering Clearing Participant by 1:00 p.m. and receivable from JSCC by the receiving Clearing Participant by 2:15 p.m. on the fourth business day following the day of exercise, except that if an Equity Option is exercised on the business day prior to the day when the underlying stock goes ex-dividend or ex-rights, such payment and delivery are due and receivable on the third business day following the day of exercise. JSCC, in its discretion, may make delivery of stock to a receiving Clearing Participant earlier than 2:15 p.m. after taking into account any funds paid to JSCC by the receiving Clearing Participant, any securities delivered to JSCC by the receiving Clearing Participant to settle other transactions, and any collateral of the receiving Clearing Participant held by JSCC; and

(c) Exercise of an Index Option, (such exercise also can occur only on the day of expiration of the Index Option as all Options are European-style) - payment of funds in connection with such exercise is due to JSCC from the paying Clearing Participant by 1:00 p.m. and receivable from JSCC by the receiving Clearing Participant at 2:45 p.m. on the business day following the day of exercise.

## *Clearing Participants*

An eligible entity, as described below, including a Trading Participant that is an eligible entity, may, with the approval of JSCC, acquire Clearing Qualification status with JSCC and become a Clearing Participant for one or more categories of clearing. If a Trading Participant does not become a Clearing Participant (a “Non-Clearing Participant”) with respect to a particular category, it must settle its transactions covered by that category through its designated clearing participant (“Designated Clearing Participant”). A Designated Clearing Participant is a Clearing Participant selected and designated, with the approval of the Exchange, by the Non-Clearing Participant to settle transactions for a particular category of trading in which the Non-Clearing Participant is qualified to trade and with whom the Non-Clearing Participant enters into a Clearing Entrustment Agreement. A Non-Clearing Participant makes a bid/offer in a security in its own name, and if a Non-Clearing Participant’s bid/offer meets the conditions stipulated in TSE’s Business Regulations, a transaction is effected in the market of TSE in the name of the Non-Clearing Participant’s Designated Clearing Participant for the account of the Non-Clearing Participant. The Designated Clearing Participant has the right to, and bears the responsibility for the transaction.

Entities that are eligible to become Clearing Participants include Japanese securities companies, foreign securities companies that have one or more branches in Japan and are registered with the Prime Minister under the Japanese Law Concerning Foreign Securities Firms, registered financial institutions prescribed by the Securities and Exchange Law and securities finance companies. Although, under the Securities Exchange Law foreign securities companies without branches in Japan that are “approved” by the Prime Minister under the Japanese Law Concerning Foreign Securities Firms are eligible to become trading participants of stock exchanges, they cannot become trading participants at this time, because none of the stock exchanges has adopted rules permitting them to do so. Similarly, they cannot become Clearing Participants, as JSCC has not adopted rules permitting them to do so.

Clearing Participants may be qualified in one or more of the following categories of Clearing Participant and thereby become authorized to perform the functions indicated for such category or categories: “Cash Transaction Clearing Participant”-- qualified to clear and settle transactions in securities and transactions carried out by exercise of Equity Options; “Bond Futures Clearing Participant”--qualified to clear and settle transactions in government bond futures contracts and option contracts thereon; “Stock Index Futures Clearing Participant”--qualified to clear and settle transactions in stock index futures and index options contracts; and “Equity Options Clearing Participant”--qualified to clear and settle transactions in Equity Options contracts.

Clearing Participants are divided into two classes: “Principal Clearing Participant” and “Agency Clearing Participant.” A Principal Clearing Participant is entitled to settle only its own transactions effected in the market of the Exchange. An “Agency Clearing Participant” is entitled to settle, in addition to its own transactions (if it is a Trading

Participant), those effected in the market of TSE by a Non-Clearing Participant that has entered into a Clearing Entrustment Agreement with the Clearing Participant.

An eligible entity may be qualified as a Clearing Participant upon application to and approval by JSCC. Before granting such approval JSCC must be satisfied that the applicant maintains adequate administrative and operational capabilities for settlement and meets all the financial criteria for a Clearing Participant.

In order to qualify as a Principal Clearing Participant an entity is required to have paid-in capital of at least Yen 300 million, and (i) if it is a securities company, net assets of at least Yen 2 billion and a net capital requirement ratio of at least 200%, or (ii) if it is a registered financial institution other than an insurance company, shareholders' equity of at least Yen 2 billion, and if it has offices outside Japan, an 8% capital adequacy ratio based on the international standard of the Basel Accord ("International standard") or if it does not have such offices, a 4% capital adequacy ratio based on a domestic standard ("Domestic Standard"), or (iii) if it is an insurance company, shareholders' equity of at least Yen 2 billion and a solvency ratio of 400%. To qualify as an Agency Clearing Participant an entity is required to meet the same criteria, except that in the case of a securities company its required net assets are Yen 20 billion and in the case of a registered financial institution its required shareholders' equity is Yen 20 billion.

JSCC may suspend a Principal Clearing Participant and may suspend an Agency Clearing Participant from clearing its own trades, if its paid-in capital falls below Yen 300 million, or (i) if it is a securities company its net assets fall below Yen 300 million or its net capital requirement ratio falls below 120%, or (ii) if it is a registered financial institution, its shareholders' equity falls below Yen 300 million, or (a) if it is registered financial institution that is not an insurance company, its International Standard capital adequacy ratio falls below 4% or its Domestic Standard capital adequacy ratio falls below 2%, as applicable, or (b) if it is an insurance company, its solvency ratio falls below 100%. JSCC may suspend an Agency Clearing Participant from clearing Non-Clearing Participants' transactions if it fails to maintain the same financial criteria required for it to qualify as an Agency Clearing Participant. JSCC also may suspend a Clearing Participant for other reasons, including, if it fails or appears likely to fail to carry out settlement obligations.

### ***Certain Safeguards With Respect To Options Trading***

As noted above, JSCC, as counter party to all transactions in Options Contracts, is legally and ultimately responsible to its Clearing Participants for the performance of all Options Contracts, including any delivery resulting from their exercise.

JSCC has established comprehensive margining and risk management procedures designed to ensure that adequate margin is held to ensure settlement of Options transactions and to cover losses resulting from defaults by Clearing Participants. In addition, JSCC and TSE have created certain default reserves applicable to Clearing Participants' Option contracts. JSCC's procedures are designed so that for every outstanding Option for which there is a buyer there is a writer of an Option of the same series who has undertaken to perform the writer's obligations in the event that an exercise is assigned to such writer.

### *Segregation*

The Exchange and JSCC requires Trading Participants and Clearing Participants, respectively, to maintain separate principal and customer accounts for open positions and to segregate any funds held as client's margin from their own funds and assets. Ordinarily, cash and securities deposited by customers with Trading Participants as margin will be redeposited by such Trading Participants with JSCC. If the Trading Participants are Non-Clearing Participants, they will redeposit with JSCC through their Designated Clearing Participants. This segregation procedure enables TSE to identify the customer positions of any defaulting Trading Participant (and corresponding margin deposits).

### *Clearing Fund Deposit*

Each Clearing Participant is required to maintain a deposit, in cash or securities acceptable to JSCC, with the JSCC Clearing Fund that secures the fulfillment of the Participant's settlement obligations. The amount of the deposit is based upon the historical value of the Clearing Participant's net position and price fluctuations. Regular calculation of the required deposit is made by JSCC monthly, based on the relevant data for the preceding three months.

### *Margin*

Each Clearing Participant is required to deposit and maintain margin with JSCC with respect to each Options Contract for which it represents the writer. Such margin is calculated, collected and held by JSCC in segregated accounts at designated banks in the case of cash, at depositories in the case of book-entry securities and at JSCC in the case of physical securities. Initial margin and any deficiency in margin resulting from marking writers' positions to market may be deposited by Clearing Participants in cash or securities. Any securities deposited as margin are marked to the market every day. If the value of the margin deposited by a Clearing Participant is less than the required amount of margin, such Clearing Participant must deposit additional margin with JSCC in cash or securities equal in value to the deficiency. Each Non-Clearing Participant is required to deposit margin with JSCC through its Designated Clearing Participant.

The margin required of Trading Participants and their customers is calculated under JSCC Rules on Clearing Margin for Derivatives using the SPAN® (Standard Portfolio

Analysis of Risk)<sup>6</sup> system developed by Chicago Mercantile Exchange, Inc. which takes into account risks associated with the portfolios of TSE futures and options derivative instruments of such Trading Participants or their customers. Margin requirement for a portfolio is the largest loss identified under various market conditions that might reasonably occur, taking into account risk offsets within the portfolio. The objective of SPAN as operated by JSCC is to identify overall risk in a complete portfolio of TSE futures and options derivative instruments. The program treats such futures and options uniformly, while at the same time recognizing the unique exposures associated with options portfolios. In addition, the program recognizes both inter-month and inter-instruments risk relationships.

Because SPAN is used to determine margin requirements, its overriding objective is to determine the largest loss that a portfolio might reasonably be expected to suffer from one day to the next. JSCC determines what is considered a "reasonable" one-day loss, and sets the basic SPAN parameters accordingly.

JSCC calculates risk parameters daily with respect to portfolios of Trading Participants of TSE and for their use with respect to their customers. SPAN is designed for maximum efficiency of both programming and execution. It achieves this efficiency partly because many of its more complex calculations (e.g. the pricing of options) are executed by JSCC. The results of these calculations (risk arrays) and other necessary data inputs to the SPAN calculation are then packaged into a file called a SPAN risk parameter file. This file is uploaded on JSCC's Web Site on a daily basis. Trading Participants then use the data contained in the risk parameter files, together with their specific portfolios, to determine SPAN margin requirements.

Clearing Participants must respond to calls for additional margin before 12:00 noon on the business day following the day on which a deficiency in margin arises. A Non-Clearing Participant is required to deposit the necessary margin with its Designated Clearing Participant by a time designated by the Designated Clearing Participant that is before 12:00 noon so that the Designated Clearing Participant may deposit the margin with JSCC by the required time. Clearing Participants shall, when deemed necessary by JSCC, deposit securities and cash with JSCC as an emergency margin by 4:00 p.m. on the day on which a deficiency in margin arises if there has been an extreme movement in the market during the morning session on that day.

Margin deposited by a Clearing Participant may be applied only to the obligations of that Clearing Participant and may not be applied to the obligations of other Clearing Participants.

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<sup>6</sup> SPAN® is a registered trademark of the Chicago Mercantile Exchange, Inc. used herein under license. The Chicago Mercantile Exchange assumes no liability in connection with the use of SPAN® by any person or entity.

To ensure market security, Trading Participants receiving orders from customers are obligated to require those customers to deposit and maintain, at all times, sufficient margin in cash or securities to cover Options positions with respect to which they are writers, using the same SPAN margin methodology as applied to such Trading Participants. The customer must respond to a call for additional margin by a time designated by its Trading Participant which is on or before the second business day (or the first business day, if such customer is a resident of Japan) following the day on which a deficiency in margin arises, failing which the Trading Participant may liquidate such customer's position.

Buyers of Options are required to pay premiums in full upon purchase of Options. Hence the holders of positions consisting solely of buy Options (calls or puts) are not subject to calls for margin deposits.

#### *Defaulting Clearing Participants*

JSCC has a lien on, and set-off right against, all securities, margin deposits, funds and other assets maintained in the accounts of a Clearing Participant with JSCC, including amounts, if any, in excess of the margin required of that Clearing Participant at the time of any default by such Clearing Participant in its obligations to JSCC. In the event a Clearing Participant does not perform its obligations, these assets may be sold or converted to cash, in which case such cash or proceeds are applied to the performance of such obligations to JSCC.

If a Clearing Participant defaults in the payment to JSCC of its liabilities on an Options contract and if the applicable margin that has been deposited with JSCC by the defaulting Clearing Participant is insufficient to cover such liabilities and JSCC incurs a loss due to such default, JSCC may recover the loss so incurred for each Clearing Qualification category in which the failed Clearing Participant was qualified by applying against such loss: the failed Clearing Participant's deposits to the Clearing Fund (but no other Clearing Participant's deposits to the Clearing Fund); the failed Clearing Participant's other deposits with JSCC; and the failed Clearing Participant's Trading Participant Bond deposited with TSE.

If JSCC sustains a loss not covered by the foregoing on a cash product (including the exercise of an Equity Option), it may, subject to specified limits, recover such loss from the stock exchanges, including TSE, for which JSCC acts as clearing house for cash products, pursuant to a financial guarantee agreement between JSCC and such exchanges. Subject to such limits, the amount payable by an exchange for any such loss is in the same proportion as is its ownership interest in JSCC. If JSCC sustains a loss not covered by the foregoing on a derivative product, it may, subject to a specified limit, recover such loss from TSE pursuant to a financial guarantee agreement between JSCC and TSE. As of September 30, 2005, the aggregated maximum cumulative amount that all exchanges could be required to pay with respect to losses on cash products was approximately Yen 10.8 billion and that TSE could be required to pay with respect to losses on derivative products was approximately Yen 10.4 billion.

Any loss to JSCC, which is not satisfied by the above, will be borne by JSCC up to the amount of its shareholder's equity as of the end of its previous business year less its paid-in capital and legal reserves and any amount declared by the shareholders of JSCC during the current fiscal year as a dividend or distribution (as of March 31, 2004, the amount available for such use was approximately, Yen 517 million.) If the loss to JSCC is not satisfied by all of the foregoing, JSCC may recover the unsatisfied loss by collecting a Special Clearing Charge from Clearing Participants (other than the defaulting Clearing Participant) that belong to each Clearing Qualification category for which JSCC incurs an unsatisfied loss, in proportion to each such Clearing Participant's required deposit to the Clearing Fund as of the day preceding the day of the default.

Margin deposited by a Clearing Participant, its deposits to the Clearing Fund and the Trading Participant's bond deposited with TSE may only be used to satisfy the loss caused by that defaulting Clearing Participant's default and may not be used to satisfy the obligations of any other Clearing Participant to JSCC or the obligations of JSCC itself.

The clearance system and the margin system, as well as certain action that may be taken by TSE and JSCC with respect to defaulting Trading Participants and their customers and Clearing Participants are described in greater detail in the Current Disclosure Document.

#### **Disclosure Document Updated**

As noted above, enclosed with this request for no-action relief is the Current Disclosure Document. The principal changes in the Current Disclosure Document from the March 2002 Updated Disclosure Document are reflected in the information included in the Current Disclosure Document relating to the following:

(a) (i) The change of the clearing body for transactions in Options from TSE to JSCC (ii) JSCC and its Clearing Participants (iii) the current clearance and settlement system for transactions in Options, and the delegation by JSCC to others of certain tasks related thereto, and (iv) safeguards in place with respect to Options trading;

(b) (i) The change of TOPIX from a capitalization weighted stock price index, the base value and current values of which are calculated generally taking into account all outstanding shares of the component stocks of TOPIX, to a free-float adjusted market capitalization weighted stock price index, the base and current values of which are calculated generally taking into account only those shares of the component stocks of TOPIX that are deemed to be available for purchase by investors in the market ("New TOPIX") (ii) the phase-in of New TOPIX, and (iii) New TOPIX and the method of calculating New TOPIX. The change of TOPIX to NEW TOPIX is intended to avoid the supply and demand distortion of share prices, especially of low free-float stocks, that may arise because large amounts of shares increasingly are being held by passive funds and thus not generally available for trading; and

(c) The limitation of liability of TSE. The Current Disclosure Document also updates and amplifies other information included in the March 2002 Updated Disclosure Document.

**Written Representations Required From Eligible Broker-Dealers and Eligible Institutions Updated**

As required by the Prior No-Action Letters, the Exchange has a rule that requires Trading Participants to obtain various written representations from Eligible Broker-Dealers and Eligible Institutions, including a representation with respect to margin as specified in the July 1999 No-Action Letter, in item (5) under "Transactions with U.S. Customers". In order to reflect that Eligible Broker-Dealers and Eligible Institutions understand the situation as to margin subsequent to JSCC becoming the clearing agency for transactions in Options, such representation with respect to margin shall read, in effect, as follows:

"it [the Eligible Broker-Dealers or Eligible Institution] will cause any disposition of any TSE Equity Option or TSE Index Option that it has purchased or written to be effected only on the TSE and to be settled by Japan Securities Clearing Corporation ("JSCC") in Tokyo, and it understands that any required payments for premium, settlement, exercise or closing of any TSE Equity Option or TSE Index Option in respect of which it has a contract with a Trading Participant must be made in Japan and in Japanese yen. It also understands that, if in relation to an any TSE Equity Option or TSE Index Option, it has a contract with a Trading Participant as a writer of such Option,

(a) margin must be provided to and maintained with such Trading Participant in such form and amount as determined by such Trading Participant based on TSE rules; and

(b) such Trading Participant, (i) if a clearing participant, must maintain, measure, and deposit margin on such TSE Equity Option or TSE Index Option with JSCC in such form and amount as determined by JSCC, and (ii) if a non-clearing participant, must provide margin on such TSE Equity Option or TSE Index Option to the clearing participant of JSCC to which it has entrusted the settlement of such TSE Equity Option or TSE Index Option, in such form and amount as determined by that clearing participant based on TSE rules. The clearing participant to which such settlement has been entrusted must maintain, measure, and deposit margin on such TSE Equity Option or TSE Index Option with JSCC in such form and amount as determined by JSCC."

**Conditions of Relief**

As conditions for the issuance by the Division of the no-action position requested herein, TSE confirms the following:

a. It has implemented and complied with the terms and conditions of relief set forth in the July 1999 No-Action letter (as modified by the November 2002 No-Action Letter) and the terms and conditions of relief set forth in the November 2002 No-Action Letter, and, except as superseded herein in connection with the Current Disclosure Document, which will be provided rather than the Updated Disclosure Document, undertakes to

continue to comply with all such terms and conditions, except as modified herein. Among other things, TSE has established careful limitations to assure compliance with applicable U.S. securities laws and TSE and JSCC will continue, as necessary, to establish further limitations to assure continued compliance with such laws;

b. that TSE will furnish the Division, at least 30 days prior to the date definitive copies are furnished to Eligible Broker-Dealers or Eligible Institutions, with a copy of any amendment made to the Current Disclosure Document because the information contained in that document becomes or will become materially inaccurate or incomplete, or because there is or will be an omission of material information necessary to ensure that the document is not misleading; and

c. TSE will not provide persons located in the US with direct electronic access to the Exchange without express approval from the Commission.

### **Conclusion**

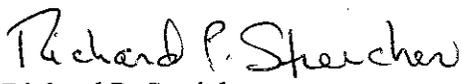
TSE will continue to be an organized exchange organized, operating and regulated under the laws of Japan and the fact that TSE, TSE Representatives, or Trading Participants make known to a particular sophisticated segment of the United States financial community TSE equity and index products for which JSCC acts as the clearing agency, will not alter this fact.

For this reason, based on the facts and circumstances set forth herein and in the enclosed Current Disclosure Document, and subject to continuing compliance with the terms and conditions of the July 1999 No-Action Letter (as modified by the November 2002 No-Action Letter) and the terms and conditions of the November 2002 No-Action Letter except as modified herein and except that the Current Disclosure Document rather than the Updated Disclosure Document will be provided, and the undertakings set forth herein, we request that the Division confirm the advice requested above.

We very much appreciate your prompt consideration of this matter. If you have any questions concerning this matter, please do not hesitate to contact me at (212) 363- 2350.

Very truly yours,

Tokyo Stock Exchange, Inc.

By:   
Richard P. Streicher  
U.S. Legal Counsel

Enclosures:

No-Action Letter dated July 27, 1999, from Robert Colby, Deputy Director, Division of Market Regulation, United States Securities and Exchange Commission to Richard P. Streicher, Loeb & Loeb LLP

No-Action Letter dated November 15, 2002, from Elizabeth K. King, Associate Director, Division of Market Regulation, United States Securities and Exchange Commission to Richard P. Streicher, U.S. Legal Counsel, Tokyo Stock Exchange, Inc.

TOKYO STOCK EXCHANGE, INC. (Kabushiki-gaisha TØ-KYØ SHØ KEN TORI HIKI JO) SPECIAL CHARACTERISTICS AND RISKS OF TOKYO STOCK EXCHANGE EQUITY OPTIONS AND STOCK INDEX OPTIONS, dated March 2002

TOKYO STOCK EXCHANGE, INC. (Kabushiki-gaisha TØ-KYØ SHØ KEN TORI HIKI JO) SPECIAL CHARACTERISTICS AND RISKS OF TOKYO STOCK EXCHANGE EQUITY OPTIONS AND STOCK INDEX OPTIONS, dated November 30, 2005

cc: Sharon M. Lawson, Esq., Securities and Exchange Commission