

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

19 September, 2016

Dear Chairwoman Nichols and Members of the California Air Resources Board,

**Subject: TRANSFERRING UNITS OUT OF AN ECHA**

CTX USA LLC (trading as “CBL Markets”) operates the “CBL Market” which comprises unique exchange technology (and associated processes for banking and registry settlements) for spot trading Products comprising instruments associated with the Regional Greenhouse Gas Initiative and soon also Products comprising instruments associated with the California Cap and Trade Program. CBL Markets’ vision is to enhance the transparency of environmental commodity markets.

CBL has an interest in the development of a secure, efficient and effective method for spot trading Products comprising instruments associated with the California Cap and Trade Program.

Minneapolis Grain Exchange, Inc. (MGEX) works with CBL and has opened an Exchange Clearing Holding Account (ECHA) for the CBL Market.

CBL will manage the day-to-day operation of the ECHA as a key component of the CBL Market in order to facilitate the transfer of ownership of instruments associated with the California Cap-and-Trade Program between participants in the CBL Market. This includes procedures to ensure compliance with section 95921(d)(2), which states that “*all of the compliance instruments received by an exchange clearing holding account must be transferred to one or more destination accounts within five days of receiving them*” (Five Day Rule), without unnecessarily burdening participants in the CBL Market with transfers in and out of the ECHA on a daily basis or a transaction basis.

In this regard, we refer:

- Generally to:
  - o Proposed regulations: [www.arb.ca.gov/regact/2016/capandtrade16/appa.pdf](http://www.arb.ca.gov/regact/2016/capandtrade16/appa.pdf)
  - o Statement of reasons:  
<https://www.arb.ca.gov/regact/2016/capandtrade16/isor.pdf>

- Specifically to the following proposed changes to section 95921(d) which we have labelled the "ECHA Transfer Out Change":

(d) *Transfers Involving Exchange Clearing Holding Accounts.*

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(3) *A request to transfer compliance instruments to ~~or from~~ an exchange clearing holding account does not require confirmation by an account representative of the destination account pursuant to section 95921(a)(1)(C).*

~~(4) — A request to transfer compliance instruments from an exchange clearing holding account does not require confirmation by a second account.~~

We understand the merits of the proposed ECHA Transfer Out Change which in practical terms means that transfers of compliance instruments out of the ECHA cannot proceed without the prior confirmation by account representatives of the destination accounts.

However, a failure by account representatives of a destination account to provide the necessary confirmation could result in compliance instruments being held in the ECHA for a period longer than five days of receiving them amounting to a breach of the Five Day Rule.

While unintended, the Five Day Rule and the proposed ECHA Transfer Out Change are not consistent with each other and may create an unacceptable compliance risk that is not minimal. This risk would be avoided if the proposed ECHA Transfer Out Change was amended or not approved.

As stated above we understand the merits of the proposed ECHA Transfer Out Change, however we believe that the proposed change requires additional consideration.

Please do not hesitate to contact the writers should you wish to discuss the above further.

Your sincerely,

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