

THE OPTIONS CLEARING CORPORATION

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January 20, 2006

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Via Electronic Mail and Federal Express

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

COMMENT

Re: **Self-Regulation and Self-Regulatory Organizations**

Dear Ms. Webb:

The Options Clearing Corporation ("OCC") is submitting this letter in response to the Commission's request for additional comments on self-regulation and self-regulatory organizations (the "Request for Comments").¹

OCC

OCC is a securities clearing agency regulated by the Securities and Exchange Commission (the "SEC"). In that capacity, OCC clears securities options for the nation's six options exchanges, as well as security futures traded on OneChicago. In 2001, the Commission registered OCC as a derivatives clearing organization ("DCO"). In that capacity, OCC clears commodity futures traded on the CBOE Futures Exchange.

Comments

We understand from previous conversations with the Commission's staff that the Commission will defer to the SEC as OCC's principal regulator in matters of governance and self-regulation. We therefore will not comment in detail on the

¹ Federal Register, Vol. 70, No. 226, dated November 25, 2005, at 71090.

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issues raised by the Request for Comments. There is, however, one point that we would like to make.

The Request for Comments uses the general term "SRO," for the most part without distinguishing between different types of SROs.² We believe it is important in this context to distinguish between designated contract markets ("DCMs") and registered futures associations, on the one hand, and derivatives clearing organizations ("DCOs") on the other-- especially DCOs not integrated within DCMs ("independent DCOs).

Independent DCOs, unlike other SROs, do not function as designated self-regulatory organizations, and do not have responsibility for regulating members' trading activities. Nor are they responsible for regulating sales practices or other interactions between members and their customers. DCOs do have responsibility for enforcing their own rules.³ However, the rules of independent DCOs relate primarily to financial and operational matters; compliance is in most cases objectively verifiable; and in OCC's experience, material violations are rare. Of the few disciplinary proceedings that OCC has brought over the years, all were settled without a hearing. OCC has no standing disciplinary committee; and while its rules provide for convening ad hoc disciplinary committees, there has never been a need to do so.

Because of the limited self-regulatory role played by independent DCOs and the low potential for abuse in that area, we submit that even if the Commission were to conclude that there is a need to take regulatory action to insulate the self-regulatory process at other SROs from conflicts of interest and improper influence, there is no such need in the case of independent DCOs.

The Commission recognized the differences between clearing organizations and other SROs in this context when it adopted Reg. §1.64 ("Composition of various self-regulatory organization governing boards and major disciplinary committees"). The Commission intentionally made Reg. §1.64 inapplicable to clearing organizations by excluding them from the definition of "self-regulatory organization" in that Regulation.⁴

² An exception is question 10, which asks what conflict of interest standards, if any, should apply specifically to derivatives clearing organizations

³ See 7 USC §7a-1(c)(2)(h).

⁴ See discussion in adopting release, 58 F.R. 37644, effective July 13, 1993.

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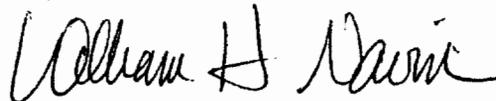
Similarly, the SEC, in proposing new rules regarding the governance, administration, transparency, and ownership of securities SROs, proposes to apply those rules only to SROs "that are national securities exchanges or registered securities associations."⁵

Conclusion

Whatever the need may be for additional measures to protect the self-regulatory process in the futures industry, we submit that the self-regulatory role of DCOs, and in particular independent DCOs, is sufficiently limited that it is unnecessary and inappropriate to extend such measures to DCOs.

We appreciate the opportunity to submit these comments. Any questions may be addressed to the undersigned at 312-322-1817.

Very truly yours,



William H. Navin
Executive Vice President and
General Counsel

⁵ Rel. No. 34-50699 (Nov. 18, 2004). The proposing release did solicit comments on whether the proposed governance rules should be applied to other SROs, such as clearing agencies; and, if so, why. However, the proposal as published would not apply to clearing agencies.