



New England Fuel Institute

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July 11, 2006

Docket ID No. CFTC-2006-0039-0001
Commodity Futures Trading Commission
Attn: Office of the Secretariat
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

COMMENT

RE: BOARDS OF TRADE LOCATED OUTSIDE OF THE UNITED STATES AND THE REQUIREMENT TO BECOME A DESIGNATED CONTRACT MARKET OR DERIVATIVES TRANSACTION EXECUTION FACILITY

Dear Chairman Jeffery, Honorable Commissioners, and Acting Secretary Donovan:

Thank you for the opportunity to provide input on what should constitute a foreign board of trade (FBOT) and when said boards of trade should be required to register as a designated contract market (DCM) or derivatives transaction execution facility (DTEF). We greatly appreciate the opportunity to comment on this important matter.

The New England Fuel Institute (NEFI) represents dealers providing over 40 percent of the nation's heating oil. Most of these companies are small, second and third generation family-run businesses that care deeply for the well being of their customers. These businesses and their valued customers, who require our quality products to heat their homes and keep their families warm each winter, are at the mercy of market swings and volatile prices. Now more than ever, we are concerned that the volatility in commodity prices is being determined by adverse market influences.

Of these "adverse market influences," NEFI is particularly concerned that select boards of trade, whether electronic or otherwise, are evading CFTC oversight and data reporting requirements by establishing their operations overseas. In your ensuing deliberations on the definition of an FBOT, the New England Fuel Institute and its member dealers ask you to consider the following comments.

1. PURPOSEFUL EVASION

We believe that any Board of Trade established outside of the United States but headquartered, managed or operated from within U.S. borders constitutes a blatant and purposeful evasion of U.S. regulation. Such bodies should be subject to both the foreign regulatory structure as well as subject to Section 4(a) of the Commodity Exchange Act (CEA), and investigated accordingly.

2. ISSUANCE OF “NO-ACTION” LETTERS

Issuance of “no-action letters” should not be common practice of CFTC staff, and the process should be codified, formalized and the issuance of such letters reserved only for the most extraordinary circumstances. If the Commission determines a codified process is warranted, no-action letters should only be permitted when the FBOT is regulated by a foreign government entity whose regulatory practices are akin to that of the CFTC. Additionally, the letter should permit the Commission to obtain records from the FBOT upon request, and the Commission should make clear that it reserves the right to withdraw or modify the terms of the no-action letter at any time. And finally, no-action letters should be reserved for exchanges established in foreign countries, not for exchanges owned, managed or operated by a U.S. entity.

Similarly, the Commission should review, and determine the reasoning behind and the legitimacy of, all no-action letters issued that are currently permitting direct access to the United States; and withdraw no-action letters as appropriate.

3. ESTABLISHING A “VOLUME-BASED” TRIGGER

NEFI will not comment or make recommendations as to a volume-based trigger mechanism as requested by the Commission in its request for comments on this matter. We do agree, however, that the Commission should exercise regulatory authority over any FBOT that permits direct U.S. access to contracts with products that are vital to the integrity of the U.S. economy and, moreover, the health and welfare of the American people.

Heating oil, or No.2 Fuel Oil, is one such product. For the nearly ten million households and 25 million Americans kept warm by heating oil each winter, quality heating is essential to their well-being. Price-swings and market uncertainty compromises their welfare. The CFTC, its chairman, commissioners and staffs should make it their duty to protect these American consumers from any undue cost burdens brought by fraudulent trading practices and manipulation, whether on a domestic or foreign exchange. Therefore, we strongly urge that any foreign board of trade offering U.S. access to heating oil contracts – regardless of trade volume - be classified as a domestic contract market subject to U.S. regulation under Section 4(a) of the CEA.

Thank you again for the opportunity to provide you with comments and for your kind consideration of the above.

Sincerely,



Sean Cota,
President



Chris Keyser
Chairman of Government Affairs