

secretary

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From: Gary Greenberg [gag2315@adelphia.net]
Sent: Monday, July 31, 2006 7:51 PM
To: secretary
Subject: What Constitutes a Board of trade Outside the US!

COMMENT

> To Whom It May Concern:

>

> As a long-standing member of the New York Mercantile Exchange (NYMEX),

> I am writing to express my concern about the CFTC's no-action letters

> allowing ICE Futures (ICE) to launch NYMEX look-alike contracts. The

> CFTC has inadvertently created a regulatory environment that provides

> a competitive advantage to a foreign-regulated exchange conducting

> trade in U.S. oil and natural gas markets.

>

> With the blessing of the CFTC's no-action letters, ICE has now

> launched contracts for NYMEX markets in crude oil, heating oil,

> gasoline, natural gas, and others. These are contracts for strategic,

> American-produced commodities and are identical to the NYMEX contracts

> in all respects except delivery. Indeed, without compensation, NYMEX

> is even compelled by a US court decision to provide its settlement

> prices to ICE. Everything about these markets is American, from their

> production to their price discovery to their consumption, yet they are

> regulated by the UK's less-stringent Financial Services Authority. In

> similar fashion, the UK is also wrestling with this issue. The quote

> below is from the Financial Times, 6/19/06, about the potential U.S.

> regulation of the UK stock

> market:

>

> "For good reasons, therefore, the British parliament has decided that

> an authority it has created, rather than one established by the US

> Congress, should regulate the UK's stock market...any shift might have

> a negative impact on British investors and recognisably British

> companies. The pursuit of shareholder value should not be allowed to

> eliminate national regulation where such oversight is deemed in the

> national interest. If this requires changes in the law, so be it."

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> What the UK is concerned about has happened here. The ICE no-action

> letter can and will continue to have a negative impact on American

> investors and American companies. ICE has targeted NYMEX customers

> and grabbed market share at least partially with their ability to play

> by a different set of rules.

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> There is no valid argument to allow American energy contracts to be

> regulated by two countries and two sets of regulations. As more and

> more American futures business is seized by competitors operating

> under a foreign regulator, the more likely it will be that NYMEX and

> perhaps others will be forced to shop for an advantageous regulatory

> environment and move their operations offshore.

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> While the notion of regulatory arbitrage is a scenario starting to

> play for other exchanges around the globe, it is a very real threat to

> NYMEX and U.S. energy markets. We do not have time for studies or to

> see "how things will play out."

>

> Remedy: It is time for a decision now. The CFTC must level the

> playing field in American energy markets. The ICE no-action letter

> was approved by the CFTC presumably because the CFTC believes the

> level of regulation by the UK's Financial Services Authority (FSA) is

> sufficient for these markets. To correct the regulatory imbalance

> between NYMEX and ICE, the CFTC must grant immediate relief to NYMEX

> by allowing NYMEX to follow the same regulations as ICE. If, on the

> other hand, the CFTC does not believe the FSA provides sufficient

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> regulation for the American energy market, they should take immediate
> action and subject the ICE contracts to the same regulations as NYMEX contracts.
>
> I do not request the stifling of competition. I am only asking that
> the U.S. government do what it is supposed to do and level the
> competitive playing field in a volatile business. The U.S. must
> provide immediate relief to NYMEX by applying the FSA rules across the
> board or beginning CFTC regulation of the ICE contracts. Either way,
> this will guarantee fairness for NYMEX and ensure the continued
> presence of orderly markets in the U.S. for these nationally-important strategic
commodities.
>
> Sincerely,
> Gary Greenberg
> Nymex member since 1970