

Ms. Eileen A. Donovan
Secretary of the Commission
Commodity Futures Trading Commission
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1155 21st Street, N.W.
Washington, D.C. 20581

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COMMENT

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Re: 17 CFR Part 38; Conflicts of interest in Self-Regulation and Self-Regulatory
Organizations

09/08/06

Dear Ms. Donovan:

Thank you for the opportunity to comment on the SRO proposal.

The Commission's Acceptable Practices for Core Principle 15 proposal is a drastic, unnecessary, and likely ineffective solution to an exaggerated, if not non-existent problem.

There is no recent evidence, and indeed no evidence is cited in the Commission's lengthy filing, of any increase in conflict of interest or even the appearance of conflict of interest at United States futures exchanges operating as self-regulatory organizations.

The Commission does cite testimony and studies suggesting that changes in ownership structure at many exchanges could or may result in increased conflict of interest. (All five studies cited actually pertain to the securities industry, which raises the question: if the futures industry is to be treated the same as the securities industry what need is there for both the CFTC and the SEC?)

Indeed, given the absence of any compelling evidence of increased conflict of interest one could just as readily agree with the proposition that "Increased competition, demutualization, and other industry developments will strengthen self-regulation, not weaken it."

Industry changes have done nothing to alter the exchanges' obligations as SRO's and their relationship with the CFTC. As Commission Chairman Reuben Jeffery III testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs July 25, 2006:

"Each futures exchange is required under the CEA to affirmatively and effectively supervise trading, prices, and positions. The CFTC examines the exchanges to ensure that they have devoted appropriate resources and attention to fulfilling this important responsibility."

"Fortunately most issues are resolved without the need of the CFTC's emergency powers, as the CFTC has had to take emergency action only four times in its history."

(There is no reason to conclude that the proposed Acceptable Practices in any way would have prevented these four instances, or any future situations that might

necessitate the Commission's taking emergency action. Indeed it seems likely that crisis resolution would be more problematic with so much responsibility and authority vested in those lacking industry experience and a deep commitment to the long-term viability and integrity of the exchanges.)

In spite of the lack of any demonstrable increase in the incidence of conflict of interest or even the appearance of conflict of interest, the Commission states, "such conflicts, whether actual or perceived, must be addressed proactively," and prescribes a remedy which would hamper the efficient operation of U. S. futures exchanges at a time when competition, both domestic and international, is becoming the most intense in memory.

The proposed Acceptable Practices requirement that at least half of an exchange's Board of Directors and Executive Committee be made up of "Public" representatives, coupled with the restrictive definition of "Public" practically assures that the majority of board members will lack industry experience and expertise and will likely be incapable of adequately performing their duties overseeing the operations of US futures exchanges. The results will be either grossly mismanaged exchanges or, ironically, an increase in the appearance of conflict of interest as the unknowledgeable public directors defer judgment to the necessarily smaller (and therefore less diverse) number of "non-public" directors and officers.

The Regulatory Oversight Committee proposal takes the absurdity to another level by investing responsibility for many of the exchanges' central and most important functions solely in the hands of board members lacking industry experience and expertise. Furthermore the ROCs as envisioned would operate with a "broad authority" over corporate management well beyond that normally exercised by corporate boards. (The very definition of the ROC and the detailing of its many responsibilities and powers belie the assertion in the filing that ROCs "are not expected to assume managerial roles.") Ironically again, the inevitable result of the proposed ROCs would be less efficient, less effective regulation.

I urge the Commission to withdraw this proposal; it is unnecessary and likely would result in more harm than good.

Sincerely

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