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COMMODITY FUTURES
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COMMENT

Paul O. Daly
844 President Street
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March 10, 1998

Ms. Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street
Washington, D.C. 20581

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COMMODITY FUTURES
TRADING COMMISSION
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Re: Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market

Dear Ms. Webb,

I have been a member of the Coffee, Sugar & Cocoa Exchange since 1989. Previously, and since 1981, I was a member of the Commodity Exchange, and from 1970 I was chief trader for a major precious metals dealer. From reading the Federal Register concerning the topic at hand, it is obvious that since the beginning of my career EFPs have become much more complex, and the regulations regarding the treatment of EFPs much more accommodating. It would be difficult for me to comment on many of the issues presented in the Register because I so fundamentally and strongly object in general to the way EFPs have been allowed to be used, and are proposed to be used in such forms as EFSs.

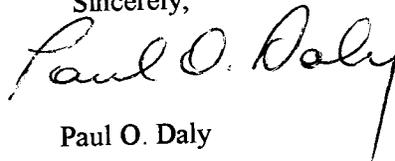
It has always been obvious to me that the definition of an EFP is self-evident, and is simply a tool allowed to be used by certain types of market participants. These types are producers, consumers, agents or dealers, and investors who are active in the physical market or the non-exchange market, i.e. London gold, silver, etc. Within the last decade or so, participation in use of EFPs has broadened, in such forms as transitory EFPs and now, EFSs. It is so apparently deceitful to me to allow a physical trade with a swap factor for an EFP. Why go through the process of quoting the physical to begin with? Is it to give a sham trade validity? What is the difference in trading a physical market with a swap component for futures, than trading the future itself outside the exchange? I feel that by allowing such practices we are allowing to abuse a very valid and useful tool for the industries of the various future markets. Any such type of trading, including "block trading" outside of the market is non-competitive, it accommodates two entities and restricts the rest of the trading community to participate, and inhibits the price-discovery process.

NYMEX makes various arguments to justify EFSs, such as: increase of market efficiency, enhance the use of the exchange as a risk factor medium, provide a management function individually tailored to a user's commercial need, and reduce transparency risk, basis risk and credit risk. I don't get it. Why does NYMEX need what it already has? A client who wants to swap one market with another can call his broker now and accomplish all of the above, maybe not as efficiently as an EFS, but certainly more equitably. Conceptually, the EFS proposal will allow an entity to call another entity and pre-arrange a swap in two different future markets. It is true that it would be facilitative for the parties involved, but it would also prohibit the rest of

the trading community from participating in either or both legs of the transaction, and nullify price discovery. I'm sure that at times an EFS would enhance the transparency and basis risks that are inherent to futures open outcry trading, but, just as often, when the entire community is involved openly these risks would actually be reduced or eliminated.

Instead of responding to the Registrar's individual questions, I would like to make the following suggestions. Each exchange has different needs. The activity of physical against futures that takes place in one exchange is different in frequency and in nature in another exchange. I don't believe that there should be universal rules for all the exchanges, with certain exceptions. Any EFP that has a swap component that negates the physical transaction and constitutes a non-competitive futures trade should be disallowed. In addition, a committee should be established in each exchange to review all EFPs and establish their validity. It is my opinion that allowing EFSs, or pre-arranged block trades, or any EFP that is used simply to trade futures non-competitively, or, in short, creating an "upstairs environment" or "over the counter environment" deviates from and abuses the fundamental and essential purpose of futures markets and should be prohibited. Thank you.

Sincerely,



Paul O. Daly

Cc: Ms. Audrey R. Hirshfield, CSCE
Mr. Jorge M. Dorhiliac, CSCE

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To : <secretary@cftc.gov>
From : "Paul Daly" <oreste@tiac.net>
Subject : Regulation of Noncompetitive Transactions Executed on or Subje
Date : Saturday, March 14, 1998 at 6:47:43 pm EST
Attachment : (none)
Certify : N

COMMENT

Dear Ms. Webb,

My name is Paul Daly. I recently sent you a letter regarding the above subject. Would you please make the following correction and addition to my letter. On page two, end of top paragraph, last sentence should read:

"Im sure that an EFS would eliminate the transparency and basis risks that would be present if the legs of the swap were to be executed in open outcry. However, by executing the swap in open outcry, quite frequently the basis, which I believe is meant to be the point difference of the two items that are being swapped, would actually be better than intended because of the various market factors that could come into play. A possibility that NYMEX should consider is the quoting of swaps for their various products in the exchange itself, and in open outcry. So that instead of pre-arranging a trade between two entities in two offices, the whole community can observe what's being quoted and can participate equitably and openly."

Thank you, and I'm sorry for the inconveniencve.
Sincerely,
Paul Daly

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