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COMMODITY FUTURES
TRADING COMMISSION

Commodity Floor Brokers & Traders Association

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COMMENT

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BY TELEFAX

Ms. Jean A. Webb
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: January 26, 1997 Concept Release on the Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market

Dear Ms. Webb:

The Commodity Floor Brokers and Traders Association ("CFBTA" or "Association") is pleased to have the opportunity to comment on the Commodity Futures Trading Commission's concept release concerning Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market. 63 Fed. Reg. 3708 (January 26, 1998) ("Concept Release").

The CFBTA is a not-for-profit membership association, representing the interests of the floor trading community of all the New York futures exchanges. The Association is comprised of individuals and small companies executing orders and making markets on the New York exchanges, and its membership rolls list over 750 members from three different exchanges.

The Association has not undertaken in this letter to comment either comprehensively or in detail about the 57 issues and inquiries raised by the Commission in the limited time available to formulate responses. Rather, the Association's letter is intended to convey general observations about the concepts and policies underlying the release.

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EFP Transactions

The CFBTA members trade in several different markets, ranging from the agricultural, to the metals, to the petroleum futures markets. Each of the component contract markets in these sectors has its own peculiar characteristics, including the utilization of EFPs. For example, pricing of an EFP transaction is done differently in the various markets, and these differences reflect the peculiar characteristics and practices of the cash markets and the trade participants.

Recognizing the distinctions between the markets in members trade and not being aware of any abuses or irregularities,¹ the CFBTA believes that the imposition of uniform standards for all exchanges would have a stifling effect on some of the markets and would not provide any real benefits to the remaining exchanges and their participants. The Association believes that each exchange is capable of recognizing a bona fide EFP and able to enforce its own rules. Exchanges already have broad, investigatory powers to secure documentation and evidence concerning EFP transactions and have the capacity to discipline members who abuse exchange EFP rules.

While some of the concepts identified in the Concept Release may have value for those institutions responsible for regulation or self-regulation, the CFBTA believes it prudent to leave it to each exchange to adopt or implement such proposals. Only each exchange will have an understanding of the use by its commercial participants of its markets and the utilization of EFP transactions so as to be best able to judge the salutary or deleterious ramifications of such regulatory change on its markets. Obviously, if a market becomes less attractive to a commercial participant, the market and its liquidity will suffer.

The Association believes that there should be no changes to regulation of EFPs that will impair market liquidity or foster price opacity. At a time when floor trading appears to be threatened by electronic trading and other over-the-counter trading, it is important not to diminish the vibrancy and health of the contract markets. The reduction of liquidity and price transparency would have such an effect. The CFBTA believes that with respect to EFPs the status quo is desirable and that before any specific regulatory change is proposed careful, in-depth study to determine the effects on the markets and their partici-

¹ Even the Concept Release does not identify abuses or systemic problems.

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pants should be undertaken.

Other Non-Competitive Transactions

The Association is aware that the Commission has extended the comment period on that portion of the Concept Release that deals with other non-competitive trading, including block trading, large order execution procedures, and so on. The Association would like to reserve its comments on these concept proposals until a later time, but again offers general observations.

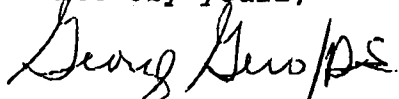
Non-competitive trading that is accomplished away from the floor reduces the ability of the floor traders to participate. The loss of participation in large orders reduces the capacity of floor traders to make money and may ultimately drive them out of the market. Additionally, any loss of ability to make money reduces traders' capacities to build capital and thus trade larger quantities. A reduction of traders' capital means a reduction in market liquidity. Moreover, trades arranged upstairs deprive the public of participation. Finally, price transparency is adversely effected by such activity.

The CFBTA is not aware of a compelling need for trading away from the floor in the futures markets. Those mechanisms currently available to the futures markets have not been widely used, and the Association believes that what works in the securities markets is not necessarily desirable or functional in the futures markets.

Conclusion

The CFBTA appreciated the opportunity to submit these comments on the Concept Release. If the Commission wishes to contact the CFBTA, I would be happy to answer any questions or respond to any comments related to the release of this letter.

Sincerely yours,



A. George Gero
Chairman