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# CHICAGO MERCANTILE EXCHANGE

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April 14, 1999

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

**COMMENT**

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CFTC

**Re: Changes in Reporting Levels for Large Trader Reports**

Dear Ms. Webb:

On February 3, 1999, the Commodity Futures Trading Commission ("CFTC" or "Commission") published for comment proposed modifications (the "Proposal") to Parts 15 and 17 of its rules in the Federal Register. The Chicago Mercantile Exchange ("CME" or "Exchange") welcomes the opportunity to comment on the Commission's Proposal.

The Commission is proposing a number of substantial modifications to its large-trader reporting system that are of significant concern to the CME. The stated purpose of the modifications is to streamline the reporting process which would substantially lessen the burden on futures industry participants and the Commission itself. While such an endeavor is admirable, the CME believes that the modifications proposed by the Commission will in fact increase the paperwork processing burden on industry participants and concurrently compromise the market surveillance activities of self-regulatory organizations ("SROs") that rely on the Commission's large-trader reporting system.

The information required by the Commission for its large-trader reporting system is also information required by the CME and is an extremely important element of the Exchange's Financial Safeguard and Market Surveillance Programs. The Exchange is opposed to a majority of the Commission's Proposal and believes that customer protection will be compromised if the Proposal is adopted in its current form.

The Commission's Proposal can be divided into three general areas, namely: (1) raising the reporting levels at which FCMs, clearing members, foreign brokers, and traders must file large trader reports in certain commodities; (2) deleting the requirement that where an independent account controller trades for a number of commodity pools, the carrying firm must identify separately each such commodity pool; and (3) deleting current reporting Rule 17.01(c)

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under which a reporting firm must identify the number and name of other accounts not included in the "special account" that are controlled or owned by the trader.

**A. Raise Reporting Levels**

The Commission's Proposal states that it has recently reviewed information concerning trading volume, open interest and the number and position sizes of individual traders relative to the reporting levels for each market to determine if coverage of open interest is adequate for effective market surveillance. In an effort to balance the paperwork burden associated with the reporting requirements and the need for adequate surveillance, the Commission had determined to raise reporting levels for a number of commodities. However, given that contract markets have primary responsibility for surveilling their markets, it is they, and not the Commission, that are best equipped to determine what reporting levels are adequate for effective surveillance.

The Commission's Proposal estimates that adjusting reporting levels will decrease the number of daily position reports required to be filed by reporting firms by approximately 14%. However, the CME does not intend to raise its reporting levels to correspond to the proposed increase by the Commission. Clearing member firms will in fact be required to continue to report at the lower levels set by the Exchange. Accordingly, the cost savings contemplated by the Commission for clearing member firms will not be realized.

Regardless of the Commission's intentions, the Exchange strongly believes that it is best suited to determine appropriate reportable levels for its contracts and further believes the Commission should not be involved in setting reportable levels. The Exchange further believes that it would be more efficient to allow exchanges to establish standardized reportable levels. Under the current system, firms must keep track of reportable levels for the Commission and separate reportable levels for the exchanges which is time-consuming and costly. The current system is unnecessarily confusing for clearing member firms. The large-trader reporting system would operate more efficiently if the Commission was not involved in the process. The Exchange is generally in support of reducing unnecessary paperwork burdens imposed upon firms. However, in this instance, the CME believes that the information generated is necessary and, as such, the projected savings are not substantial.

**B. Identification of Commodity Pools and Proposed Changes to CFTC Form 40**

The Commission's regulations require that clearing member firms report to the Commission when an account first becomes reportable. When a trade first exceeds a reporting level, the clearing member firm labels the account a "special account." The firm must also file with the Commission Form 102. Form 102 identifies persons who have a financial interest in, or trading control of, a special account, informs the Commission of the type of account that is being

reported and gives preliminary information whether positions and transactions are commercial or non-commercial in nature. According to the Proposal, certain information included on the Form 102 is no longer needed for the operation of the Commission's surveillance data systems.

Currently, Commission Rule 17.01(b)(3) provides that a firm must identify on Form 102 each commodity pool, the commodity pool's account number and name as well as the name and location of the commodity pool for which the account controller trades. In addition, Commission Rule 17.01(c) requires that a trader must identify on a Form 102 the names and account numbers of all other separate accounts that the reporting trader controls or in which the trader has a 10% or greater financial interest.

The Commission's Proposal states that these requirements are duplicative of more complete information on account ownership and control filed by the traders themselves on CFTC Form 40.<sup>1</sup> Based upon the information reported on Form 40, the Commission's compliance programs are able to make the necessary account aggregations without the need for firms to furnish the above information as well. According to the Proposal, since this information no longer benefits the Commission's market surveillance program and the proposed deletion may reduce burdens on clearing member firms, the Commission proposes to delete these requirements.

The CME strongly objects to the proposed changes insofar as they will negatively impact the CME's ability to adequately provide effective market and financial surveillance. The Commission may be overlooking the fact that although the Form 102 is a CFTC form, it is used by the entire futures industry as a crucial surveillance tool. The information which may be deleted by the Proposal is needed by exchanges to properly monitor speculative position limits, which are still determined based on control and ownership. Additionally, ownership information is often important in making risk management assessments associated with Exchange financial surveillance activities, especially during periods of extreme market volatility. Exchanges do not receive Form 40's, nor do they have authority to request them, from customers. Accordingly, the CME's primary source of this important surveillance information is the Form 102.

Although an exchange can request a Form 40 from the Commission, the procedure that an SRO must follow in order to request Form 40's is difficult, time consuming and impractical for routine surveillance. Each Form 40 must be specially requested by an officer of the Exchange from the CFTC and it can take weeks or even months for a Form 40 to be completed

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<sup>1</sup> Under Part 18 of the Commission's regulations, traders who own or control reportable positions are required to file a CFTC Form 40, on request by the Commission, disclosing information about the ownership or control of their futures and options positions. The Commission's Proposal is also designed to reorganize Form 40 to present data in a more useful manner. The CME does not object to this portion of the Proposal which is non-substantive.

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leaving the CME and other SROs without important information during the intervening time. The type of information contained on a Form 40 that may be crucial for the CME to properly conduct its market surveillance duties must be obtained in minutes, not months. Since time is usually of the essence when such data is being scrutinized, any delay in the delivery of such information could significantly impair the CME's ability to maintain an effective market surveillance program.

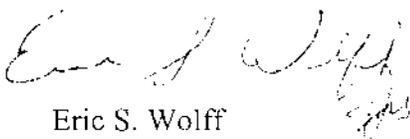
If this aspect of the Proposal is not eliminated, the CME will be forced to require clearing member firms to fill out Form 102's differently than the method required for the CFTC in order for the Exchange to obtain the information it needs. The stated goal of the Proposal is to reduce the workload on firms but it will actually increase the workload on Exchange member firms.

**C. Conclusion**

The CME, as a self-regulatory organization, strongly believes that it should set reportable levels for its contracts and that the Commission should not set reportable limits for Exchange contracts. The Exchange believes that it has the expertise to set such reportable levels and that the Proposal, in its current state, will significantly hinder its ability to adequately administer and enforce its Financial Safeguard and Market Surveillance Programs.

If you have any questions regarding this comment letter, please contact me at (312) 930-3255.

Very truly yours,

  
Eric S. Wolff