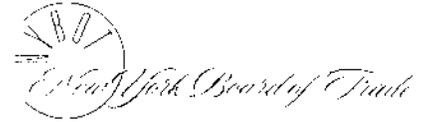


RECEIVED
C.F.T.C.

99-41
 (4)



'00 FEB 1 PM 1 28
OFFICE OF THE SECRETARIAT

Four World Trade Center, New York, NY 10048
Tel: 212 742 6000 Fax: 212 748 4320

January 25, 2000

COMMENT

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

**Received CFTC
Records Section**

RECEIVED
C.F.T.C.
'00 JAN 32 PM 2 07

Dear Ms. Webb:

The Board of Trade of the City of New York ("NYBOT") and its subsidiaries Coffee, Sugar & Cocoa Exchange, Inc., New York Cotton Exchange, Citrus Associates of the New York Cotton Exchange, Inc., and New York Futures Exchange, Inc. (collectively referred to as the "Exchanges"), submit this comment letter in response to the Commission's proposed rulemaking entitled "Proposed Revision of the Commission's Procedures for the Review of Contract Market Rules, as published in 64 F.R. 66429 (November 26, 1999) (hereafter referred to as the "Rule Proposal").

The Exchanges fully support the Rule Proposal and believe that it will afford U.S. exchanges the relief they need to remain competitive, without sacrificing the regulatory oversight that participants in our markets have come to expect. Our views regarding the various issues about which the Commission requested comments are set forth below.

Exclusivity of Regulation 1.41 (z) Process

NYBOT does not believe that market participants will be confused with respect to the regulatory history of a rule if the Commission implements Rule 1.41(z) as an addition to the other paragraphs of Rule 1.41. The current regime provides for varying degrees of Commission involvement in the implementation of new rules, ranging from specific approval, to mere review, to mere reporting by the relevant exchange after the fact. In our experience, there is nothing to suggest that users of our markets are confused by this system, or that they would suddenly become confused by the addition of another alternative, as codified in Rule 1.41(z). Accordingly, we do not believe that Regulation 1.41(z) should become the sole means of amending rules, whether they relate to terms and conditions or otherwise. As noted in the Rule Proposal, for a variety of legal and business reasons, exchanges sometime seek specific Commission approval of rules which do not require such approval. It is important to NYBOT that this option remain unfettered and that specific Commission review and approval can be obtained when it is deemed appropriate by us.

Suspension of Effectiveness of a Rule

The Rule Proposal questions whether or not the Commission should reserve to itself the authority to stay or suspend a rule once proceedings have been initiated under Sections 5 or 8 of the Act to alter or disapprove such rule. NYBOT believes that reserving such authority to the Commission in Rule 1.41(z) would totally undermine the purpose of adopting a procedure under paragraph (z). The Commission recognized in the Rule Proposal and the recent Rule 5.3 rulemaking that legal certainty is critical to traders. Legal certainty reassures traders that the economic position they have taken on cannot be altered. By reserving the right to suspend a rule implemented under Rule 1.41(z) pending conclusion of the processes contemplated under the Act, the Commission would be telegraphing to all traders that they should not rely on any rule that has not been approved or reviewed by the Commission. We believe that to do so would be akin to the Commission's original proposal to permit new contract listings "pending" Commission approval. The Commission ultimately abandoned that approach in Regulation 5.3 and, for the same reasons, should do so in this context.

Contracts with Open Interest

The Rule Proposal questions whether rule amendments relating to contracts that have open interest at the time of implementation should be eligible for submission under Rule 1.41(z). We believe that the current policy on allowing amendments to take effect with respect to contracts having open interest could be effectively incorporated into Rule 1.41(z). Some exchanges have rules that expressly limit an amendment from taking effect with respect to contract months in which there is open interest if the amendment would affect the value of the contract or the amount of money to be paid under the contract. In the past Commission staff seemed to endorse such an approach. If such a policy is, in fact, the rule of thumb, it should make no difference whether the amendment is submitted under Rule 1.41(b) or 1.41(z). In either case, the principle would have to be adhered to. We do not believe it appropriate to categorically restrict all amendments from taking effect with respect to contracts with open interest, as there may well be amendments that do not have a serious impact on the rights of position holders. At one end of the spectrum would seem to be changes to terms and conditions that directly affect contract value*, while at the other end are rules which have no such impact whatsoever, for example, a rule regarding floor trading procedures. We believe that only those amendments affecting contract value should be precluded under Rule 1.41(z).

Emergency Rules

The Rule Proposal appears to question how the Commission will be able "to differentiate an emergency rule provision from any other rule that could be adopted pursuant to proposed Regulation 1.41(z)." However, it is the exchange, not the Commission, that will necessarily have to draw this distinction. In order to take emergency action an exchange must first declare an emergency to exist. Where that occurs, the requirements of Rule 1.41(f) would be triggered. If no emergency is

* Even rules relating to terms and conditions may not necessarily affect contract value. Often, rules that merely clarify or codify existing practice have been allowed to become effective for contracts in which there is open interest.

declared, then the rule amendment presumably would not be submitted under paragraph (f). We do not believe that paragraph (z) could be used to circumvent the procedures applicable to emergency action, or that the Commission would be unable to tell the difference between emergency and non-emergency action. It would seem that the most likely form of exchange emergency action would be temporary in nature; e.g., actions intended to redress a specific market situation. As such it would be readily apparent from the temporary nature of the action ordered, that it was implemented to address an emergency and therefore would not be eligible for the Rule 1.41(z) procedure.

The NYBOT appreciates the opportunity to present its views on the issues raised by the proposed rulemaking and would be happy to discuss them further with Commission staff.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. J. Hines", written over a circular stamp.

Walter J. Hines
Acting President