Remarks of W. Robert Felker
President, Banc One Capital Markets
and Chairman, Futures Industry Association
for the
Commodity Futures Trading Commission
Roundtable on Derivatives Clearing Organizations
August 1, 2002

Governance

I am a spokesman for the Board of the Futures Industry Association. When the Board takes a position, we think the position should be 1) in the legitimate business interests of our members and 2) in the public interest as our firms represent the public on futures exchanges around the world.

We believe governance of the clearing organizations is an important issue for our member firms and their public customers.

The capital of our firms is put at risk in the form of clearinghouse deposits, clearinghouse equity contributions, and retained earnings of the clearinghouse or exchanges which are the result of interest earned on various firm deposits and fees charged to our members and their clients. Initial margin requirements assessed on our firms, which are collected from the public, are also used to mitigate market risk. So the public also has an interest in clearinghouse governance.

Generally, the FIA supports any governance structure of a clearinghouse which apportions governance to those participants who have the most capital at risk or who bring in the most business. We believe this position is fundamental, is fair, and is consistent with any rational, modern system of corporate governance. The FIA also acknowledges the need for representation of all sectors of the clearing community, so our position would incorporate some meaningful provision for minority representation. We would also consider public participation, though derivatives clearing and risk management is somewhat esoteric and ownership of the independent clearing associations is restricted to industry participants making clearing organizations different from public companies.

The current governance structure of the Board of Trade Clearing Corporation recognizes these basic tenants and is probably among the best models for corporate governance in the derivatives industry today. I also believe other clearing organizations in related industries have boards, which are picked based on volume or capital at risk.

Risk Management Considerations

As exchanges demutualize, the Futures Industry Association believes that clearing should be conducted by a separate organization.

Derivatives clearing involves a mutuality of interests among the clearing firms, which on its face may be inconsistent with the motives of a profit driven organization. There is no inseparable linkage between trade execution and clearing. In the United States, securities clearing is accomplished by a single utility for each product. Outside our nation, utilities such as the LCH and Euroclear exist separately from the exchanges to clear trades.

Firm risk management would be enhanced if we had a single utility to clear all CFTC-regulated products. Related positions can be netted and firms can focus their analysis in a single location rather than the multiple derivatives clearinghouses exchanges now use. Financial regulation of member firms' eligibility standards, clearing risk mitigation, concentration issues, and member firm reviews would be simplified. Linkages to related securities clearing organizations could also be made easier which could further reduce systemic risk.

The Commission staff could review the operations and policies at a clearinghouse in much the same way as the rating agencies have assessed the credit status of the Options Clearing Corporation or the Board of Trade Clearing Corporation. Alternatively, the Commission could designate another organization, such as the NFA, to perform the reviews.

The FIA was founded in the 1950s to promote common clearing among the New York exchanges and promoted common clearing among the Chicago exchanges in the 1990s.

Initial motivation may have been cost savings, but in the final analysis, the greatest benefit would be the reduction of risk to member firms and their clients.

The Commission may wish to create a movement to a single utility as we understand happened with the Options Clearing Corporation or allow firms rather than exchanges to choose their clearing venue.