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February 20, 2009

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

COMMENT

Re: Comment Letter on Regulatory Governance; Conflicts of Interest in Self-Regulation and Self-Regulatory Organizations (74 Fed. Reg. 3475 (Jan. 21, 2009)

Dear Mr. Stawick:

The Futures Industry Association is pleased to comment on the above-referenced proposed amendments to the Commission's Acceptable Practice for Core Principle 15 which the Commission previously adopted on January 31, 2007. FIA is a principal spokesman for the commodity futures and options industry. Our regular membership is comprised of 30 of the largest futures commission merchants in the United States. Among our associate members are representatives from virtually all other segments of the futures industry, both national and international. Reflecting the scope and diversity of its membership, FIA estimates that its members serve as brokers for more than ninety percent of all customer transactions executed on United States contract markets.

FIA supports the Commission's proposed amendments and the Acceptable Practice for Core Principle 15. This Acceptable Practice provides a safe harbor for compliance with the statutory core principle on conflicts of interest found at Section 5(d)(15) of the Commodity Exchange Act. As the Commission has noted, a central feature of this Acceptable Practice is the standard that Public Directors should comprise 35% of the members of a Designated Contract Market's Board of Directors.

FIA has long championed efforts to remove even the perception of conflicts of interest on DCM Boards (and Regulatory Oversight, as well as Disciplinary, Committees) through increased reliance on Public Directors. In FIA's view, it is vitally important that DCMs include a significant number of Board Members that are recognized to be independent of the DCM and its members. While we and others might quibble with the 35% level of Public Directors (we think it should be higher), no one could fairly contest the Commission's definition of a public director as someone with no material relationship with the DCM. As the Commission's Acceptable Practice makes plain, any potential director with a relationship to the DCM or its members that could affect the independent judgment of that director should not be a public director. One of the best features of the Acceptable Practice is that it calls for a DCM's Board to certify in writing why it believes every one of its Public Directors satisfies the no material relationship test.

The Commission's proposed amendments list those relationships the Commission finds to be automatically disqualifying for those being considered to be public directors. FIA knows the Commission has devoted considerable effort to developing these disqualifiers. Again, FIA might recommend expanding the list in some areas or restricting it in others, but overall we believe the Commission has proposed a workable and effective set of automatically disqualifying relationships. We urge the Commission to adopt these amendments quickly and to make its Acceptable Practice effective as soon as practicable.

The Commission and its staff have worked long hours for many years on this rule making. FIA congratulates the Commission for its diligent and thoughtful approach to this issue. FIA believes the Acceptable Practice for Core Principle #15 will achieve its goal of strengthening self-regulation in the futures industry consistent with the public interest. We look forward to the adoption of the proposed amendments and the implementation of the Acceptable Practice.

Sincerely,

John M. Damgard
President