COMMENT

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July 8, 2008

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Concept Release on the Appropriate Regulatory Treatment of Event Contracts.

Dear Mr. Stawick:

The American Stock Exchange, the Boston Options Exchange, the Chicago Board Options Exchange, the International Securities Exchange, NYSE Arca, The Options Clearing Corporation, and the Philadelphia Stock Exchange, appreciate the opportunity to comment on Comment File 08-004, Concept Release on the Appropriate Regulatory Treatment of Event Contracts.[1] In this release, the Commodity Futures Trading Commission (the Commission) is soliciting comment on the appropriate regulatory treatment of financial agreements offered by markets commonly referred to as event, prediction, or information markets (event contracts). We commend the Commission for trying to stay ahead of market developments by seeking comment on the appropriate regulatory response to event contracts. Among other things, the release raises jurisdictional issues associated with event contracts. These jurisdictional issues are the focus of our comment letter.

The Commission's goal in devising a regulatory response to event contracts should be to provide legal certainty for these instruments, to address customer protection issues raised by these instruments, and to insure a level playing field between event contracts and similar instruments traded on fully-regulated securities and futures exchanges. As the Commission notes in its release, the interests underlying event contracts cover an extremely diverse range of measures and occurrences. This wide variety of underlying interests for event contracts causes us concern because there are types of event contracts that would fall under the jurisdiction of the Securities and Exchange Commission ("SEC").[2] We urge the Commission to work with the SEC through the

[1] 73 FR 25669 (May 7, 2008).
http://www.cftc.gov/stellent/groups/public/@lrfederalregister/documents/file/e8-9981a.pdf).
[2] The definition of a "security" under the federal securities laws includes, but is not limited to, options "on" a security, "including any interest therein or based on the value thereof." *See* Section 2(a)(1) of the

process outlined in the Memorandum of Understanding (MOU) on areas of common regulatory interest signed March 11, 2008 prior to taking any action to establish a regulatory framework for event contracts so that there is no regulatory or legal uncertainty as to event contracts that are securities and properly within the exclusive jurisdiction of the SEC.[3] Article III-11 of the MOU states issues for consultation and coordination that include, but are not limited to, material events that may significantly impact an entity or market regulated by the other Party, proposals to list or trade novel derivative products, and other material changes to areas of common regulatory interest.[4]

It is important to insure that any regulatory framework developed for event contracts reflects the views of the SEC and includes a method for addressing the cross-agency issues posed by event contracts that may be securities. Such regulatory foresight for event contracts will help to avoid the delays that occurred with proposals by securities exchanges to trade other products.[5] Indeed, the MOU was recently used to address the regulatory issues posed by options on an exchange traded fund that invests in gold.[6] As a result, we encourage the Commission to continue collaborating with the SEC through the MOU process on the appropriate regulatory treatment of event contracts.

We applaud the Commission's leadership in addressing this complex issue, and we thank you for the opportunity to comment on the concept release on the appropriate regulatory treatment of event contracts. If you would like to discuss the issue raised in this letter, please contact Susan Milligan at 202-756-1972.

Sincerely,

American Stock Exchange
Boston Options Exchange
Chicago Board Options Exchange
International Securities Exchange
NYSE Arca
The Options Clearing Corporation
Philadelphia Stock Exchange

Securities Act of 1933 and Section 3(a)(10) of the Securities Exchange Act of 1934; *see also* SEC Release No. 34-55871 (June 6, 2007), 72 FR 32372 (June 12, 1007) (order approving SR-CBOE-2006-84 containing an express finding that credit options are options based on the value of a security or securities).

[3] Memorandum of Understanding Between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding Coordination in Areas of Common Regulatory Interest, Walter L. Lukken, Acting Chairman, CFTC, Christopher Cox, Chairman, SEC (March 11, 2008) (http://www.cftc.gov/stellent/groups/public/@newsroom/documents/file/cftc-sec-mou030608.pdf).

[4] *Id* at page 3.

[5] Introduction of credit derivative products and options on the SPDR Gold Trust (GLD) were significantly delayed due to a jurisdiction review by both the SEC and CFTC.

[6] *See* SEC Release No. 34-57894 (May 30, 2008), 73 FR 32061 (June 5, 2008) (order approving the listing and trading of GLD options).