

Commodity Futures Trading Commission  
Global Markets Advisory Committee

# **Foreign Boards of Trade and the Dodd-Frank Bill**

Presentation by Duane Andresen  
Foreign Boards of Trade Registration  
Rulemaking Team  
October 5, 2010

# Disclaimer

The opinions expressed in this presentation do not represent the official views of the Commission, its staff, or even, necessarily, myself

# Overview of the Dodd-Frank Bill

## Provisions Relating to FBOTs

- Provides that the Commission may require registration for a foreign board of trade (FBOT) that provides its members or other participants located in the United States with direct access to the FBOT's electronic trading and order matching system
- The CFTC would adopt rules and regulations prescribing procedures and requirements applicable to the registration

# Overview of Dodd-Frank Bill Provisions Relating to FBOTs

- The registration requirement will replace the current practice of issuing staff no-action relief letters
- In adopting rules and regulations, the Commission shall consider:
  - whether any such FBOT is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in the FBOT's home country

# Overview of Dodd-Frank Bill Provisions Relating to FBOs

- In reviewing an application for registration, the Commission would probably consider:
  - Membership criteria
  - Trading system
  - Terms and conditions of contracts
  - Settlement and clearing
  - The regulatory regime
  - Rule enforcement
  - Information sharing

# Overview of Dodd-Frank Bill

## Special Provisions for Linked Contracts

- With respect to a contract that settles against any price of 1 or more contracts listed for trading on a US-registered entity, the FBOT must:
  - Daily Trading Information: make public daily trading information on the linked contract that is comparable to the daily trading information published by the registered entity for the contract against which the linked contract settles
  - Position Limits: adopt position limits for the linked contract that are comparable to the position limits adopted by the registered entity for the contract against which the linked contract settles

# Overview of Dodd-Frank Bill

## Special Provisions for Linked Contracts

- Position Adjustments: can require market participants to limit, reduce, or liquidate any position determined to be necessary to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process
- Large Trader Positions: provide information to the Commission regarding large trader positions in the linked contract that is comparable to the large trader position information collected by the Commission for the contract against which the linked contract settles
- Aggregate Trader Positions: provide the Commission such information as is necessary to publish reports on aggregate trader positions for the linked contract that are comparable to such reports on aggregate trader positions for the contract against which the linked contract settles

# Provisions Relating to FBOTs

- Considerations - 1
  - The registration requirement will replace the current practice of issuing staff no-action relief letters.
    - To what extent should any registration submission requirements match no-action requirements?
    - Should registration be viewed as a codification of the current no-action policy?
  - What standard should the Commission use to determine if an FBOT should be eligible for registration? the 2006 Policy Statement criteria:
    - possess the attributes of established, organized exchanges,
    - adhere to appropriate rules prohibiting abusive trading practices,
    - have been authorized by a regulatory process that examines customer and market protections and
    - are subject to continued oversight by a regulator that has power to intervene in the market and share information with the Commission

# Provisions Relating to FBOTs

- Considerations - 2
  - What should constitute comparable, comprehensive supervision and regulation by appropriate government authorities in the FBOT's home country?
  - How should registration requirements affect FBOTs that currently have no-action relief?
    - Grandfathered
    - Limited registration application
    - Treated like a new applicant

# Provisions Relating to FBOTs

- Considerations - 3
  - The Dodd-Frank Bill defines direct access, for purposes of FBOT registration, to refer to an explicit grant of authority by an FBOT to an identified member or other participant located in the U.S. to enter trades directly into the trade matching system of the FBOT
  - Should this definition be expanded for registration purposes to include other order routing methodologies?
    - Automated order routing through a firm's risk management filter
    - Sponsored access

# Proposed FBOT Registration Rules

- Proposed FBOT Registration rules will be published in the *Federal Register* before the end of the year
- We welcome comments on any area of the proposed rule
- The FBOT registration rulemaking is on a one-year timeframe

# Accessing the FBOT Web Page

- To submit preliminary comments now (before proposed rules are published), send emails to [FBOTRegistration@cftc.gov](mailto:FBOTRegistration@cftc.gov).
- The link to the CFTC's FBOT web page is:  
[http://www.cftc.gov/LawRegulation/DoddFrankAct/OTC\\_14\\_FBOTRegistration.html](http://www.cftc.gov/LawRegulation/DoddFrankAct/OTC_14_FBOTRegistration.html)
- Alternatively, you can get there by:
  - Go to the CFTC website, [www.cftc.gov](http://www.cftc.gov)
  - Go to the drop down menu under "*Law and Regulation*"
  - Click on "*Dodd-Frank Act*"
  - Under "*Rule Writing Process*," click on "*See List of Rulemakings*"
  - Scroll down the list and click on item XIV, "*New Registration Requirements for Foreign Boards of Trade*"
  - The comment email address is [FBOTRegistration@cftc.gov](mailto:FBOTRegistration@cftc.gov)