



Coffee, Sugar & Cocoa Exchange, Inc.

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COMMODITY FUTURES
TRADING COMMISSION
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U.S. MAIL/FAX

Ms. Jean A. Webb
Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

COMMENT

COMMODITY FUTURES
TRADING COMMISSION
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INDEX RECORD
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Re: Proposed Amendments to Rule 1.12

Dear Ms. Webb:

The Coffee, Sugar & Cocoa Exchange, Inc. ("CSCE" or "the Exchange") welcomes the opportunity to submit its views on the Commodity Futures Trading Commission ("CFTC") proposed amendments to Rule 1.12 as published in 63 Federal Register 2188 (January 14, 1998). The amendments would require a futures commission merchant ("FCM") to immediately notify the CFTC and the FCM's designated self-regulatory organization ("DSRO") whenever it knows or should know that it has insufficient funds in segregation for trading on U.S. markets or is undersecured with respect to trading on non-U.S. markets.

The Exchange believes that an early warning system for segregation or secured customer deficiency can be a useful tool in detecting and addressing financial solvency concerns. Unfortunately, the warning system under which the CFTC and self-regulatory organizations have been operating to date has not functioned as intended because of a lack of timely communication of information from the DSRO to other exchanges and clearing organizations carrying large positions for a clearing member that was financially troubled. An early warning system under which DSROs seek first to verify information and then later (perhaps days later) report the existence of a financial problem to all other exchanges undermines the whole purpose of the early warning system. Accordingly, in promulgating final rules on this subject, the Exchange urges the CFTC to take steps to ensure that a DSRO promptly share information received by it or otherwise detected under its financial surveillance program, as is required by the Information Sharing Agreement that binds the exchanges.

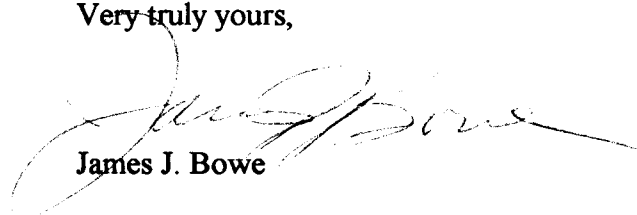
With regard to the details of the proposed amendment, the Exchange notes that the "should know" standard may cause FCMs to report situations that are nothing more than false alarms out of an abundance of caution. This could result in the diversion of limited resources by the FCM, exchanges, clearing organizations and the CFTC. The specter of enforcement action creates a strong incentive to report every "possible" undersegregation, because of the risk that, after the fact, it will be found that the FCM should have known of, i.e., anticipated, the undersegregation. While the CFTC stated in the Release that the time of notification will depend on the circumstances, CSCE believes that only those deficiencies that are confirmed by the FCM

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should be subject to the notification requirement. Otherwise, FCMs will always be subject to hindsight judgments as to what they should have known and when they should have reported it.

The Exchange appreciates the opportunity to comment on the proposed amendments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "James J. Bowe", written in dark ink.

James J. Bowe

/lg
:ZGZ_1.WPD/45971