

Re: US Futures Exchange LLC DCM application

Dear Ms. Webb:

I have been a member of the Chicago Board of Trade since 1980.

In recent years, while studying for a real estate license in the State of Wisconsin, I was instructed in unambiguous terms that the relationship between an agent and his principal (customer) is a fiduciary one. One of the primary duties of a fiduciary to his principal is "loyalty". Here is how loyalty in this context is explained in Modern Real Estate Practice by Galaty, Allaway and Kyle,

"The duty of loyalty requires that the agent place the principal's interests above those of all others, including the agent's own self interest. The agent must be particularly sensitive to any possible conflict of interest."

In the Futures Markets, when a brokerage firm agrees to execute an order for its customer in exchange for a commission, a fiduciary relationship has been established. The duty of the brokerage firm is to get the best possible fill for the customer. PERIOD!! There is no way that this squares with directing the order to an entity that has paid for the order flow or otherwise incentivized the agent.

In acting on the Eurex application, the CFTC should be careful that its decision cannot be construed as weakening the fiduciary relationship between agent and principal.

Respectfully submitted,

James L. Weiner