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COMMENT

3 December 2008

Office of the Secretariat
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 CFTC Secretariat:

The CFA Institute Centre for Financial Market Integrity (the "CFA Institute Centre")[1] appreciates the opportunity to respond to the Commodity Futures Trading Commission (the "CFTC" or the "Commission") concerning its *Concept Release on the Appropriate Regulatory Treatment of Event Contracts* (the "Concept Release").

As part of its review, the CFA Institute Centre consulted with its Capital Markets Policy Council, a volunteer committee of 11 investment professionals operating in eight major financial markets around the world, and its Advisory Council, a volunteer committee of seasoned investment professionals from around the globe. The CFA Institute Centre represents the views of investment professionals before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and the efficiency and integrity of global financial markets.

Summary Position

We believe that the use of events contracts may serve legitimate purposes in portfolio management and their continued use should be allowed. However, our concern about the appropriateness for retail investors and the uncertainty of defining what would constitute "legitimate" event contracts argue for a limited regulatory approach. In addition, the current market volatility argues against adding new instruments that might add volatility to the marketplace at this time. We therefore strongly recommend that event contracts be restricted to off-exchange venues and that the CFTC not undertake action that would allow or recognize events contracts on Commission-regulated markets. The reasons for this position are discussed more fully below.

[1] The CFA Institute Centre for Financial Market Integrity is a part of CFA Institute. With headquarters in Charlottesville, Virginia, USA, and regional offices in London, Hong Kong, and New York, CFA Institute is a global, not-for-profit professional association of more than 99,700 financial analysts, portfolio managers, and other investment professionals in 133 countries and territories, of whom 86,300 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 136 member societies in 57 countries and territories.

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Discussion

In its Concept Release, the CFTC asks for input on the appropriate regulatory treatment of event contracts, citing a desire for regulatory certainty and to act in the public's interest. It also raises certain practical issues relating to the ability to define event contracts that may serve as useful information aggregation vehicles from those that are the functional equivalent of gambling. The CFTC also asks whether its lack of ability to effectively monitor the events underlying the contracts should be a factor in determining whether to allow these contracts to be traded on Commission-regulated markets, and in particular to retail investors.

We acknowledge that certain types of events contracts may provide benefits to portfolio management. They provide different sources of market information, including price discovery. They also allow for innovative hedging strategies, even for long-term investors. As the CFTC recognizes, a number of off-exchange venues already exist in which these types of contracts are traded. We support continued use of these venues for the trading in these contracts.

We do not, however, support action by the CFTC to formally recognize or otherwise endorse the trading of events contracts in venues regulated by the CFTC.

First, as recognized by the CFTC in its release, certain event contracts appear to be little more than functional gambling. Regulatory efforts to provide legitimacy to this area by allowing their trading on regulated exchanges would appear to condone practices that in some cases are arguably not appropriate for regulated trading markets. It would also convey the wrong message to the retail investor community about whether trading in these contracts is an appropriate and recognized investment strategy.

Second, while we recognize that certain types of contracts may be appropriate for portfolio management purposes, the CFTC recognizes there is no clear line yet between legitimate financial tools and what essentially constitutes gambling. Regulatory recognition of these contracts would then carry the concomitant responsibility of defining, monitoring, and enforcing practices associated with whatever ultimately are determined to be "legitimate" types of contracts. On a very practical and real basis, the amount of resources that would need to be diverted to this area, should this practice become mainstream, raises a number of questions about the best use of regulatory resources.

Finally, given the existence of private venues for the trading of these contracts, we see no compelling reason for expanding their use into Commission-regulated markets. While the Concept Release does raise a number of issues that highlight concerns about this area, we do not read any discussion of what substantial benefits are to be derived by bringing events contracts squarely under CFTC jurisdiction. Instead, we believe that the public interest is best served by allowing event markets to continue but only on off-exchange venues.

Survey Results

As part of its efforts to respond to the Concept Release, the Centre recently surveyed the membership of CFA Institute. Of the nearly 1,100 respondents to this survey, 712, or 65%, indicated that they believe event contracts provide valuable information that can improve the decisions of investors, commodity producers, manufacturers, and others. On the other hand, the respondents were more ambivalent about both the usefulness or appropriateness of these contracts for investment purposes and the need for regulators to assume direct oversight of these contracts and markets.

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For example, in response to a question about usefulness, just 52% of respondents agreed with the suggestion that event contracts "can help investors, commodity producers, manufacturers, and others hedge specific risks." This includes 40% who agreed only that these contracts were useful for hedging purposes, and 12% who said there were useful for hedging and "suitable for customer investment accounts." Only 2% said they were suitable for customer investment accounts, but not for hedging.

Likewise, only 52% of respondents believe derivatives markets regulators should have direct oversight of event contracts. Of these, 29% said direct oversight should come with permitting these contracts to trade on established futures and options exchanges, while the remaining 23% said this direct oversight should include a restriction on these contracts to trading only on specialty prediction markets. By comparison, 9% said regulators should have responsibility only to review and approve specialty prediction markets, and 18% said they should have no authority over prediction markets or event contracts at all.[2]

Conclusion

The CFA Institute Centre reiterates its view that event contracts may be valuable to investors by conveying information about a variety of matters that may affect their investment decisions. By trading as part of a specialty market, moreover, these contracts have the potential to more accurately express prevailing sentiments than other sources, such as polls or other forms of market surveys. As noted above, we support continued use of these contracts, but not on Commission-regulated exchanges.

As evidenced in our survey, CFA Institute members believe that derivatives markets regulators should devote only limited resources and oversight to event contracts and prediction markets activities. Indeed, less-sophisticated investors might see a significant CFTC effort in these markets as a sign of safety that our members do not believe is warranted yet.

The CFA Institute Centre appreciates this opportunity to comment on the CFTC's *Concept Release on the Appropriate Regulatory Treatment of Event Contracts*. If you have any questions about our responses and suggestions, please feel free to contact either Kurt Schacht, CFA, at +1.212.756.7728 or kurt.schacht@cfainstitute.org, or James C. Allen, CFA, at +1.434.951.5558 or james.allen@cfainstitute.org.

Sincerely,

Kurt N. Schacht

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CFA Institute Centre for Financial Market Integrity

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[2] The remaining 20% had no opinion.