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COMMENT

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REF: Proposed Rules for Trading Off the Centralized Market.

To whom it may concern:

I have been a floor broker on NYBOT/ICE for over twenty years. I trade for myself and also execute customer orders. I am not a bitter floor trader who hates new ideas. A large portion of my net worth is invested in exchange stocks including ICE, CME, NYSE, and NASDAQ. I am not against them. I am rooting for their success.
However, we must acknowledge that the officials and executives of these exchandes do not automatically know what trading rules and conditions are in the best long-term interest of their market users. In particular, they often fallaciously assume that the characteristics of one big successful marketplace can be transferable over to all, even much smaller, markets, without any loss of utility. I would like to address the issue of non-competitive trading in this context, and specifically the problem of determining minimum size requirements for non competitive or block trading. Clearly a block trade should be an order of significant size.

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I have considered several possibilities, among them:
percentage of daily volume

percentage of open interest

a multiple of the average size order after eliminating the lower 50%, etc.

Ultimately I have concluded there are drawbacks to every possibility - that one size does not easily fit all.

The current and proposed guidelines are extremely vague, with all final decisions on non competitive trading, coming from the exchange itself. The problem is, today's exchanges are very different than a few years ago. With IPO's and mergers, all the major exchanges now answer to the share holder, not the marketplace. In fact, some if not all of the boards have a ***fiduciary responsibility to the share holder***, not the marketplace.
In addition, some of the people making these decisions, at both the board and exchange level, are new to the commodities industry and largely make their decisions based on the requests of large influential customers ***(under the ethos of the customer is always right)***,in some cases, going completely against the recommendations of the experienced product committees. The recent turmoil in the banking industry shows us the result of such short-sighted and one-way thinking.

I believe the only logical answer is to ask the product committees to be actively involved in these decisions. These committees, representing a diverse range of market user, better than any other group, understand the roles played by the different trading communities. They were specifically put together to deal with issues that impact a broad range of stakeholders. The issue of non-competitive trading should fall into their realm of discussion.
Most, if not all, participants would agree that the committee members are generally career-users of the markets who have a vested interest in promoting and retaining their liquidity and efficiency. They are usually/often not paid for their services as committee members and as such have independence from the exchanges themselves. They voluntarily offer their expertise for the collective benefit of all market-users. Proponents of particular policies have to argue their case and win collective support before recommendations are made to the BOD. As specialist professionals within their field, they need a healthy market with depth and liquidity in order to conduct their businesses. As such, they will seek solutions that benefit the marketplace as a whole and ensure its long-term transparency and competitiveness, rather than representing

powerful special interest groups. They should be able to determine whether or not non competitive trading is a healthy practice in their market and, if so, the conditions under which it should be undertaken, including minimum size for futures and options blocks and the parameters necessary to make the markets function as transparently as possible.

If reference to these committees was used, it would not surprise me if some committees found non-competitive trading was not appropriate for their marketplace. There is a fine line between temporary aberrations in the market caused by large orders being executed and the systematic elimination of routine orders entering the market. The removal of routine orders coming to market will cause a reduction in liquidity and will increase volatility. The implications are disorderly behavior, disruption and the potential for abuse or manipulation. This is a concept that is difficult for those who have not been in the markets to recognize, but should be understood by experienced product committees.

I quote, in part, Regulation 1.38 "trading should take place on the centralized market unless there is a compelling reason to allow certain transactions to take place off the centralized market." Whoever makes the decisions to allow non-competitive trading and determines the minimum size requirement, should be required to give a compelling reason for doing so to the CFTC for review.

In the last few years communication between brokers and customers has reached a new level. With instant messaging, cell phones and texting, a broker can contact virtually all his customers at once, to make them aware of market changes as they are happening. Today's markets should be more accessible and transparent than ever before, but somewhat ironically, by allowing non-competitive trading, we are hurting the very transparency we seek to foster. I am confident the CFTC had good reasons for implementing non-competitive trading, but are those reasons still "compelling" in the current environment?

I would like the CFTC to implement regulations on non-competitive trading, not guidelines that are easily translated to fit an agenda.
The CFTC should post clear definitions about what they believe the purpose of a block trade is, and what is meant by "large order".

Thank You
Patrick Walls

I am available for comment.
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