



September 20, 2007

SENT VIA E-MAIL TO:
submissions@cftc.gov

Mr. David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: **Submission pursuant to Section 5c(c) of the Act and Commission Regulation 40.5 - "Request for Commission rule approval."**

Dear Ms. Donovan:

I. **REQUEST FOR COMMISSION APPROVAL**

The Kansas City Board of Trade ("KCBT" or "exchange") hereby submits, pursuant to Section 5c(c) of the Act and Commission Regulation 40.5, amendments to Rules 200.00, 200.02, 209.00, 210.01, 210.02, 230.05, 231.00, 231.02, 232.05, 241.02, 244.00 & 247.00 and new Rule 241.06.

II. **TEXT OF RULE AMENDMENTS**

The text of the rule amendments is shown as follows, with additions underlined and deletions lined out:

200.00 Government; Officers And Directors. The government of the Board of Trade shall be vested in a Chairman, a First Vice Chairman, a Second Vice Chairman, a Board of Directors consisting of four (4) ~~twelve (12)~~ members of the KCBT and four (4) persons from the ~~public outside~~ (Rule 230.05), one (1) person each from the Board of Directors of the Kansas City Board of Trade Clearing Corporation (KCCC) and the Kansas City Board of Trade Investment Company (KCIC) who are also members of the KCBT, a President, a Secretary, and a Treasurer. ~~The Chairman, First Vice Chairman, Second Vice Chairman, the President, Secretary, Treasurer and members from KCCC and KCIC shall be ex officio members of the Board of Directors.~~

Note: ~~Deletion of the obligation of the outgoing Chairman to serve was approved by the Board of Director's action on December 2, 1985 (see page 1060 of Board's minutes) and by passage of Proposition 379 by a vote of the membership on January 7, 1986. KCCC & KCIC members approved by an affirmative Proposition 396 vote on 10/29/91. The restructure of the Board of Directors composition (reducing the member directors from twelve to four) shall be phased in over the two election cycles of 2008-2009, meaning that in each of those election cycles, the Nominating Committee shall propose two member director candidates instead of six.~~

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200.02 Appointed Officers. The Board of Directors shall elect a Secretary and a Treasurer who shall serve as non-voting ex officio members of the Board of Directors, and may also elect assistants to these positions as well as non-member officers.

209.00 Annual Election. The following shall be elected at the annual meeting:

- a. **Elective Officers.** At the annual meeting there shall be elected by the members a Chairman, a Second Vice Chairman, two (2) six-(6) member Directors, ten (10) members of the Committee of Arbitration, five (5) of whom shall basically be futures oriented, and five (5) of whom shall basically be cash oriented, one (1) member of the Business Conduct Committee, and two (2) members of the Nominating Committee, all of whom shall be members and are referred to in these rules as the "elective officers".
- b. **Board of Directors.** Two (2) Six-(6) member Directors shall be elected annually. No person shall be eligible to the office of member Director who has not been a member in good standing in the KCBT for at least one (1) year preceding the annual meeting. ~~Effective with the 1984 Board of Directors, at least one director shall be a Class "B" member.~~

~~Note: Amended by membership vote August 18, 1981, and on August 3, 1983.~~

210.01 Selection of Candidates. In selecting candidates, the Nominating Committee shall give special consideration to the desirability of having a diversity of all interests represented on the Board of Directors and on the committees. ~~With respect to the Board of Directors, the Nominating Committee shall ensure:~~

~~(1) That ten percent or more of the regular voting members of the Board of Directors be comprised of persons representing farmers, producers, merchants or exporters of principal commodities underlying a commodity futures or commodity option traded on the contract market; and~~

~~(2) That the membership of the Board of Directors and Business Conduct Committee include a diversity of membership interests consisting of the following:~~

- ~~(i) Floor brokers.~~
- ~~(ii) Floor traders.~~
- ~~(iii) Futures commission merchants.~~
- ~~(iv) Producers, consumers, processors, distributors, and merchandisers of commodities traded on the KCBT.~~
- ~~(v) Participants in a variety of pits or principal groups of commodities traded on the KCBT.~~

210.02 Candidates. It shall be the duty of the Nominating Committee to propose one (1) candidate for Chairman, one (1) candidate for Second Vice Chairman, two (2) six-(6) candidates for member Directors, one (1) candidate for the Business Conduct Committee, ten (10) candidates for the Arbitration Committee, five (5) of whom shall basically be futures oriented and five (5) of whom shall basically be cash oriented, and two (2) candidates for the Nominating Committee, which list shall constitute the only candidates for such offices except as otherwise provided in Rule 210.03 or 210.04.

~~Note: Amended by membership vote August 18, 1981.~~

230.05 Public Outside Directors. In November of each year, upon nomination by the Chairman, and with the approval of the Board of Directors, two (2) public outside directors shall be appointed to serve for a two-year term to coincide with the terms of the directors to be elected in January of the following year.

~~The Chairman in making the nomination for outside directors shall consider the following qualifications for outside directors:~~

~~A. To qualify as a public director, an individual must be found by the Board of Directors, on the record, to have no material relationship with the Board of Trade. A "material relationship" is one that reasonably could affect the independent judgment or decision making of the director.~~

~~B. In addition, a director shall not be considered "public" if any of the following circumstances exist:~~

~~(1) The director is an officer or employee of the Board of Trade or a director, officer or employee of its affiliate. In this context, "affiliate" includes parents or subsidiaries of the Board of Trade or entities that share a common parent with the Board of Trade;~~

~~(2) The director is a member of the Board of Trade, or a person employed by or affiliated with a member. In this context, a person is "affiliated" with a member if he or she is an officer, director or partner of the member;~~

~~(3) The director, or a firm of which the director is an employee, officer, director or partner receives more than \$100,000 in combined annual payments from the Board of Trade, any affiliate of the Board of Trade, or from a member or an officer, director or partner of a member of the Board of Trade. In this context, "payments" means compensation for professional services. Compensation for services as a director of the Board of Trade shall not count toward the \$100,000 payment limit, nor does deferred compensation for services prior to becoming a director, so long as such compensation is in no way contingent, conditioned or revocable;~~

~~(4) Any of the relationships above apply to a member of the director's "immediate family". In this context, "immediate family" includes the director's spouse, parents, children and siblings.~~

~~C. All of the disqualifying circumstances described in Section (B) above shall be subject to a one-year look back period.~~

- ~~(1) They are knowledgeable of futures trading or financial regulation or otherwise capable of contributing to governing board deliberations.~~
- ~~(2) Are not members of the KCBT.~~
- ~~(3) Are not currently salaried employees of the KCBT.~~
- ~~(4) Are not primarily performing services for the KCBT in a capacity other than as a member of the KCBT's Board of Directors, and~~
- ~~(5) Are not officers, principals or employees of a firm which holds a membership at the KCBT either in its own name or through an employee on behalf of the firm.~~

Outside directors are covered under the indemnification agreement contained in the Articles of Incorporation, are covered under any Director's and Officer's Liability Insurance, and will be reimbursed normal expenses of attending meetings.

Outside directors may serve on Board committees, shall be counted in computing a quorum, shall have full rights to debate and vote upon any matter before the Board, and shall receive copies of all documents presented to Board members.

Outside directors may resign, and they may be removed for good cause or for:

- (1) Failure to attend ~~two (2)~~ three (3) or more consecutive regular meetings; or
- (2) Failure to attend any ~~three (3)~~ four (4) regular meetings in one twelve-month period.

231.00 Meetings; Regular And Special. The Board of Directors shall hold regular meetings on the last Tuesday of every other month each month, the hour for such meetings to be determined by the Chairman. The meetings shall be held in the offices of the KCBT, or such other place as the Directors may direct. The Board of Directors may adjourn such meetings from time to time and it may also hold special meetings upon call and notice to all Directors. At such adjourned or special meetings the Board of Directors may transact any business under the rules that might be transacted at any regular stated meeting.

231.02 Quorum. ~~Six (6) Eight (8)~~ members of the Board of Directors shall constitute a quorum, but in the absence of a quorum a lesser number may adjourn a meeting until another time.

232.05 Appeals. The Board of Directors (excluding the First Vice Chairman and any public director serving on the Business Conduct Committee) shall hear and determine all appeals from disciplinary sanctions imposed by the Business Conduct Committee for alleged violations of KCBT rules, provided that notice of such matter is given at least ten (10) business days before the meeting. However, a warning letter with no finding of guilt, and a fine under \$100 are not appealable to the Board of Directors.

241.02 Executive Committee. The Executive Committee shall consist of the Chairman, First Vice Chairman, Second Vice Chairman, ~~two (2)~~ public directors appointed annually by the Chairman with the approval of the Board of Directors, and the President of the Board of Trade who shall be a non-voting member of said Committee. The Executive Committee shall convene to discuss issues of a general nature, matters of interest to the President, approval or disapproval of expenditures exceeding a specific line item by more than ten percent (10%), the use of contingency funds, and other matters as directed by the Board of Directors from time to time.

241.06 Regulatory Oversight Committee. There shall be appointed each year by the Chairman, with the approval of the Board of Directors, a standing Regulatory Oversight Committee ("ROC") consisting of only public directors to assist it in minimizing actual and potential conflicts of interest. The ROC shall oversee the Board of Trade's regulatory program on behalf of the Board of Directors. The Board of Directors shall delegate sufficient authority, dedicate sufficient resources, and allow sufficient time for the ROC to fulfill its mandate. The ROC shall:

- (a) Monitor the Board of Trade's regulatory program for sufficiency, effectiveness and independence;
- (b) Oversee all facets of the program, including trade practice and market surveillance; audits, examinations and other regulatory responsibilities with respect to member firms (including ensuring compliance with financial integrity, financial reporting, sales practice, recordkeeping and other requirements); and the conduct of investigations;
- (c) Review the size and allocation of the regulatory budget and resources; and the number, hiring, termination and compensation of regulatory personnel;
- (d) Supervise the Board of Trade's chief regulatory officer, who will report directly to the ROC;
- (e) Prepare an annual report assessing the Board of Trade's self-regulatory program for the Board of Directors which sets forth the regulatory program's budget, describes its staffing and structure, catalogues disciplinary actions taken during the year and reviews the performance of disciplinary committees;
- (f) Recommend changes that would ensure fair, vigorous and effective regulation; and Review regulatory proposals and advise the Board of Directors as to whether and how such changes may impact regulation.

Mr. David Stawick
September 20, 2007
Page 5

244.00 Business Conduct Committee. The Business Conduct Committee shall consist of five (5) members: three (3) elected; and the First Vice Chairman; and either a public director or someone who would qualify as a public director as defined in Rule 230.05 the President of the Clearing Corporation. The public director member of the Committee shall be appointed each year by the Chairman with the approval of the Board of Directors. The elected members shall serve for a three-year staggered or overlapping term, so that each year one (1) new member is elected to replace an elected member who has served three (3) years. The terms will begin and end on the same date in January as do those of the Directors and Officers. The Committee shall be constituted so:

- (1) ~~That one non-member shall be added to the Committee and shall be appointed by the Chairman of the Exchange whenever the Committee is acting with respect to a disciplinary action in which:~~
 - (i) ~~The subject of the action is a member of the Exchange's:~~
 - (A) ~~Governing Board, or~~
 - (B) ~~Business Conduct Committee; or~~
 - (ii) ~~Any of the charged, alleged, or adjudicated contract market rule violations involve:~~
 - (A) ~~Manipulation or attempted manipulation of the price of commodity, a futures contract or an option on a futures contract, or~~
 - (B) ~~Conduct which directly results in financial harm to a non-member of the KCBT.~~
- (2) That more than fifty percent of the Committee includes persons whose primary membership interest (i.e., floor broker, floor trader, futures commission merchant, commercial, etc.) (as provided in Rule 210.01) is representing membership interests other than the primary membership interest of the subject of the disciplinary proceeding being considered. If the makeup of the Committee is such that this subparagraph could not be complied with, the Chairman of the Exchange shall appoint a substitute member(s) pursuant to Rule 244.02 in such a manner as to insure compliance with this subparagraph. For the purposes of compliance with this paragraph, the Chairman of the Exchange shall be the final judge of which membership interest each Committee member and the subject of the disciplinary proceeding primarily represents.
- (2) (3) That the Committee shall include sufficient different membership interests so as to ensure fairness and to prevent special treatment or preference for any person in the conduct of the Committee's responsibilities.

247.00 Complaint Committee. There shall be appointed each year by the Chairman, with the approval of the Board of Directors, a standing Complaint Committee. The Complaint Committee shall have a minimum of ten (10) members which shall consist of a diversity of membership interests as described in Rule 244.00. ~~minimum of two (2) members from each of the following products: (a) wheat, (b) sorghum, (c) value line, and (d) options. The Complaint Committee shall also include two (2) members from the Appeals Committee.~~ One (1) of the ten (10) members of the Complaint Committee shall be either a public director or someone who would qualify as a public director as defined in Rule 230.05. The public director member of the Committee shall be appointed each year by the Chairman with the approval of the Board of Directors ~~appointed the chairperson of the Committee.~~ Such Committee(s) shall:

- a. review staff reports of investigations into possible cash grain trading rule and futures trading rule violations, to see if formal disciplinary proceedings appear necessary, and if so, approve and issue the notice of charges, accept settlement of terms, and make recommendations to the Business Conduct Committee; and
- b. to receive evidence and make decisions regarding disputes as set forth in Rule 3085.00 of these Rules;
- c. to make adjustments where differences may arise between seller and buyer on spot grain transactions. This does not deny the right of either party to arbitrate the matter as provided elsewhere in the rules.

III. EXCHANGE ACTION TAKEN AND EFFECTIVE DATE

The Board of Directors, in a regular meeting held on August 28, 2007, unanimously approved the governance rule changes, acting pursuant to authority granted them under Rule 233.01(o). The membership, in a vote held on September 20, 2007, ratified the rule amendments (by a vote of 80 to 16). Subject to Commission approval, the rule changes shall become effective on Monday, November 5, 2007.

IV. OPERATION, PURPOSE AND EFFECT OF RULE AMENDMENTS

On February 14, 2007, the Commission published final acceptable practices pursuant to Section 5(d)(15) (Core Principle 15) of the Commodity Exchange Act for minimizing conflicts of interest in decision making by a designated contract market ("DCM"). The final acceptable practices set forth guidelines for achieving "safe harbor" compliance with Core Principle 15 by a DCM.

As a DCM, the KCBT desires to avail itself of the safe harbor provisions contained in the Core Principle 15 acceptable practices. Accordingly, various rule amendments were necessary in order to comply with the safe harbor provisions.

The Executive Committee and Board of Directors considered various alternatives for achieving compliance with the Commission's safe harbor guidelines, and decided on the structural changes contained in the aforementioned proposed rules, a summary of which is as follows:

1. **Board** – In order to achieve the 35% public director representation mandate, the current number of public directors (4) will be maintained and the total number of voting directors shall be reduced from 19 to 11 (exclusive of ex-officio, non-voting Board members like the presidents of KCBT, Clearing Corporation and Investment Company). This change will achieve public Board representation of 36.4% (4 of 11).
2. **Executive Committee** - In order to achieve the 35% public director representation mandate, the exchange president will be made an ex-officio, non-voting member of the committee and two (2) public directors will be added to the three (3) officers (chairman, vice chairman & 2nd vice chairman) for an executive committee of five (5) voting members. This change will achieve public committee representation of 40% (2 of 5).
3. **Regulatory Oversight Committee (ROC)** – A ROC shall be established as a standing committee consisting of only public directors. The committee shall be appointed each year by the Chairman with the approval of the Board.
4. **Disciplinary Panels** – Each year the Chairman shall appoint one public director (or someone who would qualify as a public director) to each of the disciplinary committees (Complaint Committee & Business Conduct Committee) with the approval of the Board.

Mr. David Stawick
September 20, 2007
Page 7

With the rule amendments contained herein, the exchange will be in compliance with the executive committee composition provisions of the Commission's Core Principle 15 acceptable practices effective with the calendar year 2008. In addition, the exchange board of directors has already established a regulatory oversight committee and appointed public directors to serve on both disciplinary panels in order to achieve compliance in the interim until such time as the formal rules providing for such become effective with the calendar year 2008. Finally, as stated in the footnote to Rule 200.00, the rule amendments respecting the governing board composition will be phased in over the next two exchange election cycles, leading to full compliance effective with the calendar year 2009.

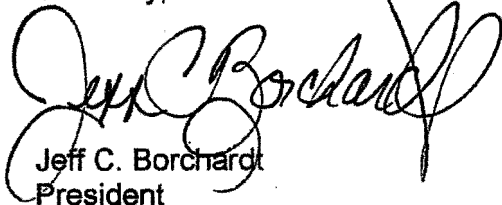
V. SUBSTANTIVE OPPOSING VIEWS

To the knowledge of the Board of Directors and staff of the KCBT, no substantive opposing views were expressed by members or others regarding the rule amendments outside of the views expressed by the exchange in its numerous comment letters filed with the Commission during the three year review and comment periods leading to the final acceptable practices. The exchange is hopeful that the Commission will provide additional relief in response to comments received following a Federal Register release dated March 26, 2007 setting forth proposed amendments to the Core Principle 15 acceptable practices. Should the Commission address the issues raised in the comment letters and provide additional relief, the exchange accordingly intends to submit amendments to its rules contained in this submission.

VI. CLOSING

The exchange is not aware of any Commission regulations that need amending or interpreting in order to approve the rule amendments proposed in this submission.

Sincerely,



Jeff C. Borchardt
President