



November 17, 2010

Sent via email

Mr. David A. Stawick  
Secretary  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20581

Re: **RIN 3038-AD01**  
Federal Register Release: 75 FR 63732  
17 CFR Parts 1, 37, 38, 39, and 40 Requirements for Derivatives Clearing Organizations,  
Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of  
Conflicts of Interest

Dear Mr. Stawick:

The Kansas City Board of Trade ("KCBT") appreciates the opportunity to offer comments regarding the aforementioned Federal Register release. With respect to the Commission's proposed requirements, we applaud and support fully the dissenting opinion offered by Commissioner Jill Sommers.

It has only been since April 27, 2009 that final rules were issued ending an exhaustive and comprehensive two-year proposal, comment and review/study period addressing self-regulatory organization conflicts of interest and providing prescriptive guidelines for safe harbor compliance with Core Principle 15. During that two-year proposal period, KCBT offered extensive comments warning the Commission of the negative effects of increasing participation of one particular interest (namely public representation) at the expense of other critical and necessary interests. We make those same points and objections to the Commission's October 18, 2010 proposal and ask that the Commission review and consider our prior comments in conjunction with the comments offered herein.

Specific to the current proposed rulemaking, we take exception with the Commission's public director requirements for designated contract market nominating and membership committees. The KCBT Nominating Committee meets in November of each year to suggest names of qualified members to fill elected offices. KCBT Rules require that the Committee also hold an open meeting of the membership each November where members can suggest nominees for the elective offices. The Committee is charged with the responsibility for ensuring that KCBT directors represent market participants (KCBT Rule 210.01). Unlike tenured KCBT members, public directors do not have the historical or institutional knowledge of the member population and therefore at a tremendous disadvantage in determining what members would be the most qualified candidates for the elected offices and what interests they represent.

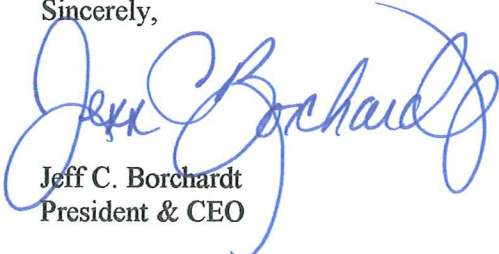
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With respect to the KCBT Membership Committee, we see no added benefit or protections in requiring public director representation on said committee. KCBT Rule 131.00 specifically states that prior to recommending disapproval of an applicant, the applicant must be notified and provided an opportunity for a hearing. Any final denial recommendation by the Committee must be in writing and set forth the reasons for the denial recommendation. The written denial recommendation is provided to the Board of Directors who shall make the final determination. If the Board votes to deny the applicant, the report is submitted to the Commission and the applicant. Given the safeguards built into Rule 131.00, and the fact that the KCBT Board of Directors contains significant public director representation, we see no need to require public directors to be represented on the Committee. Further, given that the overwhelming majority of applications are approved by the Committee and Board, requiring public director representation would only serve to slow the process, since public directors are not as accessible as exchange members for reviewing and approving application documents, particularly those that at times require more immediate attention, like applicants ready to begin trading.

Finally, we question the application of the proposed conflict of interest requirements to a derivatives clearing organization that is a wholly-owned subsidiary of a designated contract market. Although the Kansas City Board of Trade Clearing Corporation ("KCC") was established as a wholly-owned subsidiary corporation of KCBT for purposes of limiting liability, the practical reality is that KCC operates like a department of KCBT. Given that KCC is 100% owned by KCBT, any significant decisions made at KCC are subject to the approval of the KCBT Board of Directors. Further, since KCBT determines what products are traded or cleared, KCBT determines the minimum margin and other significant requirements associated with products traded/cleared and membership in KCC is predicated on qualified KCBT membership, sufficient checks and balances are present to preclude KCC from influencing competitive interests of certain clearing members over others.

Let me once again reiterate our appreciation for the opportunity to make comments on the Commission's October 18, 2010 proposed mitigation of conflicts of interest rulemaking. We hope that you will consider both our comments contained herein as well as prior comments submitted in response to the Core Principle 15 safe harbor guidelines.

Sincerely,



Jeff C. Borchardt  
President & CEO