

N.I.B.A.

National Introducing Brokers Association

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January 14, 2011

David Stawick, Secretary
Commodity Futures Trading Commission
Three LaFayette Centre
1155 21st Street NW
Washington, DC 20581

RE: Proposed CFTC Regulation 1.71 Conflict of Interest Policies and
Procedures by Introducing Brokers

Mr. Stawick:

I write in behalf of the National Introducing Brokers Association (NIBA). Founded in 1991, the NIBA represents Introducing Brokers (IBs), Commodity Trading Advisors (CTAs) and Associated Persons (APs) who are primarily engaged in the retail sector of the futures and options business. NIBA, a non-profit association, also has the support of 11 major Futures Commission Merchants and all U.S. Domestic Exchanges.

I write in regard to Proposed Regulation 1.71 concerning Conflicts of Interest Policies and Procedures as it relates to Introducing Brokers. NIBA urges the Commission to exempt IBs from this regulation entirely.

IBs provide the public with the information necessary to make good decisions about market participation. Advice and recommendations are an essential part of that information. The advice given in IB offices is often based on research conducted by the IB's registered personnel themselves or gathered from information distributed from the floor via the squawk box. That information is offered to clients only after careful discussion and analysis, which most often includes production needs, cost of money requirements and management concerns.

The above described scenario occurs in virtually every full-service IB office. It is particularly true of offices which service clients trading principally agricultural, metal and soft commodities (sugar, cocoa, coffee, cotton). It would be next to impossible to separate the advice/research functions from the trading and supervision functions of the APs in the office, since the people performing the functions are often one and the same.

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NIBA represents IB offices with as few as one person registered, as well as offices with over 50 APs and several branch offices. Most of these offices would be severely limited in their ability to effectively communicate with clients and respond to their market needs. In fact, some IBs will most likely be forced out of business if this proposed regulation is approved.

The futures industry currently has regulation in place to prevent the type of influence and manipulation this proposal was designed to prevent. NFA Compliance Rules 2-29 and 2-4, as well as several NFA Interpretive Letters specifically address research reports and ethical behavior, while recognizing the need that procedures be flexible enough to adapt to an individual IB's size and business practices. The nature of the industry itself, and the ever increasing globalization of the marketplace, make it virtually impossible for any individual IB to move or control the markets.

Proposed Reg. 1.71 and its attendant recordkeeping requirements are financially burdensome, unnecessarily time-consuming and unrealistic in light of how IB offices actually work. Moreover, this proposal does nothing to protect the trading public, but it would actually prevent market participants from receiving the type of information they need and on a timely basis.

The National Introducing Brokers Association understands the Commission's good intentioned goals with respect to Proposed Regulation 1.71. However, we urge the Commission to consider the comments of the National Futures Association and other industry commentators together with those of the NIBA, and to exempt Introducing Brokers entirely from this proposal.

The NIBA is happy to provide the Commission with any additional information.

Respectfully submitted,
Melinda H. Schramm, Chairman
N.I.B.A.