

April 22, 2024

Via electronic submission to CFTC comments portal

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: Foreign Boards of Trade (RIN 3038–AF37)

Dear Mr. Kirkpatrick:

The Wholesale Markets Brokers' Association, Americas¹ ("WMBAA") appreciates the opportunity to comment on the U.S. Commodity Futures Trading Commission ("Commission" or the "CFTC") request for comment regarding proposed amendments to Part 48 of the CFTC's regulations to permit a foreign board of trade ("FBOT") to provide direct access to eligible introducing brokers ("IBs") to enter orders directly into an FBOT's trading and order matching system on behalf of U.S. customers (the "Proposal").²

In addition to operating global intermediation venues for financial instruments, including swap execution facilities ("SEFs"), WMBAA member firms have affiliated IBs that support our customers' needs around the world, including listed futures execution. In that capacity, we offer the following comments from the perspective of our members' U.S. and non-U.S. IB affiliates.

General Comments of Support

The Proposal, if adopted, would amend CFTC Regulation 48.4 to permit FBOTs to provide direct access to IBs, allowing the U.S. IBs to enter orders directly into an FBOT's trading and order matching system on behalf of U.S. customers, provided that a registered futures commission merchant ("FCM") or a firm exempt from such registration pursuant to Regulation 30.10 acts as a clearing firm and guarantees, without limitation, all trades of the IB effected through submission of orders for U.S. customers to the trading system.

¹ The WMBAA is an independent industry body representing the largest inter-dealer brokers. The members of the group – BGC Partners, GFI Group, Tradition, and TP ICAP – operate globally, including in the North American wholesale markets, in a broad range of financial products, and have received registration as swap execution facilities. The WMBAA membership collectively employs approximately 4,000 people in the United States; in New York City, Stamford and Norwalk, Connecticut; Chicago, Illinois; Jersey City and Piscataway, New Jersey; Raleigh, North Carolina; Miami and Juno Beach, Florida; Burlington, Massachusetts; and Dallas, Houston and Sugar Land, Texas. Our members and their employees arrange trades that enable sophisticated market participants to manage their commercial and market risk.

² Foreign Boards of Trade, 89 Fed. Reg. 15083 (Mar. 1, 2024).

The WMBAA supports the CFTC's efforts to update the existing regulatory regime in a manner that safely and effectively enhances access to global trading markets for U.S. IBs and their customers. The WMBAA believes the Proposal promotes competition, fosters market participant access, and addresses some of the logistical obstacles that are present in today's global markets due to regulations, while continuing to ensure necessary safeguards remain to protect customers.

The WMBAA believes the Proposal, if adopted, would enhance access to global trading markets by reducing operational gap risks for IBs and improving opportunities for market participants to manage risk. Specifically, as described below, the Proposal would decrease or eliminate the window of time where U.S. persons ordinarily would not be able to hedge or transact in listed, cleared derivatives on FBOTs due to different trading hours for foreign IBs and U.S. IBs.

The WMBAA also commends the Commission for updating the existing FBOT rules, which have not changed since the 2011 adoption of Part 48, and the Commission's ongoing commitment to ensure regulations remain current and enhance market participant access to global trading markets.

Example of How the Proposal Will Benefit US IBs and US IB Customers

Under the current operating model, a U.S. customer may use a non-U.S. IB (for example, based in London) to execute trades on a registered FBOT. However, following the close of business in London but before the close of business in the U.S., the U.S. customer cannot execute trades on the FBOT through a U.S. IB. As a result, the U.S. customer must either find an over-the-counter alternative to the listed, cleared derivatives, or, alternatively, the trades may not be able to be executed until the following day. Allowing U.S. IBs to transact directly on the FBOT on behalf of U.S. customers, rather than limiting customer access solely to foreign brokers, provides greater opportunity for improved risk management for market participants.

In short, we generally support the Proposal because of its benefits to U.S. market participants and it resolves a longstanding disadvantage in place due to existing rules. We commend the Commission for recognizing the issues faced by U.S. market participants who are left without access to foreign markets after the closure of broker firms abroad. Adopting the Proposal will not only alleviate operational burdens on U.S. customers but, as the Commission notes, could also lead to greater competition and introduce new types of customers to the impacted markets, which in turn may lead to increased market efficiencies and greater financial integrity.³

We also agree with the Commission's view that by allowing U.S. IBs to have direct access to FBOTs to execute transactions on behalf of their clients, the Proposal promotes competition and improves liquidity.⁴ Further, we agree that the Proposal will provide market participants that wish to trade in foreign futures contracts with greater choice in brokers and broker arrangements, and promote competition among firms offering execution brokerage services to customers on

³ *Id.* at 15089.

⁴ *Id.*

registered FBOTs. Competition is a valuable market function, and the Proposal allows for the growth of competitive markets without impeding liquidity formation.

We urge the Commission to adopt this proposal to level the playing field for U.S. IBs and their customers who operate global businesses.

Clarification for Block Trades

The WMBAA seeks clarification on one question related to the Proposal, specifically with respect to the ability to enter block trades on behalf of customers. The WMBAA requests clarification of whether an exchange needs to be registered with the CFTC as an FBOT to allow IBs located in the U.S. to report block trades to the exchange. In that regard, the WMBAA respectfully notes that executing and reporting block trades to an exchange does not appear to fall within the definition of “direct access” set forth in CFTC Regulation 48.4.

If FBOT registration is required for this purpose, the WMBAA requests confirmation that proposed CFTC Regulation 48.4 allows introducing brokers to arrange and submit block trades directly to an FBOT. This is consistent with current CFTC Regulation 48.4, which allows “members and other participants of the foreign board of trade that are located in the United States **to enter trades directly into the trading and order matching system of the foreign board of trade.**”⁵ Further, proposed CFTC Regulation 48.4(b)(4) takes an exhaustive approach to what may be traded directly on the FBOT (“and guarantees, without limitation, **all trades of the introducing broker** effected through submission of orders for United States customers to the trading system”).⁶ The WMBAA believes this language supports the conclusion that proposed CFTC Regulation 48.4(b)(4) includes arrangements where an introducing broker arranges and enters block trades, which are executed away from the order matching system. The WMBAA believes that prohibiting introducing brokers from executing and reporting block trades pursuant to the rules of an FBOT would not be a logical outgrowth of the Proposal.

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The WMBAA appreciates the opportunity to comment on the Proposal. We thank the Commission staff for their willingness to consider our opinions and would be pleased to discuss these comments in further detail.

Sincerely,



William Shields
Wholesale Markets Brokers' Association, Americas

⁵ 17 C.F.R. § 48.4(b) [emphasis added].

⁶ Proposal at 15090 [emphasis added].