

the process. If this is not possible, an explanation of the necessity for treating such information as business confidential must be provided. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

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COMMODITY FUTURES TRADING COMMISSION

Self-Regulation and Self-Regulatory Organizations in the Futures Industry

AGENCY: Commodity Futures Trading Commission ("Commission").

ACTION: Request for additional comments on self-regulation and self-regulatory organizations ("SROs").¹

SUMMARY: This Request for Comments ("Request") continues the Commission's ongoing review of self-regulation and self-regulatory organizations in the U.S. futures industry ("SRO Study"). The Request seeks public comment on a range of SRO issues, including governance, minimizing conflicts of interest within self-regulation, the composition of SROs' boards of directors and disciplinary committees, and the impact of increasing competition, changing business models and new ownership structures on SROs' self-regulatory responsibilities.² Commenters are also asked to consider the impact of securities exchanges' listing standards and the unique role of registered futures associations ("RFAs") and other third-party regulatory service providers. The questions presented update the Commission's prior fact-finding on self-regulation, build on industry developments since that time,

¹ For purposes of this Request, SROs include designated contract markets ("DCMs"), derivatives clearing organizations ("DCOs"), and registered futures associations.

² SROs' self-regulatory responsibilities include, among other things, market surveillance, trade practice surveillance, and audits and examinations of member firms (e.g., ensuring compliance with financial integrity, financial reporting, sales practice, and recordkeeping requirements). An SRO's specific responsibilities will depend upon whether it is a DCM, DCO, or RFA.

and offer interested parties an additional opportunity to comment as the SRO Study nears conclusion. The questions raised in this Request will also form the basis of an upcoming Commission roundtable on self-regulation. The roundtable will provide a forum for industry participants to present their views on both the challenges and opportunities of self-regulation in a rapidly evolving futures industry.

DATES: Responses must be received January 9, 2006.

ADDRESSES: Written responses should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Responses may also be submitted via e-mail at secretary@cftc.gov. "Self-Regulation and Self-Regulatory Organizations" must be in the subject field of responses submitted via e-mail, and clearly indicated in written submissions. This document is also available for comment at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Stephen Braverman, Deputy Director, (202) 418-5487; Rachel Berdansk, Special Counsel, (202) 418-5429; or Sebastian Pujol Schott, Attorney-Advisor, (202) 418-5641. Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction

Since its initiation in May of 2003, the SRO Study has proceeded through two phases.³ Phase I included staff interviews with over 100 individuals representing every segment of the futures industry, including futures commission merchants ("FCMs"), DCMs, DCOs, and industry associations. Staff also interviewed industry executives, academics, consultants, and individuals associated with securities-side entities. Based on these interviews, the Commission identified several issues for further attention and launched Phase II of the SRO Study in February of 2004.⁴

³ The SRO Study was initiated in an address by former Commission Chairman James E. Newsome at the Futures Industry Association Law and Compliance Luncheon (May 28, 2003), available at: <http://www.cftc.gov/opa/speeches03/opanewsm-40.htm>.

⁴ As a prelude to Phase II, the Commission encouraged every SRO to reexamine its policies, employee training efforts, and day-to-day practices to confirm that there are safeguards in place to prevent the misuse of confidential information obtained by SROs during audits, investigations, or

Phase II of the SRO Study has pursued two lines of inquiry. The first addresses issues relating to the cooperative regulatory agreement by which DCMs and the National Futures Association ("NFA") coordinate compliance examinations of FCMs ("DSRO System"). In April of 2004, Commission staff sought public comment on the governance and operation of the Joint Audit Committee ("JAC") and on the effectiveness of JAC and NFA examination programs.⁵ Commission staff also sought comment on certain proposed amendments to the Joint Audit Agreement. The proposed amendments, among other things, add additional parties to the JAC, add certain voting eligibility provisions, and memorialize certain DSRO assignment procedures. The comments received and the proposed amendments to the JAC remain under consideration by Commission staff.

The second line of inquiry in Phase II of the SRO Study focuses primarily on conflicts of interest in self-regulation, and those factors that may tend to increase or ameliorate such conflicts. In June of 2004, the Commission sought public comment on SRO board composition, changing ownership structures and business models among SROs, and the organization and oversight of SROs' regulatory departments and personnel, among other things.⁶ Simultaneously, the Commission distributed to each SRO a questionnaire to help evaluate the governance structures, policies, and procedures of the self-regulators under the Commission's authority. The comments solicited in 2004 and in the earlier interviews generated an array of responses and approaches to self-regulation that the Commission is now re-examining in light of industry developments and findings since that time.

One significant development in self-regulation since the beginning of the SRO Study is the creation of exchange "regulatory oversight committees" ("ROCs"). In each case, the ROCs are board-level committees, composed only

other self-regulatory activities. The Commission continues to examine confidentiality of information as it moves forward with the SRO Study. See CFTC Progresses with Study of Self-Regulation, CFTC Press Release No. 4890-04 (Feb. 6, 2004), available at: <http://www.cftc.gov/opa/press04/opa4890-04.htm>.

⁵ CFTC Seeks Comment on How Self-Regulatory Exams of Futures Firms Are Coordinated, CFTC Press Release No. 4910-04 (Apr. 7, 2004), available at: <http://www.cftc.gov/opa/press04/opa4910-04.htm>.

⁶ SRO Governance, 69 FR 32,326 (June 9, 2004) and 69 FR 42,971 (July 19, 2004) (extending comment period to Sept. 30, 2004).

of independent non-member directors, with varying degrees of responsibility and authority. Among futures exchanges, both the New York Board of Trade ("NYBOT") and the parent company of the Chicago Mercantile Exchange ("CME") have created advisory ROCs with oversight of the exchanges' self-regulatory activities.⁷ Both ROCs remain subject to their respective boards of directors. In contrast, the Futures Industry Association ("FIA") has recommended exchange ROCs that create a "functional separation of compliance and business staffs," including the hiring, firing, and compensation of such staff.⁸ The Securities and Exchange Commission ("SEC") has proposed its own version of the ROC for U.S. securities exchanges.⁹ Its proposal places ROCs within majority independent non-member boards of directors.

As the questions below indicate, the Commission is interested in commenters' evaluation of the existing and proposed ROCs. Responses should address whether ROCs are necessary, how effective they are likely to be, and any potential drawbacks. Responses should also address what responsibilities and authority should be vested in ROCs, how their members should be nominated and elected, and the appropriate relationship between boards, ROCs, and SROs' senior regulatory officers. Finally, as the Commission considers a range of options to help insulate self-regulation from improper influence and commercial interests, commenters should address whether such insulation is best accomplished through new board composition standards, ROCs, or a combination of both.

Of the issues raised in the SRO Study, exchange disciplinary committees and the impact of changing ownership structures and business models have generated the most divergent opinions and approaches. Thus, although the Commission has previously solicited public comments on these matters, they require further exploration in an effort to reconcile the divergent views expressed by industry participants,

outside experts, and others. Through this Request for Comments and the upcoming roundtable, the Commission will complete its research and prepare to conclude the SRO Study.

With respect to disciplinary committees, the central question is one of composition. The Chicago Board of Trade ("CBOT") and Kansas City Board of Trade ("KCBT"), for example, typically use member-only disciplinary committees.¹⁰ In contrast, other futures exchanges include independent persons on their committees, although only as a minority of the committee. The FIA recommends a fundamentally different approach: Majority-independent disciplinary committees.¹¹ The NFA is bound by Commission Regulation 1.64(c) which requires, among other things, that SRO disciplinary committees include at least one non-member of the SRO whenever the respondent is a member of the board or of a major disciplinary committee, or whenever the conduct alleged includes manipulation or attempted manipulation or results in direct harm to a non-member.¹² In the case of DCMs, Regulation 1.64(c) also required that a majority of disciplinary committee members represent an exchange membership category other than that of the respondent.¹³ However, DCMs are now exempt from Regulation 1.64.¹⁴

In issuing this Request for Comments, the Commission is particularly interested in specific examples of instances where a disciplinary committee's composition may have influenced the outcome of a disciplinary matter. Interested parties should also comment on the appropriate composition of disciplinary committees and the optimal number and role of independent committee members.

The impact on self-regulation of changing ownership structures and business models has generated an equally broad array of opinions in the SRO Study. Starting with the CME in 2003, exchanges' continuing transformation from member-owned, not-for-profit entities to publicly-traded, for-profit businesses requires careful attention from the Commission. With the CBOT's initial public offering ("IPO") and listing completed in October 2005, the two largest U.S. futures exchanges, accounting for almost 87% of all futures volume in the

U.S., are now public, for-profit companies. In addition, the New York Mercantile Exchange is preparing to sell a 10% stake in the exchange to a private equity group in anticipation of a 2006 IPO. At that time, over 97% of U.S. futures trades will be transacted on exchanges whose incentives, owners, and demands are different from the not-for-profit, member-owned model that has prevailed for over 100 years, and upon which member self-regulation is based.

The Commission is particularly interested in specific examples of instances where an SRO's new commercial motives and incentives may have altered its self-regulatory behavior. More generally, commenters should address whether and how demutualized, for-profit, publicly-traded entities might alter their regulatory behavior in an effort to gain competitive advantage, reduce costs, satisfy shareholder and earnings expectations, or meet other non-regulatory objectives. Such regulatory behavior could include over-regulation, under-regulation, or selective or discriminatory regulation. Specific examples, either in the SRO or DSRO context, are welcome.

Finally, the Commission wishes to draw interested parties' attention to the listing standards of the New York Stock Exchange ("NYSE"), which impact both the CME and the CBOT as their parent companies are listed on that exchange. Certain governance provisions in the listing standards are another new development since the beginning of the SRO Study.¹⁵ In particular, the NYSE now requires that the boards of directors of listed companies be majority independent, and provides detailed guidelines for determining a director's independence. The Commission notes, however, that both the governance and independence provisions in the listing standards are directed at shareholder protection and broad corporate governance. Although listed futures exchanges and their shareholders may benefit from these provisions, they may not be relevant to fair, effective, and vigorous self-regulation.

The Commission is interested in receiving comments on the relationship between SROs' Commission-mandated self-regulatory responsibilities and the

⁷ NYBOT Rule 3.40, available at: <http://www.nybot.com/aboutNYBOT/rulebooks/nybot/download/Ch%203%20Committees.pdf> and Chicago Mercantile Exchange Holdings, Inc., Charter of the Market Regulatory Oversight Committee, available at: <http://investor.cme.com/downloads/regulation.pdf>.

⁸ The Governance of Self Regulatory Organizations, FIA Comment Letter at 4 and 5 (Sept. 30, 2004), available at: <http://www.cftc.gov/files/foia/comment04/foicf0405c009.pdf>.

⁹ Fair Administration and Governance of Self-Regulatory Organizations, 69 FR 71126 (Dec. 8, 2004).

¹⁰ See e.g., KCBT Rules 244.00 and 247.00 and CBOT Rules 540.12, 542.00, and 543.00.

¹¹ See The Governance of Self Regulatory Organizations, FIA Comment Letter at 8.

¹² 17 CFR 1.64(c).

¹³ See § 1.64(a)(1) (excluding clearing organizations from the requirements of § 1.64).

¹⁴ See 17 CFR 38.2.

¹⁵ Section 303A of the NYSE's Listed Company Manual, which includes both the requirement that a majority of listed companies' directors be independent and bright-line tests for independence, received final approval from the SEC on November 4, 2003, with further amendments as late as November 3, 2004. The Listed Company Manual is available at: http://www.nyse.com/Frameset.html?displayPage=/lcm/lcm_section.html.

NYSE listing standards applicable to their parent companies, if any such relationship exists. Both the CME and the CBOT have determined that their member-directors are "independent" for purposes of the listing standards. Interested parties should comment on whether that determination is relevant to futures self-regulation.

II. Questions

The Commission has formulated the following questions based on its research, responses to previous **Federal Register** requests for comments, the views expressed by interview participants, and industry developments. Responses from interested parties will advance the Commission's understanding of issues relevant to conflicts of interest in self-regulation, SRO governance, and other relevant matters. Interested parties should also raise any additional issues that they believe will help the Commission's understanding of the issues presented. If interested parties believe that they have previously addressed any questions or issues related to this Request, and have no new information to add, they should feel free to refer the Commission to those responses.

Possible conflicts of interest, such as those that may exist between an SRO's regulatory responsibilities, its commercial interests, its members, and other constituents, are central to many of the questions articulated below. Where appropriate, parties should identify the specific conflict addressed in their response, and how their proposal resolves that conflict. With the SRO Study drawing to a conclusion, the Commission will carefully consider the need for additional guidance to insulate self-regulation from conflicts of interest and improper influence. Any such guidance will reflect the Commission's continuing commitment to industry self-regulation, flexible core principles, and responsible Commission oversight.

1. Is the present system of self-regulation an effective regulatory model for the futures industry?

2. As the futures industry adapts to increased competition, new ownership structures, and for-profit business models, what conflicts of interest could arise between:

(i) An SRO's self-regulatory responsibilities and the interests of its members, shareholders, and other stakeholders; and

(ii) An SRO's self-regulatory responsibilities and its commercial interests?

3. Given the ongoing industry changes cited above, please describe how self-

regulation can continue to operate effectively. What measures have SROs taken thus far, and what additional measures are needed, to ensure fair, vigorous, and effective self-regulation by competitive, publicly-traded, for-profit SROs?

4. What is the appropriate composition of SROs' boards of directors to ensure the fairness and effectiveness of their self-regulatory programs?

5. Should SROs' boards include independent directors, and, if so, what level of representation should they have? What factors are relevant to determining a director's independence?

6. Should self-regulation be overseen by an independent entity within an SRO?

(i) If so, what functions and authority should be vested in such an entity?

(ii) At least two futures exchanges have implemented board-level regulatory oversight committees ("ROCs") to oversee their regulatory functions in an advisory capacity. Commenters are invited to address any strengths or weaknesses in this approach.

7. The parent companies of some SROs are subject to the listing standards of the securities exchanges on which they are traded. Are such listing standards relevant to self-regulation and to conflicts of interest within DCMs?

8. What is the appropriate composition of SROs' disciplinary committees to ensure both expertise and impartiality in decision-making?

(i) Should a majority of committee members be independent? Should the composition of SROs' disciplinary committees reflect the diversity of the constituency? Should similar safeguards apply to other key committees and if so, which committees?

(ii) Should SRO disciplinary committees report to the board of directors, an independent internal body, or an outside body?

9. What information should SROs make available to the public to increase transparency (e.g., governance, compensation structure, regulatory programs and other related matters)? Are the disclosure requirements applicable to publicly traded companies adequate for SROs?

10. What conflicts of interest standards, if any, should apply specifically to DCOs, both stand-alone DCOs and those integrated within DCMs?

11. What conflict of interest standards, if any, should be applicable to third-party regulatory service providers, including registered futures associations, to ensure fair, vigorous,

and effective self-regulation on their part?

Issued in Washington, DC, on November 18, 2005, by the Commission.

Jean A. Webb,

Secretary of the Commission.

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, will submit the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, (44 U.S.C. Chapter 35)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed data collection instrument entitled: Field Network Pilot Study VISTA Cost Sharing Report Form and Survey. The information will be used by the Corporation's VISTA program to improve its understanding of the factors that determine cost sharing among VISTA sponsor organizations. The goal is to develop more effective strategies for encouraging cost sharing arrangements among VISTA sponsor organizations.

Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-2799 between 8:30 a.m. and 5 p.m. Eastern time, Monday through Friday.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by January 24, 2006.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods: