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COMMENT

From: Philip Goetz [philgoetz@gmail.com]
Sent: Monday, July 07, 2008 3:11 PM
To: secretary
Subject: Concept Release on the Appropriate Regulatory Treatment of Event Contracts

I do not have any professional qualifications relevant to this issue.
My responses are grouped by the specific questions in the RFC.

- Dr. Phil Goetz, Springfield VA

C. Jurisdictional Determinations

10. What calculations, analyses, variables, and factors would be appropriate in determining whether an economic or commercial index that is based on prices, rates, values, or levels should or should not qualify as an excluded commodity under Section 1a(13) of the Act?

Event contracts may fall under all of these clauses of Section 1a(13) and thus qualify as excluded:

(ii)(I): They are not based in substantial part on the value of a narrow group of commodities described in clause (i).
(ii)(II): They may be based solely on one or more commodities that have no cash market.
(iii) and (iv): They are unlikely to be based on actions within the control of any party to the relevant contract, agreement, or transaction.

In event contracts failing to meet (ii), individual participants whose actions may affect the outcome may be barred from participating in excluded markets based on failing to meet (iii) and (iv).

Section 1a(13) may be interpreted as meaning that excluded commodities must be associated with a financial, commercial, or economic consequence. This could be used as a necessary criterion for excluding markets.

12. What objective and readily identifiable factors, statutorily based or otherwise, could be used to distinguish event contracts that could appropriately be traded under Commission oversight from transactions that may be viewed as the functional equivalent of gambling?

Here are some criteria that may be sufficient, though not necessary, to discriminate an event contract generating a social value, from gambling:

- A sponsor creates the market on which the contract is traded at no cost to participants, including transaction costs or asymmetric odds (biased towards "the house"); or a non-profit entity creates the market.
- The event has economic significance.
- Learning to predict the event has positive social benefits, or trains participants in useful skills: For example, learning to predict eclipses led to the development of astronomy and of science in general. Learning to predict which rulings will be struck down by the Supreme Court trains people in legal reasoning.
- The creation of the market creates incentives for those people whose actions will determine the outcome, to take steps that have social benefit. For example, a market for predicting which accounting firm would be the next to be indicted or convicted, would motivate executives of those firms to implement programs to ensure compliance with the law.
- In general, an event contract whose trading value influences the actions of people who control the outcome of the event, is likely to have social value, since in general companies are motivated to appear to act in socially-approved ways.

18. Is the issuance of staff no-action relief, such as the relief issued to the IEM, an appropriate or preferable means for establishing regulatory certainty for event contracts and markets? Is a policy statement appropriate or preferable?

No. While this is sufficient to enable experimental markets such as the IEM, we need a mechanism to enable the creation and monitoring of large, billion-dollar markets in order to gain significant social benefits from them. The IEM is an experimental market, whose purpose was to bring us to the point we are at today. The next step is to create real markets.