RECEIVED
C.F.T.C.

COMMENT 08-9 (20)

2008 NOV 17 PM 1:59

Andrew Greenberg
115 Beagle Drive
Manalapan, New Jersey 07726

RECORDS SECTION

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
Attn: Office of the Secretariat
secretary@cftc.gov

OFC. OF THE SECRETARIAT 2008 NOV 14 PM 4:49 RECEIVED C.F.T.C.

Re: Proposed Rules for Trading Off the Centralized Market

November 14, 2008

To Whom It May Concern:

I have been trading and managing traders on the New York-based exchanges since 1996. Through my individual trading activities and those of the traders I work with, I have experience in many contract markets on the NYMEX, COMEX, and ICE. Currently, I serve as a trader and manager for Prime International Trading, a proprietary trading firm that finances and manages over 100 traders in a host of product markets both in New York and Chicago.

I am pleased that the CFTC is looking to update its guidance with respect to block trading because I believe an overhaul of the most recent guidance is necessary. Specifically, I think that the Commission must recognize that the exchanges themselves cannot be counted on to formulate minimum block trade sizes and, accordingly, the Commission must take on a more proactive role in making these determinations if it is to fulfill its mission.

As others have commented, when the minimum block trade size is set too low, it invites misuse from those market participants who would use the opportunity to do non-competitive trades for their own benefit. For this reason, guidance on the minimum size requirement for a block trade is a key issue. Unfortunately, the current guidelines are inadequate in that they provide, as is intended, broad guidelines which an exchange may use to determine appropriate minimum block trade size. The problem is that the exchanges cannot and indeed should not be charged with making this determination. Perhaps many years ago, when the exchanges were owned by the members and for the members, the management of the exchanges could be counted on to consider the interests of all market participants and the marketplace at large when making decisions. Today, however, the exchanges are all public companies with Boards and Directors responsible to shareholders. The managers of these exchanges cannot satisfy their obligations to these shareholders and simultaneously serve the interests of the marketplace as a whole.

A recent determination made by ICE's management highlights the dilemma faced by exchange managers when making decisions. As a member of ICE's Executive Floor Committee, I presented data to the Committee which showed that all large market-makers thought that the minimum block trade sizes set by the Exchange were hopelessly low. ICE's management did not reject the opinion of these market-makers that the current limits provided the opportunity for unfair, non-competitive trading. Rather, management's rebuttal was that there were numerous trade-based customers who wanted to block trade and actually wanted the minimums lowered. I would argue that these large customers have an interest in lowering the minimum block trade size so that they can avoid the competition of the open outcry marketplace and use their superior position within a market's supply chain to make greater profits through non-competitive trading. However, to ICE's management, such an appeal to fairness or transparency is not a priority. For them, this issue is only problematic in that it pits one group of customers against another group of customers. In order to try to prevent a rupture with either the market-making community or the trade community, ICE's management chose to neither increase nor decrease the arbitrary block trade minimums originally set for each of its product markets (with the exception of Cocoa options which was pointlessly changed from 100 to 200 contracts). This action of ICE's management was entirely appropriate with respect to fulfilling its mandate to serve its shareholders, but also demonstrates why market participants must turn to the Commission for relief on this issue.

The CFTC needs to take a more active role when an exchange applies for permission to allow block trading in a product market. Note that such an effort would be far from onerous. One staff member, working for one month could collect all the information necessary (including open interest and volume data, order and trade size data, and the opinions of management, the trade community, the FCM community, and the market-making community) to make a determination regarding appropriate block trade size.

One need only scan the news headlines in order to see abundant evidence that managers of large financial institutions, when left to themselves, will make decisions in their best interests and the interests of shareholders, and not in the interests of the marketplace as a whole. We should not expect any different in our markets. In an age where the pitfalls of regulatory neglect are on conspicuous display, I think that it is appropriate that we expect our regulatory agencies to step up to the challenge and take on a more proactive role.

It is interesting that the Commission is revisiting this issue at the precise time when the ICE and CME are vying for the right to create a marketplace for Credit Derivative Swaps. The CDS market provides ample evidence that large market participants will, when given the opportunity, forgo a centralized, regulated exchange in favor of a clandestine, unregulated marketplace. Currently, due to our nation's financial crisis, there is a clamor for a central CDS exchange to allow for greater regulation of this market. At this time, our nation's economy is suffering due to a lack of transparent markets in Mortgage Backed Securities and is hoping to forgo a disaster in the CDS market by instituting greater regulation. Given these circumstances, I believe it to be very reasonable that we expect the Commission to take on a more active role to ensure that non-competitive block trading only occurs when absolutely necessary.

Lastly, I request permission to expand upon my opinion here until January 6, 2009 in the event that the Commission decides to grant a deadline extension to the CME Group as per their request. I don't believe it would be fair to allow the CME to see all posted opinions and then spend two months crafting a lengthy rebuttal, but if the Commission chooses otherwise, I'd like the opportunity to comment further as well. Thank you for your time and consideration. Please contact me via e-mail at greenberg@sprynet.com if you wish to discuss these matters further.

Sincerely,

Andrew Greenberg