CFTC STAFF INTERPRETATIVE
LETTER # 76-2

COMMODITY FUTURES TRADING COMMISSION

1120 CONNECTICUT AVENUE N. W.
WASHINGTON, D. C. 20036

February 13, 1976

Re: Approval of Cash Rules Pursuant to Section 5a(12) of the Commodity Exchange Act

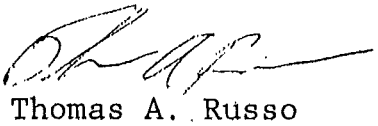
Dear :

This is in response to your letters of September 17, 1975, and January 5, 1976, in which you submitted, pursuant to section 5a(12) of the Commodity Exchange Act, as amended ("Act"), proposed amendments to Board of Trade of Kansas City, Missouri, Inc. ("Exchange") Rules 1710.24 and 1723 and the proposed deletion of Chapter 26 from the Exchange's rules. All of the rules in question herein appear to relate exclusively to cash commodity transactions, rather than commodity futures transactions. Rules 1710.24 and 1723 relate to shipping terms in contracts for cash sales of grain; Chapter 26 of the Exchange's rules relates to the regulation of the employment and use by Exchange members of non-member solicitors and brokers in cash rather than futures transactions.

In your letter of January 5, 1976, you question "whether, absent manipulation (actual or attempted), the CFTC has statutory authority to approve or disapprove rule changes, such as this, in the cash sector." As you are aware, the Commission's Advisory Committee on Market Regulation is considering the scope of section 5a(12) of the Act. After reviewing the report and recommendation of the Advisory Committee, the Commission will be making its determination with respect to the scope of section 5a(12). At that time, the Commission may decide whether the scope of section 5a(12) covers cash market rules.

Because of the uncertainty of this issue, the Division has determined that it will not recommend to the Commission at this time that it review for approval or disapproval, pursuant to section 5a(12) of the Act, those contract market rules relating exclusively to the cash market. Nor will the Division recommend that the Commission institute enforcement action against a contract market for failure to submit such cash market rules for Commission approval, should it later be determined by the Commission that cash market rules are within the scope of section 5a(12) of the Act. Nevertheless, contract market rules relating to cash transactions must be submitted to the Commission pursuant to section 5a(1) of the Act.

Very truly yours,



Thomas A. Russo
Director
Division of Trading and Markets