

January 18, 2011

Mr. David A Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581
Dear Mr. Stawick

REGISTRATION OF FOREIGN BOARDS OF TRADE: RIN 3038-AD191

The Petroleum Marketers Association of America (“PMAA”) and the New England Fuel Institute (“NEFI”) are pleased to submit this comment letter in response to the November 19, 2010 Notice of Proposed Rulemaking (“NPR”) published by the Commodity Futures Trading Commission (“CFTC” or the “Commission”) regarding the registration of Foreign Boards of Trade (“FBOTs”).

I Summary

PMAA and NEFI support the proposed rulemaking to implement a registration system for Foreign Boards of Trade (FBOTs) seeking to offer market participants in the United States direct access to the FBOTs’ trading systems. PMAA and NEFI support the Commission’s conclusions that this rule will bring consistency and transparency to the Commission’s oversight of FBOTs. Importantly, the proposed rule requires that FBOTs be subject to comparable, comprehensive supervision and regulation in their home country and that they meet all conditions outlined in the proposed rule before they would be allowed to make available swaps contracts through direct access to US market participants.

PMAA and NEFI support the Commission’s proposed rule and believe adoption thereof will establish a process that will be more transparent and standardized through generally applicable regulations. Among other things, the rule will:

1. Provide a uniform application process,
2. Enhance the visibility of the process to both applicants and the public,
3. Assure fair and consistent treatment to all applicants,
4. Create a formal registration procedure which would provide more legal certainty for registered FBOTs,
5. Allow the Commission to determine if the FBOT’s regulatory authority supports and enforces substantially equivalent regulatory objectives, such as
 - a. position limits,
 - b. prevention of market manipulation and
 - c. customer protection.
6. Be consistent with the manner in which other countries permit US DCMs to provide direct access internationally.

PMAA and NEFI believe the proposed rule is appropriate pursuant to the Commission’s new authority contained in the amended CEA Section 4(b) and new Part 48 of the Commission’s regulations, as proposed, and urges its adoption as a final rule.

II Discussion

A. Application/Registration Process

PMAA and NEFI support the Commission's proposed application/registration framework and believe that the proposed rule will establish a more objective and uniform regime and, as a result, greater legal certainty for applicants than does the existing no-action approach. The proposed rule requires appropriate information from each applicant which will help ensure transparency. The proposed rule provides adequate time frames of 120 days for submittal of registration documentation by those entities that are currently operating under the no-action approach and establishes clear requirements for all new applicants.

B. Comparability of FBOTs Home Country Regulatory Framework

1. Comparability

PMAA and NEFI support the Commission's proposed rule that an applicant who provides qualifying US persons with direct electronic access to its trading and order matching engine would be required to register with the CFTC and be required to demonstrate that it is subject to regulation in its home country that is "comparable" to the regulation of DCMs in the US. The Commission has recognized that non US regulatory regimes may differ in their exact proposed framework while accomplishing a comparable regulatory outcome to that which may be adopted by the CFTC. The Commission's proposed rule will require applicant-specific information and importantly require an applicant to provide information regarding its home country regulatory framework under which it operates and discussion of why it views its home country regulation as comparable to that of the US. This information requirement serves the purpose of validating the applicants understanding of the governing regulatory regimes.

2. Clearinghouse Information

The proposed framework properly requires applicants to submit information regarding the clearing of its contracts and its clearinghouse. Appendix A of the Proposed Rules properly requires applicants to submit documentation relating to the FBOT and its clearing organization, including information regarding corporate structure, applicable home country regulatory regime, membership criteria, trading systems, terms of contracts made available for direct access, clearing and settlement procedures, internal rules and procedures, and information sharing agreements with US and foreign regulatory authorities. For purposes of transparency, the applicant FBOT should include in its application all applicant-specific rules and information governing or regarding the clearing of contracts that are made available to US persons through direct electronic access.

3. Position Limits

The Dodd-Frank Act has given broad authority to the Commission to ensure that FBOTs are not utilized to circumvent anti-manipulation and related protections applicable to US listed contracts. The commission recognizes that granular differences between US and foreign markets will exist. The proposed rule allows for approval of applications based on comparability. The Commission recognizes that foreign markets may implement a regulatory scheme with restrictions or obligations that could be different from but comparable to the regulatory objectives to be addressed by positions limits. We support the Commission's proposed rule.

4. Definitions

PMAA and NEFI believe that the definitions presented in the proposed rule provide clarity and should be broadly interpreted in regards to capturing information that will support the overall regulatory effort granted under Dodd-Frank to ensure transparency in markets. We believe that definitions of "Linked Contracts" and "Direct Access" should be defined and or clarified so that any interpretation will accomplish greater transparency.

C. Conclusion

We support the proposed rulemaking to implement a registration system for Foreign Boards of Trade (FBOTs) seeking to offer market participants in the United States direct access to the FBOTs' trading systems. We concur with the Commission's belief that this regulatory regime brings consistency and transparency to the Commission's oversight of such entities.

Respectfully Submitted,



Dan Gilligan
PMAA President



Jim Collura
NEFI Vice President