Executive Summary of Comments

by

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Before the

U.S. House of Representatives

Subcommittee on Telecommunications and Finance

24 May 1990

Recent proposals to redraw the jurisdictional boundaries between the CFTC and the SEC could damage the world leadership position of United States futures markets and create regulatory confusion. These jurisdictional changes would not make any difference in preventing or dealing with market crashes or other market moves. The Commission is therefore vigorously opposed to any jurisdictional change. Furthermore, the Commission is concerned that reauthorization legislation, which includes needed market reforms, is being held up in the Senate because of this continuing and unnecessary jurisdictional battle.

There are no credible arguments for shifting CFTC jurisdiction to the SEC or for merging the two agencies. The prepared statement includes a point-by-point analysis of the so-called problems that have been put forth.

- We are told that the securities market and the stock index futures market constitute "one market." While it is true that these markets are linked, it does not follow that they should be subject to a single regulator.

- Transferring jurisdiction will not reduce stock market volatility. The current claim is that because futures margins are lower than stock margins, they can be used in ways that add to stock market volatility. According to Federal Reserve Board Chairman Alan Greenspan, "...the preponderance of the evidence suggests that neither margins in the cash markets nor in the futures markets have affected volatility in any measurable manner." Furthermore there is no evidence that futures traders close positions on volatile days to meet margin calls. In fact, open interest at day's end on October 19, 1987 and October 13 and 16, 1989 was higher than on the previous days.

- Shifting regulation of stock index futures to the SEC would introduce problems of dual regulation of futures exchanges and increased costs to both government and market users. It could place futures in a hostile regulatory environment undermining their use as efficient hedging tools. Most importantly, it could increase the costs of risk management and thus the costs of using the securities markets.

- Transferring jurisdiction is unnecessary to handle enforcement issues. There is no evidence that the existing regulatory structure is incapable of detecting and deterring trading abuses that do exist. Potential abuses are already being addressed through coordinated monitoring and enforcement efforts within the existing regulatory structure.

- The CFTC's exclusive jurisdiction has not been a barrier to innovation or a means to increase our turf. Eliminating exclusive jurisdiction could result in regulatory chaos by allowing futures to be regulated under multiple and different regulatory systems, inviting sometimes conflicting rules, that could undermine the use of futures markets as international hedging and price discovery instruments.

- H.R. 4477, the "Markets and Trading Reorganization and Reform Act of 1990," makes no substantive changes that would alter the part of the financial system regulated by the CFTC and SEC. It would not improve the structure of the financial markets, make our markets more competitive, or diminish financial risk. Moreover, even assuming no changes in regulatory policy, a merger poses other problems -- among them bureaucratic inertia that could impede innovation.

In sum, the case for shifting jurisdiction over stock index futures to the SEC or for merging the two agencies simply has not been made. Jurisdictional gerrymandering will disrupt our markets -- the most effective in the world.

What we need now is to focus our resources and efforts on working together to meet the regulatory challenges of ensuring safety, soundness, and the protection of customers in a rapidly changing and increasingly global marketplace.