

Received CFTC
Records Section

RECEIVED
C.F.T.C.



Board of Trade
CLEARING CORPORATION

09-45
6

Nancy K. Brooks
Vice President, General Counsel,
and Secretary

00 FEB 14 PM 3 49

February 10, 2000

Re: Request for comments on CFTC Reg. 1.59

COMMENT

VIA U.S. POST AND E-MAIL

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three LaFayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Ms. Webb:

The Board of Trade Clearing Corporation (the "Clearing Corporation") is writing this letter to respond to the request of the Commodity Futures Trading Commission (the "Commission") for comments regarding the application of Regulation 1.59 to non-paid advisors and paid consultants which was published for comment on December 28, 1999 in Volume 64 of the Federal Register at pages 72,587 - 72,590 (the "Request").

The Clearing Corporation performs clearing and settlement functions for approximately 100 members for futures and options trades executed on or through the facilities of the Chicago Board of Trade and affiliated exchanges ("CBOT"). The Clearing Corporation's primary responsibility is to ensure the financial integrity of all futures and options contracts traded on the CBOT. Such trades represent approximately one-half of all futures and options contracts executed on the markets located in the United States. The Clearing Corporation has been guaranteeing the financial integrity of these futures markets for over 74 years. It is the only clearinghouse in the world with both an "AAA" rating from Standard & Poors Corporation and \$100 million in default insurance.

The Clearing Corporation appreciates the opportunity to respond to the Commission's Request for public comment regarding the application of Regulation 1.59 to non-paid advisors and paid consultants, which currently deems all such persons to be "employees" of the Clearing Corporation. The Clearing Corporation frequently engages consultants, especially in the field of information technology. As the Commission suggested in the Request, such consultants often have no access to material, non-public information. The Clearing Corporation believes that no purpose is served by requiring such persons to adhere to the complex policies that apply to its regular employees pursuant to Regulation 1.59. Accordingly, the Clearing Corporation believes that the Commission should amend Regulation 1.59

141 West Jackson Boulevard
Suite 1460
Chicago, Illinois 60604
(312) 786-5711
Fax: (312) 786-9171

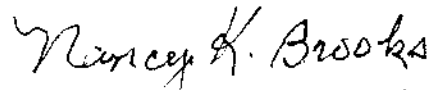
RECEIVED
C.F.T.C.
00 FEB 14 PM 2 44
OFFICE OF THE SECRETARY

Ms. Jean A. Webb
February 9, 2000
Page 2

to provide that if non-paid advisors and paid consultants lack access to material, non-public information or their access to and use of such information is subject to a written confidentiality agreement, they should not be deemed to be "employees" within the meaning of Regulation 1.59. The Clearing Corporation is further concerned by the characterization of such persons as "employees", albeit for limited purposes. The Clearing Corporation, in its written agreements with consultants, takes great care to ensure that such persons may not be deemed to be "employees" for any purposes. We believe that the Commission's characterization of consultants as "employees" under Regulation 1.59 undermines this effort.

The Clearing Corporation appreciates the opportunity to comment on the Commission's proposal. If you have any questions with respect to this matter, please contact the undersigned or Robert G. Hertel, Jr., Assistant General Counsel, at 312-786-5743.

Sincerely,



Nancy K. Brooks

ng

cc: Dennis A. Dutterer