



Winter 97/98

*Newsletter of the
Commodity Floor Brokers and Traders Association*

Previous issues...| [Summer 1997](#) | [Winter 1996/1997](#) | [Summer 1996](#) |

MEETING!
The annual meeting and election of officers for CFBTA will be held:
Thursday, February 26 3:00pm Room 1010 * NYMEX Building One North End Avenue
All members are urged to attend.
Refreshments will be served.

CFBTA Keeps Constant Watch on Washington

CFBTA and the exchanges must keep a constant vigil on regulatory agencies to ensure the financial viability of the trading floor. The CFTC, on two separate occasions this year alone, issued directives that increased the floors' responsibility for bunched order allocations, and questioned the role of silent investors in floor operations. The NFA, on the other hand, increased their assessment fee, but only on public customer accounts.

"Sometimes I don't think the floor realizes how many issues we take on that deal with the financial future of the floor broker," said A. George Gero. "We used to be concerned with getting our members health insurance. Now, our focus is primarily on Washington and what we can do to keep ourselves in business."

Bunched Orders

CFBTA took on the bunched order issue early in '97, and, after meetings with the CFTC, NFA, and the exchanges, and writing formal comments on the interpretation, won a partial victory. Floor brokers do not have to record account numbers for all the accounts represented in a bunched order if the CTA uses an allocation designator which identifies a set of allocation instructions that have been prefiled for those accounts with the NFA, an exchange or FCM. However the extent of floor brokers' responsibility to monitor the allocations given to them by the CTA is subject to interpretation. The CFTC has said that if the floor broker has "notice" that a CTA who uses a designator has not prefiled it, or that there are irregularities with the allocations, the floor broker must make inquiries and report the CTA to the appropriate regulatory organization.

Some feel -- CSCE General Counsel Audrey Hirschfeld among them -- that the floor brokers may be deemed to have notice simply by being in possession of the actual allocations. If this is the case, brokers are being required to police CTA activities, something they are not equipped to do. After all, they argue, the floor broker does not have access to CTA files, computers, paperwork, etc. to check order allocation schemes for inconsistencies. Others, however, feel the brokers will be liable only if they are party to a fraudulent act.

Silent Investors

Another hot topic for '97 is the the role of investors in floor operations. In a recent Rule Review of exchange broker association programs, the CFTC directed the exchanges to require "all" investors in floor brokerage operations to become CFTC registrants. This recommendation was made notwithstanding the fact that there is no mechanism to register investors under the Commodity Exchange Act.

According to a New York exchange compliance representative, the CFTC's recommendation is unduly broad and should only restrict investment when a broker association investor is otherwise statutorily disqualified from being a Commission registrant due to a criminal record or other trading disciplinary offenses. Otherwise, the implications of an overboard definition of investors may result in the dissolution of or prevent the formation of broker associations, thereby diluting their effectiveness to the futures industry. The exchanges had until the end of November to respond to the Rule Review and were expected to make clear that many of the recommendations are overzealous and serve no regulatory purpose.

NFA Fee Increase

Come Jan.1, 1998, the round turn fee levied on public customer accounts by the NFA will be increased to 20 cents per round turn, up from 14 cents, according to Dan Driscoll, vp of compliance at the NFA. For options trades, the fee will increase to 10 cents, up from 7 cents. This fee affects trades for customers who are not exchange members. Driscoll added that this is merely an increase in an existing NFA fee, therefore trades not subject to the fee in the past will not be subject to it now either.

CSCE/Cotton Merger

By year-end, members and Boards of the Coffee, Sugar & Cocoa Exchange (CSCE) and

The New York Cotton Exchange (NYCE) could be voting on final merger plans, if all goes as expected. In early November, both exchanges' boards voted in principle to merge. Now, according to NYCE President Joe O'Neill, some tax and securities issues are being worked out, hopefully in time for a year-end Board vote, then informational meetings and a proxy vote by the memberships of both exchanges. A two-thirds majority of those voting will be required to approve the deal.

While not disclosing financial details, O'Neill says the merger would generate significant cost savings efficiencies from streamlined operations that will benefit individual members and member firms of both exchanges. J.P.Morgan & Co. acted as advisor for the merger transaction. The issue of a new building was not addressed in the discussions, according to O'Neill. However, the NYMEX offer of 15,000 sq.ft. in the new building for the merged exchange still stands.

Members of the exchanges are carefully reviewing details as they are presented. One felt the deal looks a "little light" for members of CSCE. Another felt it was too soon to decide on the deal, weighting whether getting the money up-front would simply devalue seat prices in the future. Some have heard the cost savings could reach \$7 million a year. All members who spoke to Opening Call seem interested and want to be educated about the details and possible merger of the exchanges.

A synopsis of the deal, as outlined by memo for members Nov.14, but still subject to change due to tax and securities considerations:

- The merged exchange would be called the New York Board of Trade (NYBT). Full members of CSCE and NYCE will exchange such memberships for Class A and Class B memberships in NYBT, respectively. NYBT will create three forms of associate membership for which the CSCE and NYCE associate memberships will be exchanged.
- Each full member of the exchange will receive: an up-front cash payment of \$14,300 for each CSCE full membership and \$3,600 for each NYCE full membership; additional payments of \$87,500 for each CSCE and \$21,400 for each NYFE full memberships in six annual installments without increase; one membership in the limited liability company which will be the parent of Cantor Financial Futures Exchange (CFFE) for each full membership owned, which in aggregate will represent a 90% economic interest in CFFE.
- Until the date the installments are paid in full, all memberships (full and associate) will retain their existing trading rights and other privileges, after which time Class A and Class B full memberships of NYBT will be unified into one class of full membership with identical rights. The associate memberships in NYBT will be unaffected by the unification of full memberships into one class.
- Each full member on NYBT will have one vote (regardless of the number of memberships held).
- The members trading award plan currently in place at CSCE will be extended to floor brokers of NYCE and terminated for clearing members of CSCE.
- Any change to a contract's terms and conditions must be approved by the relevant

trade contract committee and by the board of NYBT.

- Class A and Class B memberships in NYBT will have equal board representation.
- The proposal envisages fee reductions for member trades, the extent of which are under review.
- Persons submitting a complete application to become full members of CSCE after Nov.3, 1997, will not be eligible for service on the CSCE Long Range Planning Advisory Committee.

"Pro-Markets" Legislation is *PUT* on the Shelf

CFBTA can feel victorious for helping to defeat "pro-markets" legislation in Washington.

What started out as a legislative session with the potential to significantly impact the markets ended with a whimper. The bill with a "pro-markets" provision sponsored by Sen. Richard Lugar (R-IN) and Sen. Patrick Lahey (D-VT) was shelved before the mid-November Congressional adjournment because as Sen. Lahey said, "If members of the industry have become so excited about their own situations there really is no way...legislatively to bring this thing to a successful conclusion." .

CFBTA staunchly represented the floor's interests in lobbying against the bill. "We went to Washington dead set against this bill," Chairman A. George Gero said at the October directors' meeting. "Some exchanges supported it, others quietly accepted it, but we didn't. We attended hearings on the bill and wrote, urging Congress to study the impact this legislation would have before a vote was taken...they study other less critical issues before passing legislation, so why not this?"

CFBTA felt that "pro-markets" would ultimately hurt the exchanges by allowing them to establish so-called ProMarkets where only wealthy individuals and institutional investors could trade without being subject to the rules imposed by the CFTC on traditional trading. Whether the trades would then be cleared by the exchanges or private banking consortiums was hotly debated. This combination would hurt the floor community, reduce liquidity, and weaken the exchanges' role in price discovery, CFBTA argued. (See Summer '97 Opening Call)

It is uncertain if the bill, originally introduced with much fanfare in February, will be re-introduced in the next legislative session.

Floor Traders to Save on 1997 Taxes.

Floor traders will likely save money on their 1997 taxes, but they'll need a little extra paperwork to reap the savings. According to Alan Berk, partner with Leonard Rosen & Co., and Marvin Insler, CPA in solo practice, the floor stands to gain by the Tax Relief Act of 1997 because of changes in the tax on capital gains.

"The tax act does not fully come into play until 1998," explained Insler. "The dates of the long-term portion of trades made between Jan.1 and May 6, 1997, will still be taxed at the old 28% rate, whereas the long-term portion of trades made after May 6 will likely be taxed

at a maximum rate of 20%." As of yet, there is no definitive answer as to which of the two long-term capital gains rates the 60% portion of commodity trading will be subject to.

"We are recommending that all traders make available to their tax preparers their May monthly commodity account statement as well as their daily statement for May 6," said Berk. "Having the statements will save time and money for the trader." He and Insler have already alerted some of the clearing houses to their clients' needs for this information.

Stocks transactions will now have three different possible tax rates for taxpayers above the 15% tax bracket. Once again, dates in 1997 play an important role. The following are the maximum tax rates for securities transactions made in 1997:

Date of Sale	Holding Period	Maximum Tax Rate
1/1/97-12/31/97	Less than 12 mos.	39.6%
1/1/97-5/6/97	More than 12 mos.	28.0%
After 5/6/97 before 7/29/97	Over 12 mos.	20%
After 7/28/97	More than 12 mos./Less than 18 mos.	28%
After 7/28/97	More than 18 mos.	20%

The above information is provided for informational purposes only. For specific advice, members are urged to contact their personal tax preparer.

In Brief.....

Disability Insurance

Warren Rosen & Co.Inc., through an exclusive agreement with Union Central, is now offering individual disability insurance to floor traders. Union Central, according to Rosen, is a premiere company rated A+ by both Standard & Poor's and Duff & Phelps.He says the policy pays benefits to age 65, premiums are guaranteed to stay level and Union Central can't cancel a policy in the future, even if they decide that floor traders are too great a risk.

For further information, contract Warren Rosen at 212/949-9200 or 800/920-PLAN or send e-mail to [Warren Rosen & Co.Inc.](mailto:Warren.Rosen@WarrenRosen.com)

Casey to TVA

Kevin Casey, formerly CFBTA assistant secretary, has joined the Tennessee Valley Authority as a senior portfolio manager in charge of physical, OTC and commodity trading. We wish Kevin well in his new endeavor. In a brief phone interview he told Opening Call that all is going well and he is busy overseeing the building of a 2,500 sq.ft. trading room, and traveling on behalf of TVA. He views his move to Chattanooga as a great opportunity but will miss the chance to work in the new NYMEX building. You can write to him at: TVA, 1101 Market St., Chattanooga, TN 37402.

Treasurers' Report

At the October meeting, there was a treasury balance of \$6,100. Dues payment in '97 was ahead of the previous year.

CFBTA Website Continues to Receive Attention

CFBTA's website -- <http://www.cfba.org> -- continues to receive much attention. Recent additions to the site include a comprehensive listing of products/services for the futures industry; links to the FIA and CFTC; and, newsletters from the National Alliance in Chicago. A new advertiser has also joined the site -- DTN, the electronic information service.

"We continue to get good response to our website," said Chairman A. George Gero. "In fact, the other day, we had a call from someone who saw the site and just wanted to find out more about our industry. It's a great way to open up discussions and educate the public."

Comments/suggestions should be directed to: [Nick Mangano](#), NetList USA, 718/843-7189 or Mary Ann Matlock, 908/709-1280.

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| [Prev](#) | [Home](#) | [Next](#) |