



**Response: CFTC Request for Comment on the Impact of
Affiliations of Certain CFTC-Regulated Entities**

Background

Established in 1961, the World Federation of Exchanges (WFE) is the global industry association for exchanges and clearing houses (CCPs). Headquartered in London, it represents over 250 market infrastructure providers, including standalone CCPs that are not part of exchange groups. Of our members, 34% are in Asia-Pacific, 45% in EMEA, and 21% in the Americas.

WFE's 90 member CCPs and clearing services collectively ensure that risk takers post some \$1.3 trillion (equivalent) of resources to back their positions, in the form of initial margin and default fund requirements. WFE exchanges, together with other exchanges feeding into our database, are home to over 50,000 listed companies, and the market capitalisation of these entities is over \$100 trillion; around \$140 trillion (EOB) in trading annually passes through WFE members (at end 2022).

The WFE is the definitive source for exchange-traded statistics, and publishes over 350 market data indicators. Its free statistics database stretches back more than 40 years and provides information and insight into developments on global exchanges. The WFE works with standard-setters, policy makers, regulators, and government organisations around the world to support and promote the development of fair, transparent, stable and efficient markets. The WFE shares regulatory authorities' goals of ensuring the safety and soundness of the global financial system.

With extensive experience of developing and enforcing high standards of conduct, the WFE and its members support an orderly, secure, fair, and transparent environment for investors; for companies that raise capital; and for all who deal with financial risk. We seek outcomes that maximise the common good, consumer confidence, and economic growth, and we engage with policy makers and regulators in an open, collaborative way, reflecting the central, public role that exchanges and CCPs play in a globally integrated financial system.

If you have any further questions, or wish to follow-up on our contribution, the WFE remains at your disposal. Please contact:

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Response

The WFE welcomes the opportunity to respond to the Request for Comment on the Impact of Affiliations of Certain CFTC-Regulated Entities issued by the Commodity Futures Trading Commission (CFTC or the Commission). The WFE and its members actively promote efforts that are designed to ensure the safety and soundness of the global financial system, and appreciates the CFTC's work to enhance investor and consumer confidence, particularly in regards to addressing conflicts-of-interest (COI) amongst groups that own multiple regulated entities.

General Comments

COI management has long been a standard practice amongst WFE members, including groups owning a designated contract market (DCM), derivative clearing organization (DCO) and/or a swaps execution facility (SEF). Many WFE members operate within groups that own an exchange and CCP, including a DCM and DCO. The CFTC's principles-based regulatory framework appropriately recognizes that there are multiple means by which groups may be structured, which ultimately supports the innovation that allows for regulated entities to effectively and efficiently offer their services to meet clearing member and customer demands.

Collectively, the focus of WFE members has long been to provide for access to their risk management services, while supporting financial stability. This has led to various organisational structures arising under which CFTC-regulated entities offer their services, but regardless of the given structure, CFTC-regulated entities have a history of effectively addressing COI. Many of these entities are also Self-Regulatory Organisations (SROs), which are responsible for developing and enforcing rules that promote ethical and efficient practices. Broadly, COI are not new to these business organisations, and are conflicts that organisations are accustomed to managing.

Moreover, groups that own an exchange and/or CCP are often SROs and have strong regulatory and commercial incentives to support the stability of the broader financial system and maintain their reputational capital as trusted parties, and thus they adopt rules and policies that align with this. To ensure ethical and fair practices within a more diverse and shared infrastructure, groups that own an exchange and a CCP implement robust COI management procedures, such as implementing policies and mechanisms that prevent any undue advantage or bias among the businesses owned by the group. In particular, transparent governance arrangements, independent oversight, disclosure requirements, and compliance frameworks are some of the measures that have been proven to mitigate COI effectively.

Specific Comments

The Commission has embraced a principle-based approach consistent with the U.S. Commodity Exchange Act (CEA) of 1936, including with respect to requirements regarding COI, governance, and internal controls. This approach has proven particularly successful in ensuring DCMs and DCOs within the same group identify, mitigate, and manage COI in a way that is also consistent with CFTC Regulations 39.25 and 38.850.

While the CFTC's principle-based approach has proven successful, recent developments in the industry whereby a group owns a futures commission merchant (FCM) and DCO, DCM, and/or SEF suggest that the Commission should take additional steps to affirm that COI continue to be managed effectively, as this ownership has not as commonly been observed. In particular, recent occurrences in crypto-asset markets support this and demonstrates the need for an approach that promotes the effective management of COI for newer and unique ownership models.

Therefore, the WFE requests that the CFTC review its COI oversight and management practices around groups that own a futures commission merchant (FCM) in addition to a DCM, DCO and/or a SEF. When an FCM is a risk-taking entity, this creates inherently different COIs than in historically observed ownership models where the COIs and their management are well understood and well managed. It is the WFE's opinion that the two structures should be treated distinctly from a regulatory perspective, and that the CFTC should consider whether additional rules or guidance is necessary to address COI where a group owns an FCM and a DCO, DCM, and/or SEF. For example, this should consider whether the FCM needs to be a separate legal entity (but could have the same parent as a DCO/DCM/SEF) and what information sharing barriers and shared personnel restrictions are necessary between an FCM and an integrated DCO/DCM/SEF model if owned by the same group. At all times the relationships and related COI should be adequately

analysed, managed, and disclosed, and information barriers and other internal controls put in place and supported by fulsome analysis. It is of paramount importance that appropriate financial and customer asset safeguards remain in place.

In closing, the WFE wishes to restate its appreciation for the CFTC's work to enhance investor and consumer confidence in regards to addressing COI within a group that owns an FCM in addition to a DCO, DCM, and/or SEF, but stresses that the Commission should not deviate from its successful principles-based approach. We look forward to engaging on these issues further with the Commission.