

CHRONOLOGY OF COMMISSION, CFTC AND CONGRESSIONAL ACTIVITIES.
RELATING TO OPTIONS AND FUTURES ON FINANCIAL INSTRUMENTS

1936

Congressional adoption of amendments to the Grain Futures Act of 1922 (renaming the statute the Commodity Exchange Act ("CEA")) banning options transactions involving any commodity specifically identified in the CEA (primarily agricultural commodities) [Sec. 4c(a) fo the CEA].

1973

February 1 - Securities and Exchange Commission ("Commission") order granting registration of the Chicago Board Options Exchange ("CBOE") and authorizing commencement by the CBOE of a pilot program to trade standardized call options on approximately 30 underlying stocks. Securities Exchange Act Release No. 9985. (The organization founding the CBOE was the Chicago Board of Trade ("CBOT")).

1974

October 30 - Passage by Congress of amendments to the CEA which included: (1) establishment of the Commodity Futures Trading Commission ("CFTC") to regulate futures trading, (2) expansion of the definition of the term "commodity" to include "all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in" and granting the CFTC "exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option' . . .), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a . . . board of trade, exchange or market," [Sec. 2(a)(1) of the CEA] and (3) a prohibition against any person engaging in an options transaction "involving any commodity" not specifically identified in the definition of commodity contrary to any rules prescribed by the CFTC [Sec. 4c(b) of the CEA].

November 20 - Letter to Ray Garrett, Chairman, SEC, from Harley O. Staggers, Chairman, House Committee on Interstate and Foreign Commerce (November 20, 1974) reprinted in Hearings on S.249 Before Subcomm. on Securities of the Comm. on Banking, Housing, and Urban Affairs, 94th Cong., 2d Sess. 211-212 (1975), expressing concern that the broad definition of "commodity" and the grant of exclusive jurisdiction to the CFTC in the CEA, as amended, "could preempt the jurisdiction of the [Commission] over securities transactions on securities exchanges and options exchanges and in the over-the-counter market," and requested the views of the Commission.

1975

February 14 - Letter to Harley O. Staggers, Chairman, House Committee on Interstate and Foreign Commerce, from Ray Garrett, Chairman, SEC (February 14, 1975) reprinted in Hearing on S.249 Before Subcomm. on Securities of the Comm. on Banking, Housing, and Urban Affairs, 94th Cong., 2d Sess. 209-211 (1975), stating that the impact of the CEA on the regulatory authority of the Commission was unclear and proposed amending the Securities Exchange Act of 1934 to provide that the definition of "commodity" and the grant of exclusive jurisdiction to the CFTC in the CEA shall not "supercede or limit the jurisdiction of the Commission or the Courts of the United States or of any State with respect to accounts, agreements and transactions involving a 'security' within the meaning of the [securities laws]."

June 24 - Promulgation by the CFTC of an antifraud rule governing commodity options trading. 40 FR 26504. [Current CFTC Reg. §32.9].

September 11 - CFTC authorization of the CBOT to trade futures of Government National Mortgage Association pass-through securities ("GNMAs") ("collateralized depository receipt" contract). CFTC Release No. 48-75.

October 31 - Letter to William T. Bagley, Chairman, CFTC, from Roderick M. Hills, Chairman, SEC (October 31, 1975) citing regulatory problems resulting from the concurrent jurisdiction of the SEC and CFTC over futures on Treasury bills, and requesting a delay by the CFTC in designating additional contract markets for futures trading on financial instruments.

November 13 - Letter to William T. Bagley, Chairman, CFTC, from Roderick M. Hills, Chairman, SEC (November 13, 1975) expressing concern regarding the CFTC's prior designation of the CBOT as a contract market for trading futures on GNMAs and presenting a series of questions that should be addressed before futures trading on financial instruments is expanded. Among the questions raised were the relationship between options and futures on securities and the impact of such instruments on the underlying markets, as well as the impact of the securities and commodities laws on participants in the respective markets.

November 26 - CFTC authorization of the Chicago Mercantile Exchange ("CME") to trade futures on Treasury bills. CFTC Release No. 92-75.

December 3 - Issuance by the CFTC of a memorandum prepared by its General Counsel concerning the exclusive jurisdiction of the CFTC over futures trading and defending the CFTC's legal basis for asserting jurisdiction over futures on GNMA's and other financial instruments. [1975-1977 Transfer Binder]. Comm. Fut. L. Rep. (CCH) ¶20,117.

1976

November 24 - CFTC promulgation of regulations governing commodity options trading including registration, financial, segregation, disclosure and recordkeeping requirements. [Current CFTC Regs. §32.1-§32.12]. 41 FR 51808.

1977

April 5 - Proposal by the CFTC of a pilot program for exchange trading of commodity options, encompassing both options on the physical commodity and options on the commodity future. The CFTC proposed to include options on GNMA's and GNMA futures in the pilot. 42 FR 18246.

1978

February 7 - Letter to Elmer B. Staats, Comptroller General, General Accounting Office, from Harvey Pitt, General Counsel, SEC (February 7, 1978) ("Pitt letter") responding to the GAO's request, in contemplation of the impending CFTC reauthorization (the CFTC initially was authorized to receive appropriations until September 30, 1978), for the Commission's views on whether certain of the CFTC's regulatory responsibilities should be transferred to the Commission. In the letter Pitt discussed the similarities and differences between securities and commodities regulation and the problems arising from exclusive CFTC jurisdiction over markets that are derivative from underlying securities markets. The letter recommended that jurisdiction with respect to "futures contracts written on financial instruments and other securities, and options on such futures contracts" be vested solely in the Commission, with the CFTC retaining jurisdiction over "traditional futures contracts on tangible commodities."

February 22 - Prepared statement of Harold M. Williams, Chairman, SEC, Before the Subcomm. on Conservation and Credit of the House Committee on Agriculture concerning H.R. 10285 [House Bill to amend the CEA], elaborating on views expressed in Pitt letter.

March 21 - Prepared statement of Irving M. Pollack, Commissioner, SEC, Before the Subcomm. on Agricultural Research and General Legislation of the Senate Comm. on Agriculture, Nutrition and Forestry concerning S.2391 [Senate Bill to amend the CEA], elaborating on views expressed in Pitt letter.

April 5 - Letters to Patrick J. Leahy, Chairman, Subcomm. on Agricultural Research and General Legislation, Senate Comm. on Agriculture, Nutrition and Forestry (April 5, 1978) and to Ed Jones, Chairman, Subcomm. on Conservation and Credit, House Comm. on Agriculture (April 5, 1978), from Elmer Staats, Comptroller General, GAO, recommending (1) transfer to the SEC of jurisdiction over futures contracts on securities subject to registration under the Securities Act of 1933 (apparently including stock indexes), and (2) retention by CFTC of jurisdiction over futures on exempted securities, but with SEC having right to bring enforcement actions under Sec. 17(a), 20, and 22 of the Securities Act of 1933, subject to the CFTC's prior right to act.

April 13 - Letter to Senator Leahy from Robert Carswell, Deputy Secretary of the Treasury, (April 13, 1978) requesting that the Treasury be granted "the final right to approve or disapprove" the designation of futures contracts on securities issued or guaranteed by the United States.

April 17 - CFTC suspension of the offer or sale of all commodity options trading (with the exception of certain dealer options) due to the continuing occurrence of abuses in connection with the marketing of commodity options to the public. [CFTC Reg. §32.11]. 43 FR 16153.

April 17 - Letter to Senator Walter D. Huddleston from Harold Williams, Chairman, SEC (April 17, 1981) proposing that the CEA be amended to exclude from the definition of "commodity," "any security registered under the Securities Act of 1933, or an index, or interest in a pool, composed of such securities." The letter acknowledged that the proposed change was "a modest amendment with a very limited objective" and does not address the issue of jurisdiction over unregistered securities such as GNMA's and Treasury instruments.

April 18 - Letter to Herman Talmadge, Chairman, Senate Committee on Agriculture, Nutrition and Forestry, from James T. McIntyre, Director, Office of Management and Budget ("OMB") (April 18, 1978), endorsing the views of the GAO and the Treasury, and suggesting that the CFTC be restructured into a separate subcabinet agency.

August 3 - Withdrawal by the options exchanges in accordance with the terms of the voluntary options moratorium of a number of expansionary rule proposal relating to options, including proposals by the American Stock Exchange (SR-Amex-77-8) and CBOE (SR-CBOE-77-15) to trade options on government guaranteed debt securities. Securities Exchange Act Release No. 15027.

August 21 - Letter to William T. Bagley, Chairman, CFTC, from Irving M. Pollack, SEC (August 21, 1978) ("Pollack letter") commenting on a proposal by the Kansas City Board of Trade ("KCBT") to trade a futures contract on the Dow-Jones 30 Industrial Average. The letter addressed both the authority of the CFTC under the CEA to approve trading in the instrument and the regulatory concerns that would be presented, including unequal regulation of the proposed futures market and the Commission-regulated stock options markets.

September 30 - Amendment by Congress of the CEA adopting S.2391 which included (1) reauthorization of the CFTC through September 30, 1982, and (2) the imposition of a ban on all commodity options trading (with the exception of certain dealer and trade options) until such time as the CFTC transmits to the House and Senate Agricultural Committees "documentation of its ability to regulate successfully such transactions, including a copy of the [CFTC's] proposed regulations." [Section 4c(c) of the CEA]. The amendments did not modify the provisions of the CEA relating to the definition of the term "commodity" or to the jurisdiction of the CFTC. To address the concerns raised by the Commission, Treasury, OMB and GAO, the 1978 amendments inserted provisions requiring that the CFTC (1) allow the Treasury and the Federal Reserve Board ("FRB") an opportunity to comment on any proposal for

designation of a contract market involving transactions for future delivery of a security issued or guaranteed by the U.S. Government, or agency thereof, and (2) "maintain communications" with the Commission, FRB, and Treasury "for the purpose of seeking the view of those agencies" with respect to futures on securities and financial instruments [Section 2(a)(8) of the CEA].

October 25 - Prepared Statement of Ralph C. Ferrara, General Counsel, SEC, commenting of the KCBT Dow-Jones stock index and generally elaborating on the Pollack letter.

October 25 - Letter to William T. Bagley, Chairman, CFTC, from Theodore E. Allison, Secretary, FRB (October 25, 1978), urging that the CFTC, because of unresolved legal questions concerning the authority of the FRB to establish margin requirement for the proposed KCBT Dow-Jones Average futures contract, postpone authorizing the KCBT to trade the instrument.

1979

1980

January 31 - Letter to John L. Manley, Director, Division of Trading and Markets, CFTC, from Theodore E. Allison, Secretary, FRB (January 31, 1981), stating that the KCBT's proposed futures contract on the Value Line Stock Market Average would be "functionally substitutable" for an options contract and that in order to (1) prevent inequality of regulation between market participants in similar products and (2) prevent the potential for erosion in coverage of the FRB's margin requirements applicable to securities credit, it intended to establish margin requirements for the proposed futures contract.

February 19 - Letter to James M. Stone, Chairman, CFTC, from Irving M. Pollack, Commissioner, SEC (February 19, 1980), commenting on a KCBT proposal to trade a future on the Value Line Stock Market Average, and focusing principally on regulatory disparities.

May 12 - Publication of notice by the Commission of a proposed rule change by the CBOE to trade options on GNMA's (SR-CBOE-80-7). Securities Exchange Act Release No. 16601.

November 21 - Publication of notice by the Commission of a proposed rule change by the CBOE to trade options on U.S. Treasury securities (SR-CBOE-80-8). Securities Exchange Act Release No. 17325.

1981

January 22 - Publication by the CFTC of a proposal by the CBOT to trade futures contracts on 10 stock portfolios, each portfolio corresponding to a particular industry (i.e., airplanes, chemicals, telecommunications, etc.) and composed of 300 shares of five different stocks (cash delivery only). 46 FR 7042.

February 26 - Commission approval of CBOE proposal to trade options on GNMA's (SR-CBOE-80-7). Securities Exchange Act Release No. 17577.

February 26 - Commission publication of notice of a proposal by the NYSE to trade options on GNMA's (SR-NYSE-81-4). Securities Exchange Act Release No. 17578.

March 16 - Publication of notice by the Commission of a proposed rule change by Amex to trade options on U.S. Treasury securities (SR-Amex-81-1). Securities Exchange Act Release No. 17632.

March 16 - Publication of notice by the Commission of a proposed rule change by NYSE to trade options on U.S. Treasury securities (SR-NYSE-81-5). Securities Exchange Act Release No. 17631.

March 27 - Publication of notice by the Commission of a proposed rule change by the Philadelphia Stock Exchange to trade options on foreign currency (SR-Phlx-81-4). Securities Exchange Act Release No. 17666.

April 21 - Publication by the CFTC of a proposal by the Commodity Exchange ("COMEX") to trade a futures contract on the COMEX 500 Stock Index. 46 FR 22783.

June 4 - Letter to John L. Manley, Director, Division of Trading and Markets, CFTC, from Ralph C. Ferrara, General Counsel, SEC (June 4, 1978), commenting on a proposal by the CME to trade a futures contract on the Standard and Poor's 500 Stock Index. 46 FR 30847.

June 11 - Publication by the CFTC of proposal by the New York Futures Exchange ("NYFE") to trade futures contracts on the New York Stock Exchange Equity, Financial, Transportation, and Utility Indexes. 46 FR 30847.

June 11 - Publication by the CFTC of a proposal by NYFE to trade a futures contract on corporate bonds (AT&T and subsidiaries) (physical delivery). 46 FR 30844.

June 29 - Republication by the CFTC of the terms and proposed rules governing a pilot program for exchange trading of commodity options. The proposal is limited to options on futures contracts, deleting the prior proposal also to trade options on physical commodities. 46 FR 33293.