AT ISSUE

Tax on Futures Trading

yes

By PHILIP McBRIDE JOHNSON

FOR SEVERAL months this year, the American economy tensely waited as Congress and President Reagan worked to resolve their differences and develop a federal budget.

This vigil ended on June 22, when Congress enacted its new budget resolution for fiscal 1983, a complex compromise that is only a blueprint with broad spending targets. To make sure the deficit doesn't exceed even the $115 billion now projected, Congress must still meet certain painful assumptions—cutting spending by $6.5 billion and raising taxes by $20.9 billion during the budget reconciliation process. Without these steps, the deficit ceiling could easily be penetrated.

Every major financial federal regulatory agency collects stipends from its regulated industry, including the Federal Reserve Board, the Federal Home Loan Bank Board, the Controller of the Currency, and the Federal Savings and Loan Insurance Corp. Since 1934, small transaction fees have been charged on all American stock exchanges to help offset the costs of the Securities and Exchange Commission—a system like the CFTC fee proposal—yielding some $18 million annually. The fees for commodity traders will simply parallel what has existed in the securities industry for 48 years, putting the CFTC on an even plane with the SEC.

Within the next several weeks, the Senate will consider S. 2109, a bill developed by the Administration and the Commodity Futures Trading Commission, which I head. The measure would allow the CFTC to continue operating and would increase its effectiveness in overseeing the commodity futures markets. At that time, Sens. William Roth (R., Del.), Warren Rudman (R., N.H.) and William Proxmire (D., Wis.) will offer a bipartisan proposal to restore in the bill a provision, deleted in committee, that would place a fee on futures transactions to defray CFTC expenses. Depending on annual futures volume, the fee could cover most, if not all, of the CFTC's budget (now about $20 million a year), with an equivalent saving to most American taxpayers.

Here is how the fee would work. The 11 commodity exchanges would pay into the Treasury each year 6 or 12 cents per transaction. The lower figure would apply to those traders who are already financing industry self-policing activities; the higher, to all others. Payments would stop once the CFTC's budget for the year has been covered, and the CFTC could grant relief from the fees under certain circumstances. Since the fees would go directly to the Treasury, and not into the CFTC's hands, Congress would continue to have the final say about the agency's spending via the regular appropriations process.

The Administration supports a transaction fee for commodity exchanges. In fact, Budget Director David Stockman has declared that the Administration will oppose S. 2109 without such a fee. That would jeopardize the CFTC's operations. Stockman has said there is "absolutely no justification whatsoever for the general taxpayer to shoulder the cost of the special benefits conferred upon the commodity futures market" by the CFTC's regulatory programs.

In the opposite corner is the commodity industry, adamantly opposed to any federal transaction fee. It contends that a fee would only add to the spiraling costs of its own self-regulatory programs; that it would doom a new private policing body, the National Futures Association, which also needs the industry's financial support; and that the NFA, once operational, would substantially reduce federal costs by taking over some CFTC functions.

Like most federal agencies, the CFTC is subject to the budget-cutting knife. But the CFTC's fiscal problems are not typical. From 1975 until today, its budget increases have averaged only about 4% a year. Its staff of 470 has not changed significantly in size over the period.

Yet the growth of the futures markets over the past decade has been spectacular. The total of futures contracts traded has climbed from 12 million a year to 101 million.

This has meant billions of dollars for the commodities futures industry in sales commissions, interest income and other revenues for fewer than 400 brokerage houses and 7,000 other professionals who deal with the less than 1% of Americans trading in the futures market. For the small band of Americans who do trade futures, quite a few millionaires have been produced, along with a number of paupers. But prosperity has certainly occurred for the industry as a whole. Credit for this modern success story must go to the ingenuity and business acumen of the exchanges, the brokerage community, and those who provide other professional services. But one other factor also has been at work here. It is what Stockman calls the "special benefits" conferred by the CFTC's presence: public confidence in the market's integrity.

The growth of the commodity business has increased the industry's costs, of course. As always, it takes money to make money. The futures exchanges, for instance, have increased their budgets many times in the past 10 years. How? Mainly by imposing transaction fees! The Chicago Board of Trade, the nation's largest futures market, raised $13 million from such fees alone last year.

The Roth/Rudman/Proxmire proposal would add just 6 to 12 cents to the cost of each trade. To put this in perspective, it's helpful to look at the other costs involved in a single futures transaction. Silver futures contracts on the New York Commodity Exchange (Comex) will be used as the illustration:

Market value, one contract:	**$30,000.00**
Required customer deposit:	**$ 6,000.00**
Sales commission:	**$ 60.00**
Comex transaction/ clearing house fees:	**$ 2.50**
CFTC transaction fee:	**$ 0.12**

Clearly, the CFTC fee would be inconsequential when compared with the other costs. Indeed, the CFTC would be well below the cost of a first-class postage stamp or a local telephone call. Can't the industry afford that? ■

Philip McBride Johnson, the chairman of the Commodity Futures Trading Commission, was assisted in the research for, and preparation of, this article by Kenneth D. Ackerman.

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Illustration: David Allen

By LEIGHTON W. LANG

PRESIDENT Reagan's budget message to Congress for fiscal year 1983 called for legislation to impose approximately $20 million in annual "user fees" on commodity futures transactions to offset "identifiable benefits" supposedly provided the futures industry by the Commodity Futures Trading Commission.

In a letter to members of Congress, Budget Director David Stockman said there is "absolutely no justification whatsoever for the general taxpayer to shoulder the cost of the special benefits conferred upon the commodity futures market by the programs of the CFTC." CFTC Chairman Philip Johnson similarly has referred to the targets of "user fees" as "recipients of narrowly focused government services."

The statements of Reagan, Stockman and Johnson, as well as the choice of the term "user fee," are based on the fallacious assumption that the futures industry is receiving something from the government that the industry should pay for. That's wrong on several counts.

For one thing, the entire apparatus of futures trading—the exchanges, clearing organizations, and brokerage firms—is privately owned and is not the recipient of any "narrowly focused government services."

Far from being a special benefit to the futures industry, moreover, federal commodities regulation originated a half-century ago to protect farm interests against certain real and perceived abuses associated with futures trading at that time. In his legal treatise *Commodities Regulation*, Johnson points out "The [Commodity Exchange] Act's original roots, for example, were sunk deeply and securely in the protection of agricultural interests." Skyrocketing prices and consumer interests largely inspired Congress to establish the CFTC in 1974. The Commodity Exchange Act explicitly states that its purpose is to protect the "national public interest" and to curb practices that may be "detrimental to the producer or the consumer."

Nothing in the legislative history of the act suggests that it was in any way designed to confer special benefits on the futures industry, and none in fact has been conferred.

According to Johnson, the dramatic growth of the futures industry has resulted, at least in part, from public confidence in the markets generated by the CFTC's "constant oversight." However, this argument fails to explain the tremendous growth experienced by the industry prior to the CFTC's establishment in 1975. Moreover, any such results produced by CFTC oversight have been incidental to the primary purposes of the oversight and have been offset by CFTC actions limiting industry growth, such as the moratoriums on stock index futures and options. In any event, since the agency has failed to quantify the costs and alleged benefits involved, there's no basis for assessing a "user fee."

The CFTC has searched vainly for a logical rationale for imposing "user fees." In January, the agency's staff conceded in a study on the subject that "It is difficult to quantify or correlate the benefits of specific [CFTC] regulations to specific persons who participate in the futures market and who, presumably, are the beneficiaries of the commission's oversight." It was so difficult that the agency gave up trying. In testimony before Congress supporting "user fee" legislation, Johnson failed to specify any "clearly identifiable benefits."

About the only surviving argument in favor of "user fees" is simply that they will raise more revenue for the government. So far, however, Congress has been unimpressed, and the "user fee" plan has been overwhelmingly defeated by bipartisan votes in both the House and Senate agriculture committees.

Although no one knows what legislation Congress will pass, die-hard proponents of the measure have the difficult task of overcoming a growing awareness among Congressmen and Senators that, since the futures industry receives no special services from the CFTC, the "user fee" concept is totally inapplicable to futures trading. ■

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