A Future for the CFTC?
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The House Committee on Government Operations, after holding hearings and engaging in deliberations, has delivered a report on the crash of the silver market in March of 1980. The committee wags a finger at the Hunt brothers, but saves its serious shaking for the Commodity Futures Trading Commission. Authors of the report seem to think that the CFTC had the power to avert collapse but—heaven forfend—did not exercise it. The remedy? Simple, says the committee, give it more power.

What makes this of-the-moment—and not just another government regulation joke—is that the CFTC comes up for congressional reauthorization in 1982. Instead of a tiring debate, with a parade of witnesses all discussing the merits of expanded powers, we'd like to suggest a better route: fold the CFTC.

The commission was established in 1975 to protect the unwary from disorderly markets. It was given two weapons: the power to "do" surveillance and to authorize trading in new contracts. The surveillance part — designed to prevent unscrupulous manipulation of the market—consists mostly of harmlessly making the separate trading exchanges beef up their own surveillance.

Authorizing new contracts, however, has proved to be downright injurious. It takes the commission about a year to pass on new contracts. Propane gas futures, for example, which just started trading on the New York Cotton Exchange this month, took almost a year to get off the mark. And propane has been traded previously on the COMEX and NYCE. For something new and different, like Stock Index futures, it took four years for the Kansas City Board of Trade to receive a go-ahead.

Such delays carry social costs. Hedgers—users and producers—who wish to hedge their risks are prevented from doing so. In fact, New York University Professor William Silber, in a study published this year, found that the social costs of CFTC contract authorization outweighed the benefits.

So why have a CFTC at all? Why, indeed? The futures exchanges are generally recognized as self-regulatory organizations. The exchanges themselves are owned by their members; and their purpose is, of course, to generate trading profits for those members. One rotten broker could spoil the whole deal for everybody. Thus there is strong incentive for exchanges to be self-policing.

Protection of its members and the public is, after all, what's behind the exchange practices of setting price limits on trading. Even beyond the issue of self-surveillance, competition among exchanges—there are 10 of them—is sufficient to promote new ideas and refinements in the contracts themselves. There are occasional excesses, as the silver bubble demonstrated. But in that case, the market inflicted its own punishments quite effectively, and in our view, things worked out better than they would have if the CFTC had tried to meddle in those fast-moving events.

There is, then, no good reason for the government to regulate the futures market. Competition fosters responsiveness and self-interest mandates surveillance: The country's futures players are well-served. Indeed, it seems that the only palpable impact of government regulation has been to impede the workings of the market. As usual.

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