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COMMENT

OFF. OF THE SECRETARIAT

May 1, 2003



VIA E-MAIL AND FEDERAL EXPRESS

Jean A. Webb, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RECORDS SECTION

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Re: Proposed Rules for CPO and CTA Registration and Other Regulatory Relief

Dear Ms. Webb:

The Bond Market Association ("the Association" or "TBMA") welcomes the opportunity to submit comments in response to the Commission's proposed rules to provide additional registration and other regulatory relief for Commodity Pool Operators ("CPOs") and Commodity Trading Advisors ("CTAs"), 68 Fed. Reg. 12622 (Mar. 17, 2003). The Association represents securities firms and banks that underwrite, distribute, and trade in fixed-income securities, both domestically and internationally.¹ Our members have a strong interest in the operations of the futures markets, both as participants in those markets and because futures market trading has an important impact on the markets in fixed income securities.

The Association strongly endorses the Commission's proposals. As the Commission is aware, TBMA and its members have been enthusiastic supporters of the Commission's efforts over the past few years, on its own initiative and in the wake of the passage of the Commodity Futures Modernization Act of 2000, to examine systematically its regulatory structure and to consider the wisdom of reform in light of the sometimes dramatic changes in the markets. More particularly, we applaud the Commission's continuing effort, as reflected in these most recent proposals, to make appropriate distinctions in its regulatory structure between, on the one hand, retail customers, and, on the other hand, institutional and other more sophisticated participants in the markets. As we have said in comments on other proposals by this agency and by other financial regulators, we believe that the markets will operate more effectively and efficiently consistent with the goals of regulation when regulatory requirements are adjusted to take into account the differing needs of various market participants. As the Commission has come to appreciate, "one size fits all" seldom works well. This current set of proposals is another important step in implementing that regulatory philosophy.

¹ More information about the Association is available on its web site, <http://www.bondmarkets.com>.

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TBMA believes that these particular reforms are well thought out and will improve the operation of the markets while continuing to provide appropriate protection for the market participants. As the notice accompanying the proposed rules sets forth, the Commission engaged in a very deliberate process in arriving at these proposals. Based on our knowledge and experience with the regulatory structures in the securities and other financial markets, these proposals are not radical departures from the norm. Rather, we believe these proposals are entirely consistent with the approach taken in similar contexts in other markets. In a growing number of instances in recent years, the Congress, the Securities and Exchange Commission ("SEC") and the National Association of Securities Dealers have recognized the special status of institutional and other sophisticated investors. They have recognized (for the markets they oversee), as the Commission is doing here, that allowing these market participants the flexibility to be innovative and to avoid unnecessary costs will "encourage and facilitate participation in the commodity interest markets by additional collective investment vehicles and their advisers, with the added benefit to *all* market participants of increased liquidity." 68 Fed. Reg. 12625.

This consistency of approach is extremely important to our members. For financial institutions that are actively participating across the range of regulated markets, unnecessary variations and duplications in definitions, requirements and approaches create tremendous costs and burdens. It is incumbent upon regulatory policy makers to look very closely at the question of whether the imposition of these costs and burdens can be justified, particularly where the goals and objectives of the underlying regulatory schemes may be very similar if not identical. We have consistently impressed upon all regulators with whom our members must interact the importance of addressing this issue to the effective and efficient operations of the markets. We applaud the Commission for its efforts in recent years to address this issue forthrightly, as reflected once again in these proposals.

Specific Proposals

As discussed above, TBMA generally supports the proposal. Below, we offer a few comments as to specific provisions.

Amendment of Rule 4.5:

The Association agrees that where a CPO is otherwise regulated, the existing restriction on non-hedging transactions has outlived its usefulness. For the reasons noted in the release, it threatens to restrict trading unduly. We also concur that similar relief is appropriate where the pool participants are sophisticated. As discussed above, it has been the Association's position that regulatory schemes must be adjusted to take account of the differing needs of market participants, and this is a good example of such an effort.

Amendment of Rule 4.13(a)(2):

The proposal to take into account the effects of inflation in setting the monetary limitation in this exemption will allow the rule to continue to have its intended impact while taking into account one of the most basic changes in the marketplace over time. As the notice points out, the adjustment in the method for calculating the number of participants in the pool eligible for exemptive treatment is consistent with the regulatory approach under the securities laws, and should be adopted for that reason.

Alternative Proposal For Notice Registration System:

The Association believes that the current proposal, to provide for exemptions from regulation, is preferable to a similar system of notice registration. We believe the public is likely to be confused by a system that labels entities as "registered" even though they are subject to differing levels of regulation. We believe it will be easier for the public to understand that an entity that is "exempt" from registration may be still subject to certain statutory requirements, including under the CEA.

Amendment of Rule 4.14:

The Association strongly endorses the regulatory approach reflected in proposed Rule 4.14(a)(8). They reflect the good public policy of avoiding duplicative regulation (of state-registered Investment Advisers), unnecessary jurisdictional overreaching (of advisers of pools organized outside the United States), and consistent treatment (exempting advisers to pools that themselves are subject to exemption). Similarly, the proposal to reform Rule 4.14(a)(10) reflects the Commission's effort to make its analytic approach consistent with that of other financial regulators addressing similar circumstances – in this case, the SEC's manner of "counting" non-natural persons for purposes of implementing provisions of the Investment Advisers Act. We again applaud and fully endorse this effort, which is extremely important for the efficient operations of companies that operate across the markets overseen by the various financial regulators.

Amendment of Rule 4.21, Rule 4.22 and Rule 4.31:

The Commission's proposal to ease the requirements that currently prevent CPOs and CTAs from even soliciting clients prior to the provision of the Disclosure Document will bring the Commission's approach in line with the disclosure requirements in similar contexts by the securities regulations. The SEC's rules governing penny stocks, the procedures governing initial public offerings, and confirmation disclosures, have all been premised on the understanding that customer interests can be adequately protected as long as they received the disclosure documentation prior to final consummation of a transaction. We applaud the Commission for recognizing that its current regulatory scheme imposes unnecessary burdens that other regulators have already agreed can be lifted without compromising customer protection.



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The elimination of unnecessary distribution of documents to closely affiliated CPOs is also a welcomed example of the effort to examine and dispense with requirements that impose costs with little practical benefit. Even more important in that regard is the proposal to permit electronic distribution of account statements and to allow facsimile signatures on account statements and annual report oaths and affirmations. Adapting regulatory requirements to take advantage of the efficiencies and cost saving associated with technological advances is critical to market participants like our members, who are constantly under pressure by the competitive forces of the marketplace to use the most cost-effective methods of accomplishing their goals. These proposals are entirely consistent with the changes being made by the other financial regulators, who have also recognized that customer protection does not require insistence on adherence to traditional methods of communications. Rather, the goal should be to analyze how regulatory goals can be accomplished through new technologies more efficiently and often more effectively. Again, we applaud the Commission for its willingness to reassess its regulations in light of the changes in the marketplace that it oversees.

TBMA appreciates this opportunity to comment on the Commission's proposals. We believe the Commission has once again demonstrated its commitment to ensuring that its regulations accomplish the goals of the Commodity Exchange Act without creating unnecessary barriers to the efficient operation of the markets and without imposing undue costs on those who seek to use the markets. The Commission should be proud of its efforts in this regard.

Please feel free to contact the undersigned, or John Ramsay, Senior Vice President and Regulatory Counsel, at 646.637.9230, with any questions.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paul Saltzman".

Paul Saltzman
Executive Vice President
and General Counsel

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cc: *Commodity Futures Trading Commission*

James E. Newsome, Chairman
Barbara Pedersen Holum, Commissioner
Walter L. Lukken, Commissioner
Sharon Brown-Hruska, Commissioner
Barbara S. Gold, Associate Director,
 Division of Clearing and Intermediary Oversight
Christopher W. Cummings, Special Counsel,
 Division of Clearing and Intermediary Oversight

The Bond Market Association

Cross-Market Compliance Committee
Corporate Credit Markets Legal Advisory Committee
Funding Legal Advisory Committee
Government Division Legal & Compliance Committee
MBS/ABS Legal Advisory Committee
Municipal Legal Advisory Committee
John Ramsay, Senior Vice President and Regulatory Counsel
Frank Hampton, Senior Vice President, Legislative Affairs