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NIBA

THE NATIONAL INTRODUCING BROKERS ASSOCIATION
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2003 SEP -8 PM 3:06

September 4, 2003

Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

COMMENT

Re: Proposed Rules for Risk-Based Capital

Dear Ms. Webb:

The following comments are submitted for the record from the National Introducing Brokers Association (NIBA). NIBA, founded in 1991, is an organization of Introducing Brokers (IBs) and other retail professionals, which lists among its associate members 14 futures commission merchants (FCMs), 12 domestic futures and options exchanges, and various vendors and suppliers of goods and services.

The mission of the Association is to assure that IBs stay in business, and that business is conducted at a highly professional level. Our goals are: 1) To represent the concerns of the IB community; 2) To offer substantial and useful ideas for IBs' continued growth and prosperity; and, 3) To provide a forum in which IBs can communicate with one another.

The Association's newsletter is published online, and updated 10 times per year. Over two hundred industry professionals are expected to attend the Association's 12th annual conference to be held in Chicago, November 7 and 8, 2003.

NIBA supports the proposed amendment to Rule 1.17(a), deleting the current provisions of Rule 1.17(a)(1)(i)(B) with one exception. We suggest that the Commission should not add the capital requirements language as set forth in the proposal. We submit that by removing the paragraph (a)(1)(i)(B) provisions, the Commission will achieve the intent of the proposed amendments. In addition, we support the recent FIA proposal that the industry itself undertake an analysis of the risk-based capital requirements and make recommendations as necessary to the NFA and the Commission.

The Association strongly opposed the proposed amendments to Commission Rule 1.17(c)(5)(viii) and(ix) which reduce the time within which an FCM must take a charge for undermargined accounts. NIBA believes this change will impose a heavy burden on FCMs and, in turn, the IB community. IBs' customers such as smaller hedgers or retail customers very rarely meet margin calls by bank wire.

These types of customers typically continue to meet margin calls by means of a check. If the proposed rule change is adopted, all customers would, in effect, be required to send funds by wire transfer or other electronic means. The cost of requiring an IB's customers to send funds by wire, for which most banks charge substantial fees, would have a deleterious impact on participation by these customers in the market. It is impractical for IBs and FCMs with a large retail client base to expect that margin payments will be received in less than three business days. Therefore, the rule, if changed, would be burdensome to the industry.

NIBA supports the Joint Audit Committee's suggest that the Commission eliminate the early warning notice requirement entirely in light of the requirement that FCMs file financial reports monthly.

The National Introducing Brokers Association is pleased to be a valuable part of this dialogue, and offers our continued help and support in building the new regulatory framework for our industry.

Sincerely,

Melinda H Schramm

National Introducing Brokers Association
By its Board of Directors
Melinda H. Schramm, Chairman

cc: Honorable James E. Newsome, Chairman
Honorable Barbara P. Holum
Honorable Walter Lukken
Honorable Sharon Brown-Hruska

FIA
NIBA Members