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Via email secretary@cftc.gov

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RECORDS SECTION

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, D.C. 20581

COMMENT

Dear Ms. Webb:

Cargill Investor Services ("CIS"), a registered futures commission merchant ("FCM"), respectfully submits this comment letter in response to two of the Commodity Futures Trading Commission's ("the Commission") proposed changes to Commodity Exchange Act Rule 1.17:

A. The Commission's proposed changes to Rule 1.17(a), would eliminate the net capital calculation based on the segregated amount by replacing the segregated amount method with a calculation based on the required maintenance margin levels for customers and non-customer futures and option positions.

B. The Commission's proposed changes to Rule 1.17(c)(5)(viii) would reduce the collection time before a capital charge would be required to be taken to one business day following the issuance of call for both customer and non-customer accounts.

CIS commends the Commission's decision to implement a risk-based approach to net capital requirements. CIS recognizes the changing nature of the industry and the value that is provided by the adoption of a net capital calculation based on customer and non-customer maintenance margin levels. The proposed amendments will increase customer safeguards and enhance the credibility of the industry. Although CIS endorses the Commission's overall proposed amendment, CIS believes the 150% early warning level places an unnecessary regulatory burden on the FCM.

An effective risk-based requirement will increase the accuracy and relevance of the calculation by more closely aligning the FCM's risk with its required capital calculation. An accurate and relevant requirement calculation will remove the need for an arbitrary warning level. The 150% early warning level adds a level of redundancy that was necessary with the segregated amount, but is unnecessary using a risk-based calculation.

The proposed amendment to Rule 1.17(a) may encourage FCMs to increase customer balances by eliminating the regulatory cost imbedded in the segregated amount calculation. Increasing customer balances in excess of required margin will provide the FCM with an increased cushion against customer defaults. In addition, without a corresponding capital charge, it should provide the FCM community supplementary opportunities to investment excess customer funds. The expected increase in customer funds reduces the probability of financial crises that is the CFTC's stated purpose for maintaining the 150% early warning level. CIS believes the 150% early warning level should be eliminated as the Commission stated purpose for maintaining the 150% early warning will be accomplished by market forces as FCMs compete to increase customer balances in excess of required margin.

CIS concurs with the Commission's assertion in the proposed amendment to Rule 1.17(c)(5)(viii) that the majority of customers today use electronic methods of payment, such as Fed Wires and ACH, for the covering of margin calls. However, CIS believes that there is a sizable minority of primarily retail customers who prefer to pay using traditional methods. CIS believes these customers and the FCMs that carry their accounts should not be penalized for the use of standard methods of payments. The reduction of allowable time before a capital charge is required will negatively affect the retail customer. Increased cost associated with servicing this market segment will encourage higher commissions and lower market access for the retail customer. In addition, customers' payments in some foreign currencies have a limitation of two-day valuation resulting in a capital charge to the FCM under the proposed rule change. CIS asserts that the proposed amendment to 1.17(c)(5)(viii) reduces the time allowed to collect a margin call without regard to an important customer segment that does not have the facilities to meet the more stringent requirements.

CIS anticipates with only a moderate retail and foreign currency customer base of doubling to tripling our daily capital charge. The proposed amendment would see margin charges increased due solely to externalities out the control of the FCM, and not due to an inherent increase in the riskiness of the customer on call. CIS respectfully requests that the Commission reviews the proposed benefit of the new amendment against the expected affect on retail and foreign currency margined customers.

CIS appreciates this opportunity to comment on the Commission's proposed amendments to Rule 1.17.

Sincerely,

Shaun D. O'Brien

Shaun D. O'Brien
Senior Vice President and
Chief Financial Officer