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September 8, 2003

Ms. Jean A. Webb  
Secretary  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Washington DC 20058

COMMENT

**Re: Minimum Financial and Related Reporting Requirements for Futures Commission Merchants and Introducing Brokers, 68 Fed.Reg. 40835 (July 9, 2003)**

Dear Ms. Webb:

Fimat USA, Inc. ("Fimat") appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission's") proposed amendments to the minimum financial requirements and related reporting requirements, 68 *Fed.Reg.* 40835 (July 9, 2003). Fimat is registered with the Commission as a Futures Commission Merchant ("FCM") and is a part of the Fimat Group. The Fimat Group has a global network of 22 offices and is a member of nearly 40 of the world's largest derivatives exchanges and 10 stock exchanges. The Group provides global clearing and execution services to institutional users of derivatives and securities markets worldwide.

Fimat is also a member of the Futures Industry Association ("FIA") and is one of several FCMs that took part in drafting the comment letter that FIA submitted with respect to the above-referenced amendments. Fimat supports the position set forth in the FIA's letter, which endorses a risk-based approach to capital requirements but opposes the proposed amendments that would apply an early warning notice requirement. Specifically, Fimat agrees with the FIA and the Joint Audit Committee that the early warning notice requirement must be eliminated.

Fimat, as well as other FCMs, have been operating under the Chicago Mercantile Exchange, Chicago Board of Trade and Board of Trade Clearing Corporation's risk-based capital requirements for several years. These requirements have operated to ensure the financial integrity of the markets and clearing houses during record volume and volatile market conditions. We believe that any requirement to provide notice to the Commission if an FCM's adjusted net capital falls below the early warning level, 150% of its minimum financial requirement, is unnecessary and imposes a significant burden.

Fimat maintains capital well in excess of the CFTC and exchange/clearing house requirements. The firm conducts regular stress testing of its positions assuming various

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market conditions to ensure that the firm's capital levels are more than sufficient and well in excess of any minimum standards. Fimat opposes the early warning requirement, as the practical effect will be that the 150% level will become the minimum the capital requirement. FCMs will not want to file public notices with the Commission that their capital has reached the early warning level, thereby effectively increasing the capital level to 150%. This significant increase in the capital requirement will be extremely costly and unnecessary. We believe that there are currently enough financial safeguards in the system that does not warrant this additional measure. These include the current risk-based levels, the monthly reporting requirements for FCMs and exchange and clearing house monitoring of member firms' financial conditions.

Fimat also endorses the FIA's position which opposes any change to the current rule with respect to capital charges for undermargined accounts. We believe that the existing time frames for imposition of these charges are sufficient. The Commission's proposal to reduce the time frame to one business day does not take into consideration the institutional nature and significant non-US participation in the markets. Accordingly, we believe that the requirement should remain unchanged

Fimat hopes that these comments are helpful to the Commission as it considers the proposed rule amendments. If the Commission has any questions concerning this letter, please contact Eileen T. Flaherty, at (312) 578-5137.

Sincerely,



Cynthia Zeltwanger  
President and Chief Executive Officer

cc: Honorable James E. Newsome, Chairman  
Honorable Barbara Pedersen Holum  
Honorable Walter L. Luken  
Honorable Sharon Brown-Hruska

Jane K. Thorpe, Director  
Thomas J. Smith, Deputy Director  
Division of Clearing and Intermediary Oversight