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Bonnie S. Litt
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Goldman Sachs

December 9, 2004

COMMENT

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

2004 DEC -9 PM 3: 12

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**Re: Proposed Amendments to Commission Rule 1.55(d)(1)—
Distribution of Risk Disclosure Statement, 69 Fed.Reg. 64873
(November 9, 2004)**

Dear Ms. Webb:

Goldman, Sachs & Co. ("Goldman Sachs") welcomes the opportunity to submit this letter in response to the Commodity Futures Trading Commission's ("Commission") request for comments on its proposed amendment to Rule 1.55(d)(1). A wholly owned subsidiary of The Goldman Sachs Group Inc., Goldman Sachs is a leading global investment banking, securities and investment management firm that provides a wide range of services worldwide to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals. The company is registered with the Commission as a futures commission merchant ("FCM"), commodity pool operator and commodity trading advisor and is also registered with the Securities and Exchange Commission as a broker-dealer. Goldman Sachs or its affiliates are members of all major securities and futures exchanges worldwide and act as dealers and market makers in a wide range of financial instruments.

Goldman Sachs is pleased to support the Commission's proposed amendment to Rule 1.55(d)(1). As explained below, we also urge the Commission to concurrently adopt an amendment to Commission Rule 1.55(f), which the Commission had earlier adopted as part of its New Regulatory Framework¹, but subsequently withdrew.

¹ The rules comprising the New Regulatory Framework, adopted in November 2000, were withdrawn following enactment of the Commodity Futures Modernization Act to ensure that the rules were consistent with that Act. The vast majority of the amendments, but not the amendments to Rule 1.55, were reissued in October 2001. 66 Fed.Reg. 53510 (October 23, 2001).

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The proposed amendment to Rule 1.55(d)(1) would expand the prescribed disclosures, consents and elections that non-institutional customers are authorized to acknowledge having received and made through the use of a single signature to include the consents required under Commission Rules 155.3(b)(2) and 155.4(b)(2).² The Commission, with the unanimous support of all commenters that discussed the issue, had adopted amendments similar to those proposed as part of its New Regulatory Framework. However, the Commission, without explanation, did not include the amendment to rule 1.55(d)(1) when it subsequently reissued its revised rules following the enactment of the Commodity Futures Modernization Act of 2000. The current proposal would correct this apparent oversight.

Concurrent with the amendment to Rule 1.55(d)(1) in 2000, the Commission also adopted an amendment to Rule 1.55(f). This amendment would have authorized FCMs to open accounts for institutional customers without obtaining the consents required under Rules 155.3(b)(2). Specifically, Rule 1.55(f) was amended to read:

(f) A futures commission merchant or, in the case of an introduced account, an introducing broker, may open a commodity futures account for an "institutional customer" as defined in §1.3(g) without furnishing such institutional customer the disclosure statements or obtaining the acknowledgments required under paragraph (a) of this section, §§1.33(g) and 1.65(a)(3), and §§30.6(a), 33.7(a), 155.3(b)(2) and 190.10(c) of this chapter.

The practical effect of this amendment was to permit each FCM to determine the most appropriate means of obtaining the consent required under this rule.

The Commission did not propose to amend Rule 1.55(f) in the instant *Federal Register* release. In discussions with Commission staff, however, we understand that the Commission did not make an affirmative decision to omit Rule 1.55(f) from its proposal. Again, the omission appears to have been inadvertent. Since the Commission previously requested comment on this amendment and received uniform support for its adoption, Goldman Sachs urges the Commission to adopt the amendment to Rule 1.55(f), originally adopted in November 2000, as a final rule at the same time that it takes action on the amendment to Rule 1.55(d)(1).

² Rules 155.3(b)(2) and 155.4(b)(2), respectively, authorize an FCM and an introducing broker, with the consent of the customer, to knowingly take the opposite side of a customer's order.

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We appreciate the opportunity to submit these comments on the proposed amendments to Commission Rule 1.55 and would be pleased to discuss the views expressed in this letter with the Commission or members of the staff at their convenience.

Sincerely,



Bonnie S. Litt

cc: Honorable Sharon Brown-Hruska, Acting Chairman
Honorable Walter L. Lukken, Commissioner

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