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April 4, 2005

~~VIA Electronic Delivery~~ SECTION
Ms. Jean A. Webb, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

RE: Proposed Withdrawal of Interpretation No. 10

Dear Ms. Webb:

The Joint Audit Committee ("JAC")¹ appreciates the opportunity to comment on the Commission's proposal to withdraw Financial and Segregation Interpretation No. 10, "Treatment of Funds Deposited in Safekeeping Accounts". The Committee agrees with the proposal to withdraw the Interpretation but believes that safekeeping, or third party custodial accounts should only be permitted where the Registered Investment Company ("RIC") is not permitted to deposit funds directly with a futures commission merchant ("FCM") as is still the case with FCMs affiliated with the RIC.

As the Commission acknowledges in the Release, safekeeping, or third party custodial accounts have posed regulatory concerns since the introduction of Interpretation No. 10 in 1984. Specifically, there have been a number of instances noted during the course of regulatory audits wherein the customer has successfully withdrawn funds from its third party custodial account without the prior knowledge or consent of the FCM. In most cases, these withdrawals did not come to the attention of the FCM until it reconciled its cash or custodial accounts at month end. FCMs were forced to reconcile their accounts on a daily basis at additional cost to the firms. While this enabled FCMs to disclose unauthorized withdrawals sooner, it did not prevent the customer from making them.

As currently written, the Commission's proposal still permits the use of third party custodial accounts, but would exclude the funds maintained therein from segregated funds. The JAC views Interpretation No. 10 as an accommodation made to a particular class of customers who were otherwise unable to participate in the futures markets. To the extent that the regulatory prohibition for such customers has been eliminated, the treatment of such customers' funds should be governed by Section 4d(a)(2) of the Commodity Exchange Act and related Commission Regulations. We see no reason that these customers should be treated any differently than any other class of customer.

¹ The JAC is composed of senior management representatives of the audit and financial surveillance staffs of all U.S. futures exchanges and NFA, and administers the joint audit plan under Commission Regulation §1.52.

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Given the history of regulatory problems posed by these accounts, as well as the continuing uncertainty as to the control of the funds held therein, the Committee believes that to the extent that they are no longer necessary, safekeeping accounts should no longer be permitted.

The JAC welcome the opportunity to discuss this issue further. If you have any questions concerning this letter, please contact me at (212) 299-2855.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph D. Sanguedolce', with a long horizontal flourish extending to the right.

Joseph D. Sanguedolce
Chairman, Joint Audit Committee

Cc: JAC Representatives