

Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

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September 4, 1998

1998 SEP 3 P 4: 20

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COMMENT

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Dear Ms. Webb:

I have invested for many years and want to comment on your release entitled: "Performance Data and Disclosure for Commodity Trading Advisors (CTAs) and Commodity Pools." The release is very complicated and I do not desire to address all of the questions that the release poses, but I do wish to comment on what appears to me to be two very important issues. This new method proposed for computing rates of return for CTAs seems to be a bad idea that should not be given serious consideration by the Commission. Let me explain.

I think it is most important that the CFTC's rules ensure that investors in a managed futures account program of a CTA understand that they can lose a large percentage of the money they have deposited very quickly. It is also important that this information is presented in a way that is readily comparable to other types of investments such as mutual funds. The National Futures Association (NFA) proposal for "nominal account size" to compute investor loss percentages will not accomplish this - in fact, it appears that this method will hide this fact. I believe that the NFA method has the potential to confuse investors because the loss percentages it produces are not based upon the amount of money that the investor has placed in the CTA's program. That is, the NFA proposed method does not use actual money put up by the customer as the basis for the calculation, as any method used should be. I am not concerned about professional money managers being misled -- I am concerned about the so-called "retail" customer, however defined.

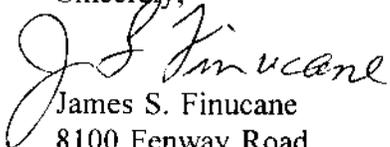
The investors with whom I deal evaluate the performance of their investments in terms of the money they have invested. The money put up is the guidepost for judging how much money they may make or lose in percentage terms. For example, if the investor invests \$50,000 and loses \$25,000 of it, the investor thinks he has lost 50 percent. That principle seems simple, but the NFA proposal would confuse the approach by providing the investor with irrelevant data, because it is not related to his or her investment. Loss percentages on any basis other than real money would therefore be confusing and, therefore, not rationally supportable. It states in your release that the NFA Proposal would permit unrestricted use of the subjectively established nominal account sizes. That, it seems to me, fails to provide an appropriate reference point. It worries me very much that the CFTC thinks that this proposal is worthy of serious consideration. There is an old mechanical engineering axiom: "If it ain't broke, don't fix it". The proposed rule modification would take a system that appears to be working well and would effectively "break it". That is not to say the present scheme cannot be evolved constructively -- but, I would advise you to retain as the foundation the actual funds posted by customers. More on that below.

You also asked about this "fully funded subset". I notice that the proposed requirement is that

only 10 percent of the accounts need to meet this requirement. That seems to be a most unrepresentative and arbitrary way to do things. Why doesn't the CFTC establish the requirement which conforms to the funding practice used by the largest number of clients in a retail program? That is, the CFTC should use the most common amount of funding as the base for computations. For example, if most of the investors put up \$50,000 in a CTA's program, I suggest the CFTC use that amount for the rates of return and percentage drawdowns. That would seem to be the most meaningful. I assume that the appropriate amount can be easily determined from the records of funding posted by clients. But, the CFTC should not allow some subjective amount unrelated to customers' funds, like NFA has proposed.

Thank you for the opportunity to comment on this proposed modification to the disclosure rules.

Sincerely,

A handwritten signature in cursive script that reads "James S. Finucane". The signature is written in black ink and is positioned above the printed name and address.

James S. Finucane
8100 Fenway Road
Bethesda, MD 20817-2761