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COMMENT

MANAGED FUNDS ASSOCIATION

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The Association for investment professionals in futures, hedge funds and other alternative investments.

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September 30, 1999

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

RE: Proposed Amendments to the CFTC's Part 4 Rules Regarding Performance Data and Disclosure for Commodity Trading Advisors; 64 Fed. Reg. 41843 (August 2, 1999)

Dear Ms. Webb:

The Managed Funds Association ("MFA") appreciates the opportunity to provide comments in response to the above captioned Notice of Proposed Rulemaking (the "Release") published August 2, 1999 by the Commodity Futures Trading Commission (the "Commission") in which the Commission seeks to simplify performance computational requirements for advisors whose clients partially fund their accounts while expanding meaningful disclosure to clients and codifying more stringent documentation requirements.

MFA, located in Washington, D.C., is the only membership organization based in the United States dedicated to serving the needs of professionals who specialize in the international managed funds industry, which provides alternative investment opportunities to institutional and individual investors world-wide. MFA's objective is to increase understanding of the managed funds industry, to further constructive dialogue with regulators in pursuit of regulatory reform, and to improve communication with, and training of, the Association's members. MFA's more than 700 members provide diverse perspectives of alternative investment professionals, including commodity trading advisors, investment advisers, hedge fund managers, commodity pool operators, fund of funds managers and hedge fund sponsors. These professionals in the aggregate manage the vast majority of the over $40 billion invested in managed futures and a significant portion of the nearly $250 billion invested in hedge funds. MFA members also include professionals providing essential services to the managed funds industry such as futures commission merchants, broker-dealers, foreign exchange dealers, banks, exchanges, introducing brokers, cash managers, lawyers, accountants, consultants and academics.

Over the 12 years since the Commission's release of Advisory 87-2 which interpreted beginning net asset value as used throughout the Commission's Part 4 rules to exclude "notional funds" for purposes of computing rates of return of commodity trading advisors ("CTA"s) rather than using account size for beginning net asset value, MFA and its membership have spent an enormous amount of time addressing the Commission's concerns and reviewing the appropriate manner for computation of rate of return for partially funded accounts.

Put in historical context, prior to Advisory 87-2, virtually all futures accounts were fully funded. A client and CTA would agree on an account size to be traded and anywhere from zero to 40% of an account might be deposited in U.S. Treasury bills as margin in the account, depending upon the leverage sought and the market conditions at the time. The balance of assets typically would be deposited in interest bearing obligations. CTAs traded the accounts based upon the agreed account size, which also was the fully funded account size and clients made decisions to invest with the CTA based on the returns from that account size. With the influx of institutional investors, the investors continue to contract with the CTA and to pay fees based on the account size. The account will hold exactly the same positions as a fully funded account of the same size. The only difference is that certain clients may not wish to entrust assets not actively required as margin to their futures commission merchant ("FCM"). These assets are what have been euphemistically termed "notional funds" and represent the portion of the account not fully funded at the FCM.

The Commission's concerns, which are centered on potential clients' misunderstanding the effect on leverage, fees, profits and losses from partially funding an account are best addressed by compliance rules to ensure client understanding of the effect of partially funding an account rather than through distortion of the rate of return computation. MFA commends the Commission for adopting rules that base performance results on the entire allocation made to a CTA, not merely on certain assets elected by clients to be on deposit at an FCM from time to time. MFA believes this final resolution of the issue will provide clear, simplified disclosure to investors without distorting returns. The majority of MFA's members will be impacted by the revised rules and accordingly, MFA and its members are vitally interested in this rulemaking.

Summary

MFA endorses the Commission's rule proposal for recognizing the fundamental principle that the net asset value for partially funded accounts in the rate of return calculation of a CTA's historical trading performance should be the account size agreed between the CTA and client. This principle is based on the understanding that funding decisions by a client do not influence a CTA's management decisions and therefore funding level computations do not provide useful information to a client on the relative merits of the CTA's historical skill in generating returns. For accounts that clients choose to partially fund, the concept of agreed upon account size is essential for accurate performance presentation of CTA historical returns. Adoption of this principle is consistent with that proposed by the National Futures Association ("NFA") in its rule submission and will harmonize the Commission's performance presentation standards with those adopted both in the United States and internationally.[1]

The Release states that the Commission's Concept Release published on June 18, 1998 sought public comment on two types of issues: (1) the rules proposed by the NFA relating to performance computation for partially funded accounts, and (2) "other issues related to the presentation of CTA and CPO disclosure which appeared to warrant further study and analysis". While the Release indicates the proposed rules are intended to simplify recordkeeping, and computational requirements and provide meaningful disclosure regarding the past performance and risks of *partially-funded* accounts, the proposed rules impose significant additional burdens and requirements that relate to all accounts whether or not they are fully or partially funded.

To the extent the rules extend to new requirements as suggested in (2) above, MFA's comment now, as it was in response to the 1998 Release, is that not enough time has passed, nor consideration given, to make additional changes or to add to disclosure requirements, especially in light of the significant impact, cost and burden new requirements will have on CTA performance computations. The extensive Part 4 revisions made in 1995, which were the result of a number of years of active debate and study, eliminated excessive and burdensome disclosure requirements and adopted a streamlined form of capsule performance summary which MFA fully supports. MFA knows of no evidence that the 1995 changes were insufficient or unsatisfactory. Accordingly, MFA strongly recommends the only rule changes to be implemented at this time are those necessitated by the NFA rule proposal to address issues related to partially funded accounts.

In this regard, MFA believes the rate of return change is better effected (as more fully described below) by: (i) specifically stating that Advisory 87-2 is superseded and that the portions of Advisory 93-13 which require use of the Fully Funded subset method are superseded by the final rules, (ii) amending the definition of net asset value in Rule 4.10 (b) to the effect that for purposes of performance presentations of partially funded accounts managed by CTAs, references to beginning or month-end net asset value shall mean or include, as appropriate, the respective beginning or month

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[1] The utilization of portfolio account size as agreed upon by the CTA and the CTA's client as the denominator in the rate of return computation is not unique to the proposal made in the Commission's Release. Rather, this methodology is prescribed by global performance presentation standards, including those published by the Association for Investment Management and Research ("AIMR"), whose performance presentations are acknowledged by the Securities and Exchange Commission for investment adviser performance presentations, and by the London International Financial Futures Exchange ("LIFFE") and London Traded Options Market ("LTOM").

end account size, and (iii) making amendments only to Sections 4.10, 4.33 and 4.34 which are necessitated by the partial funding issue. This method avoids the legal uncertainty that would arise with respect to the numerous other Commission Advisories currently in effect that address computation methodologies in terms of "net asset value", which Advisories should not be superseded. It also avoids making wholesale amendments to Part 4 and creating new definitions and requirements applicable to all accounts, the consequences of which have not been considered fully by either the Commission or the industry.

Purpose of Historical Composite Rate of Return Computation

The principle recognized in the Release which requires all assets properly allocated to a CTA, or the specified account size to be included in the denominator for purposes of computing rate of return is the only accurate means to portray the *CTA's historical performance* on those accounts because that account size served as the basis for which risk decisions were taken by the CTA. Over the many years of public debate of the issue, there has been much confusion over whose rate of return is the subject of the computation. The proposed rules are not addressing the issue of margining requirements on accounts or whether or not accounts should or should not be fully funded. The rules are addressing how historical performance records of CTAs should display accounts which have been opened and traded pursuant to an agreed account size and which also happen to have been partially funded at points in time or in some cases, since inception, by the client.

Certain commentators have criticized the rate of return computation proposed in the Release as not providing the return of any single investor or as not showing a return for the dollars invested or dollars put to use at any point in time, or argue that failure to fully fund an account somehow makes the amount a client has allocated to be traded illegitimate. What these commentators fail to appreciate is that the purpose of composite[2] performance presentations is to reflect the results of the trading decisions made by the CTA on a historical basis and is not intended and can not possibly reflect the varying cash management or leverage decisions of each client of the CTA.[3] As such, neither the computation of rate of return as proposed in the Release nor the traditional method of presentation of performance results historically mandated by the Commission's rules has any impact

2 MFA has consistently supported the Commission's choice, made over 18 years ago, to utilize a composite performance presentation. The preference for composite performance presentation is mirrored in the performance presentation standards applicable to most investments.

3 Because performance presentations are made on a composite basis, computation of rate of return using the actual dollars deposited in each account by each investor distorts composite performance results and provides a result far more divergent from the results of any single account in the composite than the methodology proposed in the Release. Clients receive confirmations of trades, statements of profit and loss on each position and monthly statements of account from the FCM that detail from an individual client's perspective the cash as well as trading activity in the account.

on measuring the volatility of trading; rather, it can provide an accurate measure of historical performance from which volatility can be measured.

Even if only the client funds deposited in a commodity account at the FCM were counted, it would not reflect the leverage decisions or varying cash management strategies of any particular client or the fact that clients might have borrowed or leveraged other assets to produce those funds on deposit. In futures and derivatives trading where positions can be taken with less than a 2% or 5% margin deposit and where leverage may vary widely from one account to the next, cash in the brokerage account is highly variable and can be an unrealistic number, producing uninformative at best, and misleading at worst, composite figures if used as a measure of a CTA's performance. The objective is to reflect how a CTA performed on the basis of the account size the CTA was instructed to manage. The manner in which a client has chosen to meet the client's financial commitment, the credit determination an FCM has made and the margin the FCM determines to require from any particular client are not relevant to the question of an CTA's historical performance results. For comparability across CTAs, a composite must reflect the total return that was achieved on the account sizes that the CTA actually traded.[4] The Commission's proposed rules, which base rate of return on the account size agreed to in advance by the client and CTA, provide an approach for performance computation that is far more accurate, practical and theoretically sound than the current Commission interpretation of beginning net asset value. Accordingly, MFA fully endorses the change to utilize account size rather than net asset value as the basis for performance computations for partially funded accounts.

While the Commission's Release was prompted by the introduction of partially funded accounts, it is important to note that, just as prior to the Release, some CTAs will continue to have clients that only fully fund their accounts, some will have a mixture of clients that fully and partially fund their accounts and some may have only clients that partially fund their accounts. The rules, appropriately so, should be drafted to address all these scenarios. The proposed rules adopt the use of the word "nominal" throughout as more fully discussed below, even though such term would not be appropriate for all accounts. Accordingly, MFA recommends that the use of account size and rate of return in the Commission's regulations not be changed to "nominal" account size or "nominal rate of return" as proposed in the Release. Rather, account size and rate of return should remain the generic term in the regulations. The discussion below (labeled consistently with the headings in the Release) centers first on those sections of the proposed rule amendments that MFA supports amending,

[4] CTAs are not permitted to hold client cash or assets and therefore, the only basis upon which they are able to trade client accounts is to agree on the account size that a CTA will trade. All accounts within that portfolio are traded in the same manner and account size is the determinant upon which the number of contracts, or size of position is made.

(portions of CFTC Rules 4.10, 4.33 and 4.34) and then the other rule changes proposed by the Commission which MFA believes should not be changed.

H. Changes to Definitions and Disclosure Requirements (Rules 4.10 and 4.34)

As discussed above, MFA supports amendments to the definitional section of the rules by amending Rule 4.10 (b) ("net asset value") and the Commission's proposed additional definitions reflected in Rule 4.10 (m) ("account size") Rule 4.10 (n) ("actual funds") Rule 4.10 (o) ("partially-funded account"), with the exception that the term "nominal account size" should be changed to "account size" as discussed more fully below. MFA also generally supports the proposed changes to Rules 4.33 (recordkeeping) and Rule 4.34 (p) (additional disclosures) which address the compliance concerns regarding partial funding of an account and provide disclosure designed to ensure clients are aware of the significant impacts and risks attendant upon partial funding.

Definition of rate of return. Because the core of the Commission's proposal is to interpret account size as the appropriate net asset value denominator for partially funded accounts for purposes of CTA performance rate of return computations, MFA believes the most effective approach is to amend the rate of return definition so that the term includes this interpretation for partially funded accounts. By clarifying this definition rather than attempting to amend the term at each appropriate place it occurs in the Part 4 regulations, the Commission achieves its purpose and does not create unintended issues or legal uncertainty. If the Commission merely changes the term in certain Part 4 rule amendments, it will create legal uncertainty regarding the Commission's other published Advisories and interpretations that prescribe computation methodologies and refer only to net asset value. Because the purpose of the Commission's other proposed rule amendments would appear to be to substitute account size for beginning or month-end net asset value, it is far more efficient with no unintended consequences to simply add that interpretation in the definitional section for net asset value and limit its application to partially funded accounts.

"Nominal" Terminology. As indicated earlier, MFA finds it confusing to denominate account size as "nominal account size" as the Commission has proposed in Rule 4.10 (m) and as used throughout the other proposed rules[5], because account size is just that and means the same whether or not an account is fully funded or partially funded. Since the changes will apply to performance computations universally, whether the accounts in the composite are all fully funded or not, the defined term in proposed Section 4.10 (m) should be "Account Size" rather than "Nominal Account Size". MFA believes the use of the term "nominal" has created confusion relating to the trading of

[5] Similarly, references to "nominal account size" in proposed rules 4.10 (m), (o), Section 4.33 (c)(1), (4) and (5), Section 4.34 (p) (1), (2) (3) and (4), (and any other additional rules the Commission determines it must amend) should be changed to "account size". If notwithstanding MFA's recommendation, other of the proposed rule changes are adopted, references to the "Nominal rate of return" should be revised to refer to the "Rate of Return", consistent with the current use of the term "Rate of Return" throughout the Part 4 rules.

these accounts and resulted in much emotional rather than rational reaction to the term. Accordingly, the term should not be used where it is not applicable. The other definitions such as those relating to "Actual Funds" and "Partially Funded Account" are both sufficient to alert investors to the partial funding of some accounts and appropriate to distinguish between the different funding levels (if any), for accounts within a composite.

Worst Peak-to-Valley Drawdown (Rule 4.10 (l)). The Release proposes amendments to the peak-to valley drawdown computation which appear to be made for two reasons: (1) first and foremost is to substitute account size for partially funded accounts, a change which is unnecessary if the net asset value definition provides this interpretation for partially funded accounts, and (2) to clarify the computation is made on the composite for CTA performance presentations. While the first point has been subject to some discourse since the rules were amended in 1995, the second point may be made without creating separate provisions for CTAs and CPOs by simply deleting the word "account" in the existing Rule 4.10 (l) and, if further clarification is necessary, adding a parenthetical after "trading program" to state "on a composite basis with respect to CTAs". The mathematical method for the computation for the drawdowns, however, remains the same and MFA is concerned that changing the terminology relating to the methodology will suggest that the methodology which has been in use since the 1995 Rules has also changed which it has not. Accordingly, MFA recommends the more minimal approach to amending this rule.

Proposed Rule amendments 4.10 (l)(3)(i), (4), and 4.10 (p) contain provisions redundant of existing CFTC Rules (see CFTC Rule 4.35 (a)(6)(i) (D) defining "net performance"), Rule 4.10 (l)(4) is currently in the drawdown definition but not separately denoted and (see CFTC Rule 4.35 (a)(5) for the time period for performance proposed in Rule 4.10 (p). As discussed above, with the revision to net asset value, there is no need to change the language for the computation of net performance and by doing so, the Commission suggests the methodology has changed, which MFA believes it has not. In addition, however, the Commission has proposed to define net performance in Section 4.10 (3)(i), indicating the definition is only for purposes of paragraph (2) of that section, yet also redefines net performance in a similar manner in proposed Rule 4.35 (a)(6)(i)(B)(1). The Commission can't intend for these definitions to differ from each other or from that used since the inception of the Commission's rules. Accordingly, MFA believes the definition of net performance should remain unchanged in Rule 4.35 and is not additionally needed in Rule 4.10. With respect to the remaining issues in the definitional section, MFA understands the Commission has received questions relating to the use of imputed interest for partially funded accounts and accordingly, does not object to the inclusion of this rule in proposed Rule 4.10 (l) (3)(ii), but believes this statement is misplaced in the drawdown definition as it relates to rate of return for partially funded accounts. Accordingly, MFA believes this statement should also be moved to Rule 4.10 (b) relating to rate of return and follow the concept that account size is used for partially funded accounts.

A. Documentation of Account Size (Rule 4.33 Recordkeeping).

MFA has long supported codification of the documentation requirements with respect to partially funded accounts proposed originally by the NFA and adopted by the Commission as a means of providing discipline to the rate of return denominator. MFA concurs with the Commission's view that such documentation should be required for all CTA account sizes, regardless of whether the account is fully or partially funded. These requirements will help ensure comparability of performance disclosure among CTAs and will ensure against distortion of rate of return numbers. MFA supports Rule 4.33 (c) as proposed with the exception that the use of the term "Nominal account size" wherever it occurs should be changed to "account size".

B. Changes to Calculations

As indicated earlier, MFA believes the only required changes, consistent with the Commission's stated objective to amend the regulations to address what computations need clarification as a result of the partial funding of certain client accounts are the proposed changes to the divisor in the equation for the computation of rate of return (MFA proposed Rule 4.10 (b) revisions), the additional definitional terms in Rule 4.10 (m), (n) and (o), the compliance requirements of proposed Rule 4.33 (c) as well as certain of the additional disclosure requirements proposed in Rule 4.34 (p) which make clear the effect of partially funding an account.

The Commission, has proposed a change to define interest income that the MFA views as unnecessary. The Release also has raised the issue of whether the Commission's policy, which has been in effect since 1981 regarding the treatment of interest income should be changed. MFA supports the Commission's decision to retain inclusion of interest income actually earned from any source which is permitted to be considered "actual funds" under the Commission's proposed Rule 4.10 (n). MFA strongly opposes any change to the existing rules if the effect would be to limit the interest income that is included in net performance. MFA stresses the burden and confusion that would be caused by changing the computation either as a result of historical performance records that may require recomputation or the narrative disclosure and footnotes and corresponding lack of comparability with prior periods that a change in policy would entail. The Commission has historically based its performance disclosure requirements on the concept of total return, a concept that is broadly endorsed by universal performance presentation standards (including those of AIMR, LIFFE and LTOM) as requiring that performance of a portfolio be measured in terms of all the results produced. Total return is defined as the net market change (which is reduced by accrued expenses) plus accrued income. The accrued income should include all income receivable at the end of the period and any income received during the period but not included in the previous period's accrued income. These are the three ingredients of performance and, even though a portfolio might not be managed strictly on a "total return" concept, the only proper approach is to measure all of the portfolio's output. Accordingly, MFA recommends that the Commission retain its eighteen-year policy of permitting inclusion of all interest income received by an account. In addition, MFA believes that just as the use of the word "expenses" historically has needed no further embellishment in the rules, likewise, the use of the word "income" has no need for further embellishment. The new definition may be interpreted to selectively exclude certain elements of income to these accounts while determining to retain all elements of expense even though some expenses charged against performance have even less relationship to a CTA's trading or to a CTA's control than the income that would be excluded.[6] While MFA understands, and supports, the Commission's proposed rule prohibiting inclusion of imputed or pro forma interest income to be based on the same total return principal, MFA believes no further clarification or specification relating to income or specifically interest income is needed.

C-F. Disclosure Requirements

MFA has been a consistent supporter of providing concise understandable disclosure and eliminating the redundancies and volumes of performance minutia that historically may have dissuaded some investors from reading disclosure documents. As such, MFA supports the requirements outlined in Rule 4.34 (p) which the Commission and NFA have jointly identified as the important elements for disclosing the effect of partially funding an account. This rule would require CTAs to disclose:

- how the management fees are computed, expressed as a percentage of account size and an explanation of the effect on management fees of partially funding an account;
- an estimated range of the commissions charged to an account as a percentage of account size and an explanation of the effect on this percentage of partially funding an account;
- a statement that partial funding increases leverage, that leverage will magnify both profits and losses and that the greater the disparity between the account size and the amount of actual funds deposited in an account, the greater the likelihood and frequency of margin

[6] At a minimum, position size taken by a CTA actively affects the amount of interest income received by an account as the more positions entered by the CTA, the greater the margin requirements, which will affect the funds on deposit and the interest which accrues to an account. In addition, some CTAs do affect the generation of interest income in their management of an account, either in the negotiation of the amount of interest payable to an account or through active management, with a cash manager or by the CTA. Commissions charged to an account, while frequently interrelated to the amount of interest income received by an account, often are negotiated directly by a client with the FCM and a CTA may have little or no control over the different costs charged for carrying the account at the client's selected FCM.

calls and the greater the size of margin calls as a percentage of the amount of actual funds committed to the program; and

- a description of the factors considered by the CTA in determining the level of trading for a given account size in the program and an explanation of how the factors are applied.

In light of the foregoing detailed disclosures, there is no justification for the Commission's proposals in Sections C, D and E of the Release. These additional disclosure requirements provide no additional benefit to investors, are merely redundant of the disclosures the Commission will require in Rule 4.34 (p) above and will dramatically increase the burden of preparing performance capsules by CTAs. Under these additional proposed requirements, CTAs will be required to obtain exact amounts of actual funds on deposit for all their clients at various points in time (if even available) in order to compute the multitude of additional drawdowns and ranges of rates of return. The Commission's proposal, which would permit a CTA to state that information is unavailable, reflects an understanding of the difficulty of producing such information. In addition, if only some, but not all CTAs obtain this information, the information has even less utility because it may not be used for comparison among CTAs. MFA believes that this warehouse of additional information will serve more to confuse investors than to enhance their understanding and may cause them to disregard the information altogether.

1. Funds Under Management (Proposed Rule 4.35 (a)(1)(ix)). This proposal would appear to be at odds with the rationale underlying the changes proposed in the Release, which is that because an advisor trades on the basis of the account sizes which have been allocated to the CTA, the funds under management is the aggregate of the account sizes allocated to the CTA. In fact, disclosure of the actual funds on deposit in connection with any account at any point in time may well be misleading. For most CTAs, the percentage of the account size which is committed to margin an account (and therefore, for partially funded accounts, may represent the amount of actual funds deposited) may vary widely from time to time depending upon market conditions, a CTA's views on the markets and the client's cash management strategies. At different points in time, the same account might have 0% committed to margin, if the CTA has no positions in the account on a particular day, or might have 55% on another day or 12% on another day. Futures markets move rapidly on a daily basis and positions rarely are maintained for months at a time. Thus, the disclosure of actual funds on any particular day out of the year may be misleading. We believe this proposal evidences a lack of understanding of the manner in which CTAs undertake trading in an account. However, if the Commission will require additional disclosure of aggregate actual funds, MFA recommends that the disclosure of aggregate of actual funds traded by the CTAs program be required in the special disclosures required under Rule 4.34 (p) relating to partially funded accounts, so that an investor can read all the information relevant to partial funding of an account together. In that

location the information is clear and informative and a client may make whatever use of it is necessary. MFA believes this information loses its utility when it is separated from the other disclosure relating to partially funding an account and when it is sprinkled throughout the disclosure document as is currently provided in the proposed rules. There is no rationale for requiring CTAs to utilize this number to perform multiple calculations and for multiple disclosures to appear throughout the document. Accordingly, just as the term "net asset value" should be amended for partially funded accounts to be interpreted as the account size in the Commission's proposed rule changes, MFA recommends "funds under management" be interpreted as the aggregate of account sizes traded by the CTA.

2. Disclosure Concerning Draw-Downs (Proposed Rule 4.35(a)(1)(ix). As indicated above, MFA believes this information unnecessary, burdensome, and of no benefit to investors. As stated previously, clients would be adequately informed pursuant to the requirements of new Rule 4.34 (p) of the increased leverage, the increased likelihood of margin calls and increased risk of loss from partially funding an account. Providing a string of hypothetical draw down numbers in addition to these disclosures may be misleading and provides no additional benefit, but significantly adds to a CTAs burden in producing performance information. Further, MFA strongly objects to the Commission's proposal that under certain circumstances, a CTA is to present such information at a hypothetical funding level of 20%. Hypothetical presentations have no place in the presentation of historical performance results and the Commission as well as MFA has historically been opposed to mixing hypothetical and real performance presentations. MFA believes the proposed requirements of Rule 4.35 (a)(1)(ix) would provide no benefit, but may potentially mislead investors and would significantly increase the burden of performance presentations.

3. Disclosure Concerning Range of Rates of Return (Proposed Rule 4.35 (a)(1)(viii)). MFA opposes the additional requirements imposed by proposed Rules 4.35 (a)(1)(viii) relating to specifying rates of return of separate accounts within the composite for any reason. The Commission's rules since their inception have been based on composite performance presentations, a principle which MFA endorses and which is observed by the AIMR, LIFFE and LTOM performance presentation standards. While there are certain disadvantages to composite presentations, they are far outweighed by the advantages. Composites avoid the distortions and inaccuracies that might occur when selective accounts are pulled out of the aggregate results for presentation purposes. The requirements for composite presentations are stringent and extend not only documentation but to similarity of trading, methodology and use of the same trading program. Composites contain no survivorship bias and returns are calculated subject to a number of requirements that prevent distortion of rates of return. Accordingly, MFA feels there is no benefit and a great deal of burden in separately disclosing separate accounts. Further, MFA is concerned about the emphasis that may be

placed on such rates of return by investors who perhaps may believe they have only that percentage of loss at risk rather than more than their entire investment. The information the Commission would require generally is not currently available in the programs created by CTAs for computing composite performance and because it has never been required, may not be available on a historical basis. Accordingly, as both a practical and theoretical matter, MFA opposes this additional disclosure requirement.

4. Disclosure of Monthly Performance (Proposed Rule 4.35(a)(1)(ix)). As the Commission is aware, MFA historically has seen little purpose to the inclusion of five years worth of monthly returns, but recognizes that it is the best presentation currently available to reflect volatility of returns. However, it is redundant to require that such returns be displayed both numerically and by bar graphs. Of the two methods, MFA prefers numerical presentations because they are clear, not subject to distortion and require no additional work on the part of the CTA. Alternatively, bar graphs may be manipulated to decrease the appearance of volatility, by the manner in which the axis is delineated. Since the purpose of displaying the graph is to display visually the volatility of returns, MFA is most concerned about the ability to distort graphs. In addition, due to the significant differences in returns between advisors, MFA does not believe regulations can adequately address the issue of distortion and therefore recommends this proposal not be adopted.

I. Commodity Pool Disclosure

MFA opposes the change proposed to Rule 4.25(a)(1)(ii)(II) as requiring additional unnecessary performance disclosure and believes the issue is best addressed in the context of all required pool disclosure and what is meaningful disclosure with respect to commodity pool performance. MFA reiterates its view that this type of examination was made and resolved in 1995 in the selection of the requirements for pool performance capsules and need not be examined again at such an early date. MFA believes the 1995 rule revisions greatly enhanced performance disclosure and is unaware of any negative issues rising from the streamlined format and in fact has received positive feedback on these revisions. MFA believes this proposed rule change should be subjected to greater review and comment by the industry, many of whom have not been alerted to the inclusion of a pool performance rule change amongst the CTA rule changes which are the subject of this Release. MFA also believes that changes in performance computations and presentations should not be made with great frequency in light of the significant cost, burden and loss of comparability that is inevitable as a result of such changes. Accordingly, MFA opposes this rule change at this time.

Conclusion

MFA commends the Commission for undertaking the change in the rate of return computation proposed by the Release. Thank you again for the opportunity to comment on the Release. MFA stands ready to explore in greater depth any remaining issues the Commission may have either now or in the future. Please do not hesitate to contact us if you have any additional questions or concerns relating to the Release or our comments.

Sincerely yours,

John G. Gaine

John G. Gaine, President

JGG/lmh

cc: Chairman William J. Rainer
Commissioner Thomas J. Erickson
Commissioner Barbara P. Holum
Commissioner James E. Newsome
Commissioner David D. Spears