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OFFICE OF THE SECRETARIAT

October 29, 1999

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COMMENT

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

Re: Internet Account-Opening Process

Dear Ms. Webb:

We applaud the Commission's initiative to keep pace with technological developments that improve the manner in which Commission registrants and the public at large conduct business. We believe that a manual signature does not provide better protection than an electronic signature; and that permitting the use of an electronic signature in those instances where Commission regulations would otherwise require the use of a manual signature, meets the practical needs of allowing parties to conduct business through electronic means, e.g., via the internet.

We do not believe the Commission should require a disclosure that an electronic signature may not be accepted under state law on the basis that (i) there is a strong trend in the law toward recognition of electronic signatures -- for example, the recent formulation of the Uniform Electronic Transactions Act which allows for electronic signatures and draft legislation being considered by Congress; such disclosure will not only be unnecessary in many cases -- since many states will soon agree to permit the use of electronic signatures -- it will also be confusing to many customers since they would be told, on the one hand, that their electronic signature is valid for CFTC purposes but may not be valid under a particular state law. Moreover, it is currently the case that state laws affect other aspects of the contractual relationship between Commission registrants and their customers, as well as exchange trading, and disclosure is not required for these matters.

With respect to some of the matters raised in Section III of the proposed rules, for which the Commission seeks comments:


1. We believe that the proposed rules should be issued at this point, and not delayed, because they are sufficiently broad to include future rulemaking to be adopted by Congress and the various states

2. We do not believe that conducting business over the internet leads to more unscrupulous and deceptive sales practices. If anything, a person may feel less pressured by reading written material delivered over the internet and taking the time to review it and, if a person wants to, respond to it, as opposed to feeling pressured during a telephone call and making a decision in a verbal discussion. With respect to anonymity of opening an account over the internet, it has been the case that the opportunity for fraud exists in any medium – whether by means of paper documents (manually signed), face-to-face, the internet or otherwise. Combating fraud over the internet will undoubtedly be an evolving process, as it has been for non-internet business, and as better technology is developed, so too will enhanced enforcement and surveillance efforts.
3. We believe the Commission should continue to require registrants to utilize reasonable safeguards with respect to the use of electronic signatures, especially since setting forth specific standards today will most likely be outdated tomorrow.
4. We believe regulators such as the NFA and the exchanges should be required to adopt standards consistent with Commission requirements in this regard. In general, consistency among regulators in what is required allows registrants and the public alike to operate more efficiently. By contrast, inconsistent requirements will lead to confusion, unnecessary delays and added expense.

Conclusion

It is our belief that permitting the use of an electronic signature, with appropriate safeguards, is an appropriate alternative to the use of a manual signature in the account opening process and otherwise. We further believe that such use will provide industry registrants and their customers with the benefits of expedience, reduced paperwork and lower expense without the risk that such customers have not been adequately apprised of the risks of trading. Any questions regarding the foregoing may be directed to the undersigned.

Respectfully,



Bradford L. Jacobowitz