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**COMMITTEE ON FUTURES
& DERIVATIVES REGULATION**

COMMENT

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12/23/08

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December 23, 2009

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Filed via email: secretary@cftc.gov

Re: Proposal Regarding Electronic Filing of Disclosure Documents

Dear Ms. Stawick:

The Committee on Futures and Derivatives Regulation (the "Committee") of the New York City Bar Association (the "Association") is writing to express its concerns about the proposed amendments to Commission rules 4.26 and 4.36 concerning the electronic filing of disclosure documents by commodity pool operators ("CPOs") and commodity trading advisors ("CTAs"), published on November 26, 2008, 73 F.R. 71968 (the "Proposal"). The Association is an organization of over 23,000 members. Most of its members practice in the New York City area. However, the Association also has members in nearly every state and over 50 countries. The Committee consists of attorneys knowledgeable about the trading and regulation of futures contracts and about the regulation of CPOs and CTAs, and it has a practice of publishing comments on legal and regulatory developments that have a significant impact on futures and derivatives markets.

Mr. David A. Stawick
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The Proposal is of concern to the Committee because of the lack of detail provided about the scope of what are presented as ancillary aspects to the Proposal's primary purpose of requiring CPOs and CTAs to file disclosure documents electronically. Specifically, the final sentence of section I of the Proposal states: "The other of these components will require CPOs and CTAs to enter from their Disclosure Documents certain key information on their operations and activities into a standardized form accessed through the NFA's Web site." Footnote 4 states: "Among other things, this key information concerns identification of contact persons, relationships with futures commission merchants or introducing brokers, and their past performance history and related data for the offered pool or trading program." Section III of the Proposal states: "The Proposal simply alters the mechanism for filing Disclosure Documents and does not affect the substance or frequency of those filings." The source for such descriptions of these ancillary requirements is not specified and is not part of the public record.

The Committee is concerned that nothing in the Proposal or in the petition of the National Futures Association dated July 21, 2008 that initiated the rulemaking contains any detail on what "key information," "relationships" or "related data" will be required to be filed, or the uses to which such information will be put. If such information will in fact already be contained in the disclosure documents that are filed, the Proposal does not explain why its separate entry will be necessary. Moreover, other aspects of the Proposal appear to contradict the characterization of the Proposal as simply authorizing or formalizing the electronic procedure for filing disclosure documents. In addressing Paperwork Reduction Act issues, Section III.B of the Proposal states that it "would, however, authorize the separate collection from CPOs and CTAs of certain key information from the Disclosure Documents CPOs and CTAs would be filing electronically." The extent of that requirement was apparently significant or uncertain enough to require the Commission to file this section of the Proposal for review by the Office of Management and Budget, a process that was not completed as of the date of publication of the Proposal. The following subsection of the Proposal states that these new requirements "will result in an increase in the estimated average number of hours per response under Regulations 4.26 and 4.36."

The Committee urges that the Proposal be republished with full explanations and details of such additional filing requirements. The Committee welcomes any questions the Commission may have about these comments.

Very truly yours,



Michael S. Sackheim

Chair

Committee on Futures and Derivatives Regulation

New York City Bar Association
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David Form, Secretary

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¶These members of the Committee did not participate in this comment letter.