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OFFICE OF THE SECRETARIAT

Debra K. Kokal
Director
Audit Department

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COMMENT

**Received CFTC
Records Section**

4/7/09

Mr. David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
secretary@cftc.gov

RE: RIN 3038-AC72
Acknowledgment Letters for Customer Funds and Secured Amount Funds

Dear Mr. Stawick:

The Joint Audit Committee ("JAC") appreciates the opportunity to comment on the proposed changes to the regulations regarding acknowledgment letters for customer funds and secured amounts.

Recent events have tested two long standing assumptions surrounding customer accounts that are properly titled and covered by proper acknowledgment letters: (1) that such funds would be immediately released or transferred when requested by the depositing futures commission merchant ("FCM"), and (2) that such accounts would not be subject to any right of offset, or lien, on account of any indebtedness, obligations or liabilities owed by the FCM. As a result, the JAC applauds and fully supports the Commodity Futures Trading Commission's ("Commission") desire to strengthen both the segregation and secured amount acknowledgment letters.

The JAC fully endorses the proposed rules which would require depositories to explicitly recognize, within the acknowledgment letter, the authority of the Commission, as well as the FCM or the Derivatives Clearing Organization ("DCO"), as applicable, to direct the transfer/release of customer funds carried in accounts covered by a properly executed acknowledgment letter. In matters where time is of the essence, the Commission should hold all powers necessary to protect customer funds and the proposed rules strengthen that ability.

We do believe a significant change for the FCM community will be the move away from a broad based, non-account specific, acknowledgment letter to the new proposed requirement of an acknowledgment letter that must include the account number for each account covered. The Commission has proposed that the effective date of the amendments would be 180 days from the date of publication of the final regulations in the Federal Register based on its understanding that FCMs will need time to update their existing acknowledgment letters. However, the proposal does not address an acceptable time frame for subsequent changes that would require amending a given acknowledgment letter (e.g., name change of FCM or depository, merger of FCM or depository, addition or deletion of account number). As history demonstrates, a myriad

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of these changes routinely occur. Therefore, the JAC respectfully requests guidance regarding the circumstances that would necessitate updating acknowledgment letters as well as acceptable timeframes for the updating of such letters due to such future events.

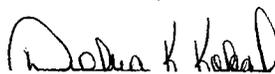
In addition, the proposed rules would require an FCM to file properly executed acknowledgment letters with the firm's regional office of the Commission. In addition, although the Commission is proposing requiring submission of segregated and secured acknowledgment letters, no supporting documentation (i.e., documentation necessary for verification) is being required. As a result, the benefit of submitting such acknowledgment letters to the Commission is unclear.

Finally, the FCM community has long appreciated the fact that under Commission Regulations 1.20 and 1.26, acknowledgment letters need not be obtained from DCOs that have adopted and submitted to the Commission rules that provide for the segregation of customer funds in accordance with the Commodity Exchange Act ("CEA"). Consistent with those regulations, the JAC requests that the Commission amend Regulation 30.7 to provide similar relief that would exempt DCOs from having to provide secured funds acknowledgment letters if they follow the requirements of the CEA.

In sum, we believe that the Commission's proposals to strengthen the acknowledgment letters for customer funds and secured amounts will enhance the regulatory certainty of such letters when it is most needed. We appreciate the Commission's efforts in this regard.

The JAC appreciates the opportunity to comment on the CFTC's proposed changes to acknowledgment letters for customer funds and secured amounts. We would be happy to discuss any of these issues with Commission staff. If you have any questions or comments, please feel free to contact me at (312) 930-3235 or debbie.kokal@cmegroup.com.

On Behalf of the Joint Audit Committee,



Debra K. Kokal
Chairman

cc: Tom Smith, Deputy Director, Audit and Financial Review