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March 3, 1999

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COMMENT

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Ms. Jean A. Webb, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Proposed Amendments to Rules 30.5 and 30.6

Dear Ms. Webb:

The Committee on Futures Regulation of this Association (the "Committee") respectfully submits this comment letter to the Commodity Futures Trading Commission (the "Commission") in response to its request for comments in its notice published January 11, 1999 in the Federal Register 64 F.R. 1566 (the "Release") regarding proposed amendments to Rules 30.5 and 30.6. The Association is an organization of 21,000 lawyers. Most of its members practice in the New York City area. However, the Association also has members in 48 states and 51 countries. The Committee consists of attorneys knowledgeable in the field of futures regulation and has a history of publishing reports analyzing critical regulatory issues which affect the futures industry and related activities. Lawyers on the Committee represent clients with diverse perspectives on the proposed amendments.

The Committee commends the Commission for its ongoing willingness to monitor the purpose of Commission rules and the impact of such rules on the futures industry. The Committee appreciates the Commission's desire to receive input from market participants and those familiar with industry practices before adopting or modifying Commission rules affecting the futures markets.

In general, the Committee supports the intention of the proposed rules to equalize the type of disclosure received by U.S. customers regardless of the markets in which they trade. However, the Committee has concerns about several aspects of the way in which this goal is proposed to be achieved.

In connection with the proposed modification that would make Rule 30.5 exemptions subject to specific approval by the National Futures Association (the "NFA"), rather than being obtained automatically on a self-effectuating basis, the Committee believes that clarification is needed. First, the text of the Release describes the representations that a candidate for exemption must

make "to show affirmatively that he or she qualifies for an exemption." If the listed representations about the status of the applicant itself constitute the only information that must be filed with the NFA, it is not clear what due diligence the NFA will be required to perform or why applications should not be self-effectuating. Second, it is not clear whether, upon conclusion of the NFA's review, the applicant will be notified as to the disposition of its application. Finally, there is no time frame noted within which the NFA should act.

The Commission also requested comment specifically about the manner in which appropriate signatories to the application should be identified in the rule. The Committee proposes that the rule contain general language stating that the petition must be signed by a natural person involved in the management of the applicant who is legally authorized under local law to make binding agreements and representations for the applicant. Business forms other than those conventionally encountered in the United States would be covered by such language.

In proposed Rule 30.6, the Commission proposes that investors who qualify as qualified eligible clients or qualified eligible participants under Commission Rule 4.7 receive additional disclosures related to the risks of trading in foreign futures and foreign options under Rules 4.24(b)(2) or 4.34(b)(2). The Committee believes that the rationale underlining the creation of QEC and QEP status in Rule 4.7 applies generally to trading futures and options, whether occurring in the United States or abroad. In view of the qualifications that are imposed on these types of investors, the Committee does not believe that additional disclosure specifically related to foreign futures and foreign options should be required, particularly given the absence of any evidence of abuse in this area.

The Committee appreciates the opportunity to comment on the Release and stands ready to assist the Commission if further clarification is required related to any of the points expressed in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily M. Zeigler", with a long horizontal flourish extending to the right.

Emily M. Zeigler, Chair

**Association of the Bar the City of New York
Committee on Futures Regulation
1998-1999**

**Emily M. Zeigler, Chair
Rita M. Molesworth, Secretary**

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