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OFC. OF THE SECRETARIAT

January 13, 2003

Jean A. Webb
Secretary
Commodity Futures Trading Commission
secretary@CFTC.gov

Re: NFA and MFA Proposals Relating to CPO and CTA Registration

Dear Ms. Webb,

OneChicago, LLC ("OneChicago")¹ is pleased to have the opportunity to comment on the release issued by the Commodity Futures Trading Commission ("CFTC" or "Commission") relating to proposals by the National Futures Association ("NFA") and the Managed Funds Association ("MFA") that would provide the operator of certain collective investment vehicles exemptive relief from registration as a commodity pool operator ("CPO") and as a commodity trading advisor ("CTA").² OneChicago strongly supports both proposals and provides further comment.

NFA Proposal

The NFA proposal would amend CFTC Rule 4.13 to permit exemptive relief from CPO registration for persons operating pools in which all participants are "accredited investors" as defined by Securities and Exchange Commission Rule 501 ("SEC Rule 501").³ Such exemptive relief would be available to the operator of a pool that uses futures and options on futures solely for bona fide hedging. In addition, the exemptive

¹ OneChicago is a joint venture among the Chicago Board Options Exchange, Incorporated, ("CBOE") Chicago Mercantile Exchange Inc. ("CME") and the Board of Trade of the City of Chicago, Inc. ("CBOT") that was formed to provide a trading facility for security futures products. This comment letter does not necessarily reflect the views of CBOE, CME or CBOT.

² 67 FR 68785 (November 13, 2002).

³ See Proposed Rule 4.13(a)(3)(iii). In addition, the NFA proposal would require that pool operators not market participation in the pool to the public (Proposed Rule 4.13(a)(3)(ii)); disclose in writing the purpose of and the limitations on the scope of the commodity futures and commodity options trading it will engage (Proposed Rule 4.13(a)(iv)); submit to special calls by the CFTC (Proposed Rule 4.13(a)(3)(v)); to maintain books and records (Proposed Rule 4.13(a)(3)(vi)). The NFA proposal would also amend Rule 4.13(b) to incorporate Proposed Rule 4.13(a)(3), which among others, requires pool operators to disclose certain information, in writing, to pool participants and requires pool operators to file this disclosure with the CFTC and the NFA. The NFA proposal would also amend CFTC Rule 4.14 to provide a parallel exemption for certain persons from CTA registration.

relief would permit a pool to trade futures and options on futures as long as the margin and premium required to establish such positions does not exceed five per cent of the liquidation value of the pool's portfolio ("five per cent test").⁴

OneChicago commends and supports the NFA proposal. OneChicago believes, however, that the Commission should broaden the exemptive relief proposed by the NFA to include all pool operators that use futures and options on futures for bona fide hedging purposes, regardless of the classification of those participating in the pool. Whenever pool operators use futures and options on futures for bona fide hedging purposes, they reduce the overall risk of pool's entire portfolio, thereby providing a benefit to each participant commensurate with his investment in the pool, regardless of his individual net worth, total assets or investment experience. Certain pool operators may be deterred from employing otherwise sound trading strategies if doing so would require them to register as CPOs. Consequently, such pool operators may resort to using riskier strategies or unregulated instruments to hedge the risk of their portfolios. Therefore, OneChicago believes that any pool operator who utilizes futures and options on futures for bona fide hedging purposes should be exempt from CPO registration.

At a minimum, OneChicago supports the five per cent test proposed by NFA for non-hedged futures and options on futures. But OneChicago also advocates that the Commission include an alternative notional value test similar to the one the Commission has proposed for Rule 4.5.⁵ The notional value test would permit pools, whose operators are exempt from CPO registration, to use futures and options on futures if the aggregate notional value of the pool's non-hedged commodity interest positions does not exceed the liquidation value of the pool's portfolio. OneChicago believes that the alternative notional value test would allow pools, the operators of which are exempt from CPO registration, to maximize the benefits of risk management strategies that incorporate security futures, which have a higher margin⁶ than traditional futures.

MFA Proposal

OneChicago supports MFA's proposal to add a new Rule 4.9 that would make an additional exemption from CPO registration available to persons operating privately offered pools that are exempt from registration under the Securities Exchange Act of 1933, provided that (i) all individual investors in the pool are "qualified eligible persons" as defined in CFTC Rule 4.7 and (ii) all "entity investors" are "accredited investors" as defined in SEC Rule 501(a).⁷

⁴ See Proposed Rule 4.13(a)(3)(i).

⁵ See 67 FR 65743 (October 28, 2002).

⁶ Currently the Commission and the Securities Exchange Commission require markets designated to trade securities futures to impose a minimum margin level of 20 per cent, which may be more than four times the margin levels prescribed for other commodity futures.

⁷ See Proposed Rule 4.9(a)(i) through (iii). In addition, neither the pool operator nor any of its principals could be subject to a statutory disqualification, unless such matter was previously disclosed in an application for registration that was granted. Proposed Rule 4.9(a)(iv). Proposed Rule 4.9(b)(i) would

OneChicago appreciates this opportunity to comment. If the Commission would like to discuss our comments further, please feel free to call me at (312) 424-8517 or C. Robert Paul, General Counsel, at (312) 424-8515.

Yours truly,
Madge M. Hamilton /s/
Deputy General Counsel

require that the operator of the pool remain subject to the anti-fraud and anti-manipulation provisions of the Commodity Exchange Act and the Commission. Proposed Rule 4.9(b)(ii) would also require that pool participants receive annual financial statements certified by an independent public accountant. Proposed Rule 4.9(c) would require any commodity pool operator utilizing the relief from CPO registration to file a claim of the exemption with the Commission.