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LEHMAN BROTHERS

RONALD H. FILLER
SR. VICE PRESIDENT

September 4, 2003

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

COMMENT

Re: Proposed Amendments to Rule 1.25 -- Comment Letter of Lehman Brothers Inc.

Dear Ms. Webb:

Lehman Brothers Inc. ("Lehman") appreciates the opportunity to submit these comments on the pending amendments to Rule 1.25 proposed by the Commodity Futures Trading Commission (the "Commission") for public comment in the Federal Register. 68 Fed. Reg. 38654 (June 30, 2003). The comment period expired on July 30, 2003, but the Commission extended the comment period to September 5, 2003. 68 Fed. Reg. 46516 (August 6, 2003). In general, these amendments would facilitate the use of repurchase transactions involving collateral deposited by commodity customers, codify prevailing industry practices and clarify certain ambiguities in the current rule, and provide futures commission merchants (each, an "FCM") as well as derivatives clearing organizations with some additional flexibility in connection with investing commodity customer segregated funds.

I. Introduction

Lehman is engaged in a broad range of financial service businesses, including futures and securities brokerage, securities underwriting and distribution, proprietary trading, dealer and market-making activities involving securities and other instruments, including permitted investments under Rule 1.25, and asset management. Lehman is registered as an FCM under the Commodity Exchange Act (the "Act") and Commission regulations and as a broker-dealer under the Securities Exchange Act of 1934 and Securities and Exchange Commission (the "SEC") regulations, and is a clearing member of the major futures exchanges. Thus, Lehman conducts its securities business

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in Lehman itself rather than in a separate broker-dealer affiliate. In this regard, Lehman is a major dealer in securities, including of course securities which are permitted investments under Rule 1.25, and is a "primary dealer" in U.S. government securities.

Given Lehman's extensive involvement in the futures markets and our role as a financial intermediary, the proposed amendments are extremely significant to our ability to conduct our FCM business in an efficient and cost-effective manner. We fully support the views set forth in the comment letter filed by the Futures Industry Association (the "FIA"), including its proposed new sub-section (f), and we are submitting a separate letter only in order to highlight the importance of one particular issue to Lehman.

II. Discussion

Rule 1.25 in its current form, and as proposed to be amended, does not specifically address the issue of whether or under what terms and conditions an FCM/broker-dealer, such as Lehman, may invest commodity customer segregated funds by (i) effecting a transfer of securities that are permitted investments which it holds for cash held in to the commodity customer segregated account, or (ii) effecting a transfer of commodity customer-owned securities from the commodity customer segregated account and permitted investments which it holds. These transactions serve as an alternative to reverse repurchase transactions and repurchase transactions entered into between an FCM/broker-dealer and a third party, respectively. Lehman believes that such transactions are permissible under Section 4d(a)(2) of the Act and that the Commission should amend Rule 1.25 by adding a new sub-section (f) thereto to make this point explicit, as explained in the FIA's comment letter. In so doing, the Commission should make clear that the amended provisions of Rule 1.25 supersede any prior staff letters to the extent that such letters may be read to express a differing or contrary view.

As noted, we believe that these transfers are permissible under Section 4d(a)(2) of the Act and Rule 1.25, and do not present any unique customer protection concerns. As with a reverse repurchase transaction, the FCM/broker-dealer is substituting "permitted investments" under Rule 1.25 that it holds for cash held in the commodity customer segregated account through appropriate book entry notations and instructions to its custodian bank. In this regard, the FCM/broker-dealer is required to make and keep accurate and complete books and records of the transaction in accordance with applicable CFTC recordkeeping requirements under Rules 1.25, 1.26, 1.27, 1.28, and 1.36 and comparable SEC recordkeeping provisions. The custodian bank also maintains its own records confirming that the securities are being held for the FCM/broker-dealer's commodity customer segregated account.

Similarly, as with a repurchase transaction involving commodity customer owned securities, the FCM/broker-dealer is substituting permitted investments which it holds for commodity customer owned securities. As with the substitution of permitted investments for commodity customer cash, substitution of commodity customer owned securities with permitted investments, which the FCM/broker-dealer holds, would be reflected in the books and records required to be created and maintained by the

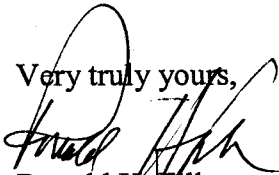
FCM/broker-dealer pursuant to applicable CFTC and SEC regulations. The records maintained by the custodian bank also reflect the proper location of all such securities.

Additionally, the FCM/broker-dealer would continue to be subject to other relevant provisions of Rule 1.25(d) under the FIA proposal. Among other things, an FCM/broker-dealer that elects to engage in such transactions could not transfer securities to the commodity customer segregated account unless (i) the firm owns or has the unqualified right to pledge such securities to the commodity customer segregated account; (ii) the firm does not recognize the transfer as accomplished until the funds and/or securities are actually received by the custodian of the FCM/broker-dealer's commodity customer segregated account; (iii) the transaction may be unwound within one business day or on demand; and (iv) the firm prices the securities transferred to the commodity customer segregated account each day based on the current mark-to-market value. Consistent with the FIA proposal, Lehman believes that it is appropriate for all securities transferred to the commodity customer segregated account pursuant to these transactions to be subject to the concentration limits applicable to direct investments under paragraph (b)(4)(i) of Rule 1.25 and to be treated as having a one day time-to-maturity.

III. Conclusion

In sum, Lehman believes that the Commission should amend Rule 1.25 to confirm that an FCM/broker-dealer may invest commodity customer segregated funds in permitted investments by effecting a transfer of such instruments which it holds or by effecting a transfer of commodity customer-owned securities from the commodity customer segregated account for permitted investments which it holds, in accordance with the terms and conditions set forth in the FIA comment letter. If the Commission or its staff has any questions concerning this letter, please direct them to Ronald H. Filler at (212) 526-0236.

Very truly yours,



Ronald H. Filler

cc: Hon. James E. Newsome
Hon. Barbara Pedersen Holum
Hon. Walter L. Lukken
Hon. Sharon Brown-Hruska
Ms. Jane Kang Thorpe