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NFA NATIONAL FUTURES ASSOCIATION

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Via E-Mail (secretary@cftc.gov)

COMMENT

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

Re: Investment of Customer Funds, 68 *Fed. Reg.* 125 (June 30, 2003)

Dear Ms. Webb:

NFA appreciates the opportunity to comment on the Commission's proposed amendment on the investment of customer funds. The proposal will give FCMs and DCOs greater flexibility in handling customer funds while ensuring that those funds are handled in a safe and efficient manner. Therefore, we support the proposal.

NFA supports the proposed amendment to CFTC Rule 1.25 allowing FCMs to engage in repurchase agreements with collateral deposited by customers. The safeguards included in the proposal, such as the marketability requirements, exclusion for specifically identifiable property, and required compliance with Rule 1.25(d), provide ample protection for customer deposited securities. The amendment provides greater flexibility, requires less paperwork, and reduces the burden on FCMs and their customers.

Since the amendment excludes specifically identifiable property, it is not necessary to provide an opt-out mechanism where a customer could instruct an FCM not to subject collateral/securities to a repurchase agreement. Furthermore, NFA believes that an opt-out provision would be costly and burdensome by requiring revisions to existing customer account agreements without a corresponding regulatory benefit.

The exclusion of specifically identifiable property also eliminates the need to require the FCM to replace the securities in the event of a default. Although replacing the securities may be the preferable course of action, NFA believes that it is acceptable, in the rare event of a default by a counterparty to a repurchase agreement, for the FCM to make the customer whole by giving the customer the cash equivalent of the securities plus any transaction costs that might be incurred in replacing them.

Additionally, NFA would support an amendment eliminating the dollar weighted average of the time-to-maturity limitation imposed on FCMs that invest solely

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in U.S. Treasury instruments. As mentioned by the Commission, Treasury instruments do not pose the same level of risk as other permitted investments. These instruments should, however, be subject to appropriate haircuts.

If you have any questions concerning this letter, please contact me at 312-781-1413 or tsexton@nfa.futures.org.

Respectfully submitted,

Thomas W. Sexton
Vice President and General Counsel

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