RECEIVED
C.F.T.C.

RECEIVED
C.F.T.C.

2003 SEP -9 PM 4:46 2003 SEP -9 PM 3:08

RECORDS SECTION

Man Financial

03-9
6

September 8, 2003

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW.
Washington, DC 20581
Attention: Secretariat

COMMENT

RE: Proposed Rules for Risk-Based Capital

Ladies and Gentlemen:

Thank you for the opportunity to comment on Commodity Futures Trading Commission's ("CFTC") proposed rules for risk-based capital. Man Financial Inc ("Man") agrees in principal with the CFTC that it is time to adopt a risk-based capital requirement, however, there are aspects of the new regulations which we believe need further consideration. Our thoughts and comments are as follows:

Early Warning Requirement

Man does not understand the basis by which the 150% early warning surcharge is derived. As the maintenance margin computes the all-in risk using SPAN parameters and calculates the worst-case risk scenario, there is little justification for having an early warning risk-based premium.

Man does understand that the CFTC and other regulators do not want to be caught off guard. Man believes that many of the past problems/failures of other FCM's have been the result of undue concentration and settlement price issues. We suggest that monitoring open positions thru the reportables mechanism and review of settlement price procedures may be better alternatives than simply having a financial solution. If such early warning premium must be instituted, then we suggest a de minimis percentage not to exceed 110% of the capital requirement.

Additionally, Man believes that if the CFTC imposes an early warning requirement, then the CFTC should consider "the reasons" that gave rise to falling below the early warning level. For instance, losses, haircuts or charges should be viewed differently than increases in customer exchange margin requirements. In the latter case, Man believes the reporting requirements should be liberalized to notification to the DSRO if the shortfall is not corrected after 24 hours.

Man Financial Inc
440 South LaSalle Street
20th Floor
Chicago IL 60605
Tel 312 663 7500
Fax 312 663 7524
www.manfinancial.com

Capital Charge for Undermargined Accounts

Although many institutional accounts are on a trade date plus one margin call basis, a significant number of small commercial hedgers and farmers still utilize the mail systems (FedEx) to meet margin calls. The same holds true for certain FCM retail customers who still transact business on a "check" basis.

Although Man would prefer retaining the three-day window, we cannot endorse moving to a one-day window. There are instances of wire transfers gone awry (regardless of cause), bank/exchange holidays which are different, and international banking holidays.

Equity Capital and Subordinated Agreements

Man believes that financial determinants, including return on capital, are critical in evaluating management's effectiveness. Man recommends FCMs be given the right to freely repay subordinated debt and dividend excess capital providing it remains in excess of 125% of the minimum capital requirement. Notification in these instances, rather than permission, should be required.

Adjustment to Net Capital Requirement Calculation

As you may be aware, Man, at its option, may increase maintenance margin requirements to customers over that rate established by the respective Exchange. The excess reduces the overall risk of default by the customer. Man should derive a benefit for reducing its risk and suggests that a benefit of 25% be given for each dollar in excess over maintenance be used to reduce the capital requirement. Such benefit cannot exceed the capital requirement associated with maintenance margin for a specific account.

Thank you for the opportunity to comment on the proposed rules for risk-based capital.

Respectfully submitted,

Ira Polk

Executive Vice President and Chief Financial Officer