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VIA ELECTRONIC DELIVERY  
March 7, 2005

RECORDS SECTION

OFC. OF THE SECRETARIAT

Ms. Jean A. Webb, Secretary  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

COMMENT

**RE: Proposed Amendments to Rules 1.25 and 1.27 - Investment of  
Customer Funds and Record of Investments**

Dear Ms. Webb:

The Joint Audit Committee ("JAC")<sup>1</sup> appreciates the opportunity to comment on the Commission's proposed revisions to Regulations §1.25 and §1.27, Investments of Customer Funds and Record of Investments. The Committee generally supports the Commission's proposal.

The Commission asked for comments on, among other things, the proposed auditability standard to be included in amended Regulation §1.27. As proposed, the Regulation requires "FCMs and DCOs to maintain supporting documentation of the daily valuation of instruments acquired through the investment of customer funds, including the valuation methodology and third party information." In the Release, the Commission notes that requiring FCMs and DCOs to maintain documentation of pricing information on investments of segregated funds, "...is particularly important with respect to instruments for which historical valuation information may not be retrievable from third party sources at the time of an audit."

To the extent that historical data is not available from third party sources, auditors will be forced to rely on firm provided, third party documents for the valuation of these investments. We're concerned that an auditor's inability to independently verify this data may constitute a significant departure from Generally Accepted Auditing Standards. We would also request guidance regarding the evaluation of internal models that certain FCMs may use to value investments of segregated funds.

<sup>1</sup> The JAC is made up of senior management representatives of the audit and financial surveillance staffs of all U.S. futures exchanges and NFA, and administers the joint audit plan under Commission Regulation 1.52.

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World Financial Center  
One North End Avenue  
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(212) 299-2000

The New York Mercantile Exchange, Inc., is composed of two divisions. The NYMEX Division offers trading in crude oil, heating oil, unleaded gasoline, natural gas, electricity, propane, platinum and palladium. The COMEX Division offers trading in gold, silver, copper, aluminum, and the FTSE Eurotop 100<sup>®</sup> index, and the FTSE Eurotop 300<sup>®</sup> index.

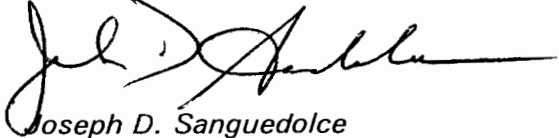
*In addition to the above, the JAC believes that the auditability standard should not be limited to the valuation of the instruments acquired, but should impose an obligation on FCMs and DCOs to maintain documentation supporting a particular instrument's compliance with all criteria set forth in Regulation §1.25 for acceptable investments of segregated funds. This is particularly relevant with respect to instruments with embedded derivatives, variable rate securities, auction rate securities and reverse repos.*

*Finally, we share the concern expressed by the Chicago Mercantile Exchange in its comment letter that certain FCMs may not have the tools and systems needed to understand the risks and implications of the instruments they will be permitted to invest in.*

*The Committee agrees with the Commission that expanding the list of permissible investments, to the extent that they are highly liquid and have low market and credit risk, may enhance the yield available to FCMs, DCOs and their customers. However, given the ever-expanding population of complex investments which may become available, a comprehensive auditability standard is needed to ensure ongoing compliance.*

*The JAC welcomes the opportunity to discuss this issue further. If you have any questions concerning this letter, please contact me at (212) 299-2855.*

*Sincerely,*

A handwritten signature in black ink, appearing to read "Joe Sanguedolce", written over a horizontal line.

*Joseph D. Sanguedolce  
Chairman, Joint Audit Committee*

*Cc: JAC Representatives*