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MANAGED FUNDS ASSOCIATION

The Association for investment professionals in futures, hedge funds and other alternative investments.

John G. Gaine
President

October 13, 1998

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

COMMODITY FUTURES
TRADING COMMISSION
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Re: Over-the-Counter Derivatives Concept Release

Dear Ms. Webb:

Managed Funds Association ("MFA") appreciates the opportunity to provide comments in response to the Concept Release (the "Release"), 63 Fed.Reg. 26114 (May 12, 1998) issued by the Commodity Futures Trading Commission (the "Commission") which invites comment on the Commission's reexamination of its approach to the over-the-counter ("OTC") derivatives market.

MFA is a national trade association of almost 700 members. MFA's membership is made up of a diverse group of alternative investment professionals, including hedge fund and commodity trading managers, commodity pool operators and fund of funds managers. These fund managers are responsible for a significant portion of the nearly \$250 billion invested in hedge funds and the vast majority of the over \$35 billion invested in managed futures funds. MFA members also include brokers, exchanges, cash managers, foreign exchange dealers, banks and other professionals who provide support services such as accountants, lawyers, consultants and academics.

Members of MFA are active participants in both exchange trading and OTC markets. In particular, the development and maturing of OTC derivative markets have been significant factors in the growth of the managed funds industry. Accordingly, we would like to share with

the Commission our views on several of the issues raised in the Release.

As has been the case with exchange-traded derivatives, the United States has been the world leader in the financial innovation that has created the current OTC derivatives marketplace. This marketplace provides corporations, financial institutions, funds, endowments, and governments the ability to manage effectively many of the risks that they face in their operations. Every entity on earth faces commodity, financial or currency risks. In addition to risk management, these markets provide trading opportunities to MFA members for their clients; in turn, MFA members add liquidity to these invaluable markets.

The existing regulatory structure has successfully nurtured the growth and development set forth above.

The Commission in the Release states that it "...is reexamining its approach to the over-the-counter...derivatives market" as part of its reform effort. Further, in the Release, the Commission states that it "...is open both to evidence in support of easing current restrictions and evidence indicating a need for additional safeguards."

It has been MFA's view that an easing of current restrictions is the appropriate course and that there is no need for additional safeguards. With respect to additional safeguards, we concur with the following portion of the "Statement Submitted by the Board of Governors of the Federal Reserve System to the Subcommittee on the Risk Management and Specialty Crops of the Committee on Agriculture U.S. House of Representatives, June 10, 1998:"

Institutional counterparties to privately negotiated contracts also have demonstrated their ability to protect themselves from losses from fraud and counterparty insolvencies. They have insisted that dealers have financial strength sufficient to warrant a credit rating of A or higher. Consequently, dealers are established institutions with substantial assets and significant investments in their reputations. When such dealers have engaged in deceptive practices, institutions that have been victimized have been able to obtain redress by going to court or directly negotiating a settlement with the dealer. The threat of legal damage awards provides dealers with incentives to avoid misconduct. A far more powerful incentive, however, is the fear of loss of the dealers's good reputation, without which it cannot compete effectively, regardless of its financial strength or financial engineering capabilities. Institutional counterparties to privately negotiated transactions also have demonstrated their ability to manage credit risks quite effectively through careful evaluation of counterparties, the setting of internal credit limits, and the judicious use of netting agreements and collateral.

MFA urges the Commission to lessen the current regulatory restrictions in two particulars.

First, MFA has worked closely with National Futures Association ("NFA") in developing its "Petition for Rulemaking to Amend CFTC Regulation 1.3, 1.55, 4.7, 35.1 and 36.1 (June 5, 1998)" to establish a uniform safe-harbor definition for those types of customers who are generally considered sophisticated. We strongly endorse NFA's proposal and urge its adoption in toto or at least piecemeal by incorporating NFA's definition into Part 35.

Second, MFA urges the Commission to clarify that the swaps exemption applies to transactions in all commodities, including energies, precious metals and financials.* MFA is not aware of any regulatory or policy issue that would justify excluding any commodities from the reach of the swaps of exemption.

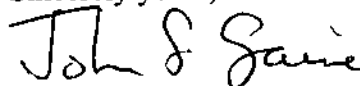
Recent Developments:

Recent market developments have confirmed the need to reexamine financial market practices and the regulatory structure in the OTC derivatives market as well as of hedge funds. We concur in the Commission's endorsement of Secretary of the Treasury Rubin's call for a meaningful study by the President's Working Group on Financial Markets. MFA is prepared to assist the Commission and the Working Group in this undertaking in any way that it can. We agree with Chairperson Born's statement that it is critically important for all U.S. financial regulators to work together closely and competitively. Financial and regulatory issues raised by recent events do not fall within the jurisdiction of any one regulator.

Conclusion

We renew our offer of assistance and thank the Commission for this opportunity to comment.

Sincerely yours,



John G. Gainie
President

*Except as prohibited by the Shad-Johnson Accord.