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COMMODITY FUTURES TRADING COMMISSION
RECEIVED FOR PUBLIC RECORD
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Ms. Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

COMMENT

RE: Performance Data and Disclosure for Commodity Trading Advisors and Commodities Pools

Dear Ms. Webb:

We appreciate the opportunity to respond to the CFTC's request for comment regarding possible changes to the regulatory requirements that apply to programs offered to the public by Commodity Trading Advisors and Commodity Pool Operators. With this letter, we will attempt to address the points raised in the respective proposals and most, if not all, of the questions raised by the CFTC.

In our response, you will undoubtedly note a prevailing theme, which actually mirrors a statement by the Commission, that merely requiring more data does not necessarily result in better information for clients. We steadfastly agree with this statement and are of the opinion that overloading clients with excessive amounts of data not only does not benefit clients, but results in overly excessive requirements being placed upon CTAs and CPOs.

A. Disclosure of Risk Profile Data on CTA Programs for Clients Considering Participation on a Partially-Funded Basis

While Eclipse Capital understands the Commission's wish to convey the point to investors that partially-funded participation in a CTA program could result in proportionally greater volatility and drawdowns compared to fully-funded participation, we strongly oppose the suggestion that drawdown percentage data be presented at two or three partial-funding levels, e.g. 25%, 50%, and 75%, in addition to the fully-funded level.

We believe that such excessive data presentation would not result in better information for clients, but would merely overload them with additional reams of information. Beyond requiring

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that a statement be included to the effect that an account that is only 50% funded could result in twice the volatility and two times a CTA's drawdown, we do not believe there is any added benefit to presenting drawdown figures geared to two or three partial funding levels.

In trying to determine the cost of such a presentation, it appears that actual out-of-pocket expenses may be negligible. However, a much greater and fairly likely cost would come as a result of the provision of such additional information in an already complex area of a disclosure document -- the unwanted effect of encouraging clients to simply skip this and other more relevant information all together.

Notwithstanding the above, should the Commission impose such a requirement, the most effective format would be to simply include a second value in the body of the existing matrix currently required in the disclosure document or, in the alternative, a separate matrix format should be utilized with the required funding levels included therein.

B. Presentation of Data concerning Estimated Margin Ratios

It is our belief that the margin-to-equity ratio (MTER) is not an adequate measure of risk and therefore should not be required information in a disclosure document. In fact, we believe that it is actually a misleading measure since not all exchanges utilize the SPAN form of netting out margins and not all FCMs use the same margin requirements for their respective accounts. Further, we have found most traders do not feel that the total margin requirement is an effective estimate of risk if the correlation aspects of the portfolio are not considered, e.g., a spread trade on different exchanges can have fairly low risk in the market place but extract leverage amounts for both legs of a trade, exchanges can charge widely divergent amounts for similar risk positions, etc.

In addition, requiring a CTA to disclose an absolute maximum margin requirement for an account would expose the CTA to unreasonable liability beyond its ability to manage given the involvement of external parties, e.g., the FCM. Finally, such a requirement may mislead investors attempting to make a comparison of trading performance and associated risk.

If requirements to show MTER were put in place, the existing "Performance Summary Matrix" would be the best way of reporting such information. We are aware of no evidence, in the form of studies or otherwise, that supports the proposition that margin requirements are a reliable indicator of the level of risk.

It is our opinion and belief that a requirement that CTAs disclose an "estimated" range of the amount of customer equity "generally" devoted to margin involves a standard so inherently discretionary that it could create the danger of presenting information that is misleading to potential investors. However, it is also our opinion and belief that such a range is more useful than a single point estimate and would effectively give an indication to the potential client that the MTER is variable over time, an important point for all potential investors.

As indicated above, Eclipse Capital believes that an absolute maximum percentage of customer equity devoted to margin, beyond which no margin-increasing changed will be made, would not only also be misleading, but would subject CTA's to an overly burdensome requirement that would result in unreasonable liability. If such a requirement is instituted, then such a structure should exist within the language of the Trading Advisory Agreement between the CTA and the investor.

We can come up with no justification to have the disclosure document carry language that would set limits that may or may not be reasonable for every potential and existing client. A requirement such as this would put the CTA, and potentially the investor, at a disadvantage should the MTER increase because of heightened market activity, which may coincide with an opportunity in which money could be made for the investor.

An alternative that could be considered, although we still feel it is not necessary, would be having the FCM report margin balances on an aggregate and sub-account basis in dollar amounts, not as a percentage of fully-funded or notional amounts, on a daily basis. It is our opinion and belief that FCM statements may not provide adequate information related to the margin balance calculation methods and aggregate numbers for their clients. The point here being that this type of information flow should be channeled through the FCM, not CTAs.

C. Providing the CTA/Client Agreement to the FCM

Of all the proposals presented within the Commission's request for comment, Eclipse Capital believes this is the most objectionable in all respects. We strongly contend that FCMs are not entitled to the confidential, negotiated provisions agreed to between a CTA and its client.

Further, this appears to be more of a FCM internal policy rather than one were public policy could be furthered. The result of such a proposal would be to put the FCM in a role of monitoring nominal trading size and expose such entities to unreasonable liability should an account lose money for any reason. Such a requirement adds a needless level of complexity to the FCM's oversight process. It is our opinion and belief that these entities already have in place procedures and methods for examining the credit of their clients.

Eclipse Capital is not aware of how important an FCM may believe the client's nominal account size to be. The most important point, in our minds, on this specific proposal is that the CTA should not be called upon to involve itself with clients and the FCM with regard to credit risk.

As indicated above, we believe that the Trading Advisor Agreement between a CTA and a client is private and may contain sensitive and proprietary information that should not be shared with an FCM under any circumstances. In short, any requirement calling for the sharing of a CTA/Client Agreement with an FCM should be omitted as such a requirement has no justification or measurable benefits of which we are aware.

In sum, we believe this requirement is wholly unnecessary and goes well beyond the intent of simply providing nominal account size information to an FCM. Further, we do not believe that FCMs consider the client's nominal account size to be useful information. To our knowledge, such entities do not obtain such information. Certainly, if such information would be required, it should simply be in the form of a statement provided by the CTA to the FCM of approximenly what the nominal account size will be at the time the account is opened.

D. Presentation of Risk Profile Data on Commodity Pools

Eclipse Capital does not have enough information at this time to comment as to what evidence supports or contradicts whether the ratio between aggregate notional value and total pool net asset value is a useful measure of the risk level of a commodity pool.

With regard to a presentation of leverage or drawdown data, we believe a fundamental problem with such a presentation is that allocation levels and/or leverage decisions can and will change over time. Having a summary that provides the current allocation, as a percentage, multiplied by the worst drawdown can be misleading for investors because the allocation at the time of the drawdown could have been very different than the current allocation. It is our opinion and belief that, since the investor is placing his trust with the trading manager to make prudent decisions with regard to investment alternatives, the focal point regarding risk profile data on commodity pools should be the trading manager. All of the relevant individual return and risk disclosure information should already have been completed for each of the CTA's and investee pools in a pool's disclosure document.

If this type of reporting is required, then the disclosure document should be the core source for such information. Sales literature should merely reference the disclosure document's reporting of this information. Annual Pool Reports should not have to disclose this information since the information would already be available in the disclosure document that has to be updated every nine months and is therefore communicated to the investor in a more timely basis than a yearly report.

E. *Theoretical soundness of the Basis of Computation and Presentation of ROR and Related Risk-Profile Data*

Eclipse Capital believes that fully-funded subsets are still the most accurate method for CTAs to display performance figures and therefore should be retained. We feel that this approach removes a lot of the confusion in comparing RORs to more traditional, non-leverage investments. The CTA/Client Agreement formally sets out the trading level, which renders the notion that this is subjective in nature wholly incorrect. This information is, in fact, very clearly defined in the CTA/Client Agreement which is the most direct connection between the client's objectives and the obligations of the CTA.

Rather than answering each specific question as it is presented in this section within the Commission's request for comment, we can sum up our position on this topic by simply stating that Eclipse Capital believes that the most sound and logical way to present ROR information is simply to base such information on the nominal funding of an account, meaning an account whose size would include both actual cash in the account and any notional funding in addition thereto. Nominal funding, therefore, represents the actual amount that a client expects to be traded and the actual amount that forms the basis for trading by the CTA.

On a broader scale, we believe that managed futures actually have a significant benefit associated with the ability of client to set funding levels. When an investor is looking at specific asset classes or to refine his or her selection within an asset class, often times the decision to pick an investment is based on target rates of return and volatility. A more traditional fund vehicle may allow for the target risk-to-reward ratio, but may not allow an investor to reach his or her desired return level due to the way the fund is structured. In response, the investor can always borrow money and pay the interest to gain a leverage version of a conservative fund's return and risk period. The result being that the investor is paying for the leverage in this case.

With managed futures, an investor can choose the funding level that best targets return and risk without the cost of borrowing the funds. This benefit is made possible, in large part, because of the credit accommodations given by the FCM and a clearinghouse. The investor can now make more discrete choices in all financial sectors and his or her investment requirements at the portfolio level and corresponding asset allocation level can be more fully satisfied.

F. *Changes in the Presentation of Historical Data*

In general, Eclipse Capital believes that the greater the time period for which historical ROR data can be provided to a client, the greater the benefit conferred upon such client. Thus, we believe that historical information should be provided beyond five years and include, at the very least, performance since the inception of trading by the CTA. We believe that there is little cost associated with the provision of additional performance data since most CTA's have computed and stored data for their respective programs since inception. We believe it would not be unreasonable to disclose as much as ten years of monthly data, if the track record for the CTA goes back that far. Further, it is our opinion and belief that both yearly and monthly data should be included since the inception of the CTA's program.

With regard to the volatility of returns, we believe that the current data requirements are efficient for investors. Using standard deviations and/or drawdowns as the only measure of risk may be misleading. Standard deviation, as a statistic, may unduly penalize a CTA that has skewed returns to the upside with little downside variance. Drawdowns are singular events that are potentially misleading with regard to what an investor may expect in the future. Drawdown risk should be calculated peak-to-valley, worst month and worst quarter. If more detail than is provided by this information is needed, it can be extrapolated from the monthly numbers as provided above.

G. Keeping Clients Regularly Informed Regarding CTA Program Status

With regard to the issue of whether "regular" information should come from the CTA, Eclipse Capital strongly believes that such information should come only from the FCM. Providing such information would be an overly burdensome requirement to be placed upon CTAs, and we recommend that any such provisions be stricken. The provision of such information is within the purview of the FCM and this entity should therefore be providing the service.

On balance, no additional reporting requirements should be established or put in place. As indicated above, this information is currently supplied by FCMs and such requirements should remain with FCMs and not placed on the CTA.

As indicated above, Eclipse Capital is greatly appreciative of the opportunity to respond to the Commission's request for comment. We would once again like to reconfirm our belief that simply requiring more data does not necessarily result in better information for clients. Such requirements, in our opinion, tend to overload clients with excessive amounts of data resulting in overly burdensome requirements for CTA's and CPO's who are already faced with the rising costs of conducting business.

With regard to the comments set forth above or any other questions or comments you may have, please contact me at (314) 725-2100 or via email at jklingler@eclipsecap.com.

Thank you for your time and attention to this matter.

Sincerely,

ECLIPSE CAPITAL MANAGEMENT, INC.

James R. Klingler
Senior Vice President