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Records

LAWLESS COMMODITIES, INC.

CTA specializing in livestock futures

1209 Park Terrace
Champaign, Ill. 61821
(217) 359-5034

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COMMENT

September 30, 1999

To: Jean A. Webb
From: Lawless Commodities, Inc.
NFA ID. #01113

Re: "Performance Data and Disclosure of Commodity Trading Advisors"

Attached is a 2 page response to the CFTC's proposed rule changes regarding the reporting of performance data for CTAs. We would greatly appreciate knowing that this response was received and will be included in the review of comments regarding the proposed rule changes. Please contact us either by phone (217.359.5034), by fax (217.355.9662), or by email (lawless@soltec.net) to let us know that this letter was received.

Thank you.

William G. Lawless
President
Lawless Commodities, Inc.

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C.F.T.C.

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CFTC Proposed Rules

B. Changes to Calculations

In regard to proposed rule 4.35(a)(6)(I)(B) concerning the inclusion of interest in net performance. It is our opinion that the interest should be included at part of the CTA's net performance.

The purpose of the track record is to allow a prospective client to see the returns he would have received in prior periods. If the CTA had invested funds in Treasury bills or money market accounts, the interest would have been received by the client as real spendable income, just as profits on futures trading or stock dividends.

If a CTA had a net trading profit of 12%, plus net interest income of 4% for a client, and a common stock mutual fund had a return of 13% (which always includes both dividends and interest), reporting net trading profit alone would suggest to a potential client that the mutual fund was the better choice for investment. Why should the CTA have to report rate of return without interest and the mutual fund report rate of return including both dividends and interest?

(If necessary, show annual rates of return and drawdowns with and without interest income).

C. Disclosure of Actual Funding Levels and Funds Under Management

In regard to proposed rule 4.35(a)(1) concerning disclosure of funds under management by a CTA. It is our opinion that stating only actual funds under management would not be a fair and accurate depiction of the CTA's funds under management.

We currently have a client who keeps a large sum of money in a "master" account with a single brokerage house, which he uses for margin for several different CTAs.

The funds physically in the specific account that one of his CTAs trades will be negative whenever losses occur, even though he may have substantial notional funds available to trade. This rule would require us to report negative assets under management, which would confuse potential clients and grossly misrepresent the true situation.

Because the percentage of the master account "allocated" to each CTA changes daily and could change by a very substantial amount, allocation of the master account is not feasible.

The most representative way of reporting assets under management is simply to report what the CTA is trading - i.e., the amount on which the CTA is basing his trading decisions.

D. Disclosure Concerning Drawdowns

In regard to the proposed rule 4.35(a)(1)(v) and (vi) concerning the inclusion of worst monthly and peak-to-valley drawdowns in performance capsules. In our opinion, this rule should not include the life of the program drawdowns in the performance capsules.

If more history is needed, I would suggest that the categories be (1) the last 5 years; and (2) the last 7 years. If a CTA did something brilliant or stupid 20 years ago (I did both) and it hasn't happened again in the last 7 years, it's probably not representative of a CTA's current trading style. A CTA's current trading is what the potential investor wants to know, and to focus the track record on events 20 years ago is misleading.

This proposed rule also does not mention how a CTA would handle a period of "gaps" in the program (i.e., a period in which there were no clients in a trading program). In addition, this requirement could create a bookkeeping hardship for CTAs whose records are not computerized but done manually, or whose records are only recently computerized. This would mean extensive work on the part of those CTAs whose records date back 20 years or more and who would need to update their records in order to comply with the rule.

F. Disclosure of Monthly Performance

In regard to proposed rule 4.35(a)(2)(ii) concerning the use of a bar graph to be disclosed in addition to the tabular presentation of monthly performance. It is our opinion that this should be made an option for the CTA to select and not a requirement by the Commission.

As the tabular format is the most widely used at this time, it would be advisable to continue using this format. Potential clients who track the results of a CTA would probably prefer to have the actual data to input into their own tracking models. In addition, a CTA who has several different trading programs would have to create and maintain bar graphs for each program and include them in his disclosure document and promotional materials. Too much information may be distracting for a potential client to the point that they will discard the materials rather than sifting through them.