



16 March 2012

David Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: 29 February/1 March 2012 Roundtable Discussing Additional Customer Collateral Protections

Dear Mr Stawick:

Newedge appreciates the opportunity to have been invited to participate, and to have participated, in many of the sessions of the captioned Roundtable.

Recent events have made it necessary to restore client confidence in the client protection measures of the USA futures industry, as well as similar client protection measures in other jurisdictions and of the USA securities industry too.

While we fully support and encourage the prompt implementation of the recommendations of the Futures Industry Association¹ and of the Futures Industry SRO Committee², we believe that more probably has to be done to help restore this confidence.

Some have suggested that, in order to help restore customer confidence, the futures industry should implement a regime of individual segregation capabilities, ranging from (1) an extension of the LSOC model for swaps to futures, to (2) the authorization to use third-party custody accounts to hold customer funds, and to (3) the creation of non-FCM customer accounts directly at clearing houses. Unfortunately, we have reservations about the practical (let alone legal) efficacy of such regimes. However, philosophically, we are also concerned that the introduction of any bilateral solutions to the mutualized model of clearing will create a hybrid model that simply and unfairly transfers fellow-customer or internal control risk from some customers at one FCM to (a) other customers at the same FCM, (b) other FCMs, or (c) even ultimately to customers at other FCMs who are less able to shield themselves from such risk. The introduction of increased moral hazard into the futures industry should be avoided, we think, until the efficacy and costs of this moral hazard can at least be better understood and calculated.

Alternatively, we believe that customer confidence can be materially enhanced by introducing a regime providing for daily automated reconciliations of FCMs' claimed requirement of segregated funds with amounts actually held by such FCMs in segregated accounts at approved depositories. This regime can

¹ See http://www.futuresindustry.org/downloads/Initial_Recommendations_for_Customer_Funds_Protection.pdf.

² See <http://www.nfa.futures.org/news/newsRel.asp?ArticleID=3990>.

be overseen directly by the CFTC, the NFA or designated self regulatory organizations, or a combination of the NFA and SROs.

Already there is a precedent for such a regime: the China Futures Margin Monitoring Center Co. Ltd. headquartered in Beijing, China. Created in 2006, owned by the four principal Chinese derivatives exchanges³ and under the oversight of the China Securities Regulatory Commission, this organization daily receives information from China futures commission merchants and their depositories, and reconciles the information to identify weaknesses in segregation. When weaknesses are identified, referral is immediately made to CSRC for follow-up.

Newedge, through its joint venture, CITIC Newedge Futures Co., Ltd, has been subject to the oversight of CFMMC since 2008. CFMMC is funded solely by the four principal Chinese derivatives exchanges.

Although the USA offers a more complex environment than China, it certainly appears to us that the principles of CFMMC can be imported to the USA to provide the CFTC and/or the various self regulatory organizations an early warning of trends that might suggest an impending possible breach in segregation (let alone an actual breach), and permit the CFTC and/or such self regulatory organizations to implement prompt corrective measures. We also believe that the complexity and costs of implementing a regime like that of the CFMMC are far less than the alternatives, and there will likely be far less unintended externalities too.

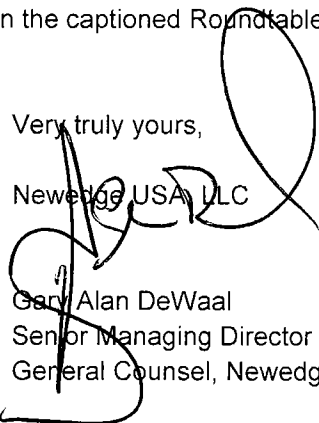
We believe that strengthening the core pillar of customer protection for the mutualized clearing system – segregation -- is far preferable than creating an untested bilateral mutualized hybrid system.

Enclosed please find a presentation prepared by CFMMC related to their organization, as well as a translation prepared by Newedge teams.⁴

Again, we thank the CFTC for inviting us to participate on the captioned Roundtable.

Very truly yours,

Newedge USA LLC


Gary Alan DeWaal
Senior Managing Director and Group
General Counsel, Newedge

³ Dalian Commodity Exchange, Zhengzhou Commodity Exchange, China Financial Futures Exchange and Shanghai Futures Exchange.

⁴ See also: <http://www.cfmmc.com/>.



中国期货保证金监控中心
China Futures Margin Monitoring Center Co.,Ltd

Introduction to China Futures Margin Monitoring and Alert System

China Futures Margin Monitoring
Center Co., Ltd. (unofficial translation
by Newedge staff)



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Outline

- 1、 Background of margin safety monitoring.
- 2、 Fundamentals and method of margin safety monitoring.
- 3、 Operational requirement for market participants under the margin safety monitoring.
- 4、 Handling of margin alerts.
- 5、 Impact on implementation of margin safety monitoring



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1、Background of margin safety monitoring

Limited supervisory authority and traditional supervisory method(s) are unable to give the desired supervisory effect, and cannot satisfy the orderly development of futures markets and the need to implement innovation(s).



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Establishment of Futures Margin Monitoring Center

Established in Beijing on 16 March 2006.

Its full name is the China Futures Margin Monitoring Center Co., Ltd. (“CFMMC”), which is a futures margin safety control bureau approved by General Office of the State Council and China Securities Regulatory Commission, and invested by Dalian Commodity Exchange 、 Zhengzhou Commodity Exchange、 China Financial Futures Exchange, Shanghai Futures Exchange, and is a non-profit making legal entity.

Website: www.cfmcc.com



2、 Fundamentals and method of margin safety monitoring

1. To check and verify the FCM's clearing information, especially on the validity of the rights of the customer.
2. Estimate the balance of the fund.
3. Monitor the transactions and risk control posed to the FCM's business.
4. Compliance monitoring on the FCM's clearing and settlement.



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1) To check and verify the FCM's clearing information, especially on the validity of the rights of the client

The margin control system (consists of) an audit system and an information system; together these two systems verify the clearing data of the FCM.

To collect the data from the Exchange and custodian bank on each working day, and verify the clearing data of the FCM.

Enquiry system will collect the clearing statement which the FCM prepare for their customer and to provide enquiry service to each customer.



(2) Estimate of the balance of the fund

- 1、 Mainly to check if the FCM has any margin gaps.
- 2、 If FCM's self-owned fund(s) complies with regulatory requirements.



(3) Monitoring of the transaction and risk control to the FCM

- Margin gaps can contribute to the failure of daily risk control policy.
- The amount available for each investor should be more than 0.



(4) Compliance monitoring on the FCM's clearing and settlements

FCM shall clear/settle on the basis of the results from the Exchange. The subject, format, manner and date on which clearing is made should be consistent with those of the Exchange.

Clearing business of the Exchange should also be reasonable and regulated.



3、 Operational requirement for market participants under the margin safety monitoring

The three levels of margin safety monitoring system are:

- Regulations for the Administration of Futures Trading
- The Administrative Measures for Futures Companies
- The relevant regulations as promulgated by the China Securities Regulatory Commission



4、 Handling of margin alert

➤ The CFMMC will schedule the alert system and verify results on a daily basis, and will issue alerts (if there is any alert matters). The Monitoring Center will send the alert by notice to the local China Securities Regulatory Commission where the head office of the FCM is located for investigation.

Reply request

Written confirmation within 5 working days upon receipt of the alert notice

For special and complicated situations may extend 5 more working days



Interim summary: Content of the Margin Monitoring System

- Regulate the futures margin transactions in order for the bank to provide all the margin transaction messages;
- Establish the daily message delivery policy to the Exchange, custodian bank and FCM in order for the Monitoring Center to receive the necessary data;
- Establish Monitoring Center, establish margin audit and information system for investors, and to monitor daily alerts in regards to the margin safety, transaction and clearing operation of the FCM;
- To handle the alert message on a timely manner.



5、 Impact on implementation of margin safety monitoring

- (1) The authoritativeness, validity and effectiveness of supervision/monitoring will give quality, and will better resolve safety issue of FCMs' margin.

- (2) To ease greatly the pressure of the regulators.

- (3) To implement the FCM's four margin principles:
 - 1、 Standardization of the futures market;
 - 2、 Regulation of market operation;
 - 3、 More scientifically conduct daily monitoring; and
 - 4、 Enhancement of the risk management.



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Thank You!



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中国期货保证金监控及预警机制简介

中国期货保证金监控中心



提纲

- 一、保证金安全存管监控的实施背景
- 二、保证金安全监控的基本原理和方法
- 三、保证金安全监控制度对市场参与者的主要业务要求
- 四、保证金预警信息处置
- 五、保证金安全存管监控制度的实施效果



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一、保证金安全存管监控的实施背景

有限的监管力量、传统的监管模式难以达到理想的监管效果，无法满足期货市场规范发展和开拓创新的需要



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China Futures Margin Monitoring Center Co., Ltd

期货保证金监控中心的成立

2006年3月16日，在北京成立

其全称是：中国期货保证金监控中心有限责任公司（简称中国期货保证金监控中心）

是经国务院同意、中国证监会决定设立的期货保证金安全存管机构，由上海期货交易所、大连商品交易所、郑州商品交易所、中国金融期货交易所出资，是非营利性公司制法人。

网站地址：www.cfmcc.com



二、保证金安全监控的基本原理和方法

- (一) 检查验证期货公司结算资料特别是客户权益的真实性
- (二) 资金平衡测算
- (三) 对期货公司交易和风控业务进行监控
- (四) 对期货公司结算、交割等相关业务进行合规监控



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(一) 检查验证期货公司结算资料特别是客户权益的真实性

保证金监控系统由核对系统和查询系统共同构成，通过两种不同机制共同对期货公司结算数据的真实性进行验证

核对系统每个工作日收集交易所和存管银行的数据，对期货公司的结算资料进行复核验证

查询系统汇集期货公司为客户准备的结算单并向每个客户提供结算单查询服务



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(二) 资金平衡测算

- 1、主要检查期货公司是否存在保证金缺口
- 2、期货公司封闭圈内自有资金是否符合监管要求



(三) 对期货公司交易和风控业务进行监控

- 保证金缺口多源于日常风控制度失效
- 每个投资者的可用资金应大于0



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(四) 对期货公司结算等相关业务进行合规监控

期货公司应当根据交易所的结算结果对客户进行结算，结算的科目、格式、处理方式和处理日期应当与交易所保持一致。

交易所的结算业务也要合理和规范



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三、保证金安全监控制度对市场参与者的主要业务要求

保证金安全存管监控制度的三个层次：

《期货交易管理条例》

《期货公司管理办法》等若干管理办法

证监会发布的有关规定



四、保证金预警信息的处置

- 监控中心根据监控系统每日核对结果，编制预警信息（如果有预警事项）。监控系统发出的预警信息以预警通知单的形式发给期货公司总部所在地的中国证监会派出机构具体调查核实。

回复要求

收到预警通知单5个工作日内书面回复

情况特别复杂的报期货部后可延长5个工作日



小结：保证金安全存管监控制度主要内容

- 对期货保证金存取业务进行规范，使银行能提供所有保证金存取信息；
- 建立交易所、保证金存管银行和期货公司每日信息报送机制，使监控中心掌握必要的数据；
- 成立监控中心、建立保证金核对系统和投资者查询服务系统，对保证金安全和期货公司交易、结算等业务进行逐日监控和预警；
- 预警信息及时处置。



五、保证金安全存管监控制度的实施效果

- (一) 监管力度、监管有效性、监管效率都产生质的飞跃，较好解决了期货市场的保证金安全问题
- (二) 极大缓解了监管部门的压力
- (三) 推进了期货市场的“四化”
 - 1、期货市场的标准化
 - 2、市场运行的规范化
 - 3、日常监管的科学化
 - 4、风险研判的提前化



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谢 谢 !