



Futures Industry Association

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By Commission Website

December 28, 2012

Ms. Sauntia Warfield
Assistant Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: RIN 3038-AD88: Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 77 Fed.Reg. 67866 (November 14, 2012)

Dear Ms. Warfield:

The Futures Industry Association (“FIA”) respectfully requests the Commodity Futures Trading Commission (“Commission”) to extend the comment period for the above-referenced notice of proposed rulemaking for an additional 30 days, from January 14, 2013 to February 13, 2013. This is a complex rulemaking, which affects not only futures commission merchants (“FCMs”), both clearing and non-clearing, but also their affiliates, their depositories and, most important, their customers. Proper analysis of the proposed rules requires input from these entities in addition to virtually every segment of an FCM’s business, including financial reporting, operations, compliance and legal. In this regard, we have formed four subcommittees comprised of approximately 100 representatives from FIA member and associate member firms.

We are especially concerned that FCMs have not had sufficient time to consider the implications, for their customers as well as themselves, of the proposed amendments to the Commission’s financial rules, *i.e.*, the proposed amendments to Rules 1.17, 1.20-1.32 (as applicable), 22.2, 22.17, and 30.7. We note, in particular, that the Commission’s analysis of the potential costs of the proposed requirement that an FCM’s residual amount must exceed its customers’ aggregate margin deficits appears to focus solely on (i) the potential limitation on investment options that would be available to FCMs and (ii) the potential desire of some FCMs to increase their capital to meet operational needs. Based on our analysis to date, however, we do not believe the potential costs are so benign.

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To the contrary, we believe that the proposed rules are likely to require customers to pre-fund potential margin obligations and, as a consequence, will have a substantial financial impact on customers, especially those that use the futures markets to hedge their commercial and financial risks. Further, the increased costs imposed on FCMs will adversely affect the ability of many FCMs to compete effectively.

In order to complete our analysis of the proposed rules and enable us to prepare a more meaningful comment letter, FIA is undertaking to retain an experienced consultant to collect and analyze select FCM financial data. Certain of this data is considered sensitive proprietary business information, which FCMs generally expect will be confidential. A consultant is necessary to assure the confidentiality of such business and financial information.

We believe the financial data that will be collected and analyzed will be critical to the Commission's consideration of any final rules. Because this project will not be complete by January 14, 2013, we respectfully request that the comment period on the proposed rules be extended for an additional 30 days to February 13, 2013.

Thank you for your consideration of this request.

Sincerely,



Walt L. Lukken
President and CEO

cc: Honorable Gary Gensler, Chairman
Honorable Jill E. Sommers, Commissioner
Honorable Bart Chilton, Commissioner
Honorable Scott O'Malia, Commissioner
Honorable Mark Wetjen, Commissioner

Gary Barnett, Director, Division of Swap Dealer and Intermediary Oversight
Ananda Radhakrishnan, Director, Division of Clearing and Risk
Robert Wasserman, Chief Counsel, Division of Clearing and Risk