Phillip Futures Inc.

February 14, 2013

Via Electronic Submission

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

Re: Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations (78 FR 4093)

To whom it may concern,

Phillip Futures Inc. ("PFI") is a member of the Phillip Capital Group of Companies. The group has network companies operating in the financial hubs of more than thirteen countries, and it is a leading provider of a full range of investment services including global equities, futures, commodities, currencies, mutual funds, insurance etc. in Asia. It was founded in 1975, has shareholder funds greater than $1 Billion, global assets under custody greater than $18 Billion, and global staff strength greater than 3,500. In addition, our affiliated companies currently hold direct membership to more than twenty futures exchanges worldwide. Standalone, PFI is a Futures Commission Merchant ("FCM") which is registered with the Commodity Futures Trading Commission ("CFTC") and is a Member of the National Futures Association ("NFA"). We are currently clearing members of CME Group, Liffe-U.S, CFE, and ICE-U.S.

Given the recent imperfections in the industry which surfaced as a result of the failures of MF Global Inc. ("MF Global") and Peregrine Financial Group Inc. ("PFG"), we at PFI would like to commend and thank the CFTC for both the effort it has put forth in attempting to restore consumer confidence in the industry and the opportunity it has given PFI to comment.

As stated above, PFI applauds the CFTC for its quick response to the turmoil referenced above. However, while PFI agrees that further regulation may increase customer protections, we have concerns with some of the proposals, most notably the following:

- CFTC Regulation 1.11(d)
- CFTC Regulation 1.11(e)
- CFTC Regulation 1.55(k)

CFTC Regulation 1.11(d) -

This proposal states that "*....The risk management unit shall report directly to Senior Management <u>and shall be independent from the Business Unit</u>.*"

PFI understands the inherent conflicts of interest which have led to the CFTC's proposal of this rule. However, PFI believes that natural conflicts of interest will always exist, no matter how many supervisory levels, policies, and procedures a firm may develop and implement.

It is the conclusion of PFI that the definition of Business Unit as defined in 1.11(b)(1)(iii) will lead to a decrease in the timeliness of decision making as decisions will now have to be filtered through the new supervisory employees that this rule will ultimately create. PFI feels that this decrease in timely decision making will indubitably hinder each FCM when accessing risk. Moreover, PFI agrees with RCG that by separating these departments, this rule "*removes a valuable, mature talent pool from participating in an important risk management function. Moreover, it is counter-productive because it has the potential of blocking the flow of historical and financial information about a customer from the business side to the risk side-information that is crucial to evaluating risk.*"

As such, PFI proposes that so long as the internal controls, senior leadership, and training programs of a firm are created with the proper checks and balances which ensure proper supervision of activities conducted by both the Business Unit and the risk management unit, the respective units need not be independent from each other.

CFTC Regulation 1.11(e)(3)(i)(H) -

This proposal states *"Procedures requiring the appropriate separation of duties among individuals responsible for compliance with the Act and Commission regulations relating to the protection and financial reporting of Segregated Funds, including the separation of duties among personnel that are responsible for advising customers on trading activities, approving or overseeing cash receipts and disbursements (including investment operations), and recording and reporting financial transactions."*

Similar to what was stated in response to proposed regulation 1.11(d) above, PFI feels that the separation of duties proposed by this rule will require our firm to hire multiple employees which will have limited job responsibilities. As such, PFI proposes that so long as firm internal controls are again adequate and supervisory personnel are properly registered with the CFTC and NFA, that separation of duties need not be necessary. For instance, maybe rather than requiring all disbursements in aggregate of 25% be pre-approved by Senior Management, it should be necessary that all FCM employees who are approved at each depository to initiate disbursement of customer funds be registered as a Principal with NFA and CFTC.

CFTC Regulation 1.55(k) -

PFI is concerned with various portions of the rule proposals revolving around Regulation 1.55(k). Specifically, while PFI agrees that the current financial requirements required to be made public by NFA are useful to customers, PFI is concerned that some of the proposed disclosures such as the FCM's "*target residual interest*" may prove to be more misleading to customers than helpful if made public.

It is the opinion of PFI that even after a customer receives the disclosures and has had a chance to discuss all of the financial numbers which are proposed to be public, that the customer may still not completely understand what the numbers represent. As a result, it is the fear of PFI that the use of this public

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information may in time become the focal point of promotional material which may directly or indirectly mislead a customer's decision as to which broker it chooses to do business with.

PFI proposes that the CFTC limit the data made public to that which is most appropriate for the average retail futures customer to make an educated decision as to which broker to invest with. Further, PFI believes that rather than making the information in the disclosure document public, it should only be provided to customers at their request.

PFI appreciates the opportunity to offer these comments to the CFTC and is available for further comment at (312) 356-9003.

Sincerely,

Lynette Lim
Director & CEO
Phillip Futures Inc.
141 W Jackson Blvd Suite 3050
Chicago, IL 60604