



**GNI INCORPORATED**  
 30 S. Wacker Drive, Suite 2009  
 Chicago, Illinois 60606

Telephone: (312) 441-6600  
 Facsimile: (312) 419-8019

COMMODITY FUTURES  
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**COMMENT**

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COMMODITY FUTURES  
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February 19, 1998

Jean A Webb  
 Secretary of the Commission  
 Commodities Futures Trading Commission  
 1155 21<sup>st</sup> Street NW  
 Washington, D.C. 20581

Dear Ms. Webb:

I have recently read the proposed amendments to rule 1.12 of the Commodities Futures Trading Commission. I would like to comment on this proposal from a number of aspects.

My initial question is; "why is the commission trying to take over a responsibility of my DSRO?" Currently each FCM has a rapport with their DSRO. If the FCM is a clearing member of one of the exchanges, this rapport is usually a fairly close working relationship, in which the DSRO understands the history of the FCM, the nature of its business, the risk profile associated with the FCM. This relationship typically translates into a partnership where the clients are protected, while still enabling the FCM to conduct itself in a businesslike manner. It seems to me the public is not as well served if the CFTC finds out certain information, and taking it at face value, reacts in such a way as to start rumors on the street. Rumors inevitably lead to panic a state that benefits no one.

I also have a problem with the language of the proposal. "The time when the Commission would expect an FCM to be aware of an undersegregated conditions would depend upon the *circumstances.*" Who determines the circumstances, how are they determined, and what is considered acceptable or extenuating circumstances? What is the appeal process? Due circumstances change depending on market conditions? What if I am understaffed that day, is that an valid circumstance? This vagueness is makes the amendment a loaded gun for the CFTC, which they can choose to fire at their discretion. The possibilities of misuse are rampant. Making up the parameters as you go along is an unfair and unacceptable burden on the FCMs. As an FCM, I ask how can you claim a rule violation when the rule is not specific?

I would also question the timetable involved I the proposal. Firstly, have you ever tried to call the Commission at 8:00at night? There is no one there! Secondly, you state that anticipated incoming funds can be used in the calculation. We all expect our clients to come through with their margin payments, and must give them the time to do so. If they do default, the chances are they are not calling us at 5:00 that night to tell us. They are calling banks or their parent companies (potentially in another time zone) for a loan or infusion of capital. This result may not be confirmed until the next day. How can we as FCM's anticipate the outcome of such a negotiation? We have no definite way of knowing if a margin call will be met.

My last point on the timing of the expected notification, is a bookkeeping error. Our systems have built in checks and balances. However, often times one transposes numbers, or misplaces a decimal, and it may take hours to find this human error. Do we report an undersegregated situation to the CFTC, cause a stir on the street, and therefor rumors about our companies financial stability because a clerk made a transposition error. The effect of those street rumors could and probably would result in a great loss of business. Over a transposition error that was figured out at 10:00 at night?

Although I understand the concern the Commission has for the public, and the intention of this amendment is to serve the good of the people, I strongly believe this amendment has the potential to do more harm than good. As we are businessmen, trying to run a business where rumor and innuendo are king, it is imperative that that we be considerate of the possible harm to the FCM, and the integrity of the industry itself.

If it is not broken don't fix it. If some change must be made, consider narrowing the window of reporting an under segregated condition to our DSRO. I strongly disagree with the proposed changes and language of 1.11

Thank you for allowing me the opportunity to comment on this

Very truly yours,

A handwritten signature in black ink, appearing to read "Larry Arnowitz". The signature is fluid and cursive, with a large initial "L" and "A".

Larry Arnowitz  
CEO