

Joint Audit Committee

Regulatory Update

To: Chief Financial Officers
9606
Chief Compliance Officers

Date: December 30, 1996

Re: SEC Rule 270.17f-6 - Third Party Custodial Accounts

The Securities and Exchange Commission recently issued final rules that allow investment companies, unit investment trusts, and face-amount certificate companies (collectively referred to as “Funds”) to maintain assets directly with an FCM in connection with both U.S. and foreign commodity transactions. Funds may also continue to maintain assets in third party custodial accounts in accordance with [CFTC Financial and Segregation Interpretation No. 10](#).

SEC Rule 270.17f-6 allows a Fund to maintain cash, securities and similar investments with a registered FCM that is not an affiliated person of the Fund or an affiliated person of such person provided that:

1. A written contract exists between the Fund and the FCM which indicates:
 - The FCM will comply with CFTC segregation and secured requirements.
 - The FCM will maintain the Fund’s assets with another FCM, a clearing organization, a U.S. or foreign bank, or a member of a foreign board of trade and shall obtain a properly executed acknowledgment letter.
 - The FCM shall promptly furnish records or other information pertaining to the Fund’s assets as requested by the SEC.
2. Gains on the Fund’s transactions, other than de minimis amounts, shall be maintained at the FCM only until the business day following receipt by the FCM.
3. If the custodial arrangement no longer meets the requirements of SEC Rule 270.17f-6, the Fund’s assets must be withdrawn as soon as reasonably practicable from the FCM.

The new rule allows a Fund to deposit assets with an FCM in a similar manner as other market participants provided the Fund meets the requirements set forth in SEC Rule 270.17f-6. The rule was published in the attached [Federal Register](#) on December 17, 1996 and is effective January 16, 1997.

If you have any questions, please contact your DSRO.