

# Joint Audit Committee

## Regulatory Update

**To:** Chief Financial Officers  
Chief Compliance Officers

9704

**Date:** June 27, 1997

**Subject:** Delivery of Statements by Means of Electronic Media

The CFTC has continued to respond to advances in computers and related electronic media technology by facilitating their use in fulfilling CFTC rules and requirements. The CFTC recently issued the attached [guidance](#) (and [correction](#)) concerning the use of electronic media (*i.e.* facsimiles, electronic mail, Internet World Wide Web sites, and computer networks) to deliver monthly, confirmation, and purchase and sale statements and their related recordkeeping requirements.

An FCM may fulfill the statement delivery requirements of CFTC Regulations 1.33 and 1.46 solely by means of electronic media to any customer who consents to delivery by that method in accordance with the guidance. A customer's consent to electronic delivery must reflect sufficient information concerning the manner and costs of delivery to constitute informed consent. Furthermore, such consent must be revocable at any time.

### Consent - Eligible Customers

For "eligible customers," an FCM may obtain the customer's informed consent orally, by means of electronic media, or through hard copy documentation including the customer's signature.

For purposes of this guidance, "eligible customers" include eligible swap participants as defined by CFTC Regulation 35.1(b)(2); institutional customers as defined by Federal Reserve Board Rule 225.2(g); and CFTC registrants.

### Consent - All Other Customers

For non "eligible customers," an FCM must obtain the customer's signed, hard copy, revocable consent prior to the transmission of any statement by means of electronic media. This consent may be obtained as part of the customer account agreement or in a separate document. In addition, the consent should clearly indicate whether the customer has agreed to electronic delivery of a statement in lieu of hard copy or in addition to hard copy.

These changes should benefit both customers and FCMs by providing for more expeditious and cost effective delivery of statements.

If you have any questions, please contact your DSRO.