

Joint Audit Committee

Regulatory Update

TO: Chief Financial Officers
Chief Compliance Officers

#08-06

DATE: November 11, 2008

SUBJECT: CFTC Regulation 1.20 and Non-Regulated Delivery Transactions

In recent examinations, instances have been noted where customer segregated funds were used to finance customer non-regulated delivery transactions. Specifically, the payment for customer non-regulated delivery transactions was debited from customer segregated bank accounts.

As a reminder, Regulation 1.20 prohibits an FCM from using funds held in customer segregated accounts other than to pay obligations to or on behalf of segregated customers. If the FCM records its customer delivery transactions in the non-regulated origin of its bookkeeping system, the payment for those transactions cannot be debited from customer segregated bank accounts. However, the FCM may transfer excess segregated funds from segregated bank accounts into house bank accounts to pay for those transactions.

Please ensure that your firm's delivery transactions are processed through the correct origin bank accounts.

If you have any questions, please contact your DSRO and/or the CFTC.