

# Joint Audit Committee

## REGULATORY UPDATE

TO: Chief Financial Officers  
Chief Compliance Officers

#09-04

DATE: March 3, 2009

SUBJECT: CFTC Proposed Rules on Acknowledgment Letters for Customer Funds and Secured Amount Accounts

The CFTC has recently proposed revisions to the regulations regarding acknowledgment letters for segregated and secured accounts. The CFTC has proposed to modify the specific representations required in the acknowledgment letters in order to reaffirm and clarify the obligations depositories incur when accepting customer funds or secured amount funds. Under the proposed rules, the depository must acknowledge:

- The account has been established for the purpose of depositing customer funds;
- Deposited funds are those of commodity or option customers and those funds are to be segregated or secured as applicable;
- Customer funds shall not be subject to any right of offset or lien;
- Customer funds must be treated in accordance with the Act and CFTC regulations;
- The depository will immediately release customer funds upon proper notice and instruction from the FCM or CFTC; and
- The CFTC will be provided a copy of the signed written acknowledgment.

The written acknowledgment must include the account number for each account covered by the acknowledgment. In addition to the above, the FCM will be responsible for providing its regional office of the CFTC with a copy of the signed written acknowledgment letter.

The proposals were published in the *Federal Register* (February 20, 2009, Vol. 74, No. 33, at page 7838) and can be found on the CFTC's Web site at [www.cftc.gov](http://www.cftc.gov).

We encourage you to review the proposed rule amendments and provide the CFTC with your comments which are due by March 23, 2009.

If you have any questions, please consult your DSRO.