

# Joint Audit Committee

## REGULATORY UPDATE

TO: Chief Financial Officers  
Chief Compliance Officers

#12-02

DATE: March 1, 2012

SUBJECT: CFTC Regulations 1.25 and 30.7 – Effective Date and Compliance Date

CFTC Regulations 1.25 and 30.7 were amended and became effective February 17, 2012. Further, the CFTC established that all FCMs must be in compliance with these rules no later than June 18, 2012. Amended CFTC Regulations 1.25 and 30.7 were published in the Federal Register (December 19, 2011, Vol. 76, No. 243, at page 78776) and can be found on the CFTC's web site at <http://www.cftc.gov/LawRegulation/FederalRegister/FinalRules/2011-31689>.

Additional guidance has been provided by the Division of Clearing and Risk of the CFTC to clarify the intention of the effective date and compliance date. Please refer to the attached letter dated February 23, 2012.

As of February 17, 2012 all investments of customer segregated and secured amount funds must be in compliance with Regulation 1.25 as amended by the Final Rulemaking. The purpose of the compliance period is to allow FCMs that engaged in investments previously allowed that are now not allowed under Regulation 1.25, as amended, time to come into compliance. Therefore, prior to June 18, 2012, an FCM that does not comply with Regulation 1.25 may alter its investments only in a manner that advances its efforts to move into compliance. An FCM that is in compliance with Regulation 1.25 may not make investments that would move the FCM out of compliance.

For example, if an FCM were to hold investments in the sovereign debt of a foreign country as of February 17, 2012, it would have until June 18, 2012 to remove this debt from its Regulation 1.25 investments. However, the FCM may not increase its investments in the sovereign debt of a foreign country prior to June 18, 2012. Similarly, an FCM not holding investments in the sovereign debt of a foreign country as of February 17, 2012, may not begin investing in such debt instruments.

As of February 17, 2012 in-house transactions and repurchase and reverse repurchase agreements with affiliates, whether done on an overnight basis or term basis, are not allowable investments of segregated and secured amount funds. Because these transactions have a term of one business day or can be reversed on demand, it is possible to unwind them immediately. Therefore, any firm engaging in in-house or affiliate transactions as of February 17, 2012 should unwind them, whether or not the firm has a substitute counterparty, and should not engage in such transactions going forward.

If you have any questions, please contact your DSRO.



Division of  
Clearing and Risk

## U.S. COMMODITY FUTURES TRADING COMMISSION

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Ananda Radhakrishnan  
Director

February 23, 2012

Debra K. Kokal  
Director, Audit Department  
CME Group  
Chairman, Joint Audit Committee  
20 South Wacker Drive  
Chicago Illinois 60606

Re: Guidance Regarding Commission Regulation 1.25

Dear Ms. Kokal:

This letter responds to your inquiry dated February 22, 2012, requesting guidance from the Division of Clearing and Risk (the Division) regarding the meaning of the effective date and compliance date for the Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions rulemaking (the Final Rulemaking)<sup>1</sup> and its impact on the investment of customer funds under Commission Regulation 1.25 (Regulation 1.25).<sup>2</sup>

The Final Rulemaking stated that its requirements become “effective” on February 17, 2012, but that “[a]ll persons shall be in compliance with this rule not later than June 18, 2012.”<sup>3</sup> You wrote that the Joint Audit Committee had received a number of inquiries regarding what investments would be permissible during the time period occurring after the effective date but before the compliance date (the Compliance Period).

It is the view of the Division that as of February 17, 2012, all investments of customer segregated and secured amount funds must be in compliance with Regulation 1.25 as amended by the Final Rulemaking. The purpose of the compliance period is to allow futures commission merchants (FCMs) and derivatives clearing organizations (DCOs) that engaged in hitherto

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<sup>1</sup> 76 FR 78776 (Dec. 19, 2011).

<sup>2</sup> 17 C.F.R. § 1.25.

<sup>3</sup> 76 FR 78776. See also 76 FR 78791.

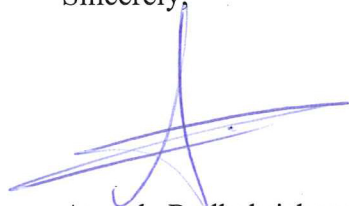
Ms. Debra K. Kokal  
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Regulation 1.25 appropriate investments that are now not allowed under Regulation 1.25, as amended, time to come into compliance.

Therefore, an FCM or DCO that was already in compliance with Regulation 1.25 as of the effective date may not invest funds during the Compliance Period if such investments would cause the FCM or DCO to move out of compliance. An FCM or DCO that did not comply with Regulation 1.25 as of the effective date has until the compliance date to fully comply. However, during the Compliance Period, such an FCM or DCO may only alter its investments in a manner that advances its efforts to come into compliance – it may not pursue investments that would move it further out of compliance.

This letter represents the position of the Division only and does not necessarily represent the views of the Commission or those of any other division or office of the Commission. If you have any questions concerning this correspondence, please contact Jon DeBord, Special Counsel, at 202-418-5478 or [jdebord@cftc.gov](mailto:jdebord@cftc.gov).

Sincerely,

A handwritten signature in blue ink, consisting of a series of overlapping loops and a long horizontal stroke extending to the right.

Ananda Radhakrishnan  
Director