

October 11, 1982

Ms. Jane K. Stuckey
Office of the Secretariat
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association;
Proposed Amendments to
Financial Requirements

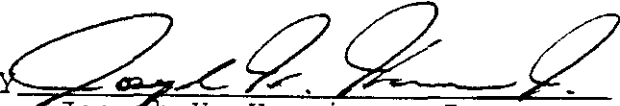
Dear Ms. Stuckey:

Pursuant to Section 17(j) of the Commodity Exchange Act and consistent with the duties of National Futures Association ("NFA") under Commodity Futures Trading Commission ("CFTC") Regulation 1.52, NFA hereby files with the CFTC and requests CFTC approval of the proposed amendments to NFA Financial Requirements which appear in Exhibit A attached. The entire text of NFA Financial Requirements, including the amendments which are the subject of this filing, are reproduced in Exhibit A. Additions to be effected by the proposed amendments are underlined in Exhibit A and deletions placed in brackets.

These proposed amendments will be considered by NFA's Board of Directors at its meeting on October 14, 1982. NFA will notify the CFTC by supplemental letter of the approval of these amendments by NFA's Board.

NFA respectfully requests that the amendments to NFA Financial Requirements indicated in Exhibit A be declared effective upon approval by the Commission.

Very truly yours,
NATIONAL FUTURES ASSOCIATION

By 
Joseph H. Harrison, Jr.
General Counsel and Secretary

JHH:cv
Attach.

cc: Theodore W. Urban
bcc: R. K. Wilmouth
Dan Driscoll
Jan Saran

National Futures Association

FINANCIAL REQUIREMENTS

Section 1. Minimum Financial Requirement.

Each NFA Member that is required to be registered with the Commodity Futures Trading Commission (hereinafter "CFTC") as a Futures Commission Merchant (hereinafter "Member FCM") must maintain "Adjusted Net Capital" (as defined in Schedule A hereto) equal to or in excess of --

(a) The greatest of --

(i) \$50,000, or

(ii) 4 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC Regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or,

(iii) (for securities brokers and dealers), [4 percent of aggregate debit items computed in accordance with the formula of the Securities and Exchange Commission (hereinafter "SEC") for determination of reserve requirements (SEC Regulation 15C3-3, 17 CFR 240.15C 3-3)] the amount of net capital

specified in Rule 15c3-1(a) of the
Regulations of the Securities and
Exchange Commission (17 CFR
240.15c3-1(a)).

Section 2. Designated Self-Regulatory Organization.

In the case of a Member FCM that is a member of one or more contract markets, the Member's Designated Self-Regulatory Organization (hereinafter "DSRO") shall be the organization that has been delegated primary financial responsibility for the Member pursuant to the Delegation Plan of NFA and the contract markets. In the case of a Member FCM that is not a member of a contract market, the Member's DSRO shall be NFA.

Section 3. Debt/Equity Ratio Requirement.

- (a) Requirement. Except as provided in (b) below, each Member FCM shall have "Equity Capital" (as defined in Schedule B hereto), inclusive of "Satisfactory Subordination Agreements" (as defined in Schedule C hereto) that qualify as Equity Capital, of not less than 30 percent of the following amount: The Member's Equity Capital plus the outstanding principal amount of Satisfactory Subordination Agreements minus the excess of the Member's Adjusted Net Capital (see Schedule A) over the minimum adjusted net capital required under Section 1 above.

(b) Exemption. A Member FCM may be exempted from Section 3(a) for a period not to exceed 90 days, or for such longer period as the FCM's DSRO may permit as within the best interests of the DSRO.

Section 4. Compliance with Financial Requirements.

Each Member FCM must be in compliance with these financial requirements at all times and must be able to demonstrate such compliance to the satisfaction of its DSRO.

Section 5. Failure to Comply with Financial Requirements.

A Member FCM that is not in compliance with these financial requirements or is unable to demonstrate compliance with these requirements as required by Section 4 above may trade for liquidation purposes only unless otherwise directed by its DSRO. Otherwise, the Member FCM may be directed by the DSRO to transfer customer accounts or cease doing business as an FCM until it is able to demonstrate compliance. If, however, the Member FCM immediately demonstrates to the satisfaction of the DSRO the ability to achieve compliance, the DSRO may allow the Member FCM a maximum of 10 business days in which to achieve compliance without having to transfer accounts, cease doing business, or trade for liquidation purposes only.

Section 6. Reporting.

Each Member FCM must file the reports specified in Schedule D hereto with its DSRO.

[Note: Under CFTC Regulation 1.12(a), a Member FCM that knows or should have known that its Adjusted Net Capital is less than the amount required by Section 1 must give telegraphic notice to its DSRO and the CFTC (and the SEC if the FCM is also a securities broker or dealer) within 24 hours. Within 24 hours after giving that notice, certain financial reports (see CFTC Regulation 1.12(a)(2)) must similarly be filed. In addition, under CFTC Regulation 1.12(b), a Member FCM must similarly file a written notice, within 5 business days, when the FCM knows or should have known that its Adjusted Net Capital is at any time less than \$75,000 or 6% of the funds required to be segregated under Section 4d of the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, (for securities brokers or dealers) [6% of aggregate debit items computed in accordance with the formula for determination of reserve requirements (See Rule 15c3-3).] the amount of capital specified in Rule 17a-11(b) of the Regulations of the Securities and Exchange Commission (17 CFR 240.17a-11(b)). CFTC Regulation 1.12(b) imposes other requirements on FCMs, as do other provisions of Regulation 1.12 and of Regulations 1.10, 1.16 and 1.18. The full text of Regulations 1.10, 1.12, 1.16 and 1.18 should be consulted.]

Section 7. Relief Requests.

A Member FCM may, as provided in Schedule E hereto, file with its DSRO a request for relief from certain provisions of these Requirements, the Schedules hereto, and CFTC Regulations 1.10, 1.16 and 1.17.

SCHEDULE A

FINANCIAL REQUIREMENTS COMPUTATION

Sec. A1. Definitions

A1-a. DSRO (Designated Self-Regulatory Organization): has the Meaning assigned to it in Section 2.

A1-b. Business day: means any day other than a Sunday, Saturday or holiday.

A1-c. Commodity Option: means any transaction or agreement as defined in CFTC Regulation 32.1(a).

Al-d. (i) Cover: means transactions or positions in a contract for future delivery on a board of trade, or in a commodity option, where such transactions or positions normally represent a substitute for transactions to be made, or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

- (A) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;
- (B) The potential change in the value of liabilities which a person owes or anticipates incurring; or
- (C) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing.

But, no transactions or positions shall be classified as cover for the purposes of these requirements unless their purpose is

to offset price risks incidental to commercial cash or spot operations, and such positions are established and liquidated in accordance with sound commercial practices, and unless the provisions of the paragraphs (ii) or (iii) below have been satisfied.

(ii) Enumerated cover transactions: Cover transactions and positions include, but are not limited to, the following specific transactions and positions:

(A) Ownership or fixed-price purchase of any commodity which does not exceed in quantity the (1) sales of the same commodity for future delivery on a board of trade, or (2) the purchase of a put commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option, or (3) the ownership of a commodity option position established by the sale (grant) of a call commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of the

option is more than the strike price of the option; Provided, that for the purposes of Section A6-h of this section the market value for the actual commodity or futures contract which is the subject of such option need not be more than the strike price of that option;

- (B) Fixed-price sale of any commodity which does not exceed in quantity (1) the purchase of the same commodity for future delivery on a board of trade, or (2) the purchase of a call commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of such option is more than the striking price of the option, or (3) the ownership of a commodity option position established by the sale (grant) of a put commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of the option is less than the strike price of the option; Provided, that for purposes of Section

A6-h of this section the market value for the actual commodity or futures contract which is the subject of such option need not be less than the strike price of that option; and

(C) Ownership or fixed-price contracts of a commodity described in the preceding two paragraphs may also be covered other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery or commodity options are substantially related to the fluctuations in value of the actual cash position.

(iii) Nonenumerated cases

Cover transactions and positions also include transactions or positions which have been recognized by the CFTC as "cover" pursuant to CFTC Regulation 1.17(j)(3). (In such cases, a copy of the CFTC's letter recognizing such transactions or positions should be filed with the DSRO).

Al-e. Customer: means a person trading in any commodity future, except the holder of a "proprietary account" as defined in CFTC Regulation 1.3(y); in addition, it means an

"option customer" as defined in CFTC Regulation [32.1(c)] 1.3(jj).

Al-f. Non-Customer Account: means a commodity futures or option account carried on the books of a Member FCM which account is neither a Customer Account (Al-e, above) nor a Proprietary Account (Al-g, below).

Al-g. Proprietary Account: means a commodity futures or option account carried on the books of a Member FCM for the Member FCM itself, or for general partners of the Member FCM.

Al-h. Striking Price: means the price at which an option customer may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option transaction.

Al-i. Value: means, with regard to:

- (i) Commodity futures positions: the value of all long and short commodity positions marked to their market value.
- (ii) Listed security options: the value of all long and short positions in listed security options marked to their market value.
- (iii) Securities: the value of all long and short securities marked to their market value.
- [(iv) Non-Transferable commodity options: the difference between the option's

striking price and the market value for the actual commodity or futures contract which is the subject of the option.]

[(v) Call commodity options: zero, if the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option.]

[(vi) Put commodity options: zero, if the market value for the actual commodity or futures contract which is the subject of the option is more than the striking price of the option.]

(iv) Commodity Options Traded on a Commodity Options Exchange: Long and short commodity options shall be marked on their market value.

(v) Commodity Options Not Traded on a Commodity Options Exchange: The value shall be the difference between the option's strike price and the market value for the actual commodity or futures contract which is the subject of the option.

a. Call Commodity Option: If the market value for the actual commodity or futures contract is

less than the strike price, it shall be given a zero value.

b. Put Commodity Option: If the market value for the actual commodity or futures contract is more than the strike price of the option, it shall be given zero value.

(vi) [(vii)] Unlisted security options: the difference between the option's exercise value or striking value and the market value of the underlying security.

(vii) [(viii)] Unlisted calls: zero, if the market value of the underlying security is less than the exercise value or striking value of such call.

(viii) [(ix)] Unlisted puts: zero, if the market value of the underlying security is more than the exercise value or striking value of the unlisted put.

Sec. A2. Rules of Construction for Purposes of These Requirements.

A2-a. Aging of Margin Calls - Computation of: In computing the number of days a margin call is outstanding: DAY ONE would equal the first business day after the day on which the margin call was issued (which must be the business day subsequent to the day the position becomes undermargined).

A2-b. RESERVED

A2-c. Contractual Commitments: includes underwriting, when issued, when distributed, and delayed delivery contracts; and the writing or endorsement of security puts and calls and combinations thereof. It does not include uncleared regular way purchases and sales of securities. A series of contracts of purchase or sale of the same security, conditioned, if at all, only upon issuance, may be treated as an individual commitment.

A2-d. Liabilities - Adequate Collateralization: Liabilities are "adequately collateralized", when, pursuant to a legally enforceable written instrument, such liabilities are secured by identifiable assets that are otherwise unencumbered, and the market value of the assets exceeds the amount of such liabilities.

A2-e. Secured Receivable: A loan or advance or any other form of receivable is not "secured" unless the following conditions exist:

The receivable is secured by readily marketable collateral which is otherwise unencumbered, and which can be readily converted into cash, provided that the value of the collateral must be haircut as prescribed in A6, below, before determining whether the receivable is properly secured; and

- (i) The readily marketable collateral is in the possession or control of the Member FCM, OR
- (ii) The Member FCM has a legally enforceable, written secured agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the State in which the readily marketable collateral is located.

A2-f. SEC Definitions: For securities broker-dealers, any asset or liability defined in SEC Regulations (see, SEC Regulation 15c3-1) and which is not specifically defined in these Requirements, shall be treated in accordance with the SEC Regulations. Broker-dealers should treat aggregate indebtedness in accordance with SEC Regulation 15c3-1(c)(1) as it applies to the securities segment of their business.

A2-g. Unrealized Profits: shall be added and "Unrealized Losses" shall be deducted in the accounts of the Member FCM, including unrealized profits and losses on fixed price commitments and forward contracts.

COMPUTATIONAL FORMULA - SPECIAL DEFINITIONS
AND RULES OF CONSTRUCTION:

Sec. A3. Net Capital:

means the amount by which Current Assets (see A4, below) exceed Liabilities (see A5, below).

Sec. A4. Current Assets:

means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next 12 months. In computing Current Assets,

A4-a. Debit and Deficit Accounts

Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit, or containing a debit ledger balance only. Deficits or debit ledger balances in unsecured Customer's, Non-Customer's, and Proprietary Accounts which are the subject of calls for margin or other required deposits may be included in Current Assets until the close of business the day following the date on which such deficit or debit ledger balance originated;

A4-b. Unsecured Receivables, etc.

Exclude all unsecured receivables, advances and loans (see A2-e) except for:

- (i) Receivables resulting from the marketing of inventories commonly associated with the business activities of the Member FCM and advances on fixed price purchase commitments, but only if they are outstanding no longer than 3 calendar months from the date that they are accrued;
- (ii) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits), mutual fund concessions receivable and management fees receivable from registered investment companies and commodity pools, but only if they are outstanding no longer than 30 days from the date they are due; and dividends receivable that are outstanding no longer than 30 days from the payable date;
- (iii) Receivables from clearing organizations;
- (iv) Receivables from FCM's or brokers, resulting from commodity futures or option transactions, except those specifically excluded under A4-a, above;

- (v) Insurance claims which arise from a reportable segment of the Member FCM's overall business activities as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the FCM's business activities, which are not outstanding more than 3 calendar months after the date they are recorded as a receivable;
- (vi) All other insurance claims not subject to (v) above which are not older than 7 business days from the date the loss giving rise to the claim is discovered; insurance claims which are not older than 20 business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which are older than 20 business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside counsel that the

claim is valid and is covered by insurance policies presently in effect and which have been acknowledged in writing by the insurance carrier as due and payable, unless such claims are outstanding longer than 20 business days from the date they are so acknowledged by the carrier.

A4-c. Prepaid Expenses and Deferred Charges.

Exclude all prepaid expenses and deferred charges.

A4-d. Inventories.

Exclude all inventories except for:

- (i) Readily marketable spot commodities; or spot commodities which "adequately collateralize" (See A2-d) indebtedness;
- (ii) Securities which are considered "readily marketable" as defined in SEC Rule 15c3-1(c)(11) or which "adequately collateralize" (A2-d, above) indebtedness;
- (iii) Work in process and finished goods which result from the processing of commodities at market value;
- (iv) Raw materials at market value which will be combined with spot commodities

to produce a finished processed commodity; and

- (v) Inventories held for resale commonly associated with the business activities of the Member FCM.

A4-e. Doubtful Assets.

Exclude all assets doubtful of collection or realization less any related reserves.

A4-f. Exchange Memberships.

Exclude exchange memberships.

A4-g. Fixed Assets.

Include fixed assets and assets which otherwise would be considered noncurrent to the extent of any long-term debt adequately collateralized by assets acquired for use in the ordinary course of the Member FCMs ordinary trade or business, and any other long-term debt adequately collateralized by assets of the Member FCM if the sole recourse of the creditor is such assets, but only if such liabilities are not excluded from liabilities in the computation of Net Capital under A5-d, below.

A4-h. Future Tax Benefits.

Include, in the case of future income tax benefits arising as a result of unrealized losses, the amount of income tax liabilities accrued on the books and records of the Member FCM, but only to the extent such benefits could have been applied to reduce accrued tax liabilities on the date of the capital computation, had the related unrealized losses been realized on that date.

A4-i. Guarantee Deposits and Clearing House Stock.

Include guarantee deposits with clearing organizations and stock in clearing organizations to the extent of its margin value.

Sec. A5. Liabilities:

This term means the total money liabilities of a Member FCM arising in connection with any transaction whatsoever, including economic obligations of the Member FCM that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" also include any deferred credits that are not obligations but that are recognized and measured in conformity with generally accepted accounting principles. In computing Liabilities:

A5-a. Satisfactorily Subordinated Liabilities.

Exclude liabilities which are subordinated to the claims of all general creditors of the Member FCM pursuant to subordination agreements which meet the standards set forth in Schedule C.

A5-b. Segregated Funds.

Exclude the amount of money, securities and property due to commodity futures or option customers which are held in segregated accounts in compliance with Section 4d of the Commodity Exchange Act and CFTC Regulations, including CFTC Regulation 32.6, but only if such money, securities and property held in segregated accounts have been excluded from Current Assets in computing Net Capital.

A5-c. Deferred Income Tax Liability.

Exclude the lesser of any deferred income tax liability related to the items in (i), (ii), and (iii) below, or the sum of (i), (ii), and (iii) below:

- (i) Deferred tax liability of the unrealized gain on an asset which has been assessed charges elsewhere in this computation to the extent of those charges;
- (ii) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to Section 1;
- (iii) Any deferred tax liability related to unrealized appreciation in value of any asset which has been otherwise excluded from Current Assets in accordance with these requirements.

A5-d. Long Term Liabilities.

Exclude liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property and equipment which is used in the ordinary course of any trade or business of the Member FCM which is a reportable segment of the Member FCM's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security

and security option segments of the Member FCM's business activities, but only if such plant, property and equipment is not included in Current Assets pursuant to A4-g, above.

A5-e. Certain Liabilities of Sole Proprietors.

Include, in the case of a Member FCM who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a futures commission merchant over assets not used in the business.

A5-f. Certain Current Tax Liabilities.

Exclude current tax liabilities resulting from accrued income which is directly related to an asset which is treated as non-current pursuant to Section A4 of these regulations.

Sec. A6. Adjusted Net Capital:

means Net Capital less:

A6-a. Advances.

The amount by which any advances paid by the Member FCM on cash commodity contracts and used in computing Net Capital exceeds 95 percent of the market value of the commodities covered by such contracts.

A6-b. Inventory, Open Commitments, Forward Contracts.

In the case of all inventory, open commitments and forward contracts (except for inventory of and forward contracts in those foreign currencies which are purchased

or sold for future delivery on or subject to the rules of a contract market and Covered by an open futures contract, for which there will be no charge), the applicable percentage charge is specified below:

- (i) Inventory net of net open commitments, currently registered as deliverable on a contract market and Covered by an open futures contract--no charge.
- (ii) Inventory net of net open commitments, Covered by an open futures contract or commodity option--5 percent of the market value.
- (iii) Inventory net of net open commitments, not Covered--20 percent of the market value.
- (iv) Open commitments (net open purchases and sales) and forward contracts which are Covered by an open futures contract or commodity option--10 percent of the market value.
- (v) Open commitments (net open purchases and sales) and forward contracts which are not Covered by an open futures contract of commodity option--20 percent of the market value.

A6-c. Securities.

In the case of securities and obligations used by the Member FCM in computing Net Capital, and in the

case of securities in segregation pursuant to Section 4d(2) of the Commodity Exchange Act which are not deposited by customers, the percentages specified in SEC Regulation 15c3-1(c)(2)(vi) ("securities haircuts") and 100 percent of the value of "nonmarketable securities" as specified in SEC Regulation 15c3-1(c) (2)(vii), or where appropriate for securities brokers or dealers, the percentages specified in SEC Regulation 15c3-1(f).

A6-d. Securities Options.

In the case of securities options used by the Member FCM in computing Net Capital, the deductions specified in SEC Regulation 15c3-1, Appendix A, after effecting the adjustments to Net Capital for listed and unlisted options as set forth in that Appendix.

A6-e. Open Contractual Commitments.

In the case of a Member FCM who has Open Contractual Commitments (see A2-c, above) the deductions specified in SEC Rule 15c3-1(c)(2)(viii).

A6-f. Undermargined Customer Futures "and Options" Accounts.

For undermargined Customer (see A1-e, above) commodity futures accounts and Customer commodity options accounts, the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or commodity options exchange, or, if there are no such maintenance margin requirements, the clearing

organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding 3 business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding 3 days or less to restore original margin when the original margin has been depleted by 50 percent or more. To the extent a deficit is excluded from Current Assets in accordance with A4 above, however, such amount shall not also be deducted.

When other than cash is deposited to margin or secure an account, the value of the asset shall be the lesser of:

- 1) The value attributed to such asset under the margin rules of the pertinent board of trade or,
- 2) The value of the asset after taking the percentage charges specified in this Section A6.

A6-g. Undermargined Non-Customer and Omnibus Futures "and Options" Accounts.

For undermargined Non-Customer (see A1-f, above) and omnibus commodity futures and commodity options accounts, the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or commodity options exchange, or, if there are no such maintenance margin requirements, the clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which

are outstanding 2 business days or less. If there are no such maintenance margin requirements, or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding 2 days or less to restore original margin when the initial margin has been depleted by 50 percent or more. To the extent a deficit is excluded from Current Assets in accordance with A4-a above, however, such amount shall not also be deducted.

When other than cash is deposited to margin or secure an account, the value of the asset shall be the lesser of:

- 1) The value attributed to such asset under the margin rules of the pertinent board of trade or,
- 2) The value of the asset after taking the percentage charges specified in this section A6.

A6-h. Open "Futures" Positions "and Grantor Commodity Options" in Proprietary Accounts.

In the case of open futures contracts and grantor commodity options held in Proprietary Accounts (see A1-g, above) carried by the Member FCM which are not Covered by a position held by the Member FCM or which are not the result of a changer trade made in accordance with the rule of a contract market--

- (i) For a Member FCM which is a clearing member of a contract market, for the positions on such contract market cleared by such member, the amount of

- the applicable margin requirement of the applicable clearing organization;
- (ii) For a Member FCM which is a member of a contract market, an amount equal to 150 percent of the applicable maintenance margin requirement of the applicable board of trade, commodity options exchange, or clearing organization, whichever is greater;
 - (iii) For all other Member FCMs, 200 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater; or
 - (iv) For open contracts for which there are no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement.

The equity in any such Proprietary Account shall reduce the deduction required by this Section if such equity is not otherwise includable in Adjusted Net Capital.

A6-i. Commodity Options.

[In the case of a Member FCM which is a taker of a commodity option, the amount of any commodity option premium which has been used to increase Adjusted Net Capital. In the case of a Member FCM which is a grantor of a commodity

option, however, the safety factor may be reduced by the amount of any commodity option premium which has not been previously recognized as income.]

For customer commodity options, four percent of the market value of commodity options granted (sold) by options customers on or subject to the rules of a contract market.

[A6-j. Commodity Options--Continued.]

A6-j. Purchaser of Commodity Options Not Traded on a Contract Market.

In the case of a commodity option which is carried long by the Member FCM as a taker of a commodity option not traded on a contract market which has value and such value is used to increase Adjusted Net Capital, 10 percent of the market value of the commodity which is the subject of such option, but in no event more than the value attributed to such option.

A6-k. Purchaser of Commodity Options Traded on a Contract Market.

In the case of a Member FCM which is a purchaser or taker of a commodity option which is traded on a contract market, the same safety factor as if the member were a grantor of such option. (See Paragraph h above). But in no event shall the safety factor be greater than the market value attributed to such option.

A6-1 [A6-k.] Unsecured Receivables.

5 percent of all unsecured receivables (see A2-e, above) includable under A4-b(iv) above used by the Member

FCM in computing Net Capital and which are not receivable from (1) another FCM or (2) a broker or dealer registered with the SEC.

A6-m [A6-1.] Broker - Dealer Charges,

For securities brokers or dealers, all other deductions specified in SEC Rule 15c3-1.

Sec. A7. Consolidations.

A7-a. Every Member FCM, in computing its net capital pursuant to this section must (subject to the provisions of A7-b and A7-d, below) consolidate in a single computation, assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the Member FCM may also be so consolidated if an opinion of counsel is obtained as provided for in A7-b below.

- A7-b. (i) If the consolidation, provided for in A7-a above, of any such subsidiary or affiliate results in the:
- (A) increase of the Member FCM's adjusted net capital, or
 - (B) decreases the minimum adjusted net capital requirement called for by Section 1,

and an opinion of counsel called for in A7-b(ii) below has not been obtained, such benefits shall not be recognized in the Member FCM's capital computation under these requirements.

- (ii) Except as provided for in A7-b(i) above, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the Member FCM and for which the Member FCM can demonstrate to the satisfaction of its DSRO by an opinion of counsel that the net asset values, or the portion thereof related to the parent's ownership interest in the subsidiary or affiliate, may be caused by the Member FCM or an appointed trustee to be distributed to the Member FCM within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties or classes of parties, (including but not limited to customers, general creditors, subordinated lenders, minority shareholders,

employees, litigants, and governmental or regulatory authorities) who may delay or prevent such a distribution and such other assurances as the DSRO by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the Member FCM's annual audit or upon any material change in circumstances.

A7-c. In preparing a consolidated computation of Adjusted Net Capital, the following minimum and nonexclusive requirements shall be observed:

- (i) Consolidated Adjusted Net Capital shall be reduced by the estimated amount of any tax reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.
- (ii) Liabilities of a consolidated subsidiary or affiliate which are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall be deducted from consolidated Adjusted Net Capital unless such subordination extends also to the claims of present

or future creditors of the parent Member FCM and all consolidated subsidiaries.

(iii) Subordinated liabilities of a consolidated subsidiary or affiliate which are consolidated in accordance with A7-c(ii) above may not be prepaid, repaid, or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provisions of Schedule C.

(iv) Each Member FCM included within the consolidation shall at all times be in compliance with the Adjusted net Capital requirement to which it is subject.

A7-d. No Member FCM shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of Adjusted Net Capital except as provided in A7-b(ii) above.

SCHEDULE B
EQUITY CAPITAL

Sec. B1. Equity capital.

This term includes:

B1-a. A satisfactory subordination agreement entered into by a partner or stockholder which has an initial term of at least 3 years and has a remaining term of not less than 12 months if:

(i) It does not have any of the provisions for accelerated maturity provided for by Schedule C, C1-b(ix)(A), C1-b(x)(A) or C1-b(x)(B), and is maintained as capital subject to the provisions restricting the withdrawal thereof required by B2 below, or

(ii) The partnership agreement provides that capital contributed pursuant to a satisfactory subordination agreement as defined in Schedule C shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof required by B2 below; and:

B1-b. (i) In the case of a corporation, the sum of its par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized

profit and loss, and other capital accounts.

(ii) In the case of a partnership, the sum of its capital accounts of partners (inclusive of such partner's commodity futures and options and securities accounts and other properties designated in the partnership agreement as capital subject to the provisions of B2 below), and unrealized profit and loss.

(iii) In the case of a sole proprietorship, the sum of its capital accounts of the sole proprietorship and unrealized profit and loss.

Sec. B2. Equity Withdrawal.

B2-a. The following are prohibited:

- (i) The withdrawal of equity capital (B1 above) from a Member FCM (or subsidiary or affiliate where equity capital is consolidated under Schedule A, Sec. A8) or
- (ii) The making of an unsecured loan (including an advance) to a stockholder, partner, sole proprietor, or employee ---

if, after giving effect to such withdrawal or loan, and capital reductions which are scheduled to occur within 6 months, Adjusted Net Capital of any of the consolidated entities would be less than the greatest of --

(A) [The greater of] \$60,000; [or 7% of the amount required to be segregated; or]

[(B) For securities brokers or dealers, the greater of \$60,000 or 7% of the amount required to be segregated, or 7% of the aggregate debit items computed pursuant to SEC Regulation 15c3-3 --]

(B) 7% of the funds required to be segregated, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or,

(C) For securities brokers or dealers, the amount of net capital specified in Rule 15c3-1(e) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1(e))

or, in the case of a Member FCM which is included within such consolidation, if its equity capital would be less than 30% of the required debt-equity total as defined in Section 3.

B2-b. This provision does not preclude making required tax payments or paying partners reasonable compensation.

B2-c. A DSRO may, upon application of a Member FCM, grant relief from this Section B2 if the DSRO deems it to be in the best interests of the DSRO.

SCHEDULE C

SUBORDINATED LOAN AGREEMENTS

Sec. C1. Subordinated Loan Agreements

The term satisfactory subordination agreement ("Subordination agreement") means an agreement which contains the minimum and nonexclusive requirements set forth below.

C1-a. Definitions.

- (i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.
- (ii) The term "subordinated loan agreement" means the agreement or agreements evidencing or governing a subordinated borrowing of cash.
- (iii) The term "collateral value" of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the percentage deductions specified in Schedule A, Sec. A6.
- (iv) The term "payment obligation" means the obligation of a Member FCM in respect to any subordination agreement: (A) to repay cash loaned to the Member FCM pursuant to a subordinated loan agreement; or (B) to return a secured demand note contributed to the

Member FCM or to reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note; and "payment" shall mean the performance by a Member FCM of a payment obligation.

- (v) (A) The term "secured demand note agreement" means an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to a Member FCM and the pledge of securities and/or cash with the Member FCM as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators, or assigns shall be personally liable on such note and that in the event of default the Member FCM shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the Member FCM to which it is contributed: Pro-
vided, however, that the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the DSRO.

(C) If such note is not paid upon presentment and demand as provided for therein, the Member FCM shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral in payment of such note. Subject to the prior rights of the Member FCM as pledgee, the lender, as defined in C1-a(v)(F) above, may retain ownership of the collateral and have the benefit of any increases and bear the

risks of any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the Member FCM shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

- (D) Subject to the prior rights of the Member FCM as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral: Provided, that the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the Member FCM as pledgee, and

are included within the collateral to secure payment of the secured demand note: and provided further, that no such transaction shall be permitted, if, after giving effect thereto, the sum of the amount of any cash, plus the collateral value of the securities then pledged as collateral to secure the secured demand note, would be less than the unpaid principal amount of the secured demand note.

- (E) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in C1-b(vi)c below or reduction by the Member Firm as provided for in C1-6(vii) below of all or any part of the unpaid principal amount of the secured demand note, the Member FCM shall issue to the lender a subordinated loan agreement in the amount of such payment (or in the case of a Member FCM that is a partnership, credit a capital account of the

lender), or issue preferred or common stock of the Member FCM in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

(F) The term "lender" means the person who lends cash to a Member FCM pursuant to a subordinated loan agreement and the person who contributes a secured demand note to a Member FCM pursuant to a secured demand note agreement.

C1-b. Minimum Requirements for Subordination Agreements.

(i) General. Subject to C1-a above, a subordination agreement shall mean a written agreement between the Member FCM and the lender, which:

(A) Has a minimum term of 1 year, except for temporary subordination agreements provided for in C2-e below, and

(B) Is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy,

insolvency, reorganization, moratorium, and other similar laws) against the Member FCM and the lender and their respective heirs, executors, administrators, successors, and assigns.

- (ii) Specific amount. All subordination agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this Section C1-b.
- (iii) Effective subordination. The subordination agreement shall effectively subordinate any right of the lender to receive any payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the Member FCM arising out of any matter occurring prior to the date on which the related payment obligation matures, except for claims which are the subject of subordination agreements which rank on the

same priority as or are junior to the claim of the lender under such subordination agreements.

(iv) Proceeds of subordinated loan agreements. The subordinated loan agreement shall provide that the cash proceeds thereof shall be used and dealt with by the Member FCM as part of its capital and shall be subject to the risks of the business.

(v) Certain rights of the borrower. The subordination agreement shall provide that the Member shall have the right to:

(A) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(B) Pledge, repledge, hypothecate and rehypothecate any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or

property for the purpose of securing any indebtedness of the Member FCM; and

(C) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

(vi) Collateral for secured demand notes.

Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale, and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if any time the sum of the amount of any cash, plus the collateral value of any securities then pledged as collateral to secure the secured demand note, is less than the unpaid principal amount of the secured demand note, the Member FCM must immediately transmit written notice to that effect to the lender and its DSRO. The secured demand

note agreement shall also require that following such transmittal:

- (A) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash, plus the collateral value of any securities then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and
- (B) Unless additional cash or securities are pledged by the lender as provided in (A) above, the Member FCM at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such

of the cash then pledged as collateral to secure the secured demand note, as may be necessary to eliminate the unpaid principal amount of the secured demand note: Provided, however, that the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the collateral value of the remaining securities then pledged as collateral to secure the secured demand note. The Member FCM may not purchase for its own account any securities subject to such a sale; and

- (C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by (B) above, the lender with the prior written consent of the Member FCM and the DSRO may reduce the unpaid principal amount of the secured demand note: Provided, that

after giving effect to such reduction the Adjusted Net Capital of the Member FCM would not be less than the greater of 7 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [7 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c-3.] the amount of net capital specified in Rule 15c3-1d(b)(6)(iii) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(6)(iii)). Provided further, that no single secured demand note shall be permitted to be reduced by more than 15 percent

of its original principal amount and after such reduction no excess collateral may be withdrawn. The DSRO shall not consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, Adjusted Net Capital would be less than \$60,000.

(vii) Permissive prepayments "and special prepayments". A Member FCM at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as "prepayment"), but in no event may any prepayment be made before the expiration of 1 year from the date such subordination agreement became effective: Provided, however, that the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of C2-e below, nor shall

it apply to revolving agreements covered under Section C2-f. No prepayments shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within 6 months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the Member FCM, either the Adjusted Net Capital of the Member FCM is less than the ~~greater~~ of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the

amount of customer funds in such option customer's account; or, for securities brokers or dealers, [7 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c-3,] the amount of net capital specified in Rule 15c3-1d(b)(7) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(7)), or its Adjusted Net Capital is less than \$60,000. Notwithstanding the above, no prepayment shall occur without the prior written approval of the Member FCM's DSRO.

(viii) Suspended repayment.

(A) The payment obligation of the Member FCM with respect to any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the Member FCM under any other subordination agreement(s) then outstanding which are scheduled to mature on

or before such payment obligation), the Adjusted Net Capital of the Member FCM would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [6 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c3-3,] the amount of net capital specified in Rule 15c3-1d(b)(8)(i) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(8)(i)), or its Adjusted Net Capital would be less than \$60,000. Provided, that the subordinated agreement may provide that if the

payment obligation of the Member FCM thereunder does not mature and is suspended as a result of the requirement of this paragraph for a period of not less than 6 months, the Member FCM shall then commence the rapid and orderly liquidation of its business but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Section.

- (B) Whenever a subordinated agreement provides that a member FCM shall commence a rapid and orderly liquidation as permitted in C1-b(ix)(A) below, the date on which the liquidation commences shall become the maturity date for each subordination agreement of the Member FCM then outstanding, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall

remain subordinate as required by the provisions of this Section.

(ix) Accelerated maturity. The obligation to repay is to remain subordinate, as follows:

(A) Subject to Cl-b(viii) above, a subordination agreement may provide that the lender may, upon prior written notice to the Member FCM and its DSRO, given not earlier than 6 months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature, to a date not earlier than 6 months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by this Section Cl-b.

(B) Notwithstanding this Section Cl-b, the payment obligation of the Member FCM with respect to a

subordination agreement, together with accrued interest and compensation shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the Member FCM, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by this Section C1-b.

- (x) Accelerated maturity of subordination agreement on event of default and acceleration. The obligation to repay is to remain subordinate, as follows:
- (A) A subordination agreement may provide that the lender may, upon prior written notice to the Member FCM and its DSRO, of the occurrence of any event of acceleration (as hereinafter defined)

given no sooner than 6 months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the Member FCM, together with accrued interest, or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than 6 months after notice of acceleration is received by the Member FCM and its DSRO. Any subordination agreement containing such events of acceleration may also provide that, if upon such accelerated maturity date the payment obligation of the Member FCM is suspended as required by Cl-b(viii) above and liquidation of the Member has not commenced on or prior to such accelerated maturity date, notwithstanding Cl-b(viii) above, the payment obligation of the Member FCM with respect to such subordination agreement shall mature on the date immediately following such

accelerated maturity date and in any such event the payment obligations of the Member FCM with respect to all other subordination agreements then outstanding shall also mature at the same time, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by this Section C1-b. Events of acceleration which may be included in a subordination agreement and comply with this Section C1-b(x) shall be limited to:

- (1) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;
- (2) Failure to pay when due other money obligations of a specified material amount;
- (3) Discovery that any material specified representation of warranty of the Member FCM

which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made;

- (4) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the Member FCM agree, (a) is a significant indication that the financial position of the Member FCM has changed materially and adversely from agreed upon specified norms; or (b) could materially and adversely affect the ability of the Member FCM to conduct its business as conducted on the date the subordination agreement was made; or (c) is a significant change in the senior management of

the Member FCM or in the general business conducted by the Member FCM from that which obtained on the date the subordination agreement became effective; and

(5) Any continued failure to perform agreed covenants included in the subordination agreement relating to the conduct of the business of the Member FCM or relating to the maintenance and reporting of its financial position.

(B) Notwithstanding Cl-b(viii) above, a subordination agreement may provide that, if liquidation of the business of the Member FCM has not already commenced, the payment obligation of the Member FCM shall mature, together with accrued interest or compensation, upon the occurrence of an event of default (as hereinafter defined). Such agreement may also provide that, if liquidation

of the business of the Member FCM has not already commenced, the rapid and orderly liquidation of the business of the Member FCM shall then commence upon an event of default. Any subordination agreement which so provides for maturity of the payment obligation upon the occurrence of an event of default shall also provide that the date on which such event of default occurs shall, if liquidation of the Member FCM has not already commenced, be the date on which the payment obligation of the Member FCM with respect to all other subordination agreements then outstanding shall mature, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by this Section C1-b. Events of default which may be included in a subordination agreement shall be limited to:

- (1) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the Member FCM are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the Member FCM to obtain the dismissal of such application within 30 days;
- (2) Failure to meet the minimum capital requirements of the Member FCM's DSRO throughout a period of 15 consecutive business days (commencing on the day the borrower first determines and notifies the DSRO or if the DSRO first determines and so notifies the Member FCM of such non-compliance, on the day of such notice).
- (3) The CFTC shall revoke the registration of the Member FCM as an FCM;
- (4) The DSRO shall suspend (and not reinstate within 10 days) or revoke the Member FCM's status as a member firm; and

(5) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the Member FCM.

A subordination agreement which contains any of the provisions permitted by this Section C1-b(x) shall not contain the provision otherwise permitted by Section C1-b(ix)(A) above.

Sec. C2. Miscellaneous Provisions.

C2-a. Prohibited Cancellations.

The subordination agreement shall not be subject to cancellation by either party; and no payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of C1 above.

C2-b. Notice of Maturity or Accelerated Maturity.

Every Member FCM shall immediately notify its DSRO if, after giving effect to all payments of payment obligations under subordination agreements then outstanding

which are then due or mature within the following 6 months without reference to any projection of profit or loss of the Member FCM, its Adjusted Net Capital would be less than \$60,000 or, its Adjusted Net Capital would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [6 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c-3-3,] the amount of net capital specified in Rule 15c3-1d(c)2 of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(2)), or its Adjusted Net Capital would be less than \$60,000.

C2-c. Certain Legends.

If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

C2-d. Legal Title to Securities.

All securities pledged as collateral to secure a secured demand note must be in bearer form, or

registered in the name of the Member FCM or the name of its nominee or custodian.

C2-e. Temporary Subordinations.

To enable a Member FCM to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the financial requirements, a Member FCM shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective. Provided, that this temporary relief shall not apply to any Member FCM if the Adjusted Net Capital of the Member FCM is less than the greater of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [if 7 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c3-3] the amount of net capital specified in Rule 15c3-1d(c)(5)(1) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(1)) or its Adjusted Net Capital is less than \$60,000, or if the amount of equity capital as defined in Schedule B is less than the limits specified in Section 3. Such temporary subordination agreement shall be subject to all of the other provisions of Schedule C.

C2-f. Revolving Subordination-Special Payments.

A member FCM shall be allowed to enter into a revolving subordination agreement which, at the option of the member FCM but not at the option of the lender, if the agreement so provides, allows a prepayment at anytime prior to the scheduled maturity date, subject to the prior written approval of the member FCM's DSRO. However, no such prepayment shall be made if:

- i. After giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special payment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such special payment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greater of 10 percent of the funds required to be segregated pursuant to the Act and these regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the

- deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for security brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)(5)(ii) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(ii)), or its adjusted net capital is less than \$100,000, or
- ii. Pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital.

C2-g. [C2-f.] Filing.

Three copies of any proposed subordination agreement (including nonconforming subordination agreements) must be filed with the DSRO at least 10 days prior to the proposed effective date of the agreement, or at such other time as the DSRO for good cause shall find acceptable. The Member FCM shall also file with the DSRO a statement setting forth the name and address of the lender, the business relationship of the lender to the Member FCM, and whether the Member FCM carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined by the DSRO prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purpose of these capital requirements unless and until the DSRO finds the agreement acceptable and such agreement has become effective in the form found acceptable.

C2-h. [C2-g.] Subordination Agreements in Effect Prior to
December 20, 1978.

Any subordination agreement which has been entered into prior to December 20, 1978 and which has been deemed to be a satisfactory subordinated agreement pursuant to the CFTC requirements then in effect or the rules of a contract market shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. Provided, that no renewal of an agreement that provides for automatic or optional renewal by the Member shall be deemed a satisfactory subordination agreement unless it meets the requirements of this Schedule C. And, Provided Further, that all subordination agreements must meet the requirements of this Schedule C by December 20, 1983.

Sec. C3. Exceptions.

The Member FCM's DSRO may allow debt with a maturity date of 1 year or more to be treated as meeting the requirements of this Schedule C provided:

C3-a. Such exemption shall only be given when the Member FCM's Adjusted Net Capital is less than the minimum required by Section 1;

C3-b. That such debt did not exist prior to its use under this Section C3;

C3-c. Such exemption shall be for a period of 30 days or such lesser period as the DSRO may determine;

C3-d. Such exemption shall not be allowed more than once in any 12 month period; and

C3-e. At all times during such exemption the Member FCM shall make a good faith effort to comply with these minimum capital requirements exclusive of any benefits derived from this Section C3.

SCHEDULE D
FINANCIAL REPORTS

Sec. D1. Certified Report.

Each Member FCM must annually file with its DSRO (see Section 2) a certified financial report, on Form 1-FR or other format acceptable to the FCM's DSRO, that speaks as of the close of the FCM's fiscal year and is prepared by an independent certified public accountant in accordance with CFTC Regulation 1.16. (The term "other format acceptable" is used so that certified FOCUS reports or certified financial statements, prepared in accordance with generally accepted accounting principles and accompanied by a reconciliation to the Form 1-FR, may be used to fulfill a Member FCM's filing requirements.)

D1-a. Due Date.

Certified reports must be filed no later than 90 days after the close of the Member FCM's fiscal year, except in those cases where a Member FCM has applied to the DSRO and has received an approval for an extension or has received a notice from the DSRO that additional time is required to analyze the request, pursuant to D8-d below, in which case this provision does not apply.

D1-b. Required Statements.

The Certified Report must contain the following statements:

- (i) Statement of Financial Condition;
- (ii) Statements of Changes in Financial Position and Ownership Equity for the

period between the date of the most recent certified statement of financial condition and the date for which the report is made;

- (iii) Statement of Computation of the Minimum Capital Requirements;
- (iv) Schedule of Segregated Funds Required for Commodity Futures and Options and Schedule of Segregated Funds on Deposit;
- (v) Statement of Income (Loss);
- (vi) Statement of Changes in Liabilities Subordinated to Claims of General Creditors; and,
- (vii) Attestation Letter.

Sec. D2. Interim Reports.

Each Member FCM must file with its DSRO an interim financial report, on FORM 1-FR or other format acceptable to the DSRO, as of a date 6 months after the date for which the certified financial report is due. (The term "other format acceptable" is used so that FOCUS Reports may be used to fulfill a member FCM's filing requirements.) For Member FCMs which use the FOCUS Report to fulfill their filing requirements, the 6 month interim report requirement is satisfied by the quarterly FOCUS Part II, which under SEC requirements is filed based on the calendar quarter.

D2-a. Due Date.

Interim reports must be filed no later than 45 days after the date for which the report is made, except in those cases where a Member FCM has applied to its DSRO and has received an approval for an extension, or has received a notice from the DSRO that additional time is required to analyze the request, pursuant to D4-d(i) below, in which case this provision does not apply.

D2-b. Required Statements.

The interim Financial Report must contain the following statements:

- (i) Statement of Financial Condition;
- (ii) Statement of Changes in Ownership Equity for the period between the date of the most recent certified statement of financial condition and the date for which the report is made;
- (iii) Statement of Computation of Minimum Capital Requirements;
- (iv) Schedule of Segregated Funds Required for Commodity Futures and Options and Schedule of Segregated Funds on Deposit; and,
- (v) Attestation Letter.

Sec. D3. Other Reports.

D3-a. Additional Information Requests.

If requested by its DSRO, a Member FCM must promptly submit such additional reports and supplemental financial information which the DSRO deems necessary.

D3-b. Position and Cash Information.

Unless expressly exempted by its DSRO, each Member FCM must submit to the DSRO a report containing all open futures and commodity options positions carried by the Member FCM for Customer, Non-Customer and Proprietary Accounts. Additionally, for Proprietary Accounts and Non-Customer Accounts of parents and affiliates, the Member FCM must furnish upon special request a report containing all of the cash commodity positions of the parent or affiliate. These reports must be submitted on the DSRO's Supplementary Schedules or in another comparable format acceptable to the DSRO.

D3-c. Reports Submitted to Exchanges and Other Regulatory Agencies.

Each Member FCM which also is a member of any securities or commodity exchange or other self-regulatory organization, or which is subject to financial reporting requirements of any federal agency, must promptly submit to its DSRO, unless specifically exempted, copies of any and all financial reports and statements (for example, FOCUS Reports) submitted pursuant to the requirements of those exchanges, organizations or agencies.

Sec. D4. Miscellaneous Provisions.

D4-a. Certification and Attestation Requirements.

- (i) For a Member FCM which is a registered partnership, financial reports must be signed by two general partners.
- (ii) For a Member FCM which is a corporation, financial reports must be signed by at least two of the bona fide, active executive officers of the corporation.
- (iii) For a Member FCM which is a sole proprietorship, financial reports must be signed by the proprietor.
- (iv) The signature of a partner of such partnership or an officer of such corporation may be waived by the DSRO, at its discretion. In the event of such waiver, an FCM will be required, in the case of a partnership, to have one general partner sign the financial reports. In the case of a corporation, the FCM will be required to have the chief executive officer or the chief financial officer sign the financial reports.
- (v) Financial reports audited by an independent public accountant must be

attested to by the independent public accountant.

D4-b. Retention of Audit Report.

A copy of each audit report signed by the Member FCM's independent public accountant must be retained as part of the books and records of the Member FCM.

D4-c. Election of Fiscal Year.

A Member FCM must continue to use its current fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the DSRO.

D4-d. Extension of Time for Filing.

(i) Interim Financial Statements.

In the event a Member FCM finds that it cannot file its report for any period within the time specified in D2-a above without substantial undue hardship, it may file with the DSRO an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application

must be received by the DSRO before the time specified in D2-a above for filing the report. Within a reasonable time, not to exceed 10 calendar days after receipt of the application for an extension of time, the DSRO shall (A) notify the Member FCM of the grant or denial of the requested extension; or (B) indicate to the Member FCM that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(ii) Certified Financial Statements.

For an extension of time in which to file a certified financial statement (D1-a above), the Member FCM must apply to the DSRO. In no event will an extension of time exceed 90 days after the date the statement was originally due.

The application must:

- (A) State the reason for the request;
- (B) Indicate that the inability to make a timely filing is due to circumstances beyond the control of the Member FCM, if such is the

- case, and describe briefly the nature of such circumstances;
- (C) Be accompanied by the latest available formal computation of Adjusted Net Capital under Section 1;
 - (D) Include the most recent statement of segregation for commodity futures and/or commodity options where applicable;
 - (E) Contain an agreement to file the report on or before the requested extension date;
 - (F) Be received by the DSRO prior to the date the statement was originally due; and,
 - (G) Include a letter from the independent public accountant explaining:
 - (1) The reason for the request;
 - (2) The nature of any material inadequacies disclosed thus far in the audit work; and
 - (3) The nature of any significant adverse financial or reporting findings which would cause a deficiency under Section 1.

Within a reasonable time, not to exceed 10 calendar days after receipt of the application for an extension of time, the DSRO shall (A) notify the Member FCM of the grant or denial of the requested extension; or (B) indicate to the Member FCM that additional time is required to analyze the request, in which case the amount of time needed will be specified.

SCHEDULE E
PROCEDURES FOR RELIEF REQUESTS

Sec. E1. Definition.

"Relief request" means a request --

E1-a. Debt-Equity Ratio.

Under Section 3 and CFTC Regulation 1.17(d) for exemption from the minimum debt-equity ratio;

E1-b. Withdrawal of Capital.

Under Schedule B, Section B2-c and CFTC Regulation 1.17(e) to withdraw equity capital;

E1-c. Consolidation.

Under Schedule A, Section A8-b(ii) and CFTC Regulation 1.17(f)(2)(ii) for approval of consolidation;

E1-d. Secured Demand Notes.

Under Schedule C, Section C1-a(v)(B) and CFTC Regulation 1.17(h)(1)(v)(B) for approval of terms in a secured demand note relating to conditions for the making of a demand;

E1-e. Subordinated Borrowings; Prepayment.

Under Schedule C, Section C1 -b(vii) and CFTC Regulation 1.17(h)(2)(vii) to prepay subordinated borrowings;

E1-f. Emergency Subordination.

Under Schedule C, Section C3 and CFTC Regulation 1.17(h)(4) for approval of an emergency subordination;

E1-g. Fiscal-Year Election.

Under Schedule D, Section D4-c and CFTC Regulation 1.10(e) for approval of a change in a fiscal-year election; or

E1-h. Filing Extention.

Under Schedule D, Section D4-d and CFTC Regulations 1.10(f) and 1.16(f) for a filing extension.

E1-i. Uncovered Commodities

Under Schedule A, Section A2-e, for a no-action position regarding the 20% charge on "uncovered" commodities deposited as collateral. (A no-action position may be taken regarding commodities which are covered, but do not appear as hedged on the books of the Member FCM.)

Sec. E2. Filing.

A Member FCM that has filed any relief request with its DSRO need not file such request with the CFTC. The DSRO will promptly advise the CFTC of the request and use its best efforts to provide the CFTC with all pertinent information available to the DSRO.

Sec. E3. Grant of Relief Request; Effect of.

Except where the relief requested is the withdrawal of equity capital or the prepayment of subordinated borrowings (E2-c and E2-f, above), the DSRO may, in its discretion, grant the relief request without receiving the prior concurrence of the CFTC. Any such grant of relief shall be valid and shall remain in full force and effect unless or until reversed by the

CFTC or withdrawn by the DSRO on its own initiative. The Member FCM shall be deemed in compliance with the applicable provision (see E1, above) of these Financial and Related Reporting Requirements and related CFTC Regulations during the effective period of any such grant. No violation of these Requirements or related CFTC Regulations by the Member FCM shall occur for having acted in accordance with the decision of the DSRO during its period of effectiveness. The DSRO will promptly advise the Member FCM of any reversal by the CFTC or withdrawal by the DSRO.

Sec. E4. CFTC Concurrence.

The DSRO will not approve any withdrawal of equity capital or prepayment of subordinated borrowings (see E2-b and E2-e, above) without first having received the concurrence of the CFTC. The DSRO will promptly advise the Member FCM of the determination.

Sec. E5. Inquiries.

All inquiries concerning the status of relief requests should be directed to the appropriate official of the Member FCM's DSRO (the appropriate NFA official is the Director of Compliance). Every effort will be made to assure the prompt review and disposition of all relief requests.

Sec. E6. Furnishing Additional Information.

In reviewing any relief request, additional information may be required from the Member FCM. This information should be furnished as promptly as possible, unless the Member FCM decides to withdraw the request. Failure to furnish the

required information in a timely manner may be deemed to be a withdrawal of the relief request.

Sec. E7. Compliance with Schedule; Effect of.

Compliance with the procedures set forth in this Schedule is expressly deemed by the CFTC to be satisfactory compliance by a Member FCM with the provisions of the CFTC Regulations referenced in E1, above.

November 10, 1982

Ms. Jane K. Stuckey
Office of the Secretariat
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association
Proposed Amendments to
Financial Requirements

Dear Ms. Stuckey:

By letter dated October 11, 1982 from the undersigned, National Futures Association ("NFA") submitted to the Commodity Futures Trading Commission ("CFTC") proposed amendments to NFA Financial Requirements.

NFA hereby amends that submission with certain technical corrections to Section A5-c of Schedule A and Section C2-b of Schedule C, as set forth below. Additions to the language of those sections, as altered by the submission of October 11, 1982, are underlined, and deletions are placed within brackets.

A5-c. Deferred Income Tax Liability

Exclude the lesser of any deferred income tax liability related to the items in (i), (ii), and (iii) below, or the sum of (i), (ii), and (iii) below:

- (i) [Deferred tax liability of the unrealized gain on an asset which has been assessed charges elsewhere in this computation to the extent of those charges;]
- (i) The aggregate amount resulting from applying to the amount of the deductions computed in accordance with Section A6, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;
- (ii) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to Section 1;

Ms. Jane K. Stuckey
November 10, 1982
Page 2

- (iii) Any deferred tax liability related to unrealized appreciation in value of any asset which has been otherwise excluded from current assets in accordance with these requirements.

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C2-b. Notice of Maturity or Accelerated Maturity.

Every member FCM shall immediately notify its DSRO if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following 6 months without reference to any projection of profit or loss of the member FCM, its Adjusted Net Capital would be less than [\$60,000 or, its Adjusted Net Capital would be less than] the greater of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFIC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)2 of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(2)), or its Adjusted Net Capital would be less than \$60,000.

#

These technical corrections conform the submission of October 11, 1982 to the text of the Financial Requirements as adopted by the NFA Transitional Board of Directors on October 14, 1982.

Very truly yours,

NATIONAL FUTURES ASSOCIATION

Joseph H. Harrison, Jr.
General Counsel and Secretary

JHH/jm

cc: ✓ Andrea M. Corcoran
Theodore W. Urban

November 11, 1982

Mr. Jane K. Stuckey
Office of the Secretariat
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association;
Proposed Amendments to
Financial Requirements

Dear Ms. Stuckey:

By letter dated October 11, 1982 from the under-
signed, National Futures Association ("NFA") submitted to
the Commodity Futures Trading Commission ("CFTC") proposed
amendments to NFA Financial Requirements. In that letter
NFA undertook to notify the CFTC by supplemental letter of
the date of the adoption of those amendments by the Board of
Directors of NFA.

Please be advised that the above-referenced amend-
ments to NFA Financial Requirements were adopted by the
Transitional Board of Directors of NFA at a meeting held
October 14, 1982.

Very truly yours,

NATIONAL FUTURES ASSOCIATION

By _____
Joseph H. Harrison, Jr.
General Counsel and Secretary

JHH:cv

cc: Andrea Corcoran
Theodore W. Urban

bcc: R.K. Wilmouth
Jean Tippins
Dan Driscoll
Jan Saran



DIVISION OF
TRADING AND MARKETS

COMMODITY FUTURES TRADING COMMISSION
2033 K STREET, N.W., WASHINGTON, D.C. 20561

November 24, 1982

Mr. Joseph H. Harrison
General Counsel and Secretary
National Futures Association
200 W. Madison Street
Chicago, Illinois 60606

Re: Proposed Amendments to NFA
Financial Requirements

Dear Mr. Harrison:

I recently spoke with Dan Driscoll regarding certain amendments to NFA's financial rules which are necessary in order that the Division may recommend approval of the above proposal to the Commission. The amendments are necessary to ensure that NFA's financial requirements conform to Commission regulations and are as unambiguous as possible.

By letter dated November 10, 1982, NFA amended its original proposed Rule C2-b to delete an unnecessary phrase. The November 10 amendment deletes the incorrect phrase, however. In order to conform to 17 C.F.R. §1.17(h) (3) (ii) as amended in 47 Fed. Reg. 41513, 41518 (September 21, 1982), the phrase deleted in the November 10 submission should be reinstated, and the phrase following the final comma stating "or its Adjusted Net Capital would be less than \$60,000" should be deleted instead. Otherwise, the rule reads that the DSRO must be notified of a decrease of adjusted net capital below \$60,000 only if an FCM is also a securities broker. This current language of C2-b clearly does not conform to the language and intent of the Commission's regulation.

There are several other NFA financial rules which should be amended in a similar fashion to ensure their conformance with Commission regulations. NFA Rules C1-b(vii), C1-b(viii) (A), C2-e and C2-f, respectively corresponding to Commission Regulations 1.17(h) (2) (vii) (A), 1.17(h) (2) (viii) (A), 1.17(h) (3) (v), and 1.17(h) (2) (vii) (B) as amended in 47 Fed. Reg. at 41517-18, require the following amendments. In order to amend Rule C1-b(vii) properly, on page 49 of the October 11 submission, beginning with the ninth line from the bottom of the page, the word "greater" should be changed to "greatest" because three, not two, items are being compared. On page 50, a semicolon, rather than a comma, should be inserted immediately following the reference to the SEC regulations, and the portion reading "its Adjusted Net Capital is less than" should be deleted so that the sentence ends "or \$60,000." The

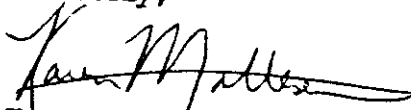
Mr. Joseph H. Harrison
Page Two

same amendments should be made to C1-b(viii) (a) (page 51), C2-e (page 63), and C2-f (page 65), except that \$100,000 is the appropriate dollar amount under C2-f.

In addition to the above changes, section A5-c(ii) makes a reference to deductions made pursuant to Section 1 of NFA's financial rules. As Mr. Driscoll and I discussed, Section 1 merely sets forth the minimum financial requirement and does not describe any deductions which may be made. The reference to Section 1 should therefore be deleted and either general language such as "deducted pursuant to these financial rules" or reference to the specific sections dealing with deductions should be made.

Should you have any questions regarding this matter, please call me at (202) 254-8955.

Sincerely,



Karen Matteson
Staff Attorney

December 23, 1982

Ms. Jane K. Stuckey
Office of the Secretariat
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association;
Proposed Amendments to
Financial Requirements

Dear Ms. Stuckey:

By letter dated October 11, 1982 from the undersigned, National Futures Association ("NFA") submitted to the Commodity Futures Trading Commission ("CFTC") proposed amendments to NFA Financial Requirements for approval pursuant to Section 17(j) of the Commodity Exchange Act. In response to certain suggestions from Ms. Karen Matteson, Staff Attorney, Division of Trading and Markets, NFA submitted, by letter dated November 10, 1982, certain technical corrections to Section A5-c of Schedule A and Section C2-b of Schedule C. By letter dated November 24, 1982 Ms. Matteson made further suggestions for alterations in the Financial Requirements submitted October 11, 1982.

In response to the November 24, 1982 letter from Ms. Matteson NFA hereby submits certain technical corrections to its submission of October 11, 1982. These technical corrections, which supersede those contained in NFA's letter of November 10, 1982, are incorporated in the new pages enclosed herewith, which are to be substituted for the corresponding pages of Exhibit A to NFA's October 11, 1982 submission. The new pages enclosed are pages 20, 49, 50, 51, 62, 63, 64 and 65. Please make the appropriate substitutions in your files and consider the new pages as part of our submission of October 11, 1982.

Very truly yours,
NATIONAL FUTURES ASSOCIATION

Joseph H. Harrison, Jr.
General Counsel and Secretary

JHH:cv

cc: Andrea C. Corcoran
Theodore W. Urban
Linda Kurjan
Karen Matteson

A5-c.

Deferred Income Tax Liability

Exclude the lesser of any deferred income tax liability related to the items in (i), (ii), and (iii) below, or the sum of (i), (ii), and (iii) below:

- (i) [Deferred tax liability of the unrealized gain on an asset which has been assessed charges elsewhere in this computation to the extent of those charges;]
- (i) The aggregate amount resulting from applying to the amount of the deductions computed in accordance with Section A6, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;
- (ii) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to [Section 1;] these financial rules;
- (iii) Any deferred tax liability related to unrealized appreciation in value of any asset which has been otherwise excluded from Current Assets in accordance with these requirements.

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it apply to revolving agreements covered under Section C2-f. No prepayments shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within 6 months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the Member FCM, either the Adjusted Net Capital of the Member FCM is less than the [greater] greatest of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the

amount of customer funds in such option customer's account; or, for securities brokers or dealers, [7 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c-3,] the amount of net capital specified in Rule 15c3-1d(b)(7) of the Regulations of the Securities and Exchange Commission [17 CFR 240.15c3-1d(b)(7)]; or [its Adjusted Net Capital is less than] \$60,000. Notwithstanding the above, no prepayment shall occur without the prior written approval of the Member FCM's DSRO.

(viii) Suspended repayment.

(A) The payment obligation of the Member FCM with respect to any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the Member FCM under any other subordination agreement(s) then outstanding which are scheduled to mature on

or before such payment obligation), the Adjusted Net Capital of the Member FCM would be less than the [greater] greatest of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [6 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c3-3,] the amount of net capital specified in Rule 15c3-1d(b)(8)(i) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(8)(i)); or [its Adjusted Net Capital would be less than] \$60,000. Provided, that the subordinated agreement may provide that if the

which are then due or mature within the following 6 months without reference to any projection of profit or loss of the Member FCM, its Adjusted Net Capital would be less than \$60,000 or, its Adjusted Net Capital would be less than the [greater]greatest of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [6 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c-3-3,] the amount of net capital specified in Rule 15c3-1d(c)2 of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(2)), [or its Adjusted Net Capital would be less than \$60,000.]

C2-c. Certain Legends.

If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

C2-d. Legal Title to Securities.

All securities pledged as collateral to secure a secured demand note must be in bearer form, or

registered in the name of the Member FCM or the name of its nominee or custodian.

C2-e. Temporary Subordinations.

To enable a Member FCM to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the financial requirements, a Member FCM shall be permitted, on no more than three occasions in any 12 month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective. Provided, that this temporary relief shall not apply to any Member FCM if the Adjusted Net Capital of the Member FCM is less than the ^[greater] greatest of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for securities brokers or dealers, [if 7 percent of the aggregate debit items computed in accordance with SEC Regulation 240.15c3-3] the amount of net capital specified in Rule 15c3-1d(c)(5)(1) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(1)); or [its Adjusted Net Capital is less than] \$60,000, or if the amount of equity capital as defined in Schedule B is less than the limits specified in Section 3. Such temporary subordination agreement shall be subject to all of the other provisions of Schedule C.

C2-f. Revolving Subordination-Special Payments.

A member FCM shall be allowed to enter into a revolving subordination agreement which, at the option of the member FCM but not at the option of the lender, if the agreement so provides, allows a prepayment at anytime prior to the scheduled maturity date, subject to the prior written approval of the member FCM's DSRO. However, no such prepayment shall be made if:

- i. After giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special payment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such special payment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of 10 percent of the funds required to be segregated pursuant to the Act and these regulations, less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the

deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or, for security brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)(5)(ii) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(ii)); or [its adjusted net capital is less than] \$100,000, or

ii. Pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital.

C2-g. [C2-f.] Filing.

Three copies of any proposed subordination agreement (including nonconforming subordination agreements) must be filed with the DSRO at least 10 days prior to the proposed effective date of the agreement, or at such other time as the DSRO for good cause shall find acceptable. The Member FCM shall also file with the DSRO a statement setting forth the name and address of the lender, the business relationship of the lender to the Member FCM, and whether the Member FCM carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined by the DSRO prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purpose of these capital requirements unless and until the DSRO finds the agreement acceptable and such agreement has become effective in the form found acceptable.

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



January 25, 1983

Mr. Joseph H. Harrison, Jr.
General Counsel and Secretary
National Futures Association
200 W. Madison Street
Chicago, Illinois 60606

Re: Amendments to NFA's Financial Requirements

Dear Mr. Harrison:

By letters dated October 11, November 10, November 11, and December 23, 1982, NFA submitted proposed amendments to its financial requirements for Commission approval pursuant to section 17(j) of the Commodity Exchange Act. The Commission approved the proposed amendments on January 25, 1983. The Commission also determined, pursuant to section 17(j), that the proposed amendments may be made effective immediately, as requested by NFA, rather than thirty days from the date of Commission approval.

Very truly yours,

Jane K. Stuckey
Jane K. Stuckey
Secretary of the Commission