

Financial Bulletin

Regulations and developments affecting the financial services industry June 18, 2009

CFTC proposes adjusted net capital increase

By Richard Flowers, Financial Services Audit partner

The Commodity Futures Trading Commission (CFTC) has proposed to increase minimum adjusted net capital requirements for futures commission merchants (FCMs) and introducing brokers (IBs). Under the proposed amendments, FCMs would now maintain \$1 million instead of \$250,000 in adjusted net capital. The adjusted net capital for IBs would increase to \$45,000 from \$30,000, which aligns with the minimum for members of the National Futures Association. The proposed rules aim to protect investors and enhance the integrity of futures markets as the market has become more consolidated.

In addition, futures commission merchants' risk-based capital computation would be required to include risk margin for over-the-counter-cleared positions. The margin-based requirements for positions in customer accounts would increase from eight to 10 percent and from four to 10 percent in noncustomer accounts.

Comments on the proposed rules on increasing the adjusted net capital for FCMs are due to the CFTC by July 6, 2009. The commission also is accepting comments regarding whether FCMs that are registered with both the CFTC and the SEC should maintain the combined minimum requirement as part of the CFTC's new minimum requirements. Previously, a firm was only required to meet the greater of the CFTC or SEC requirement. This proposal would only apply to FCMs, while dually registered IBs would continue to be required to meet only the greater of either the CFTC or SEC minimum requirement. Whether dually registered or not, both FCMs and IBs should seize the opportunity to provide observations to the CFTC on the expansion of regulatory capital requirements and other improvements that may be warranted in the interest of investor protection. •

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