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UNITED STATES OF AMERICA  
**COMMODITY FUTURES TRADING COMMISSION**  
2033 K Street, N.W.  
Washington, D.C. 20581



October 11, 1984

Ms. Yvonne J. Downs  
Assistant Administrator  
Office of Investigations and Audits  
Chicago Board of Trade  
La Salle at Jackson  
Chicago, Illinois 60604

Re: Joint Audit Plan

Dear Ms. Downs:

This is in response to the submission, pursuant to Section 1.52(c) of the Commission's regulations, of a designated self-regulatory organization ("DSRO") plan, also referred to as a joint audit plan, to which all of the contract markets and the National Futures Association are parties, which is dated May 1, 1984 and was filed under cover of your letter dated May 23, 1984. This new plan will essentially supersede various joint audit plans previously approved by the Commission and, as a result, all futures commission merchants ("FCMs") now should have only one DSRO with respect to their commodity-related activities, whereas some FCMs now have two DSROs.

When the Commission published its request for comment notice on the new joint audit plan, 49 Fed. Reg. 28906 (July 17, 1984), it raised concerns with respect to five specific items related to the plan: (1) the effect of the new plan on the previously-approved plans; (2) Commission access to joint audit plan documents; (3) DSRO response to a civil subpoena or summons for documents generated or received pursuant to the joint audit plan; (4) DSRO furnishing of audit reports to other parties to the plan of which the audited firm is a member; and (5) whether the option-related activity of a guaranteed introducing broker will be covered by the new plan. After reviewing your August 17, 1984 letter responding to the request for comment notice, as well as the letter dated August 3, 1984 from Bernard J. Purta to Andrea M. Concoran, the Commission is satisfied that its concerns have been adequately addressed, with the exception of item 3 referred to above, the provision relating to a DSRO response to a civil subpoena or summons for documents generated or received pursuant to the joint audit plan. Although the Commission is encouraged by the statement in your August 17, 1984 letter that the Joint Audit Committee has agreed to review the workability of this provision in the near future, since the provision remains a part of the contract among the parties to the plan, the Commission has determined to exclude the provision from its general approval of the new joint audit plan. The Commission expressed its intention not to approve this provision in its request for comment notice.

The Commission also wishes to make clear that the phrase "civil subpoena or summons" may not be interpreted to apply to any Commission subpoena or summons, and further notes the broad rights of Commission representatives to inspect and copy joint audit plan documents which you acknowledged in your August 17, 1984 letter, which should make it unnecessary for the Commission to rely on a subpoena to gain access to records generated or received by a DSRO under the joint audit plan. The Commission understands your August 17, 1984 letter to be a concurrence with the Commission's statement set forth in the request for comment notice that "(A)ny representative of the Commission, upon his or her request, has access to and the right to make copies of any documents generated or received by any party to the plan pursuant to the party's functions thereunder. Such request may be oral or written and shall not be subject to prior notification or authorization." 49 Fed. Reg. 28906, 28907 (July 17, 1984).

The Commission also is concerned about the deferral of including the option-related activity of guaranteed introducing brokers in the new plan. Although the Commission recognizes that the introducing broker option area is not an essential element of a joint audit plan, we again urge the self-regulatory organizations to move expeditiously to develop an audit program that would accommodate introducing brokers which wish to engage in the Commission's exchange-traded option pilot program.

The Commission wishes to remind the parties to the new joint audit plan that the recent report of the Division of Trading and Markets prepared in connection with a review of the effectiveness of the contract arrangements between the New York Stock Exchange, Inc. ("NYSE") and various commodity self-regulatory organizations ("SROs") found that the segregation audit work performed by the NYSE under the contract was deficient. To correct that deficiency, the SROs were directed to develop promptly, and have the NYSE implement, a set of segregation audit procedures to be used on a mandatory basis in the course of examinations of those FCM/broker-dealers whose commodities is a significant line of business. The Division set forth in the report suggested guidelines as to what steps such audit procedures should contain and the Division also noted that it expects to use these guidelines as a standard, to be applied on a prospective basis, to judge the sufficiency in this area of all commodity SRO audit and financial surveillance programs. The Commission understands that the guidelines contain procedures generally in use by the commodity SROs in their own audit programs. A copy of the Division's report is enclosed, and particular attention should be directed to pages 6 and 7, and 24-26, with respect to what is expected of a segregation audit.

The Commission has reviewed the joint audit plan dated May 1, 1984 to which all of the contract markets and the National Futures Association are parties, and the Commission finds that the plan meets the requirements for Commission approval of such a plan, or any part of the plan, in that it: (1) is necessary or appropriate to serve the public interest; (2) is for the protection and in the interest of customers or option customers; (3) reduces multiple monitoring and auditing for compliance with the minimum financial rules of the self-regulatory organizations submitting the plan for any

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futures commission merchant or introducing broker which is a member of more than one self-regulatory organization; (4) reduces multiple reporting of the financial information necessitated by such minimum financial and related reporting requirements by any futures commission merchant or introducing broker which is a member of more than one self-regulatory organization; (5) fosters cooperation and coordination among the contract markets; and (6) does not hinder the development of a registered futures association under Section 17 of the Act.

This is to inform you that the Commission on October 10, 1984, approved, pursuant to Section 1.52(g) of the regulations, the joint audit plan dated May 1, 1984 to which all of the contract markets and the National Futures Association are parties, and which generally supersedes certain previous joint audit plans between and among such parties, with the exception that the Commission does not approve the provision relating to a DSRO's response to a civil subpoena or summons for documents generated or received pursuant to the joint audit plan, as discussed above.

Very truly yours,

*Jean A. Webb*

Jean A. Webb  
Acting Secretary of the Commission

Enclosure

cc: All Parties to the Plan  
CFTC Regional Offices