

NIBA

THE NATIONAL INTRODUCING BROKERS ASSOCIATION
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June 4, 2002

Jean A. Webb, Secretary
Commodity Futures Trading Commission
3 Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Final Rules Regarding Intermediaries

To the Commission:

Thank you for inviting the National Introducing Brokers Association (NIBA) to address the Commission during the public meeting on its study of potential changes in the regulation of intermediaries, pursuant to Section 125 of the Commodity Futures Modernization Act of 2000. We are unable to appear in person.

The following comments are submitted for the record from the Association. NIBA, founded in 1991, is an organization of Introducing Brokers (IBs), which lists among its associate members nine futures commission merchants (FCMs), eight domestic futures and options exchanges and trading platforms, and various vendors and suppliers of goods and services. IBs are the field salespeople of the futures industry, and referred to collectively as "intermediaries" in the proposed regulation.

The mission of the Association is to assure that IBs stay in business, and that business is conducted at a highly professional level. Our goals are: (1) To represent the concerns of the IB community to regulatory and other agencies which affect their business; (2) To offer substantial and useful ideas for an IB's continued growth and prosperity; and, (3) To provide a forum in which IBs can communicate with one another.

The Association's newsletter is published electronically nine times per year, and over two hundred industry professionals are expected to attend the Association's 11th annual conference scheduled for June 21 and 22, 2002.

The NIBA congratulates the Commission and specifically its staff task force for its thoughtful endeavors toward modernizing regulation of our marketplaces. We submitted a statement in August, 2000 detailing our position on the then-proposed changes in regulation, and we are happy that several of our suggestions have been included in the final draft. It was noted in our 2000 letter that many of the proposed changes will affect the daily activities of an IB only after the clearing FCM and trading facilities have first interpreted them. However, the Association wishes to address the following items specifically.

Page 2/Final Rules Regarding Intermediaries
June 4, 2002

The Association believes that minimum capital requirements for the FCM or CTA who handles transactions on Derivative Transaction Facilities (DTFs) is a good rule and should be implemented. Additionally, the Association supports the Commission's decision to continue to exempt agricultural commodities from trading on DTFs. The NIBA believes this is the correct treatment of these commodity interests.

With regard to specific portions of the Final Rules as published by the Commission, the Association states:

A) Registration:

NIBA supports the Commission's amendments to the definition of 'principal' and other rule changes as listed in the Federal Register of Oct. 23, 2001. Allowing IB applicants to file an unaudited financial report with their registration materials, then be subject to an on-site review within six months of registration by the firm's DSRO, appears to be a procedure working successfully in the securities industry.

B) Fitness and Supervision:

NIBA supports the Commission's amendments deleting the current ethics training requirement (Rule 3.34). Replacing it with a "standard practices" code or on-going education requirement which the registrants and their DSROs can format and administer flexibly, is in keeping with Congressional intent that futures industry professionals remain "fit" and abreast of their responsibilities to the public.

C) Financial Requirements:

NIBA supports the Commission's decisions with regard to minimum net capital requirements for the FCM or CTA handling transactions on DTF's as noted above.

D) Risk Disclosure and Account Statements:

The Association supports the Commission's amendments with regard to new Rule 1.33(g) and Rules 1.3(tt) and 1.4. However, we agree with the National Futures Association (NFA) view as reported in the Federal Register with regard to the specifics of delivering and acknowledging disclosure.

E) Trading Standards:

The NIBA supports NFA's comments with respect to trading standards and agrees that there should be no distinctions based upon the type of trading facility or the type of customer. The Association believes that extending the existing rules to DTFs is the appropriate way to curb potentially abusive trading practices - abuses that could occur just as easily on the newly recognized DTFs as on

Page 3/Final Rules Regarding Intermediaries
June 4, 2002

traditional trading platforms.

F) Recordkeeping:

The NIBA supports the Commission's amendments with regard to Customer Account Statements and Close-Out of Offsetting Positions.

The NIBA wishes to reiterate its long-held opinion that any person or organization conducting any portion of their business in commodity interests should be subject to full registration requirements and membership in the appropriate DSRO regardless of whether that portion is deemed minor or a "non-significant" part of the AP's or FCM's total business, or is conducted on a DTF or traditional trading platform.

Thank you for the opportunity to comment on the Final Rules for Intermediaries. These amendments and new regulations will affect our members' professional lives forever, and will affect the habits and practices of our customers. The Association believes the Commission has made significant steps toward modernizing our marketplace and keeping it globally competitive. The National Introducing Brokers Association is pleased to be a valuable part of this dialogue, and offers our continued help and support in building and implementing the new regulatory framework for our industry.

Sincerely,



National Introducing Brokers Association, by its
Board of Directors, Melinda H. Schramm, Chairman

CC: Chairman Newsome, CFTC
Commissioner Erickson, CFTC
Commissioner Holum, CFTC
Robt. Wilmoth, NFA
NIBA BOD