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By Commission Website

December 17, 2014

Mr. Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: Residual Interest Deadline for Futures Commission Merchants
79 Fed.Reg. 68148 (November 14, 2014)

Dear Mr. Kirkpatrick:

FIA[1] is pleased to submit this letter in support of the Commodity Futures Trading Commission's ("**Commission's**") proposed amendment to Commission Rule 1.22(c)(5), which defines the "Residual Interest Deadline" for purposes of the rule.[2] The Residual Interest Deadline is the time by which a futures commission merchant ("**FCM**") must assure that it is holding in its customer segregated accounts residual interest that is at least equal to the amount by which its customers' segregated accounts, in the aggregate, are undermargined. Rule 1.22(c)(5) sets the Residual Interest Deadline at 6:00 pm (Eastern) on the settlement date, *i.e.*, the business day following the trade date, effective November 14, 2014.

The rule further requires the Commission staff, no later than May 16, 2016, to complete and publish for public comment a report considering, to the extent information is practically available, whether it would be practicable to move the Residual Interest Deadline to the time of

[1] FIA is the leading trade organization for the futures, options and cleared swaps markets worldwide. FIA's membership includes clearing firms, exchanges, clearing organizations and trading firms from more than 25 countries as well as technology vendors, lawyers and other professionals serving the industry. FIA's mission is to support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct. As the principal members of derivatives clearing organizations worldwide, FIA's member firms play a critical role in the reduction of systemic risk in the global financial markets. FIA and its affiliates, FIA Europe and FIA Asia, make up the global alliance FIA Global, which seeks to address the common issues facing their collective memberships.

[2] The "Residual Interest Deadline" is the time by which a futures commission merchant ("**FCM**") must assure that it is holding in its customer segregated accounts residual interest in excess of the amount by which its customers' segregated accounts, in the aggregate, are undermargined.

settlement (or to some other time of day),[3] and authorizes the Commission, within nine months thereafter, to take action to either (i) set the Residual Interest Deadline as the time of settlement or (ii) propose an amendment to the rule to set a different Residual Interest Deadline. Finally, the rule provides that, if the Commission takes no action following its consideration of the staff report, the Residual Interest Deadline will be fixed as the time of settlement, effective December 31, 2018.

The proposed amendment would revise Rule 1.22(c)(5) in two ways. First, the amendment would provide that the Commission could not move the Residual Interest Deadline to the time of settlement or set a different Residual Interest Deadline except through a rulemaking. Second, the amendment would provide that the Residual Interest Deadline would remain at 6:00 pm (Eastern) unless and until the Commission took action, again through rulemaking. By requiring that any changes to the 6:00 pm (Eastern) Residual Interest Deadline be made only following a rulemaking, any such changes would be made in accordance with the Administrative Procedure Act, including publication of such proposal for comment in the Federal Register.

FIA supports the proposed amendment. As the Commission may recall, FIA recommended that the Commission adopt the current 6:00 pm (Eastern) Residual Interest Deadline in its comment letter on the proposed enhanced customer protection rules.[4] For the reasons explained in our comment letter, we believe the 6:00 pm (Eastern) Residual Interest Deadline strikes a proper balance between assuring the protection of customer funds and alleviating the financial and operational burdens that would be imposed on customers and FCMs alike if the Residual Interest Deadline were set at settlement time.

In his remarks on the proposed amendment, Chairman Massad noted that the proposed amendment is intended to "make sure that customers have an opportunity to not only review the study but give us input when we consider whether to accelerate the deadline."[5] We agree and submit that the opportunity to provide input is consistent with, if not required by, the Administrative Procedure Act. Adoption of the amendment will also afford the members of the Commission in office in 2017 and 2018 the opportunity to consider carefully the results of the staff study without being bound by an artificial deadline imposed five years earlier.

FIA and its member firms also anticipate that they will participate in the study that the Commission staff will undertake to determine whether it would be practicable to move the Residual Interest Deadline to the time of settlement (or to some other time of day). As noted above, we are concerned that an earlier Residual Interest Deadline will impose significant financial and operational burdens on both customers and FCMs. In order to assure that the implications for futures market participants and the FCMs carrying their accounts are understood, it is essential that the Commission's analysis of the ability of futures market

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[3] Staff is directed to solicit public comment and conduct a public roundtable regarding specific issues to be covered by such report.

[4] Letter from Walt L. Lukken, President and CEO, FIA, to Melissa D. Jurgens, Secretary to the Commission, dated February 15, 2013.

[5] 79 Fed.Reg. 68148, 68151 (November 14, 2014).

participants to meet an earlier Residual Interest Deadline be based on the most complete data available. We are prepared to work with the Commission staff as they develop the parameters of the study.[6]

We appreciate the opportunity to submit these comments in support of the proposed amendments to Commission Rule 1.22(c)(5).

Respectfully yours,

Walt L. Lukken

President and Chief Executive Officer

cc: Division of Swap Dealer and Intermediary Oversight
Gary Barnett, Director
Thomas J. Smith, Deputy Director
Jennifer Bauer, Special Counsel

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[6] In this regard, it is critical that the period the staff elects to examine provides a fair sampling of different markets and different market conditions, including periods of volatility. We also note that any information that staff may request from FCMs likely will available only on a "going forward" basis. Unless information is currently subject to a recordkeeping requirement, FCMs must receive timely notification of the information staff will request and the format in which it will be expected to be provided.