

Finally, customer and noncustomer accounts margined by letters of credit would be included in the Risk-Based Capital computation under the proposal. Such accounts currently have no effect on a firm's capital computation, because a letter of credit is not included in the

Segregated Amount until the letter of credit is actually drawn upon.

### 3. Effect of Certain Events on the Risk-Based Net Capital Requirement

Certain events would have different effects on required capital under a

Segregated Amount-based capital requirement as compared to the proposed Risk-Based Capital requirement. These differences are summarized in the following chart.

Event	Effect on net capital requirement	
	Segregated amount-based	Proposed risk-based rule
Excess margin deposited by a customer .....	Increase .....	No effect.
Excess margin withdrawn by customer .....	Decrease .....	No effect.
Firm increases margin required from a customer .....	Increase when customer deposits extra margin.	No effect.
Exchange increases margin requirements .....	Increase when funds are collected from customer.	Immediate increase.
Customer or noncustomer establishes riskier positions (indicated by increased risk margin requirement in trading account).	No immediate effect .....	Immediate increase.

Generally, Risk-Based Capital bases required levels of capital on the risks inherent in the futures and options positions that the FCM carries for customers and noncustomers. Conversely, the Segregated Amount computation is based upon the amount of funds the FCM is required to segregate or secure on behalf of its customers trading on U.S. and foreign commodity markets. Thus, an FCM that collects additional funds from its customer as a cushion for an increase in the market risks posed by the customer's portfolio is required by Commission rules to maintain a higher amount of capital, even though such additional funds reduce the FCM's overall exposure to a default by such customer. In contrast, an FCM that does not

require a customer to deposit additional margin would not have an increase in its capital requirement, even though the firm may be more exposed to an increase in the market risk associated with the customer's portfolio. The proposed Risk-Based Capital computation, which is based upon a percentage of the risk maintenance margin on a portfolio of positions, would require the FCM to have higher minimum capital when the market risks associated with positions in the portfolio increases regardless of whether the FCM collected additional margin from the customer. Excess customer funds or margin held by an FCM would continue to be protected and regulated under the Commission's segregation requirements.

### 4. Impact of Adopting Risk-Based Capital

There were 169 registered FCMs as of April 30, 2003, of which 75 also were registered securities brokers or dealers with the SEC. The required regulatory capital for these 169 firms reflects an increase of more than \$389 million, on a net basis, as a result of replacing adjusted net capital requirements that are currently based on the Segregated Amount with the risk-based capital requirements that are currently implemented by BOTCC, CBT, CME and the NFA. The following chart details the net increase for both sole FCMs and dually-registered firms.

	Effect of risk-based capital on total capital requirement	Total for all firms
Number of FCMs also registered as BDs with SEC:		
19 .....	Increase .....	\$244,688,814
2 .....	Decrease .....	(\$415,526)
54 .....	No change .....	0
Total: 75		
Number of FCMs not registered as BDs with SEC:		
17 .....	Increase .....	\$171,045,445
24 .....	Decrease .....	(\$25,476,295)
53 .....	No change .....	0
Total: 94		

Of the 75 dually-registered FCMs, 19 had an increase in their minimum capital requirements totaling approximately \$245 million. Two firms realized a reduction in minimum net capital requirements totaling approximately \$416,000. The minimum net capital for 54 firms did not change. The minimum capital requirement for these 54 firms was determined by SEC

rules or the Commission's \$250,000 minimum.

Of the 94 FCMs that were not dual registrants, 17 had a higher minimum capital requirement totaling approximately \$171 million under Risk-Based Capital than under the Segregated Amount requirement. Minimum capital requirements decreased by approximately \$25 million for 24 sole FCMs. Fifty-three FCMs had no change

in their minimum capital requirements with the adoption of Risk-Based Capital. These 53 firms were subject to the Commission's \$250,000 minimum.

### III. Capital Charge for Undermargined Accounts

Commission Rule 1.17(c)(5)(viii) requires an FCM to take a capital charge for any customer account that is undermargined if the margin call issued

current assets the balance of any customer account that liquidates to a deficit or contains a debit ledger

balance and such customer fails to answer a margin

call or request for other deposits within one business day.