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OF COUNSEL
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December 30, 1999

Via Federal Express

Mr. Michael Macchiaroli
Associate Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

SECURITIES AND EXCHANGE COMMISSION
RECEIVED

JAN 03 2000

Re: No-Action Request
TransMarket Group L.L.C.

DIVISION OF MARKET REGULATION

Dear Mr. Macchiaroli:

We are counsel to TransMarket Group L.L.C. ("TMG"), a registered broker-dealer and a registered futures commission merchant, and on behalf of our client, request the no-action position set forth below from the staff of the Division of Market Regulation ("the Division").

1. Request

This letter requests a no-action position from the staff of the Division to permit TMG to execute and clear transactions in U.S. government securities incidental to futures transactions within the meaning of Rules 3a43-1 and 3a44-1 (17 C.F.R. 240.3a43-1 and 240.3a44-1) under the Securities Exchange Act of 1934, as amended ("Exchange Act"), and carry such securities in its accounts for persons who are members of commodities exchanges and registered as Floor Traders or Floor Brokers ("Registered Floor Persons") under the Commodity Futures Exchange Act, as amended, but not registered as broker-dealers with the Securities and Exchange Commission ("the Commission"), without requiring that TMG comply with rule 15c3-3 (17 C.F.R. 240.15c3-3) under the Exchange Act, provided TMG complies with the conditions set forth in 3 below.

2. Background

TMG is registered as a broker-dealer with the Commission and as a futures commission merchant with the Commodity Futures Trading Commission ("CFTC"), TMG's designated examining authority ("DEA") for purposes of the Exchange Act is the National Association of Securities Dealers Regulation, Inc. and its designated self-regulatory organization for purposes of the Commodity Exchange Act is the Chicago Board of Trade. TMG is a U.S. government securities broker and dealer.

In connection with its activities as a broker-dealer, TMG clears all of its customer securities activities on a fully disclosed basis (other than U.S. government securities) through Bank of New York Clearing. TMG also clears its retail futures transactions on a fully disclosed basis through Bank of New York Clearing, or in the case of some accounts, TMG self-clears the futures accounts. TMG also clears futures customers' U.S. government securities through Harris Bank and Trust Co. on an omnibus basis. TMG effects U.S. government securities transactions for its proprietary trading and clears such transactions through Schroder & Co., Inc. on an omnibus basis. TMG, as a clearing member of the Chicago Board of Trade, the Chicago Mercantile Exchange, Inc. and New York Clearing Corp. for (New York Board of Trade/Cantor Futures Exchange), self-clears its proprietary futures transactions and futures transactions of Registered Floor Persons. TMG clears its proprietary equity securities transactions through First Options of Chicago, Inc.

3. Conditions

TMG proposes to execute and clear transactions in U.S. government securities for Registered Floor Persons (and carry such securities in their accounts) only if such transactions (i) are for delivery pursuant to a futures contract, (ii) are for risk reduction or arbitrage of positions in futures, (iii) exchange of futures for physical transactions as agent for or as principal, (iv) are in connection with a trading strategy involving the purchase or sale of securities that are related to proposed or existing positions in futures, (v) are in connection with bona fide exchange futures for physicals or repurchase or reverse repurchase transactions permitted by Rule 3a44-1(b)(5), or (vi) are incidental to futures transactions within the meaning of Rules 3a43-1 and 3a44-1. Additionally, Registered Floor Persons will be required to enter into an agreement with TMG to the effect that any claims (including any resulting from repurchase agreements or credit balances) it has against TMG in excess of amounts that are satisfied from the segregated fund maintained in accordance with Section 4d(2) of the Commodity Exchange Act shall be subordinated to the claims of other Rule 15c3-3 customers of TMG. In connection with such agreement, each futures customer will be asked to acknowledge that it will not be a "customer" as defined under Rule 15c3-3 and that it will not be entitled to the protections afforded by Rule 15c3-3 or the Securities Investor Protection Act of 1970.

In those instances where the Registered Floor Person purchases or carries a government security with financing provided by or through TMG, the government security and the financing transaction (typically a repurchase agreement) would be recorded and carried in a non-segregated account in the same way TMG would record and carry any security or other deliverable, such as a warehouse receipt, that is not deposited as margin for a futures or futures options position. Neither the government security (which in all likelihood would be subject to a repurchase agreement and not held by TMG) nor any credit balance due to such customers with respect to such security would be included in a Segregated Fund Account and would not be used to margin the customer's futures or futures options positions. Any fully paid for government securities held for such customers, if used to margin customer's futures or futures options positions, would be maintained in a regulated commodity account, fully subject to the segregation requirements of Section 4d(2) of the Commodity Exchange Act, and such securities would be available as margin for such customer's commodity trading activity.

4. The First Options Letter

In a letter dated August 13, 1999 to Mr. Charles R. Manzoni, Jr. of Gardner, Carton & Douglas regarding First Options of Chicago, Inc. (the First Options letter), the staff provided no-action relief with respect to a similar request regarding Rule 15c3-3. The purpose of this letter is to request similar, but not identical, relief based upon TMG's regulatory position and business. TMG would propose to be subject to the same limitations set forth in the First Options letter set forth above, except that (i) the relief would apply only to accounts of members of contract markets that are Registered Floor Persons, (ii) the permitted transactions would include EFP's, and (iii) repurchase and reverse repurchase transactions permitted under Rule 3a44-1(b)(5).

5. Legal Discussion

As you are aware, customer funds and customer securities must be segregated pursuant to the provisions of the Commodity Exchange Act §4(d) and Rules 120 et seq. (17 C.F.R. 120 et seq. In the event of a solvency of an FCM broker-dealer, the securities and funds held pursuant to the provisions of §4(d) will be considered customer funds of future customers and not funds of securities customers, subject to protection under the Securities Investors Protection Act. In liquidations of FCM broker-dealers the futures customer assets have been deemed to be one pool of assets and the assets of securities customers a second pool.

Rule 15c3-3 generally requires every broker-dealer that carries customer accounts to maintain physical possession or control of all fully paid and excess margin securities. The rule also requires firms to make a periodic computation to ascertain the amount of money it holds that is either customer money or money obtained from the use of customer securities (i.e., customer credits). If customer credits exceed the amount customers owe the firm (i.e., customer debits).

the broker-dealer must deposit the excess in a special reserve bank account for the exclusive benefit of its customers.

Subparagraph (a)(1) of Rule 15c3-3 defines the term "customer" as any person from whom or on whose behalf a broker-dealer has received or acquired or holds funds or securities for the account of that person. Among other things, the term "customer" does not include a broker-dealer, a municipal securities dealer or a government securities broker or dealer.¹ Subparagraph (a)(1) also provides that "[t]he term shall not include...any other person to the extent that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law...is subordinated to the claims of creditors of the broker or dealer."

Since the Registered Floor Person would not be a "customer" under Rule 15c3-3 because of the subordination agreement described above, the credit balance in the Registered Floor Person's futures account would be held in segregation as explained above and would not be a credit balance for purposes of Rule 15c3-3 (See 15c3-3(a)(8), and that position also would not be included in the reserve computation under Rule 15c3-3 based upon prior SEC staff interpretation. Further, since TMG carries no securities accounts for customers (as defined in Rule 15c3-3), the Registered Floor Person's claim against TMG with respect to its credit balance arising out of the financed government securities position would rank *pari passu* with the claims of all broker-dealer customers of TMG and of other covered futures customers of TMG who have similar claims relating to credit balances owed with respect to financed government securities positions.

The effect of the foregoing approach would be to treat the Registered Floor Persons who engage in government securities transactions that are incidental to their futures activities as not constituting customers under Rule 15c3-3 and to treat their cash balance positions and regulated commodity positions with respect thereto in the manner they would expect such positions to be treated under the Commodity Exchange Act.

Without such relief, TMG would be at a significant disadvantage to futures commission merchants that are not broker-dealers. Such futures commission merchants that are not broker-dealers will be able to purchase and carry U.S. government securities for Registered Floor Persons or other futures customers as long as they do so within the confines of Rule 3a43-1 or 3a44-1.

Based upon the facts set forth above, we request that the staff not recommend enforcement action to the Commission if TMG executes and clears transactions in government

¹ The term "customer" does, however, include another broker-dealer to the extent that broker-dealer maintains an omnibus account for the account of customers as provided for under Section 220.7(f)(1) of Regulation T (12 C.F.R. 220.7(f)(1)).

Securities and Exchange Commission
Re: TransMarket Group L.L.C.
December 30, 1999

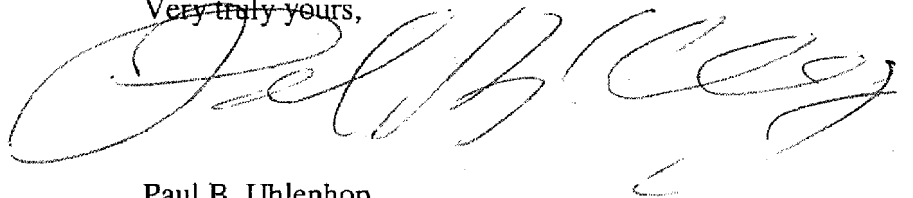
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securities and carries securities accounts for futures customers as described above without treating Registered Floor Persons as "customers" for purposes of Rule 15c3-3.

Please contact the undersigned if you desire to discuss the above issues or if you need additional information.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul B. Uhlenhop", written in a cursive style.

Paul B. Uhlenhop

PBU:sj
cc: Mark Attar (Via Federal Express)