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February 13, 2006

Nancy M. Morris, Secretary
Securities and Exhange Commission
450 Fifth Street
Washington DC 20549-0609

Re: File Number SR-NYSE-2005-93, *71 Fed.Reg. 3586* (January 23, 2006)

Dear Ms. Morris:

The Futures Industry Association ("FIA") appreciates the opportunity to comment in support of the proposed amendments to New York Stock Exchange ("NYSE") Rule 431(g), which would expand the NYSE's Portfolio Margin Pilot Program ("Program"). FIA is a principal spokesman for the commodity futures and options industry. FIA's regular membership is comprised of approximately 40 of the largest futures commission merchants ("FCMs") in the United States, the majority of which are also registered broker-dealers or have affiliates that are registered broker-dealers. Many of these broker-dealers are members of the New York Stock Exchange ("NYSE"). As such, they have a significant interest in the proposed amendments, which would expand the scope of financial instruments eligible for "portfolio margining" to include securities futures and single stock options.

FIA has had an opportunity to review the letter on the proposed amendments to the Program filed by the *Ad Hoc* Portfolio Margining Committee of the Securities Industry Association ("*Ad Hoc* Committee"). We share the *Ad Hoc* Committee's concerns with respect the legal, regulatory and operational obstacles that FCM/broker-dealers would face in maintaining a separate cross-margin securities account for customers whose portfolios would include "related instruments," *i.e.*, futures positions other than security futures. FIA voiced similar concerns in its letter to the Securities and Exchange Commission ("SEC") in response to the Commission's December 2004 request for comment on the Program, in which we noted that "from a regulatory perspective, it is evident that futures positions could not be transferred to a securities account until appropriate amendments have been made to the rules of the Securities Investor Protection Corporation ("SIPC") and the Commodity Futures Trading Commission ("CFTC") has granted relief from the provisions of section 4d(a)(2) of the Commodity Exchange Act."[1] FIA, therefore, joins the *Ad Hoc* Committee in encouraging the SEC to work with the CFTC, the exchanges and affected clearing organizations to resolve the legal and regulatory issues that may create a barrier to comprehensive cross-margining at both the firm and clearing organization level.

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[1] Letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Barbara Wierzynski, Executive Vice President and General Counsel, Futures Industry Association, dated February 22, 2005.

In this connection, we believe the SEC and CFTC should also explore whether it is essential that a broker-dealer carrying a cross margin account also be registered as an FCM. We respectfully submit that, for the purposes of the Program, it should be sufficient if the broker-dealer is notice-registered as an FCM.[2] Although an affected customer would be required to have an open futures account with a fully registered FCM in order to transfer its futures positions from a securities account to a futures account, such position transfers could easily occur, especially if the broker-dealer is affiliated with a fully registered FCM. FIA urges the SEC and the CFTC to develop procedures that would permit broker-dealers that are notice-registered as FCMs to participate in the Program and offer a cross margin program to their eligible customers.

FIA appreciates the opportunity to submit these comments on the proposed NYSE rule amendments. If you have any questions concerning the matters discussed in this letter, please contact me at (202) 466-5460.

Sincerely,

Barbara Wierzynski
Executive Vice President and General Counsel

[2] If a broker-dealer that is not also registered as an FCM is carrying securities futures positions on behalf of its customers, it will already have filed to be a notice-registered FCM.