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## PROPOSED CHANGES TO NASAA COMMODITY POOL GUIDELINE

Henderson & Lyman Financial Services Division

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On May 27, 2005, the North American Securities Administrators Association (NASAA) published proposed revisions to the NASAA Commodity Pool Guidelines (Guidelines). These changes represent the first substantive update to the Guidelines in nearly fifteen years. NASAA has indicated that these revisions remove or revise certain sections of the Guidelines that are "inconsistent with current commodity pool practices and regulatory developments." NASAA has proposed five separate changes to the Guidelines as summarized below:

1. NASAA is proposing to permit a general partner to redeem its interest in a partnership as of any special valuation date declared by the partnership rather than the current practice of permitting a general partner to redeem only as of the next regularly scheduled valuation date. This change is based on NASAA's view that it is incongruous to require a general partner to remain in a fund after it no longer functions in that capacity.
2. In light of the NASD's changes to trailing commission payments adopted last year, NASAA is proposing to eliminate a comment to the Guidelines stating that trailing commission are not considered objectionable offering expenses. NASAA believes this issue has been rendered moot by the NASD's changes last year.
3. NASAA is proposing to broaden the definition of allowable fund expenses from the current standard of those billed directly to and paid by the fund to acknowledge that in many cases the fund's general partner may pay such expenses and be reimbursed later by the fund. Under the proposed changes, such an arrangement will be included within the definition of permitted fund expenses.
4. NASAA also proposes to revise the period for payment of incentive fees to match the redemption cycle and thereby eliminate the administrative burden imposed currently under the Guidelines by restricting calculation of incentive fees to not more often than quarterly while allowing redemptions monthly or even more frequently.

5. Finally, NASAA proposes to permit redemption charges to be imposed during the first two years following an investment in lieu of the current two year period following commencement of trading. NASAA indicated that this change recognizes the continuous offering nature of many commodity pools.

A copy of the proposed changes is attached to this memo. NASAA has opened a thirty day comment period from May 27<sup>th</sup> in connection with its consideration of this proposal. Please contact us at (312) 986-6960 with any questions or comments you may have.