AXA Equitable Funds Management Group, LLC
1290 Avenue of the Americas
New York, New York 10104

April 24, 2012

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Request for Comments Regarding Harmonization of Compliance Obligations for Registered Investment Companies Required to Register as Commodity Pool Operators

Dear Mr. Stawick:

AXA Equitable Funds Management Group LLC ("AXA FMG") appreciates the opportunity to state our concerns with respect to the Commodity Futures Trading Commission's (the "CFTC" or "Commission") proposed amendments[1] (the "Harmonization Proposal") to its regulations regarding compliance and disclosure obligations that would apply to investment advisers of investment companies registered with the Securities and Exchange Commission (the "SEC") under the Investment Company Act of 1940, as amended (the "1940 Act"), that do not qualify for the exclusion from registration under the Commodity Exchange Act ("CEA") as "commodity pool operators" pursuant to Rule 4.5 under the CEA.

AXA FMG, an investment adviser registered with the SEC under the Investment Advisers Act of 1940 (the "Advisers Act"), serves as investment manager to EQ Advisors Trust ("EQAT") and AXA Premier VIP Trust ("VIP," and together with EQAT, the "Trusts"), each an SEC-registered investment company ("RIC") under the 1940 Act, in addition to certain offshore pooled investment vehicles. The Trusts collectively currently offer shares in 92 different portfolios (the "Portfolios"), each of which has its own investment objective and investment strategies. Each Portfolio is managed by one or more sub-advisers that furnish the day-to-day portfolio management for the Portfolio, or is managed directly by AXA FMG and invests in other investment companies, including other Portfolios of the Trusts. Currently, the sub-advised Portfolios are advised by 50 different sub-advisers. The Trusts' shares are currently sold only to insurance company separate accounts in connection with variable life insurance contracts and variable annuity certificates and contracts issued or to be issued by AXA Equitable Life Insurance Company, the parent company of AXA FMG, or other affiliated and unaffiliated insurance companies. Certain Portfolios may invest a portion of their assets in commodity futures and commodity options that are based on broad-based securities indices and other reference assets.

[1] *Harmonization of Compliance Obligations for Registered Investment Companies Required to Register as Commodity Pool Operators*, 77 Fed. Reg. 11345 (Feb. 24, 2012) [hereinafter "Harmonization Proposal"].

As detailed in the October 18, 2010 Comment Letter submitted on behalf of EQAT,[2] AXA FMG continues to strongly object to the CFTC's amendments to Rule 4.5 on the basis that the CFTC has not demonstrated the benefits to the public of casting a wider-than-necessary regulatory net and potentially subjecting RICs that use futures as an incidental part of a broader investment management strategy (*e.g.*, broad-based, diversified, asset allocation funds) to CFTC registration. We continue to believe that the CFTC's amendments to Rule 4.5 are overbroad and that the National Futures Association's (the "NFA") intent to regulate operators of RICs that market themselves as "managed futures funds," but that currently do not fall under NFA regulation, could be adequately addressed by a narrower amendment to Rule 4.5. Instead, the amendments to Rule 4.5 apply to all RICs with more than *de minimus* positions in commodity futures and commodity options – not just those held out as managed futures funds. The NFA has put forth no argument to support its contention that comprehensive regulation of RICs under the federal securities laws is inadequate to protect investors that invest in RICs, such as the Portfolios, investing only a portion of their portfolios in commodity futures and commodity options (as opposed to funds that hold themselves out as "managed futures funds") or that additional CFTC-mandated disclosure would provide these investors with additional protection not already provided by the extensive disclosure and other regulations under the 1940 Act and the other federal securities laws.

Against this backdrop, and as outlined in greater detail below, the Harmonization Proposal further complicates the regulatory regime for RICs as it fails to reconcile some of the significant conflicts between SEC and CFTC rules; a task that could only truly be accomplished by coordination between the SEC and CFTC, with input from other affected agencies such as the NFA and the Financial Industry Regulatory Authority ("FINRA").[3] The CFTC and SEC must work together to either create a new disclosure process for entities required to be dually-registered, or to provide exemptive relief from the CFTC's more onerous requirements (*e.g.*, review of disclosure documents by the NFA, preparation of monthly account statements, performance reporting, and duplicative fee disclosure) where the SEC already subjects RICs to extensive compliance and disclosure obligations. The SEC and CFTC could submit a joint proposal to the public, with the appropriate notice and opportunity for interested persons to comment.

AXA FMG urges the CFTC to reconsider its position to subject RICs and their advisers to additional disclosure and compliance requirements for the following reasons: (1) the CFTC should accept the SEC's comprehensive existing regulatory regime applicable to RICs, including disclosure and compliance requirements. RICs and their advisers are already required to provide extensive disclosure that is publicly available and accessible by potential and existing investors in addition to regulators. The additional disclosure that would be required by the CFTC is superfluous and confusing to investors and the benefits of such additional information are questionable at best, particularly when considered in light of the significant costs of compliance, which the CFTC has grossly underestimated. Furthermore, the CFTC fails to articulate what, if

[2] *See* Letter from Steven M. Joenk, Chair, Chief Executive Officer and President of EQ Advisors Trust, to David A. Stawick, Secretary, Commodity Futures Trading Commission (Oct. 18, 2010).

[3] *See infra* note 13 and accompanying text.

any, benefits or protections shareholders would be afforded beyond those they already enjoy under the federal securities laws and how the CFTC and NFA will oversee the increased number of registered CPOs with already limited resources; (2) the Harmonization Proposal would increase costs for RICs and their shareholders, and result in significant administrative burdens for RICs and their advisers, that far outweigh the potential benefit to investors; and (3) the Harmonization Proposal does not address the unnecessary, conflicting, and inefficient regulation under SEC and CFTC rules.

1. The CFTC Should Accept the SEC's Comprehensive Existing Regulatory Regime Applicable to RICs, Including Disclosure and Compliance Requirements.

RICs and their advisers are comprehensively regulated under the federal securities laws, which are administered by the SEC. Indeed, RICs are the only entities that are regulated under all four of the major federal securities laws – the Securities Act of 1933 (the "1933 Act"), the Securities Exchange Act of 1934, the Advisers Act and the 1940 Act. One of the primary goals of the SEC is the protection of investors, and the importance of this goal is embedded into every aspect of the 1940 Act, the primary statute governing RICs. Unlike the other federal securities laws, the 1940 Act is not primarily a disclosure-focused statute. While disclosure remains extremely important under the 1940 Act statutory scheme, the 1940 Act goes further and subjects RICs to substantive limitations on their activities, including limitations on the use of leverage, limitations on transactions with affiliated parties, limitations with respect to the complexity of their capital structures, and ensures oversight by their boards of directors. Therefore, the SEC oversees all RIC activities, including activities, compliance and disclosure relating to commodity futures and commodity options. Since the 2003 amendments to Rule 4.5, the effectiveness of the SEC in regulating RICs under the 1940 Act has not changed or weakened, and this regulatory scheme continues to provide more than "adequate consumer protection" with respect to RICs that have positions in commodity futures and commodity options.[4] Furthermore, the CFTC has not articulated any compelling reason to completely reverse the position taken in its 2003 rulemaking.

As the CFTC has recognized, based on its proposal to require RICs to include additional information in their registration statements on Form N-1A rather than subject RICs to an entirely separate disclosure regime, mutual funds already provide a vast array of disclosures targeted toward investor protection and these disclosures are substantially equivalent to those mandated by the CFTC. Examples include disclosure pertaining to a fund's principal investment strategies and principal risks, which would include a fund's use of specific instruments such as commodity futures and options and swaps, fees and expenses, performance, and financial reports.

We believe that the information RICs make publicly available by virtue of compliance with existing laws affords the CFTC access to the information it needs to discharge its oversight of commodity pools. As such, we believe a better alternative to the Harmonization Proposal would be to require RICs that cannot avail themselves of an exclusion or exemption from CPO

[4] *Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors; Past Performance Issues*. 68 Fed. Reg. 47221, 47223 (Aug. 8, 2003).

or CTA registration to register under the CEA, but be exempt from the additional and duplicative CFTC disclosure and compliance requirements so long as they satisfy SEC requirements. This approach is consistent with recent remarks made by CFTC Chairman Gary Gensler before the Chamber of Commerce.[5] Such a solution would be consistent with the CFTC's desire to protect investors in mutual funds that seek exposure to commodities, as it would subject the RIC's investment adviser to examination by the NFA and CFTC. Furthermore, as outlined above, investors in RICs are already provided with a deluge of information mandated by federal securities laws and there is no evidence that the limited additional information required by CFTC compliance and disclosure documents would be beneficial to RIC shareholders. Finally, such a compromise would alleviate concerns about the ability of the CFTC and NFA to effectively oversee the compliance and disclosure of an increased number of CPOs given each organization's limited resources, particularly given the substantial increase in the number of entities that will be required to register as CPOs as a result of the amendments to Rule 4.5.[6]

2. The Harmonization Proposal Would Increase Costs for RICs and Their Shareholders.

Adopting the Harmonization Proposal in its current form would be unnecessarily costly to RICs and their shareholders, especially in light of the fact that many RICs, including certain Portfolios managed by AXA FMG, use futures contracts on broad-based securities market indexes as an efficient means of obtaining and adjusting exposure to certain markets, rather than as part of a "managed futures strategy" and therefore do not have experience with the compliance and disclosure infrastructure required under CFTC rules. The development and implementation of additional compliance processes, policies and monitoring, the preparation of new disclosure documents and significant revisions to existing disclosure documents, outside counsel review and assistance, operational and systems changes, licensing requirements and increased accounting and other fees, among other necessary changes, would create significant added costs for RICs – costs that shareholders ultimately would bear. Furthermore, the CFTC has not articulated a single example of shareholder need for additional disclosure for RICs that become subject to CFTC regulation.

3. The Harmonization Proposal Does Not Resolve the Unnecessary, Conflicting, and Inefficient Byproducts of Dual SEC and CFTC Registration

In adopting Rule 4.5, the CFTC expressly acknowledged that investment advisers to RICs would become subject to an additional regulatory regime and stated its intent to harmonize its requirements with those of the SEC. The Harmonization Proposal does the opposite by increasing the amount of federal regulation of RICs with little commensurate benefit to investors.

[5] *See* The Honorable Gary Gensler, Chairman, Commodity Futures Trading Commission, Remarks to the U.S. Chamber of Commerce Sixth Annual Capital Markets Summit, "Outlook from the CFTC," Washington, D.C. (Mar. 28, 2012).

[6] The CFTC's need for additional funding in order to effectively oversee the U.S. futures and swaps markets is well-documented. *See, e.g.,* Remarks on the Dodd-Frank Act by Chairman Gary Gensler at the 6th Annual Capital Markets Summit Hosted by the U.S. Chamber of Commerce "Transparent Markets – Key to a Growing Economy" (Mar. 28, 2012), *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagensler-110.

Under the amendments to Rule 4.5, a large number of RICs would become subject to CFTC regulation. This would require the CFTC and the NFA to engage in review and regulation of these "otherwise regulated" RICs – the same type of funds the CFTC saw fit to exclude from CFTC registration in 2003. The resulting drain on CFTC resources is not commensurate with the level of risk associated with comprehensively regulated RICs.

AXA FMG strongly urges the CFTC to reconsider its position to subject RICs and their adviser's to additional disclosure and compliance requirements, the costs of which will be borne primarily by RICs and their shareholders. However, if the Commission nonetheless proceeds with its Harmonization Proposal, we offer the following comments and suggestions:

1. *Updating of Disclosure Documents*. We support the proposal to permit dually-registered (CFTC and SEC) CPOs to update disclosure documents (for this purpose, we assume that, based on the wording of the Harmonization Proposal, the required CFTC disclosure document for open-end funds would be Form N-1A and as such any references herein to the "Disclosure Document" for open-end funds refers to Form N-1A) describing the pool as required under CFTC rules every twelve, rather than nine, months. Because RICs generally update disclosure documents every twelve months, mandating a nine-month update would be extremely burdensome. For example, RICs are required to include audited financial information in their annual update to their Disclosure Documents and such information would not be available by the time a nine-month update requires submission. Allowing RICs to update their Disclosure Documents on the current twelve-month cycle would alleviate the industry's concerns that RICs would have to supplement their Disclosure Documents to include audited financial statements, an endeavor that would be costly to both RICs and their shareholders and would provide little benefit to shareholders.

   Additionally, we request relief from the Rule 4.26(d)(2) requirement under the CEA that RICs "highlight" changes in their Disclosure Documents from year-to-year. Currently, RICs are not required to highlight new or amended disclosure in their Form N-1A filings. However, through the use of the SEC's EDGAR system, RICs blackline changes to their annual registration statement update from the prior year and these changes can be viewed by regulators, but not the public. We believe that requiring RICs to highlight new and amended disclosures in the manner contemplated under Rule 4.26 would add unnecessary costs to the update process and could prove confusing to RIC shareholders, as this is not consistent with past practices. Additionally, there are many mechanisms in place to ensure that RICs timely communicate material changes to shareholders, including: (a) RICs are required to supplement their registration statements during the course of a year in response to any material changes and such supplements are publicly filed with the SEC and available to shareholders; and (b) material changes to a Portfolio's investment objectives and investment strategies generally require notice to shareholders (*e.g.,* Rule 35d-1 under the 1940 Act requires funds to provide shareholders with at least 60 days' notice for any changes to its stated intent to invest a certain percentage of its net assets in securities of a type suggested by the fund's name). In light of these protections and the costs of changes to operational and technological systems that would need to be instituted in order to comply with the requirement to "highlight" changes, we request that RICs be exempt from this requirement.

2. *Delivery and Acknowledgement Requirements for Disclosure Documents*. Under current federal securities laws, RICs are required to deliver a prospectus to investors on or prior to the time when a transaction confirmation is delivered. Under CFTC Rule 4.21, CPOs are required to: (1) deliver a Disclosure Document to a prospective pool participant by no later than the time the CPO delivers a subscription agreement for the pool; and (2) obtain a signed acknowledgment from the participant regarding receipt of the Disclosure Document prior to accepting any investment. In adopting relief for commodity exchange traded funds with respect to delivery of Disclosure Documents, the CFTC staff acknowledged that compliance with both sets of SEC and CFTC requirements would be "unnecessarily cumbersome."[7] We thus support the proposal to exempt dually-registered CPOs from the delivery and acknowledgement requirements in Rule 4.21, provided the CPO: (a) posts the Disclosure Document on its website; (b) updates the Disclosure Document as required; (c) informs prospective investors with whom it has contact of the website address and directs intermediaries selling shares to so inform prospective participants; and (d) the Disclosure Document otherwise complies with CEA Part 4 requirements.

3. *Review of Disclosure Documents by NFA Prior to Use*. We request relief from the requirements in Rule 4.26(d)(1) and (2) under the CEA, which would require a dually-registered CPO to file its Disclosure Document and any amendments and supplements with the NFA prior to use. Under current law, RICs are permitted to update their registration statements (including their prospectuses and statements of additional information ("SAIs")) annually and on an "as needed" basis in between annual updates as material changes arise. We believe that mandating a second set of regulatory review for RIC Disclosure Documents would result in unnecessary delays in getting information to shareholders and potential investors and, therefore, could harm investors. In certain circumstances, such delays could cause a fund to temporarily suspend sales of its shares.

   Form N-1A is already subject to SEC pre-effective review and RICs structure the timeline for their annual updates to ensure ample opportunity to respond to comments from the SEC staff, in addition to comments from various stakeholders, including, but not limited to, fund counsel, counsel to the independent trustees, sub-advisers, independent accountants and other service providers. Given the substantial increase in workload at the NFA that is anticipated as a result of the Rule 4.5 amendments, we are concerned that the NFA may not be able to complete its review and approval process for disclosure documents in a timely manner. These delays and costs would be especially pronounced because the CFTC and NFA staff would be reviewing forms that are wholly unfamiliar to them. Adding another layer of review, with an uncertain review timeframe, would not only complicate this process at the expense of fund shareholders, but would subject RICs to the possibility of inconsistent and conflicting comments (e.g., it is possible that a RIC could receive conflicting comments from the SEC and the NFA on the same disclosure) and guidance from regulators without a clear process for resolving such conflicts. In

[7] *See*, *e.g.*, *Commodity Pool Operators: Relief From Compliance With Certain Disclosure, Reporting and Recordkeeping Requirements for Registered CPOs of Commodity Pools Listed for Trading on a National Securities Exchange; CPO Registration Exemption for Certain Independent Directors or Trustees of These Commodity Pools*, 75 Fed.Reg. 54794 (Sept. 9, 2010).

addition, the costs of yet another layer of regulatory review, including, but not limited to, significant legal, printer and other fees, are unnecessary in light of the fact that the SEC has historically been regulating RICs that utilize commodities as an incidental part of their investment strategy.

The costs of NFA pre-clearance are especially profound in the context of supplements to registration statements. Mutual funds often supplement their summary prospectuses, prospectuses and SAIs to promptly report any material changes to shareholders. For fiscal year 2011, the RICs advised by AXA FMG alone filed 187 supplements to their disclosure documents with the SEC. Because supplements would be subject to NFA review, we strongly suggest that in order to ensure the timely distribution of information to affected parties, the NFA not require pre-clearance of such supplements.

The NFA review process would also be particularly challenging in the context of RICs that are offered through variable insurance products, such as the RICs advised by AXA FMG, because the prospectuses for such RICs are distributed with the prospectuses for the variable insurance products and therefore the annual update process for such RICs also must be coordinated with the insurance companies (both affiliated and unaffiliated) offering such products. This is already a time-consuming and difficult process, and modifying the process to allow for NFA review would increase costs, complexities and risks for fund complexes such as those managed by AXA FMG. We note that the Harmonization Proposal does not address the unique structure of, and costs of compliance with CFTC rules for, RICs offered through variable insurance products.

4. *Summary Prospectus Rules and Requirements*. In various places in the Harmonization Proposal, the CFTC states that information required by CFTC rules to be included in the "forepart" of the CFTC Disclosure Document may be inserted in the section "immediately following all disclosures required by N-1A to be included in the summary prospectus."[8] We request clarification that this means that any CFTC disclosures required to be in the "forepart" of the Disclosure Document could be inserted in the statutory, rather than the summary, prospectus of Form N-1A. The Harmonization Proposal fails to take into account fully the SEC's initiatives to standardize the organization of RIC disclosure documents in order to facilitate shareholder comparisons of available RICs. To this end, the SEC permitted RICs to deliver a summary prospectus to investors and mandated that Items 2 through 8, which contain information about investment objectives, strategies and risks, fee and performance information, information about the management of the fund, in addition to other required disclosures, appear in numerical order and may not include disclosure beyond what is permitted by those items.[9] This effort, combined with the SEC's new XBRL interactive data requirements, seek to ensure that investors have meaningful access to the information they need to make informed investment decisions. The ability to use and deliver a summary prospectus to investors has been a welcome change for industry participants and investors

[8] *See* Harmonization Proposal, *supra* note 1, at 11347.

[9] *See* Instruction C.3 of Form N-1A.

alike. This is a further example of the necessity of CFTC and SEC coordination and, as such, we request that the CFTC work with the SEC to ensure that any additional disclosure required by the CFTC complies with Rule 498 under the 1933 Act and the Instructions to Form N-1A and does not effectively preclude a RIC from being able to utilize the summary prospectus. For example, the Harmonization Proposal did not include an exemption from the requirement in Rule 4.24(b) to include a cautionary statement "immediately following any disclosures required to appear on the cover page," which is inconsistent with the requirement in General Instruction C.3.A. of Form N-1A that disclosures required by Items 2 through 8 of the form must appear in numerical order at the front of the prospectus and may not be preceded by any other disclosure, except the cover page and table of contents.

5. *Periodic Reports*. We appreciate the CFTC's efforts to provide relief from the delivery requirement of monthly account statements to investors, but believe this relief does not go far enough. We believe that RICs should be exempt from the requirements in Rule 4.22(a) under the CEA, which requires CPOs to provide periodic reports, generally monthly, to participants in the pools that they operate. Both the SEC and the CFTC require the delivery of annual reports to shareholders containing audited financial statements and other information; in addition, the SEC requires RICs to deliver semi-annual reports to shareholders containing unaudited financial statements and other information. The CFTC has not proffered any evidence that requiring the production of monthly statements would enhance investor protections in the RIC context. Most RICs already make their prospectuses, SAIs and certified annual and semi-annual reports publicly available on a website that is accessible to investors. Furthermore, RICs also provide information on Form N-Q, including schedules of investments and other disclosures at the end of the first and third quarters of each fiscal year; this information is also generally available to investors through a public website. The Harmonization Proposal contemplates the posting of account statements 30 days after the end of the month for which the statement is being generated. This will require firms to prepare certain financial statements required in the monthly reports and update systems and procedures to comply with this shorter timeframe, which will involve considerable costs. Accordingly, we do not see, and the CFTC does not articulate, the tangible benefits or additional protection to investors from monthly statements and we believe the costs involved in preparing, producing and posting such documents significantly outweigh any perceived benefit to investors, especially since the costs of preparing such statements would ultimately be borne by the RICs and their shareholders. If the CFTC will not provide relief from this requirement, we request that the CFTC permit RICs to make account statements publicly available 60 days after month-end to be more in line with current reporting requirements applicable to RICs.

6. *Risk Language in Disclosure Documents*. We believe that risk disclosure contained in a RIC's Disclosure Document should paint an accurate picture of the risks associated with the investment objective and strategy of the funds and the types of instruments the fund uses to achieve its objective and strategy. Forcing RICs to adhere to "boilerplate" disclosure about certain risks specific to swap transactions nullifies the SEC's and the CFTC's efforts to ensure that risk disclosure is appropriately tailored to the specific fund

and, therefore, more useful to investors.[10] Mandating compliance with the relevant provisions of Rules 4.24 under the CEA fails to take into account the variety of ways in which swaps can be used by RICs, but rather suggests that RICs are using swaps to engage in "highly leveraged transactions," which are prohibited under the 1940 Act.[11] In addition, the required CFTC disclosure that any increased liquidity risk from the use of swaps may "result in a suspension of redemptions" is inconsistent with federal securities laws, which generally do not permit open-end mutual funds to suspend redemptions absent an order from the SEC. We believe that the SEC and CFTC's efforts to require RICs to describe the risks associated with the RIC's use of particular instruments, and the reasons for that use, is better aligned with the agencies' goals of investor protection than "form" language and request that RICs be exempt from this requirement.

We further note that the CFTC did not provide guidance as to where the mandated risk disclosure should appear in a RIC's Disclosure Document. We seek clarification that, for the reasons articulated in paragraph 4 (Summary Prospectus Rules and Requirements) above, such disclosure would not be required in a RIC's summary prospectus or in the alternative would not be found by the SEC to violate Rule 498 or the Instructions to Form N-1A. We also request that RICs be permitted to use the term "fund" or "portfolio" rather than "pool" in any mandated risk disclosure or legend to avoid investor confusion.

7. *Performance Reporting*. Rules 4.24(n) and 4.25 under the CEA require a CPO to include in its Disclosure Document performance data for certain other pools that the CPO operates, if the offered pool has less than three years of operations. These provisions also could require a CPO to include performance of other accounts managed by a pool's trading manager or CTA. These provisions also could require a CPO to include performance of investee pools in which the pool invests. Such disclosure of "outside" performance is generally not permitted by SEC rules,[12] except under very limited conditions, based on concerns that such information could be misleading. We believe that, without appropriate relief, this requirement would have unintended consequences. For example, requiring RICs to include outside performance data, even if placed in a Portfolio's SAI, would be extremely problematic in the context of manager of manager relationships, such as AXA FMG, because it could require AXA FMG to include performance information for a fund with a similar investment strategy (that utilizes commodities in executing that strategy) that is sub-advised by a different investment adviser or, in the case of Portfolio with less than three years of operation, performance information for a sub-adviser (that is a CTA) prior to the time AXA FMG retained that adviser, in either case information that is both irrelevant and extremely confusing for

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[10] *See, e.g.,* SEC Letter to Investment Company Institute, "Re: Derivatives-Related Disclosures by Investment Companies" (July 30, 2010), *available at* http://www.sec.gov/divisions/investment/guidance/ici073010.pdf.

[11] Mutual funds engaging in certain transactions, including derivatives transactions, must segregate liquid assets or hold offsetting positions against obligations that could otherwise result in a "senior security" and as a result the amount of leverage mutual funds may utilize is limited. *See* Section 18 of the 1940 Act; Securities Trading Practices of Registered Investment Companies, Investment Company Act Release No. 10666 (Apr. 18, 1979).

[12] *See* Items 2, 4, 9 and 16 of Form N-1A.

investors. In addition, this is wholly inconsistent with existing SEC and FINRA rules.[13] Investors in mutual funds are already familiar with the structure of the SEC's performance reporting and, in light of the conflicting and confusing requirements of compliance with both the CFTC's and the SEC's performance reporting requirements, we respectfully request that the CFTC exempt RICs from the CFTC's Rule 4.25 performance disclosure. The costs of compliance, noticeably absent from the Harmonization Proposal, with respect to this requirement are significant and include the development of systems to capture and conform past performance data into an acceptable reporting format and additional outside accounting, administrative and legal costs.

8. *Fee Disclosure*. Rule 4.24(i) requires a CPO to include in its Disclosure Document a complete fee description associated with the commodity pool, including disclosure of the break-even point and a break-even analysis. The break-even point seeks to provide investors with information on the trading profit that would need to be realized in the first year of investment in order for an investor to recoup its initial investment, taking into consideration the fees and expenses of the pool. The break-even point is required to be expressed as both a dollar amount and as a percentage of the minimum unit of initial investment, and redemption of the initial investment at the end of the first year of investment. The break-even analysis is required to be presented in a tabular format and is intended to capture the impact that fees and expenses have on the potential profitability of an investment. Form N-1A already requires significant information about the fees and expenses associated with an investment in a RIC, including a presentation of such fees in tabular format, a narrative detailing management fees and sales expenses, total dollar amounts of advisory fees, fees paid to service providers, distribution-related fees, brokerage commissions, and trustee compensation. In addition, RICs are required to include an example, based on a specified dollar investment amount and rate of return, in its summary prospectus and in every annual and semi-annual shareholder report. This example provides investors with a concrete picture of the effect of expenses on returns and allows investors to compare the impact of fees on a static investment amount across various RICs. The addition of a break-even analysis and reporting of a break-even point would duplicate disclosure that is already included in RIC registration statements in a comparable format, and therefore is unnecessary. Inclusion of this information also would require the restructuring of various systems and adding and/or reorganizing disclosure in fund prospectuses, which is costly, and would be unduly burdensome in light of the comprehensive fee disclosure, and information that can be used by investors for comparison across funds, already provided by RICs to shareholders. We also believe that an additional tabular presentation focused on fee disclosure, which would appear in some but not all RIC prospectuses, could be confusing to investors who are seeking to compare fund fees and expenses and who may not be familiar with CFTC fee disclosure presentations.

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[13] FINRA rules prohibit its members from disclosing performance information of other accounts in sales literature for a RIC. *See, e.g.,* NASD Notice to Members 97-47 (Aug. 1997) and Letter from Gary L. Goldsholle, NASD, to Michael D. Udoff, Vice President and Associate General Counsel of Securities Industry Association (Oct. 2, 2003), *available at* http://www.finra.org/Industry/Regulation/Guidance/InterpretiveLetters/P002534.

In addition to our comments and suggestions above, we are aware that the Investment Company Institute ("ICI") intends to a submit comment letters addressing additional disclosure and compliance related issues, and possible solutions thereto, flowing from the Harmonization Proposal and we fully support the ICI's comments and proposals.

As outlined in this Letter, the Harmonization Proposal fails to reconcile some of the most significant conflicts between SEC and CFTC rules and further confuses the already burdensome and overbroad dual registration mandate for RICs, such as the Portfolios, that are not true "managed futures funds." Rather than providing useful protection to investors, the Harmonization Proposal serves to increase shareholder costs and promote regulatory inefficiency, while adding little, if any, additional investor protection. We urge the CFTC to seek the input and assistance of the SEC, the primary regulator of RICs, and other interested regulatory agencies and to re-propose rules that achieve a true and workable harmonization of the disclosure and compliance requirements and conflicts that RICs now face in light of the CFTC's adoption of amendments to Rule 4.5.

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We appreciate the Commission's consideration of these comments. If you have any questions or would like additional information, please do not hesitate to contact me at 212-314-5718 or Patricia Louie, Senior Vice President and Corporate Counsel, at 212-314-5329.

Sincerely,

/s/ Steven M. Joenk

Steven M. Joenk
Chairman of the Board, Chief Executive Officer and President of AXA Equitable Funds Management Group, LLC

cc: Patricia Louie, Esq.