



June 20, 2023

Via Email (secretary@cftc.gov)

Mr. Christopher J. Kirkpatrick
Secretary
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: National Futures Association: Interpretive Notice 9067 - NFA Bylaw 1301(b): NFA's Assessment Fee – Diminutive Notional Value Contracts and Security Futures Products

Dear Mr. Kirkpatrick:

Pursuant to Section 17(j) of the Commodity Exchange Act ("CEA"), as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("CFTC" or "Commission") the proposed repeal of NFA Interpretive Notice 9067 entitled NFA Bylaw 1301(b): NFA's Assessment Fee – Diminutive Notional Value Contracts and Security Futures Products. On May 18, 2023, NFA's Board of Directors ("Board") unanimously approved the repeal of this Interpretive Notice.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make the repeal of Interpretive Notice 9067 effective as early as ten days after receipt of this submission by the Commission unless the Commission notifies NFA that the Commission has determined to review the proposed elimination of the Interpretive Notice.

PROPOSED REPEAL OF INTERPRETIVE NOTICE
(deletions are stricken through)

NATIONAL FUTURES ASSOCIATION

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Interpretive Notices

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~~9067 - NFA BYLAW 1301(b): NFA'S ASSESSMENT FEE - DIMINUTIVE NOTIONAL VALUE CONTRACTS AND SECURITY FUTURES PRODUCTS~~

~~(Board of Directors, May 17, 2012; effective September 1, 2012. Revised January 3, 2013.)~~

INTERPRETIVE NOTICE

~~From time to time, upon application by a contract market or exempt commercial market, the Executive Committee may designate certain contracts as diminutive notional value ("DNV") contracts. These contracts typically have a notional value of \$100 or less. The NFA assessment fee for DNVCs shall be \$0.00008 per round turn, with a minimum fee of \$.01 per round turn in the event that a customer trades less than 100 contracts. If any computation results in a fraction of a cent, the fee should be rounded to the nearest penny. For example:~~

- ~~• Customer A purchases and sells 100 DNV contracts. Customer A's round turn assessment fee is \$.01 (100 contracts purchased and sold multiplied by \$0.00008 equals \$0.008). However, the minimum amount due for a trade of less than 100 contracts is \$.01);~~
- ~~• Customer B purchases and sells 150 DNV contracts. Customer B's round turn assessment fee is \$.01 (150 contracts purchased and sold multiplied by \$0.00008 equals \$.012. Rounding down to the nearest penny results in an assessment fee due of \$.01);~~
- ~~• Customer C purchases and sells 10,000 DNV contracts. Customer C's round turn assessment fee is \$.80 (10,000 contracts purchased and sold multiplied by \$0.00008 equals \$.80). No rounding is necessary.~~
- ~~• Customer D purchases and sells 150,000 DNV contracts. Customer D's round turn assessment fee is \$12 (150,000 contracts purchased and sold multiplied by \$0.00008 equals \$12). No rounding is necessary.~~

~~NFA will list qualifying DNV contracts on its website in an attachment to the Interpretive Notice entitled *NFA Bylaw 1301: NFA Assessment Fee Questions and Answers for FCMs*.~~

~~In addition to adopting this fee of \$0.00008 per round turn with a minimum fee of \$.01 per round turn and the rounding methodology described above for DNVs, the Board has also at this time decided to adopt this fee structure for security futures products.~~

EXPLANATION OF REPEAL OF INTERPRETIVE NOTICE

In 2012, NFA's Board approved a reduced assessment fee for diminutive notional value (DNV) contracts, which the Board determined would typically have a notional value of \$100 or less, and for security futures products (SFPs). At that time, NFA's Board determined that the \$.04 per round-turn NFA assessment fee in place at the time might be unduly burdensome if applied to micro contracts and might also provide a disincentive for customers to carry SFPs in a futures account. Accordingly, NFA's Board adopted an Interpretive Notice to NFA Bylaw 1301(b), entitled *NFA Bylaw 1301(b): NFA's Assessment Fee – Diminutive Notional Value Contracts and Securities Futures Products*, which reduced NFA's assessment fee for DNV and SFP contracts to \$0.00008 per round-turn with a minimum fee of \$.01 per round-turn. Over the years, NFA has designated additional contracts as DNV contracts, but there is minimal trading in these products and only six reported any trading volume in 2022.¹

NFA recently received two requests to apply the reduced DNV assessment fee to new products – a nano bitcoin contract, which had a notional value of just over \$200 at the time of the request, and for nine new event contracts, which expire daily with a maximum payout value of \$20 per contract. These requests prompted a reassessment of the rationale for allowing DNV contracts to be assessed a reduced rate.

NFA's Board concluded that the fee discount for DNV contracts should be eliminated for the following reasons. First, NFA initially adopted the DNV assessment fee to be consistent with the reduced fees imposed by the exchanges at that time. Currently, the exchanges offering these products charge fees which exceed NFA's round-turn DNV assessment fee, and in some instances NFA's round turn fee for standard contracts.² More importantly, NFA's Board recognized that NFA's regulatory oversight costs are the same for DNV contracts as they are for full-sized contracts. For example, NFA's regulatory costs to investigate a customer complaint for DNV contracts are no different than for full-size contracts. NFA's Board concluded that NFA's regulatory activities and costs—and not the notional value of a contract—should determine assessment fee amounts and therefore determined to eliminate the DNV assessment fee.³

¹ For the nine months ending in September 2022, volume in all these contracts was approximately 435,000 contracts.

² The current fee for the above noted event contracts is \$.05 for non-exchange members and the fee for other DNV designated contracts range from \$.0125 to \$.0245 per lot.

³ Currently, there are no SFP contracts trading. The same logic applies to the SFP contracts as the DNV contracts, and the Board also determined to eliminate this reduced fee.

As mentioned earlier, NFA is invoking the "ten-day" provision of Section 17(j) of the CEA. NFA intends to repeal Interpretive Notice 9067 effective as early as ten days after receipt of this submission by the Commission, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

Respectfully submitted,



Carol A. Wooding
Senior Vice President
and General Counsel

cc: Amanda Olear (aolear@cftc.gov)
Frank Fisanich (ffisanich@cftc.gov)
Tom Smith (tsmith@cftc.gov)

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