

August 27, 1996

Ms. Jean A. Webb
Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: National Futures Association: Proposed Amendments to NFA Bylaw 301(h); NFA Registration Rule 302; NFA Compliance Rule 3-7(d) and Interpretive Notice to Compliance Rule 2-9 Regarding Supervision of Telemarketing Activity, and Proposed Adoption of Interpretive Notice Regarding Experience and Proficiency Requirements for Ethics Training Providers

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission" or "CFTC") proposed amendments to NFA Bylaw 301(h), NFA Registration Rule 302, NFA Compliance Rule 3-7(d) and the Interpretive Notice regarding Supervision of Telemarketing Activity, and proposed adoption of an Interpretive Notice regarding Experience and Proficiency Requirements for Ethics Training Providers. The proposals contained herein were approved by NFA's Board of Directors on August 15, 1996. NFA respectfully requests Commission review and approval of the proposals.

PROPOSED AMENDMENTS

A. **Proposed Amendments to NFA Bylaw 301(h) (additions are underscored):**

BYLAWS
OF
NATIONAL FUTURES ASSOCIATION

* * *

CHAPTER 3

MEMBERSHIP AND ASSOCIATION OF A MEMBER



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BYLAW 301. REQUIREMENTS AND RESTRICTIONS.

* * *

(h) Suspension and Termination of Membership and Associate Membership.

* * *

(vii) Suspension and Revocation.

The membership of any Member or any person associated with a Member whose registration under the Act is suspended shall be suspended for the term of the registration suspension without further notice. The membership of any Member or any person associated with a Member whose registration under the Act is revoked shall terminate without further notice.

* * *

B. Proposed Amendments to NFA Registration Rule 302 (additions are underscored and deletions are bracketed):

REGISTRATION RULES

* * *

PART 300. TEMPORARY LICENSES

* * *

RULE 302. TEMPORARY LICENSING FOR GUARANTEED INTRODUCING BROKERS.

(a) Qualifications. Notwithstanding any other provisions of these Rules, and pursuant to the terms and conditions of this Rule, NFA may grant a temporary license to any applicant for registration as an IB upon the contemporaneous filing with NFA of:



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- (1) A properly completed guarantee agreement (Form 1-FR Part B) from an FCM which is eligible....
- (2) A properly completed Form 7-R, the Disciplinary History portion of which contains no "yes" answers....
- [(3)] A properly completed Form 7-R Schedule A;]
- [(4)](3) A properly completed Form 8-R for all persons who are principals and branch office managers which contains no "yes" answers....
- [(5)](4) A signed and dated certification from the FCM providing the guarantee agreement required by paragraph (a)(1) of this Rule....
- [(6)](5) Legible fingerprints of the applicant, if a sole proprietor, and of each principal of the applicant....
- [(7)](6) Proof of satisfaction of the applicable proficiency requirement set forth in Rule 401....
- [(8)](7) The registration fee required by Rule 203(a); and
- [(9)](8) All other properly completed forms and documents that are required to become registered as an IB and to become an NFA Member.

* * *

- (b) Procedures for Granting a Conditional Temporary License. If the applicant's registration as a guaranteed IB was subject to conditions or restrictions and has terminated within the preceding 60 days, the applicant may receive a conditional temporary license as an IB of a new guarantor FCM upon the mailing to NFA of the documents required by Rule 302(a)(1) through (8) [(9)] and a Supplemental Guarantor Certification Statement signed by the new guarantor FCM (who must meet the requirements set forth in Rule 504(a)(2)(B)(i) and (ii)), that contains conditions identical to those agreed to by the previous guarantor FCM.

* * *



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C. Proposed Amendments to NFA Compliance Rule 3-7(d) (additions are under-scored):

COMPLIANCE RULES

* * *

Part 3 – COMPLIANCE PROCEDURES

* * *

Rule 3-7. REQUEST FOR HEARING

* * *

(d) In cases where there is a substantial likelihood that, if the charges are proven, an expulsion or a permanent bar from association with an NFA Member may be imposed as a sanction, a Respondent who requests a hearing may be required to post a bond with NFA to secure the payment of any fine. Bond may be requested by the Compliance Department by filing a petition with NFA and serving the petition on all parties.

(i) The amount of the bond shall be set by a designated subcommittee of the Hearing Committee which shall consist of three members of the Hearing Committee, appointed by the Chairman of the Hearing Committee. Hearing Committee members who serve on the subcommittee may not later serve on the Hearing Panel which hears the case.

(ii) The Respondent shall be entitled to a bond hearing before the subcommittee which may be conducted orally, by telephone conference, or by written submissions. In determining the amount of the bond, the subcommittee shall consider:

(a) the seriousness of the charges;

(b) the likelihood that an expulsion or a permanent bar from association with an NFA Member would be imposed if the charges are proven;



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- (c) the likelihood that a fine would be imposed as an additional sanction if the charges are proven;
- (d) the amount of any fine likely to be imposed if the charges are proven; and
- (e) the financial resources of the Respondent.

The subcommittee may impose reasonable conditions on the bond including the requirements that the bond be secured by a cash deposit; other collateral, approved by the subcommittee; or a guarantee from a grantor or surety, approved by the subcommittee.

- (iii) The Respondent may appeal the subcommittee's order setting bond to the Appeals Committee by filing a written notice of appeal with NFA within 15 days after the date of the bond order. The notice of appeal must describe those aspects of the subcommittee's bond order to which exception is taken, and must contain any request by the Respondent to present written or oral argument. The Respondent's filing of a notice of appeal shall operate as a stay of the bond order, until the Appeals Committee renders its decision.
- (iv) Except for good cause shown, the appeal shall be conducted solely on the record before the subcommittee, the written exceptions filed by the Respondent, and such written or oral arguments of the parties as the Appeals Committee may authorize. If the Appeals Committee authorizes written argument, briefs shall be filed in accordance with a briefing schedule and page limitations ordered by the Appeals Committee. Promptly after reviewing the matter, the Appeals Committee shall issue a written decision. The Appeals Committee may increase, decrease or set aside the bond set by the subcommittee, or may impose other and different conditions to the bond as it sees fit.
- (v) Any bond ordered by the subcommittee, as well as any security for the bond, including cash deposits, guarantees, sureties, and other collateral shall be submitted to NFA within 15 days of the date of the order setting bond or within the time prescribed in the bond order. If a fine is imposed, NFA shall apply the security to payment of the fine. If no fine is imposed, then NFA shall release the security to the respondent. If the bond's security exceeds the fine, then NFA shall remit the excess security to the respondent. A per-



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son who fails to post a bond or security on time may, after seven days written notice, be summarily suspended from membership or association with a Member, by order of the President, until the bond is posted. Failure to post a bond or security shall not affect a Respondent's right to a hearing.

D. Proposed Amendments to Interpretive Notice to Compliance Rule 2-9 Regarding Supervision of Telemarketing Activity (additions are underscored and deletions are bracketed):

**INTERPRETIVE NOTICE TO COMPLIANCE RULE 2-9:
SUPERVISION OF TELEMARKETING ACTIVITY**

NFA's Board of Directors has over the years adopted strict and effective rules to prohibit deceptive sales practices, and those rules have been vigorously enforced by NFA's Business Conduct Committee. The Board notes, however, that by their very nature enforcement actions occur after the customer abuse has taken place. The Board recognizes that NFA's goal must be not only to punish such deception of customers through enforcement actions but to prevent it, or minimize its likelihood, through fair and effective regulation.

One NFA rule designed to prevent abusive sales practices is NFA Compliance Rule 2-9. That rule places a continuing responsibility on every Member to supervise diligently its employees and agents in all aspects of their futures activities, including telemarketing. Although NFA has not attempted to prescribe a set of supervisory procedures to be followed by all NFA Members, NFA's Board of Directors believes that Member firms which are identified as having a sales force which has received questionable training in sales practices should be required to adopt specific supervisory procedures designed to prevent sales practice abuse. Rule 2-9 authorizes the Board of Directors to require Members which meet certain criteria established by the Board to adopt specific supervisory procedures designed to prevent abusive sales practices.

The Board believes that in order for the criteria used to identify firms subject to the enhanced supervisory requirements to be useful, those criteria must be specific, objective and readily measurable. The Board also believes that any supervisory requirements imposed on a Member must be designed to quickly identify potential problem areas so that the Member will be able to take corrective action before any customer abuse occurs. The purpose of this Interpretive Notice is to set



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forth the criteria established by the Board and the enhanced supervisory procedures which are required of firms meeting these criteria.

In developing the criteria, the Board concluded that it would be helpful to review Member firms which had been closed through enforcement actions taken by the CFTC or NFA for deceptive sales practices. The Board's purpose was to identify factors common to these Member firms and probative of their sales practice problems which could be used to identify other Member firms with potential sales practice problems.

One factor identified by the Board as common to these firms and directly related to their sales practice problems is the employment history and training of their sales forces. For many of these Members, a significant portion of their sales force was previously employed and trained by one or more of the other Member firms closed for fraud. The Board believes that the employment history of a Member's sales force is a relevant factor to consider in identifying firms with potential sales practice problems. If a Member firm is closed for fraud related to widespread telemarketing problems, it is reasonable to conclude that the Member's training and supervision of its sales force was wholly inadequate or inappropriate. It is also reasonable to conclude that an AP who received inadequate or inappropriate training and supervision may have learned improper sales tactics which he will carry with him to his next job. Therefore, the Board believes that a Member firm employing such a sales force must have stringent supervision procedures in place in order to ensure that the improper training its APs have previously received does not taint their sales efforts on behalf of the Member.

The Board has determined that a Member will be required to adopt the specific supervisory procedures over its telemarketing activities if:

- for firms with at least 5 but less than 10 APs, 40% or more of its APs have been employed by one or more Member firms which have been disciplined by NFA or the CFTC for sales practice fraud ("Disciplined Firms");
- for firms with at least 10 but less than 20 APs, 4 or more of its APs have been employed by one or more Disciplined Firms;
- for firms with at least 20 or more APs, 20% or more of its APs have been employed by one or more Disciplined Firms.



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For purposes of this requirement, a Disciplined Firm is defined very narrowly to include only those firms which meet the following three criteria:

1. The firm has been formally charged by either the CFTC or NFA with deceptive telemarketing practices;
2. those charges have been resolved; and
3. the firm has been closed down and permanently barred from the industry as a result of those charges.

Attached is a list of firms currently meeting the definition of a Disciplined Firm. Although this list is current as of the date of this Interpretive Notice, NFA will provide Members with updated lists as necessary.

Any Member firm meeting these criteria will be required either to operate pursuant to a guarantee agreement or maintain an adjusted net capital of at least \$250,000 for the entire period during which the Member is required to tape record its sales solicitations. Any Member opting to maintain the higher level of adjusted net capital would also be subject to the financial recordkeeping and reporting requirements applicable to FCMs. Eligible guarantor futures commission merchants are those that meet the eligibility requirements for executing a Supplemental Guarantor Certification Statement pursuant to NFA Registration Rule 504(a)(2)(B).

Those Members meeting the criteria will be required to tape record all telephone conversations which occur between their APs and both existing and potential customers. The Board believes that tape recording these conversations provides these Members with the best opportunity to monitor closely the activities of their APs and also provides these Members with complete and immediate feedback on each AP's method of soliciting customers. Members meeting the criteria must tape record these conversations for a period of [one] two years and must retain such tapes for a period of [one] two years from the date each tape is created. In retaining the tape recorded conversations, Member firms must catalog the tapes by AP and date. Additionally, any Member firm meeting the criteria must require all its APs to maintain a daily log for sales solicitations which reflects at a minimum the identity of each customer or prospective customer the AP spoke with on each day. A Member firm must be able to promptly produce, upon request from NFA or the CFTC, all conversations relating to a specific AP, and only that AP, for a given date.



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In addition, for a period of two years, those Members meeting the criteria will be required to file all promotional material, as defined in NFA Compliance Rule 2-29(g), with NFA at least ten days prior to its first use.

If an NFA Business Conduct Committee disciplinary proceeding or Commodity Futures Trading Commission enforcement proceeding has been filed against a Member firm required to adopt these enhanced supervisory procedures, then the enhanced supervisory procedures will remain in effect for the applicable time period specified or until after the disciplinary or enforcement proceeding is closed and all appeals are completed or the time for appeal has passed without an appeal being filed or perfected, whichever occurs latest. However, Member firms are not required to retain tapes for more than two years after they are created.

Any Member required to adopt these enhanced procedures may seek a waiver of the enhanced supervisory requirements. NFA may grant such a waiver upon a satisfactory showing that the Member's current supervisory procedures provide effective supervision over its employees including enabling the Member to identify potential problem areas before customer abuse occurs.

A Member firm that does not comply with this Interpretive Notice will violate NFA Compliance Rule 2-9 and will be subject to disciplinary action.

E. **Proposed Adoption of Interpretive Notice Regarding Experience and Proficiency Requirements for Ethics Training Providers**

INTERPRETIVE NOTICE

EXPERIENCE AND PROFICIENCY REQUIREMENTS
FOR ETHICS TRAINING PROVIDERS

On May 6, 1996, the Commodity Futures Trading Commission ("CFTC" or "Commission") approved changes to CFTC Regulation 3.34 which, among other things, authorized National Futures Association ("NFA") to establish experience and testing requirements for ethics training providers. In the same Federal Register release, the Commission provided NFA with guidance on the types of testing and experience requirements it would consider appropriate.

Pursuant to its delegated authority, NFA's Board of Directors ("Board") has established that any person seeking to be included on the list of eligible ethics



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training providers must present satisfactory evidence to NFA that each individual who acts as an instructor, prepares ethics training video tapes or electronic presentations or supervises those who perform these functions has taken and passed the *National Commodity Futures Examination ("Series 3")*. This testing requirement shall not apply to any individual who is currently acting as an instructor or course preparer for an ethics training provider which has already been authorized by the Commission. The requirement would apply, however, to individuals hired by previously authorized ethics training providers as instructors or course preparers after the effective date of this Notice.

In addition, this testing requirement may be waived by NFA's Vice President of Compliance under circumstances approved by NFA's Board. The Board feels that such a waiver would be appropriate where the instructor or course preparer certifies to NFA that he:

- is acting without compensation, except for reimbursement of travel expenses;
- *meets the minimum experience requirements for ethics training providers established by NFA's Board; and*
- co-instructs with at least one individual who satisfies the proficiency testing requirements for ethics training providers.

The Commission also amended the rules to provide that each person seeking to be included as an eligible ethics training provider must demonstrate to NFA's satisfaction that each of its instructors or course preparers has three years of "relevant experience," as established by NFA. In doing so, the Commission recognized that what constitutes "relevant experience" is not susceptible to precise definition and, therefore, provided NFA with a degree of flexibility in administering this requirement. In general, NFA expects each course instructor to have a minimum of three years of experience either in the teaching profession or in the futures industry. In evaluating an individual's industry experience, the core question would be whether that person's background demonstrates an understanding of and sensitivity to the high ethical standards required of futures industry professionals. By way of example, individuals who have practiced law in futures-related areas or have had *compliance or supervisory responsibility within a registered firm could be deemed to have satisfied the experience requirement.*



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EXPLANATION OF PROPOSALS

A. Explanation of Proposed Amendments to NFA Bylaw 301(h)

Currently stated, Bylaw 301(h)(vii) provides that NFA may automatically terminate the NFA membership of a Member or Associate whose registration is revoked. The proposed amendment would allow for a comparable provision addressing the membership status of a Member or Associate whose registration is suspended. This situation most frequently arises when a firm or AP fails to pay a CFTC reparations award or a CFTC sanction, resulting in automatic registration suspension until paid. Currently, Bylaw 301(g) requires NFA to institute a membership action to revoke or restrict the person's membership in this situation.

Having the ability to automatically suspend NFA membership in a manner similar to the automatic membership termination provision would be helpful in that it would trigger the application of NFA Compliance Rule 2-6 which prohibits Members and Associates whose membership is suspended from holding themselves out as being Members or Associates in good standing during the term of the suspension and which prohibits any other NFA Member or Associate from doing business with the suspended Members or Associates during the term of the suspension.

B. Explanation of Proposed Amendments to NFA Registration Rule 302

NFA Registration Rule 302(a) sets the requirements for obtaining temporary licenses for guaranteed IBs. Registration Rule 302(a)(3) requires the filing of a properly completed Form 7-R Schedule A. This Schedule collected two pieces of information: the IB's contact person for customer complaints and the exchanges of which the IB is a member. NFA now obtains this information from other sources and no longer requires the filing of this form. Therefore, the proposed amendments delete Registration Rule 302(a)(3) and renumbers following subsections accordingly.

C. Explanation of Proposed Amendments to NFA Compliance Rule 3-7(d)

Most fines imposed in NFA disciplinary cases are paid. This is due, no doubt, to the powerful incentive provided by NFA Compliance Rule 3-14(c) which authorizes the summary suspension of any NFA Member or Associate who fails to



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pay a disciplinary fine. However, there is little incentive for a respondent to pay a fine in a disciplinary case in which the sanction includes not only a fine but also an expulsion from NFA membership. Indeed, in every single NFA disciplinary case where there has been both a fine and an expulsion ordered, the respondent has failed to pay the fine. To date, there have been nine such cases involving twelve respondents in which fines totaling \$2.8 million dollars remain unpaid.

Clearly, the situation described above is not a desirable one. Not only does NFA lose revenue, but the effectiveness of NFA's enforcement program is diminished when fines no longer have any deterrent value due to their being routinely ignored. The proposed amendments to NFA Compliance Rule 3-7 require respondents to post a pre-hearing bond to ensure payment of any fine that might subsequently be imposed. The use of hearing bonds would be strictly limited to cases in which, if the violations are proven, an expulsion and a fine are probable sanctions. The proposed rule incorporates a number of other safeguards, which are outlined below.

NFA believes that a subcommittee of the Hearing Committee is the most appropriate body to decide whether a hearing bond is warranted in any given case. The subcommittee would be composed of three members of the Hearing Committee, different from those Committee members who are assigned to the Hearing Panel which will hear the case. The subcommittee would have to make a *threshold determination of whether an expulsion is a reasonably probable sanction* if the charges are proven. The subcommittee would also have to decide the amount of the bond based on the seriousness of the charges, the probability that a fine would be imposed and the estimated amount of any such fine, and the financial condition of the respondent.

Hearing bonds would be set at a bond hearing or through written submissions made to the subcommittee. Either procedure would allow the parties an opportunity to present evidence and argument with respect to the issue of a bond. The subcommittee would also be authorized to impose reasonable conditions on the bond including the requirements that the bond be accompanied by a cash deposit or secured by a guarantee from an acceptable grantor or surety.

A respondent would be entitled to file an immediate interlocutory appeal of the subcommittee's bond order to NFA's Appeals Committee and have the matter considered on an expedited basis. In the event a respondent fails to post a bond, the respondent would still be entitled to a hearing. However, the respondent's NFA



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membership would be suspended until such time as the bond is posted. This procedure would conform to the procedures applicable to the non-payment of fines, dues, and arbitration awards.

D. Explanation of Proposed Amendments to the Interpretive Notice to Compliance Rule 2-9 Regarding Supervision of Telemarketing Activity

Currently, Member firms meeting the Telemarketing Requirements' criteria must tape record sales solicitations for a period of one year. The proposed amendments provide further assurances of adequate supervision by extending the time period for taping to two years. That period would be extended if the firm is subject to a pending disciplinary proceeding at the end of the two years.

Under the current Telemarketing Requirements, a Member firm is required to retain tape recorded conversations for a period of one year. NFA believes that the retention period should be further increased from one to two years, which would conform to the industry's statute of limitations period and CFTC Regulation 1.31's requirement that firm records be readily accessible for two years. The proposed amendments provide for this two-year retention period.

In addition to extending the tape retention period, NFA believes it would be beneficial to require Member firms meeting the criteria to catalog tapes by AP and date. NFA is frequently hindered in its investigations of firms subject to the taping requirements because these firms do not catalog tapes by date or by AP. Thus, it can be a very time consuming process for NFA to find tapes relative to its investigation. NFA believes that investigations would be facilitated if firms subject to the rule's criteria were required to catalog tapes by AP and date, and therefore the proposed amendments provide for this. The firm would not be required to routinely maintain tapes by AP but would be required to keep adequate records to copy and produce, upon request from NFA or the CFTC, all conversations relating to a specific AP, and only that AP, for a given date.

NFA also proposes requiring firms subject to the rule's criteria to have each of their APs maintain a daily log for sales solicitations which reflects at a minimum the identity of each customer or prospective customer the AP spoke with on each day. With this requirement, if NFA's compliance staff is interested in conversations with a particular customer, staff would request copies of the logs, find the dates the AP spoke with the customer, and request the tapes for that AP on those dates. NFA believes that this requirement will save the compliance staff time in locating solici-



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tations during NFA investigations and does not create an undue burden since most firms subject to the criteria already maintain such a log.

As the CFTC is aware, the whole purpose of the Telemarketing Requirements is to improve the overall level of supervision at those few firms which are likely to cause sales practice problems. The available statistical information indicates that the extra level of supervision provided by a guarantor FCM may help prevent problems from occurring. Based on this information, NFA proposes requiring any NFA Member meeting the rule's criteria to operate pursuant to a guarantee agreement for the entire period during which the Member is required to tape record its sales solicitations. The proposed amendments provide that eligible guarantor FCMs would be limited to those that meet the requirements for executing a Supplemental Guarantor Certification Statement pursuant to NFA Registration Rule 504(a)(2)(B). Specifically, under this rule, a guarantor FCM may not be subject to: (a) an adjudicatory proceeding brought by or before the CFTC or NFA; (b) special supervisory obligations imposed by NFA or agreed to by the FCM; and (c) certain financial reporting requirements.

As an alternative to requiring Members meeting the criteria to operate pursuant to a guarantee agreement, the proposed amendments provide that Members meeting the criteria may instead opt to maintain adjusted net capital of at least \$250,000. NFA believes that this alternative would provide some flexibility while still ensuring that a firm with a significant amount of capital has a direct and substantial interest in the proper operation of the firm.

E. Explanation of Proposed Adoption of an Interpretive Notice Regarding Experience and Proficiency Requirements for Ethics Training Providers

The Commission recently adopted changes to CFTC Regulation 3.34 to, among other things, authorize NFA to establish experience and testing requirements for ethics training providers. In the same Federal Register release, the Commission provided NFA with guidance on the general types of testing and experience requirements it would consider appropriate.

The proposed Interpretive Notice establishes testing and experience requirements for ethics training providers using the guidance provided by the CFTC. Under the Notice, each firm seeking authorization to act as an ethics training provider would have to demonstrate to NFA that each of its instructors, course preparers and supervisors had passed the Series 3 examination. Individuals who



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already work for ethics training providers previously authorized by the Commission would be exempt from the testing requirement.

The Commission recognized the need for flexibility in applying the testing rules and authorized NFA to grant waivers of testing rules in appropriate circumstances. The Notice therefore provides that the Vice President of Compliance may grant waivers of the testing requirements under circumstances approved by NFA's Board. The Notice then goes on to state that the Board approves the granting of such a waiver where the instructor certifies to NFA that he:

- is acting without compensation, except for reimbursement of travel expenses;
- meets the experience requirements for ethics training providers established by NFA's Board; and
- co-instructs with at least one individual who satisfies the testing requirements established by the Board.

With respect to experience requirements, the Commission's rules provide that each person seeking authorization to act as an ethics training provider must demonstrate to NFA's satisfaction that each of its instructors, course preparers and supervisors has three years of "relevant experience," as established by NFA. NFA proposes a flexible approach in which NFA could provide general guidelines as to what would constitute "relevant experience" and evaluate each application in light of those guidelines. The Notice therefore states each instructor should have three years of either teaching or industry experience. The Notice explains that in evaluating an individual's industry experience "the core question would be whether that person's background demonstrates an understanding of and sensitivity to the high ethical standards required of futures industry professionals." The Notice then provides several examples, noting that individuals with compliance, supervisory or legal experience in the futures industry could be deemed to meet the experience requirement.

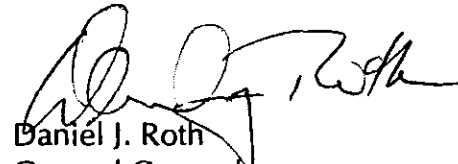


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NFA respectfully requests that the Commission review and approve the proposals contained in this submission and requests that they be declared effective upon Commission approval.

Sincerely,



Daniel J. Roth
General Counsel

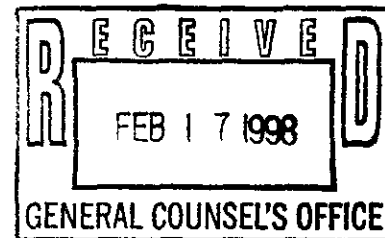
cc: Acting Chairman John E. Tull, Jr.
Commissioner Barbara Pedersen Holum
Commissioner Joseph P. Dial
Andrea M. Corcoran, Esq.
Geoffrey Aronow, Esq.
Alan L. Seifert, Esq.
Susan E. Ervin, Esq.
Lawrence B. Patent, Esq.
David Van Wagner, Esq.

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U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
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Telephone: (202) 418-5430
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DIVISION OF
TRADING & MARKETS

February 11, 1998

Mr. Daniel J. Roth
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

Re: Proposed Amendment to Compliance Rule 3-7(d) --
Pre-Hearing Bonds

Dear Mr. Roth:

I am writing to confirm our conversation of earlier today in which we conferred on the status of the National Futures Association's ("NFA") proposed amendment to Compliance Rule 3-7(d) and agreed that the Commission's review of the proposal should be considered stayed as of the last discussions between NFA and Commission staffs on this matter in March 1997. At that time, Commission staff informed NFA staff of its concern that NFA's proposal to require respondents to post pre-hearing bonds in certain types of disciplinary proceedings raised due process and procedural fairness issues.

The Division of Trading and Markets would like to work with NFA to address the issues that have been raised with respect to the proposed amendment to Compliance Rule 3-7(d) and to resolve this matter.

Sincerely,

David P. Van Wagner
Special Counsel

(E-Mail Notice to Staff, 4/7/97)

CFTC Approves Amendments to
NFA Bylaw 301(h) and Registration Rule 302

By letter dated August 27, 1996, NFA submitted to the CFTC for its review and approval proposed amendments (described below) to NFA Bylaw 301(h) and Registration Rule 302. NFA today received notice from the Commission stating that the Commission on April 1, 1997 approved the amendments as proposed.

Bylaw 301(h) was amended to provide for the automatic suspension of membership in a manner similar to the automatic termination of membership.

Registration Rule 302 was amended to delete subsection (a)(3) of the rule which unnecessarily required the filing of Form 7-R Schedule A. Subsequent subsections of Rule 302 were renumbered accordingly.

U.S. COMMODITY FUTURES TRADING COMMISSION

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April 1, 1997

Mr. Daniel J. Roth
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

RE: The National Futures Association's Proposed
Amendments to Bylaw 301(h) and Registration
Rule 302 -- Suspension and Temporary
Licensing

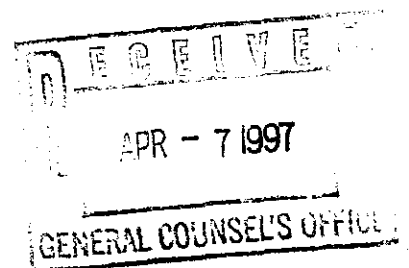
Dear Mr. Roth:

By letter dated August 27, 1996, the National Futures Association submitted to the Commission for its approval, pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), proposed amendments to the above-referenced Bylaw and Rule.

Please be advised that on this date the Commission has determined to approve, pursuant to Section 17(j) of the Act, the proposed amendments to the above-referenced Bylaw and Rule.

Sincerely,

Jean A. Webb
Secretary of the Commission



**CFTC Approves Interpretive Notices and
Amendments to NFA Registration Rules
Regarding Ethics Training**

By letters dated February 21, 1996, August 27, 1996 and November 26, 1996, NFA submitted to the CFTC for its review and approval the proposed adoption of two Interpretive Notices and amendments to NFA's Registration Rules, as explained below. NFA today received notice from the Commission stating that the Commission on January 30, 1997, approved NFA's proposals.

ADOPTION OF INTERPRETIVE NOTICE REGARDING ETHICS TRAINING PROVIDERS – An interpretive notice which sets out the procedures which an ethics training provider must follow to be included on the list of authorized training providers and which NFA must follow in determining that an ethics training provider should not be included on or removed from the list.

ADOPTION OF INTERPRETIVE NOTICE REGARDING EXPERIENCE AND PROFICIENCY REQUIREMENTS FOR ETHICS TRAINING PROVIDERS – An interpretive notice which establishes testing and experience requirements for ethics training providers.

AMENDMENT TO NFA REGISTRATION RULE 203 – Imposes on the sponsor a \$500 fee for each of its APs who has not timely complied with the ethics training requirements.

ADOPTION OF NFA REGISTRATION RULE 215 – Provides for the suspension of registration for noncompliance with ethics training requirements.

U.S. COMMODITY FUTURES TRADING COMMISSION

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January 30, 1997

Mr. Daniel J. Roth
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

Re: National Futures Association's Proposed
Interpretive Notice Regarding Ethics Training
Providers, Proposed Interpretive Notice
Regarding Experience and Proficiency
Requirements for Ethics Training Providers;
and Proposed New Registration Rule 215 and
Proposed Amendments to Registration Rule
203(a)

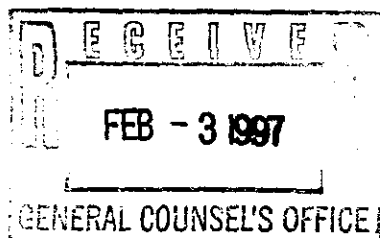
Dear Mr. Roth:

By letters dated February 21, 1996, through November 26, 1996, the National Futures Association ("NFA") submitted to the Commission the above-referenced proposal pursuant to Section 17(j) of the Commodity Exchange Act ("Act").

Please be advised that on this date the Commission has determined to approve the above-referenced proposed new Interpretive Notices, new rule and rule amendments pursuant to Section 17(j) of the Act.

Sincerely,

Jean A. Webb
Secretary of the Commission



CFTC Approves Amendments to
Interpretive Notice to Compliance Rule 2-9
Regarding Supervision of Telemarketing Activity

By letter dated August 27, 1996, NFA submitted to the CFTC for its review and approval proposed amendments to the Interpretive Notice to Compliance Rule 2-9 Regarding Supervision of Telemarketing Activity. NFA today received notice from the Commission stating that the Commission on December 16, 1996 approved the amendments as proposed.

The amendments (1) extend the time period for taping from one year to two years; (2) extend the retention of tape recorded conversations from one year to two years; (3) require that tape recorded conversations be cataloged by AP and date; (4) require APs to maintain a daily log for sales solicitations which reflect at a minimum the identity of each customer or prospective customer the AP spoke with on each day; and (5) require any NFA Member meeting the rule's criteria to operate pursuant to a guarantee agreement or, as an alternative, maintain adjusted net capital of at least \$250,000.

U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5000
Facsimile: (202) 418-5521



December 16, 1996

Mr. Daniel J. Roth
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

Re: Proposed Amendments to the Interpretive
Notice to Compliance Rule 2-9 --
Telemarketing Supervision Requirements

Dear Mr. Roth:

By letter dated August 27, 1996, and received by the Commission on August 29, 1996, the National Futures Association ("NFA") submitted proposed amendments to the Interpretive Notice to Compliance Rule 2-9 pursuant to Section 17(j) of the Commodity Exchange Act ("Act").

Please be advised that on this date the Commission has determined to approve NFA's proposed amendments to its Interpretive Notice to Compliance Rule 2-9 pursuant to Section 17(j) of the Act.

The Commission reminds NFA of the Division of Trading and Markets' ("Division") earlier request that NFA continue to vigorously monitor telemarketing practices in the futures industry as part of its program to review sales practices and that NFA apprise the Division if it finds problems related to telemarketing in the course of these reviews. At the same time, the Division further requested that NFA submit a report to the Commission by January 31, 1997, concerning any deceptive or abusive sales practices discovered during the course of any reviews conducted in 1996. See January 18, 1996, letter to Robert K. Wilmoth, NFA President and Chief Executive Officer, from Andrea M. Corcoran, Division Director.

Sincerely,

Jean A. Webb
Secretary of the Commission

