November 22, 2010

<u>Via Federal Express</u>

Mr. David A. Stawick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: National Futures Association: Increase to FDM Assessment Fee – Proposed Amendments to NFA Bylaw 1301(e)*

Dear Mr. Stawick:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("CFTC" or "Commission") proposed amendments to NFA Bylaw 1301(e) regarding an increase to the Forex Dealer Member ("FDM") assessment fee. This proposal was approved by NFA's Board of Directors ("Board") on November 18, 2010.

NFA is invoking the "ten-day" provision of Section 17(j) of the Commodity Exchange Act ("CEA") and will make this proposal effective on January 1, 2011, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

PROPOSED AMENDMENTS
(additions are <u>underscored</u> and deletions are ~~stricken through~~)

BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.

Subject to the provisions of Article XII, dues and assessments of Members shall be as follows:

(e) Forex Dealer Members.

(iii) Each Forex Dealer Member shall pay an assessment of ~~.0001%~~ .0002% on the notional value of each initiating (non-rollover) forex transaction (as forex is defined in Bylaw 1507(b)). For transactions with a notional value less than $10,000, the Forex Dealer Member may aggregate separate transactions and pay ~~$.01~~ $.02 on each multiple of $10,000.

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EXPLANATION OF PROPOSED AMENDMENTS

NFA's Board has previously stated that NFA should recover its Forex-related regulatory costs without having on-exchange transactions subsidize regulating off-exchange transactions. Last fiscal year, Fiscal Year 2010, NFA experienced a significant decrease in both the amount of assessments collected from FDMs for Forex transactions and a decrease in the amount of dues paid by FDMs based on their gross annual revenue. Although the amounts of dues and assessments collected from Forex activities decreased, the amount of NFA resources that the regulation of Forex consumes did not, with NFA continuing to spend approximately 25% of NFA's Compliance Department resources in this area. Therefore, at the end of last fiscal year (June 30, 2010) there was a gap between the amount of revenue received from Member Forex activities and the cost of regulating Forex of at least $3 million. Unfortunately, these revenue and expenditure trends have continued into Fiscal Year 2011, and NFA continues to operate at a deficit in this area.

Based on the aforementioned analysis, NFA's Board approved increasing the assessment fee on FDM transactions to .0002% ($0.02 on each $10,000 of notional value) from the current .0001% effective January 1, 2011. The January 1, 2011 effective date will allow time for the industry to make any system changes necessary due to the impending fee change, and NFA has already provided advance notice of the fee increase to FDM Members. Even with the increase in the Forex assessment fee it will be difficult to close the current gap between dues and expenditures in this area. NFA believes it is appropriate to resist proposing a larger increase at this time, however, recognizing that Forex transactions may increase in the current fiscal year.

NFA previously discussed the proposed fee increase with NFA's FDM Advisory Committee on March 15, 2010, and this Committee did not object to the fee increase at that time. After providing advance notice of the fee increase to the FDMs in mid-October, one FDM, Global Futures & Forex, Ltd. ("Global"), forwarded a letter to NFA's Board objecting to the Forex assessment fee increase. Although Global has a representative on NFA's FDM Advisory Committee who was present at the time it considered the proposed fee increase in mid-March, Global now argues that the fee increase is unnecessary because there are fewer, better capitalized, and more compliant FDMs for NFA to regulate since NFA first imposed this fee in October 2007.

Based upon NFA's regulatory experience, however, Global's argument is without merit. In particular, during the same fiscal year (FY 2010) that NFA incurred the $3 million deficit regulating Member forex activities, NFA's forex related disciplinary and customer arbitration cases filed against FDMs, and forex CTAs, CPOs, and IBs constituted 43% and 27%, respectively, of the total disciplinary and arbitration cases filed. Moreover, of the 25 forex related disciplinary complaints filed in FY 2010, 5 were against NFA's 17 FDMs, and an FDM was named in 31 of the 43 customer arbitration matters filed.

As mentioned earlier, NFA is invoking the "ten-day" provision of Section 17(j) of the Commodity Exchange Act. NFA intends to make the amendments to NFA Bylaw 1301 regarding an increase to the FDM assessment fee effective on January 1, 2011, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

Respectfully submitted,

Thomas W. Sexton

Thomas W. Sexton
Vice President and General Counsel

* The proposed amendments to NFA Bylaw 1301(e) will become effective January 1, 2011.