

June 11, 1991

Ms. Jean A. Webb
Secretariat
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association: Proposed Amendments to NFA's Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16; Proposed Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs; and Proposed Interpretive Notice Regarding a Member Self-Audit Requirement.

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act as amended (the "Act"), National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") proposed amendments to NFA's Code of Arbitration ("the Code") Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16; a proposed Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs; and a proposed Interpretive Notice Regarding a Member Self-Audit Requirement. The amendments and the interpretive notices were approved by NFA's Board of Directors ("the Board") at its meeting on May 23, 1991. NFA respectfully requests the Commission's review and approval of the amendments to the Code and the interpretive notices.

I. PROPOSED AMENDMENTS TO NFA'S CODE OF ARBITRATION AND EXPLANATION THEREOF.

- A. Amendments to NFA's Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16 (additions are underscored and deletions are [bracketed]):



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CODE OF ARBITRATION

* * *

Section 1. Definitions

* * *

(p) "Pleadings" -- includes the Demand for Arbitration filed by a Claimant, the Answer and any counterclaim filed by a Respondent, and any Reply to a counterclaim filed by a Claimant.

(q) [(p)] "President" -- means the President of NFA.

(r) [(q)] "Respondent" -- means a person against whom a claim is asserted under this Code.

(s) [(r)] "Secretary" -- means the Secretary of NFA.

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Section 4. Arbitration Panel

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(b) Disclosures Required.

Prior to being appointed to the Panel, each arbitrator under consideration shall disclose to the President any circumstance that might prevent the arbitrator from acting impartially.

(c) Appointment of Panel; Disclosure and Challenge.

The President shall thereupon appoint, pursuant to Section 4(a), an arbitration Panel to resolve the dispute. The Secretary shall promptly notify the parties of the names, business affiliations, and other information relevant to the classification of the arbitrator as a Member or non-Member panelist. Any objection of a party to such appointment shall be specific and for cause and submitted to the President in written form. Each member appointed shall disclose to the President any circumstances likely to affect impartiality, including any bias or any



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financial interest in the result of the arbitration or any past or present relationship with the parties or their representative. Upon receipt of such information from such member or other source, the President shall communicate such information to the parties, and if the President deems it appropriate to do so, to the member and others. Thereafter, the President shall determine whether the member should be disqualified and shall inform the parties of the decision, which shall be conclusive.

(d) Arbitrator's Oath.

Before proceeding with the hearing, each arbitrator shall execute an oath whereby the arbitrator promises to faithfully and fairly determine the matter before the Panel.

(e) [(c)] Replacement.

If an arbitrator becomes ineligible or otherwise unable to serve on the Panel, the President shall (unless the parties request otherwise) appoint a replacement to the Panel. If such appointment is made after the commencement of the hearing, the Panel shall (unless the parties request otherwise) conduct a re-hearing.

(f) [(d)] Ex Parte Contacts.

No party to the arbitration, or a representative thereof, shall communicate with any Panel member regarding the arbitration, other than inquiries concerning the status thereof, except at the hearing or in writing on notice to the other parties.

Section 5. Time Period for Arbitration

No claim [or counterclaim] may be arbitrated under this Code unless a notice of intent to arbitrate (see Section 6(a) below) [or a statement of counterclaim (see Section 6(f) below)] is received by the Secretary within two years from the date when the party asserting the claim [or counterclaim] knew or should have known of the act or transaction that is the subject of the controversy. Except as is provided in Section 6(f) below, no counterclaim may be arbitrated under this Code unless it is asserted in a timely filed Answer in accordance with Section 6(e) below. The Secretary shall reject any claim or counterclaim that is not timely filed. If, in the course of any arbitration, the Panel determines that the requirements of this section have not



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been met as to a particular claim or counterclaim, the Panel shall thereupon terminate the arbitration of the claim or counterclaim without decision or award.

Section 6. Initiation of Arbitration

* * *

[(k) Appointment of Panel; Disclosure and Challenge.]

The President shall thereupon appoint, pursuant to Section 4(a), an arbitration Panel to resolve the dispute. The Secretary shall promptly notify the parties of the names, business affiliations, and other information relevant to the classification of the arbitrator as a Member or non-Member panelist. Any objection of a party to such appointment shall be specific and for cause and submitted to the President in written form. Each member appointed shall disclose to the President any circumstances likely to affect impartiality, including any bias or any financial interest in the result of the arbitration or any past or present relationship with the parties of their representative. Upon receipt of such information from such member or other source, the President shall communicate such information to the parties, and if the President deems it appropriate to do so, to the member and others. Thereafter, the President shall determine whether the member should be disqualified and shall inform the parties of the decision, which shall be conclusive.]

[(l) Arbitrator's Oath.]

Before proceeding with the hearing, each arbitrator shall execute an oath whereby the arbitrator promises to faithfully and fairly determine the matter before the Panel.]

[(m) Computation of Time.]

(1) Except as otherwise provided in this Code, service shall be deemed to occur on the earlier of the date that documents are mailed, as evidenced by postmark or affidavit of service, or the date personally delivered, as evidenced by affidavit of service.

(2) The counting of days shall include all calendar days and should a due date fall on a weekend or legal holiday, such due date will be computed as the next business day on which mail is delivered.]

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[(n) Service of Process.]

Unless otherwise indicated, service may be accomplished by hand delivery, or by first class or certified mail, or by use of a generally recognized overnight delivery service to the party's last known address on record with NFA. All documents which are served on the Secretary shall be concurrently served on each party who has filed a Demand or Answer. Service on a party's representative shall be service on the party.]

[(o) Address of Record.]

A party shall promptly notify the Secretary of any change in the party's address or the address of the party's representative on record with NFA.]

* * *

Section 9. Hearing

* * *

(b) Place, Time and Notice of Hearing.

Except as provided in paragraph [(h)](i) of this section, the place and time of the hearing shall be determined in the sole discretion of the Secretary, who shall endeavor to accommodate, if possible, the preferences of all parties and members of the Panel. Upon setting the initial hearing date, the Secretary shall [give] serve notice [to] on each party at least 20 days before the hearing of the date, time and place. The Secretary shall give reasonable notice of any rescheduled hearing date.

(c) Failure to Prosecute or Defend.

At the written request of any party or on its own motion, the Panel may review the procedural history of the proceeding and any written submissions and may find that a party has failed to prosecute or defend the proceeding. Any party found to have failed to prosecute or defend the proceeding will be deemed to have waived his right to an oral hearing.



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[(c)](d) Procedure.

* * *

- (7) The Panel may [direct] order Members and [persons connected therewith,] employees thereof, and Associates to testify and produce documentary evidence. The Panel may issue subpoenas to non-Members as authorized by law.

* * *

[(d)](e) Extensions and Postponements.

Extensions of time or postponements of the hearing may be granted by the Panel when the interests of justice so require, but a hearing in progress shall not be adjourned or interrupted except in compelling circumstances.

[(e)](f) Failure to Comply.

The failure of any party to appear at any hearing or any session thereof, or to comply with any notice, order, or procedure in connection therewith, may subject the party to such adverse action as the Panel deems appropriate, including the entry of an award or the dismissal of a claim or counterclaim.

[(f)](g) Reopening the Record.

The record may be reopened by the Panel on their own motion or on the motion of a party for good cause at any time prior to the issuance of the award. A motion to reopen the record shall stay automatically the time period in which the award shall be issued.

[(g)](h) Waiver of Defects.

Where appropriate, the Panel may excuse any failure to comply with any provision of this Section, or any Panel notice, order, or procedure.

[(h)](i) Summary Proceedings.

The proceeding shall be conducted entirely through written submissions when:



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- (1) the aggregate amount of the customer's claims (exclusive of interest and costs) plus the aggregate amount of counterclaims (exclusive of interest and costs) is under \$2,500.00, unless the Secretary or the Panel directs otherwise; or
- (2) the Panel has consented to the written agreement of the parties to waive the oral hearing. A written agreement is not required of any party which has waived its right to an oral hearing under any other provision of this Code.

* * *

Section 10. Award, Settlement and Withdrawal.

* * *

(b) Relief.

The award may grant or deny any of the monetary relief requested, and may include an assessment of interest, costs or fees (see Sections 11 and 12).

(c) Finality.

The Panel's award shall be final on the date thereof. The award may be modified by the Panel if a party submits a written request for modification which is received by the Secretary within 20 days from the date of service of the award on the parties, and the Panel deems modification necessary [in the interests of justice.] because:

- (1) there is an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award;
- (2) the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted; or
- (3) the award is imperfect in matter of form not affecting the merits of the controversy.



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The timely filing of a request for modification shall stay automatically the finality of any award until the Panel either modifies the award or denies the request for modification.

* * *

Section 11. Arbitration Fees.

(a) Filing Fees.

- (1) For claims involving disputes between customers and Members or employees thereof, or Associates, each party claiming or counterclaiming shall pay a filing fee based on the amount claimed or counterclaimed, including punitive and treble damages but [()]exclusive of interest and costs[()], as follows:

<u>Amount of Claim or Counterclaim</u>	<u>Fee</u>
\$ 0.00 - \$ 2,499.99	\$ 50.00
\$ 2,500.00 - \$ 5,000.99	\$100.00
\$ 5,001.00 - \$10,000.99	\$150.00
\$10,001.00 - \$15,000.00	\$175.00
More than \$15,000.00	\$200.00 plus 1% of excess over \$15,000.00, the total fee not to exceed \$1,550.00.

- (2) For claims involving disputes between Members or employees thereof, or Associates, each Member or employee thereof, or Associate claiming or counterclaiming shall pay a filing fee based on the amount claimed or counterclaimed, including punitive and treble damages but [()]exclusive of interest and costs[()], as follows:



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<u>Amount of Claim or Counterclaim</u>	<u>Fee</u>
\$ 0.00 - \$ 2,499.99	\$ 62.50
\$ 2,500.00 - \$ 5,000.99	\$125.00
\$ 5,001.00 - \$10,000.99	\$187.50
\$10,001.00 - \$15,000.00	\$218.75
More than \$15,000.00	\$250.00 plus 1.25% of excess over \$15,000.00, the total fee not to exceed \$2,000.00.

* * *

Section 12. Arbitration Costs.

Costs which may be included in an award shall normally be limited to the cost of any transcript which a party may request (see Section 9[(c)][(d)](4) above). A Panel may, however, assess against a party any one or more of the following other costs, upon a finding that such party's claim, counterclaim, or defense was frivolous or was made in bad faith, or that the party engaged in willful acts of bad faith during the arbitration: Reasonable and necessary expenses incurred by (a) the arbitrators or (b) any other party or witness, including reasonable attorneys' fees. The Panel may also award attorneys' fees provided that a statutory or contractual basis exists for awarding such fees.

* * *

Section 16. Miscellaneous.

(a) Computation of Time.

(1) Except as otherwise provided in this Code, service shall be deemed to occur on the earlier of the date that documents are mailed, as evidenced by postmark or affidavit of service, or the date personally delivered, as evidenced by affidavit of service.



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(2) The counting of days shall include all calendar days. Should a due date fall on a weekend or legal holiday such due date will be computed as the next business day on which mail is delivered.

(b) Service of Process.

Unless otherwise indicated, service may be accomplished by hand delivery, or by first class or certified mail, or by use of a generally recognized overnight delivery service to the party's last known business or home address on record with NFA. All documents which are served on the Secretary shall be concurrently served on each party who has filed a Demand or Answer. Service on a party's representative shall be service on the party.

(c) Address of Record.

A party shall promptly notify the Secretary of any change in the party's address or addresses or the address of the party's representative on record with NFA.

B. Explanation of Amendments to NFA's Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16.

NFA staff has conducted a thorough review of NFA's Code of Arbitration in order to ensure that its provisions reflect NFA's current arbitration policies and procedures and to determine what changes should be made to address issues which have arisen since the last comprehensive review of the Code almost three years ago. The current proposals include both substantive and technical changes.

NFA's current Code provides for a two year statute of limitations for the filing of arbitration claims or counterclaims under Section 5. Specifically, in order to be timely filed, the claim or counterclaim must be received by the Secretary within two years of the date the party asserting the claim or counterclaim knew or should have known of the act or transaction that is the subject of the dispute. This provision can and has caused the unintended consequence of barring otherwise acceptable counterclaims.



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For example, NFA encountered a situation where a debit balance claim was filed against a customer immediately prior to the end of the two year period. The customer consented to arbitration, however, NFA could not accept the customer's counterclaim because the two year period had already passed by the time the customer even knew that a claim had been filed against him. A Member's counterclaims against a customer who files near the expiration of the two year period could also be barred. In other words, a respondent who chose not to file a claim because of the time and expense involved could be barred from filing once he is forced to incur the time and expense anyway.

To avoid these results, the proposed amendments modify Section 5 to provide that counterclaims filed in a timely Answer can be accepted even if the two year limitations period has run. To be timely filed, an Answer must be served on the Secretary within 45 days from the date of service of the Demand for Arbitration on the respondent by the Secretary. Therefore, while the proposed amendment to Section 5 would allow for the filing of certain counterclaims after the two year period has run, it would not amount to an indefinite extension of time nor would it cause undue delay to the processing of the case because the Answer containing the counterclaim must still be timely filed. This procedure is consistent with the practice in some states, including Illinois.

The proposed amendments also include substantive changes to Section 9 of NFA's Code which sets forth the procedures to be followed at the hearing. Specifically, a new subsection has been added which would provide for the waiver of the oral hearing by any party who fails to prosecute or defend during the arbitration proceeding.

Currently, under Section 9(h)(2), an oral hearing may only be waived if the panel consents to the written agreement of the parties to waive the hearing. However, NFA has experienced a number of situations where a respondent fails to file an Answer, a party fails to continue to prosecute or defend the action, or claims have been filed against Members who never file Answers and never appear at the scheduled hearings. In these situations, the claimant, afraid that the respondent might show up or that the arbitrators will be insulted if the claimant doesn't show up, appears and the claimant's case is presented to the arbitrators.



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The difficulty, however, is that the claimant often goes to great expense to appear and bring witnesses to a hearing and the arbitrators' time is wasted on a one-sided and often unnecessary hearing.

A similar situation occurs when a customer files a claim, but for unknown reasons decides not to pursue the action and does not withdraw the claim. In these circumstances, a respondent who has filed an Answer and participated in the arbitration process is left in the same uncertain position regarding the hearing that was described above. Similarly, situations have occurred where a respondent who files an Answer decides not to continue defending the action, often because the firm goes out of business. Under these circumstances, the claimant cannot be certain that the respondent will also fail to appear at the hearing. Proposed new subsection Section 9(c) will allow the arbitrators to find that a party has failed to prosecute or defend the arbitration proceeding and therefore has waived his right to an oral hearing.

Former Code Section 9(c) regarding hearing procedures would become Section 9(d) and would be amended to reflect the arbitrators' current authority to issue subpoenas to non-Members. Specifically, Section 9(d)(7) would reflect that arbitrators are empowered to issue subpoenas as is authorized by law. This modification will clarify this point for those parties who proceed pro se.

A number of technical changes are proposed for Section 6 of the Code which primarily governs the initiation of arbitration but which also contains certain provisions which do not necessarily fit in this section. Section 6 currently contains two provisions governing the appointment of arbitrators to a Panel while Section 4 of the Code contains the balance of the provisions related to the arbitrators. A more logical approach to organizing these provisions would be to place all the information relating to the arbitrators and their selection to a Panel in one location within the Code. The proposed amendments would integrate Sections 6(k) and (l), governing appointment of a Panel and the arbitrator's oath, respectively, into Section 4.

Sections 6(m) through 6(o) contain essentially miscellaneous information regarding the computation of time, service of process and the address of record. Under the proposed amendments, these subsections would be moved to the end of the Code to become Section 16 - Miscellaneous.



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Current Code Section 6(n) states that service shall be accomplished by hand delivery, by first class or certified mail, or by the use of an overnight delivery service to the party's last known address on record with NFA. The amendments clarify the reference to the party's address by revising this provision to state that service is effective if made to either the last business or home address on file with NFA. In this manner, if NFA knows or has reason to believe that the business address is not current or is inaccurate, service can still be effected by using the home address.

The amendments to the Code also include a technical modification to Section 9(b) which makes it clear that the notice of hearing must be served by NFA, not received by the parties, 20 days before the hearing.

Section 10 currently provides that the arbitrators may grant or deny any relief requested. However, in actuality, the only relief that NFA arbitrators have the power to grant is monetary relief. Modifying this section to reflect this limitation would clarify the arbitrators' role and would avoid situations where a party may, for example, ask the arbitrators to order a Member to reinstate the party's position in a given market in a way that may be contrary to exchange rules.

In addition, Section 10(c) provides the steps which are to be taken by a party who wishes to request a modification of an award after it has become final. Currently, the award may be modified if the Panel deems the modification necessary in the interests of justice. This broad interests of justice standard has proved problematic in that parties frequently ask arbitrators to change their decision on the merits - a result which is inconsistent with statutory standards for modification. Although arbitrators do not grant these requests, processing them wastes time for all concerned, including NFA and the arbitrators. The proposed amendments set forth specific standards for modification requests. NFA's proposal is based on the language contained in the United States Arbitration Act (9 U.S.C. § 11) and the Uniform Arbitration Act governing grounds for modification. These standards are clerical in nature and allow for modification where there is a material miscalculation of the award amount, a material mistake in the description of any person, thing or property in the award, where arbitrators have rendered an award on a matter not submitted to them, or where the award contains other clerical errors not affecting the merits of the controversy.

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The filing fees that parties filing claims and counter-claims are required to pay are set forth in Section 11 of the Code. According to the language of this Section, that fee is to be based on the amount claimed or counterclaimed (exclusive of interest and costs). This language currently requires that the amount of the claim or counterclaim is to include punitive and treble damage claims for purposes of determining the fee, however, this point is not always obvious to pro se claimants. In order to clarify this issue and avoid delays caused by correcting the filing fee amounts, the proposed amendments modify Section 11 to reflect that the amount claimed or counterclaimed includes punitive and treble damages for purposes of determining the fee.

Section 12 discusses the costs which may be included in an award by the Panel. The proposed amendments modify this language to reflect NFA's current policy that attorneys' fees may be awarded if authorized by statute or by contract.

Finally, a proposed technical amendment to Section 1 adds a definition for the term "pleadings" which is used elsewhere in the Code.

II. PROPOSED INTERPRETIVE NOTICE REGARDING SUPERVISION OF BRANCH OFFICES AND GUARANTEED IBs:

A. Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs:

See attached Exhibit A.

B. Explanation of Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs:

The Board believes that NFA should clarify the existing responsibility of Members to supervise their branch offices and guaranteed IBs as required by NFA Compliance Rule 2-9. Therefore, the Board adopted an Interpretive Notice establishing certain minimum standards for an effective program to supervise branch offices and guaranteed IBs.

Although Members may tailor their supervisory procedures to meet their particular needs, the Board believes that any adequate program for supervision must include procedures for



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performing day-to-day monitoring and surveillance activities, conducting annual on-site visits of branch offices and guaranteed IBs, and conducting on-going training for firm personnel. The proposed Interpretive Notice discusses the minimum standards which apply to each of these areas.

III. PROPOSED INTERPRETIVE NOTICE REGARDING A MEMBER SELF-AUDIT REQUIREMENT.

A. Interpretive Notice Regarding a Member Self-Audit Requirement (set forth below as proposed):

NFA Compliance Rule 2-9 places a continuing responsibility on every Member to diligently supervise its employees and agents in all aspects of their futures activities. NFA recognizes that, given the differences in the size of and complexity of the operations of NFA Members, there must be some degree of flexibility in determining what constitutes "diligent supervision" for each firm. It is NFA's policy to leave the exact form of supervision to the Member thereby providing the Member with flexibility to design procedures that are tailored to the Member's own situation. The Board of Directors adheres to this principle, but feels that all Members should regularly review the adequacy of their supervisory procedures.

The Board of Directors has determined that in order to satisfy their continuing supervisory responsibilities, NFA Members must complete on a yearly basis self-audit questionnaires to be distributed by NFA's Compliance Department. The questionnaires must be completed by the appropriate supervisory personnel in either the home or branch office. Members are required to retain the completed questionnaires in their files for a period of five years from the date of completion, with the questionnaires being readily accessible during the first two years. In addition, guaranteed IBs must provide and guarantor FCMs must obtain copies of the completed questionnaires. Members must also provide the questionnaires for inspection upon request by NFA.



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Completion of the questionnaires should aid Members in recognizing potential problem areas and alert them to procedures which need to be revised or strengthened. The questionnaires focus on a Member's regulatory responsibilities and solicit information regarding whether the Member's internal procedures are adequate for meeting these responsibilities. For example, the FCM questionnaire requests information regarding a Member's procedures relating to customer order flow, customer account documentation, risk disclosure, margin policies, option accounts and transactions, customer complaints, advertising, cash flow and compliance with financial requirements. The questionnaire also contains a promotional material checklist which will assist a Member in reviewing its promotional material for compliance with NFA requirements. Similarly, the CPO/CTA questionnaires contain a checklist which will assist CPOs and CTAs in their review of their disclosure documents.

A Member firm that does not comply with this Interpretive Notice will violate NFA Compliance Rule 2-9.

B. Explanation of Interpretive Notice Regarding a Member Self-Audit Requirement.

The Board believes that completion of annual self-audit questionnaires would aid Members in reviewing the adequacy of their supervisory procedures. At the direction of the Board, NFA developed self-audit questionnaires for each of NFA's membership categories, for branch office operations and for promotional material.

The questionnaires focus on a Member's regulatory responsibilities and solicit information regarding whether the Member's internal procedures are adequate for meeting these responsibilities. (Copies of the questionnaires are enclosed for your information.) The proposed Interpretive Notice would require all Members to complete the self-audit questionnaires on an annual basis, to retain them for a period consistent with CFTC Regulation § 1.31, and to provide the questionnaires for inspection upon request by NFA.



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NFA respectfully requests that the amendments to NFA's Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16; the proposed Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs; and the proposed Interpretive Notice Regarding A Member Self-Audit Requirement be declared effective upon approval by the Commission as authorized by Section 17(j) of the Act.

Respectively submitted,

Daniel J. Roth
General Counsel

DJR:jj(1trs:amendment)
Attachments

- cc: Chairman Wendy L. Gramm (with enclosure)
Commissioner Kalo A. Hineman (with enclosure)
Commissioner Fowler C. West (with enclosure)
Commissioner William P. Albrecht (with enclosure)
Commissioner Sheila C. Bair (with enclosure)
Andrea M. Corcoran, Esq. (with enclosure)
Dennis A. Klejna, Esq. (with enclosure)
Joanne T. Medero, Esq. (with enclosure)
Alan L. Seifert, Esq. (with enclosure)
Susan C. Ervin, Esq. (with enclosure)
Lawrence B. Patent, Esq. (with enclosure)

EXHIBIT A

Interpretive Notice Regarding Supervision of Branch Offices and Guaranteed IBs

NFA Compliance Rule 2-9 places a continuing responsibility on every Member to diligently supervise its employees and agents in all aspects of their futures activities. Rule 2-9 applies not only to the supervision of branch office operations but also imposes a direct duty on guarantor FCMs to supervise the activities of their guaranteed IBs. NFA has periodically provided Members with more guidance regarding their supervisory responsibilities by discussing the general issue in Notices to Members. NFA recognizes that, given the differences in the size of and complexity of the operations of NFA Members, there must be some degree of flexibility in determining what constitutes "diligent supervision" for each firm. It is NFA's policy to leave the exact form of supervision to the Member thereby providing the member with flexibility to design procedures that are tailored to the Member's own situation. Nevertheless, NFA's Board of Directors believes that it is appropriate to provide Members with specific minimum standards for a supervisory program for branch offices and guaranteed IBs ("remote locations") and therefore issues the following Interpretative Notice.

Though members may tailor their supervisory procedures to meet their particular needs, any adequate program for supervision must include procedures for performing day-to-day monitoring and surveillance activities, conducting on-site visits of remote locations and conducting on-going training for firm personnel. The firm's policies and procedures, including those for the supervision of branch offices and guaranteed IBs, should be in written form. Firm personnel and guaranteed IB personnel should be provided a copy of the appropriate policies and procedures relating to their duties and be aware of the firm's requirements. A copy of all policies and procedures should be on file with the branch office or guaranteed IB. All supervisory personnel should be knowledgeable of the firm's requirements for supervision.

I. Day-to-Day Monitoring

On a regular basis a Member should perform a number of supervisory procedures in order to monitor the business being conducted in its remote locations. The extent of the supervision depends on a number of factors including the volume of trading, the experience of the personnel, the nature of the customers, trading strategies followed by the office or certain APs, number of customer complaints and length of time that the office has conducted business with the firm. Repeated problems in any particular area should heighten the level of scrutiny and follow-up by the main office or guarantor.

The procedures to review the day-to-day activities of an office should include the following areas.

Hiring. An adequate program for supervision must include thorough screening procedures for prospective employees to ensure they are qualified and to determine the extent of supervision the person would require if hired. The appropriate documentation to support any "yes" answers on the Form 8-R should be obtained and reviewed for potential disqualifying information. Derogatory information which the applicant may have submitted in connection with any past registrations should be obtained from NFA.¹ Prior employers should be contacted to confirm the person's previous work experience.

In connection with the review of the person's prior work experience, a prospective employer should check for any futures-related disciplinary proceedings against the person's prior employers.² This information should be used by the prospective employer to determine the extent of supervision a particular applicant would require after he is hired. For example, if a recently hired AP has received the bulk of his professional training and experience from a number of firms which have been closed as a result of enforcement actions for telemarketing fraud that individual may well require closer supervision for a period of time than other associated persons.

Customer Information. NFA Compliance Rules require each Member to adopt and enforce procedures regarding customer information and risk disclosure. The procedures for opening new accounts should require that the appropriate account documentation, including an acknowledgement of receipt of the required risk disclosure statement, be forwarded to the main office or guarantor.³ The documentation should be reviewed to ensure that the appropriate supervisory personnel approved the account. The information obtained from a customer should be reviewed to

¹ The detailed explanation of any yes answers on an 8-R is treated as non-public information, however, it is available to prospective employers under NFA Registration Rule 701(c).

² Information concerning futures-related disciplinary proceedings can be obtained from the NFA Clearinghouse at 800-621-3570 (or 800-572-9400 if calling from within Illinois).

³ NFA Rules require that a guaranteed IB maintain a record of the information obtained from a customer and a copy of the risk disclosure acknowledgement. A branch office may wish to keep copies of this information for its files.

determine whether additional risk disclosure should have been provided to the customer. For any customer who should have received additional risk disclosure the main office or guarantor should ensure that additional disclosure has been given and that such disclosure has been documented. It may also be necessary to contact the customer to verify that the disclosure was provided and that customer understood its meaning. Notwithstanding these procedures a firm may wish to require that all new account information and documentation be forwarded to the main office or guarantor for approval before trading commences in the account.

Account Activity. On a regular basis the trading activity in customer and associated person personal accounts should be reviewed and analyzed in order to highlight those accounts which may require further scrutiny. There are a number of calculations and comparisons which can be performed to flag accounts for follow-up or further monitoring. For example, significant losses, commission charges or number of trades should be reviewed for inappropriate trading strategies. The reasons for error and correction entries to trading accounts should be investigated, especially if there appears to be a pattern of errors or corrections made by an office. Commission to equity ratios should be calculated for discretionary accounts to detect possible excessive trading. In order to identify improper trading allocations for discretionary accounts or front running, the trading results in an associated person's personal account should be compared to the trading gains and losses in his customer accounts. Profitable customer accounts for a given associated person should be reviewed for possible preferential treatment.

Appropriate supervisory personnel at the remote location should be notified of questionable account activity. Measures should be taken to follow-up such as reviewing order tickets and trade blotters, discussing the activity with the broker or contacting the customer.

Discretionary Accounts. NFA Compliance Rules contain detailed requirements concerning the supervision and review of discretionary accounts. The written customer authorization and customer acknowledgement for third party account controllers should be forwarded to the main office or guarantor.⁴ Confirmation of the registration history of APs of FCMs and IBs exercis-

⁴ NFA Rules require that a guaranteed IB maintain a record of the written customer authorization and customer acknowledgement for third party account controllers. A branch office may wish to keep copies of this information for its files.

ing discretion should be made to ensure that they have been properly registered for the requisite two year minimum.

Promotional Material. NFA Members are required by rule to adopt and enforce procedures regarding communications with the public. All promotional material should be submitted by the branch office or guaranteed IB to the home office or guarantor for review and approval prior to its first use. Review and approval of the material should be documented by the appropriate supervisory personnel.

Customer Complaints. An adequate system for handling customer complaints should require that a written record of all complaints be maintained and that complaints which meet certain criteria be sent to the office or guarantor.⁵ Notification of the main office of customer complaints may be based on factors including the seriousness of the allegations of wrongdoing, the monetary amount involved, and which APs or principals are subjects of the complaints. If the remote location is responsible for resolving customer complaints, the home office or guarantor should also be notified of the outcome of resolved complaints. Notwithstanding these criteria, a firm may wish to consider having all customer complaints received by a remote location submitted to the main office.

The main office or guarantor should review the complaints for possible rule violations. It should also compare the allegations in the complaint for similarity to other complaints received against the same individuals or office. Such a review may detect a pattern of sales practice or other abuses.

The status of unresolved complaints should be periodically reviewed to ensure that the branch office or guaranteed IB has promptly responded to complainants.

II. On-Site Visits

In addition to day-to-day supervisory procedures, adequate supervision of the personnel who do not work in the main office must also include periodic on-site inspections. As a general matter, NFA would expect these on-site inspections of guaranteed IBs or branch offices to be performed annually.

⁵ NFA Members engaged in the offer or sale of options are reminded that a copy of all written customer complaints are to be sent immediately to the Member's designated self-regulatory organization.

Members should develop written procedures for the on-site review process including detailed steps to be followed during the visit. This will help ensure that the review process is performed in a consistent manner and will not vary due to the involvement of different personnel in the review process. A Member's supervisory procedures should also address the number of visits to be made to a branch office or guaranteed IB. The frequency and nature of the visits as well as whether the visit will be announced or unannounced, will depend on a number of factors including: the amount of business generated; the number of customer complaints received; the previous training and experience of the branch office personnel; and frequency and nature of problems or concerns that arise as the result of day-to-day monitoring and surveillance of the office's activities. The personnel who make the visits should be qualified to perform examinations and knowledgeable of the industry and the nature of the firm's business. Such personnel should be able to perform their work with an independent, objective perspective.

The length of time between visits to the remote location coupled with the size and scope of its operation also plays a role in determining the procedures for on-site review of records and account documentation.⁶ In reviewing a smaller operation, it is feasible to conduct a comprehensive review of the remote location's records and documents over the entire time period between visits while reviewing a larger scale operation may require the selection of a sample of records and documents for given time intervals. The selection of samples should be accomplished on a random basis, for example, selecting every third account for review for randomly selected time periods.

Promptly after the completion of an on-site visit, a written report should be prepared and its findings discussed with the branch office and regional managers or guaranteed IB's principals and supervisory personnel. Follow-up procedures should also be performed to ensure that any deficiencies revealed during an on-site visit are promptly corrected.

The written procedures for the on-site examination should include steps to review the following areas.

⁶ If a visit is prompted by awareness of a particular problem at a remote location or if a problem is discovered during a routine visit, the Member must ensure that the scope of the review is adequate to thoroughly examine the problem area.

Customer Order Procedures. An on-site visit to a remote location should include a review of procedures for handling and recording customer orders. The individuals responsible for accepting customer orders should be identified and a sample of order tickets should be selected for review. NFA recommends that order tickets be prenumbered and that the on-site review test to ensure that all order tickets within the chosen samples are accounted for. The order ticket review should also confirm that all order tickets are properly time stamped and that all information required by CFTC Regulation 1.35 is included. If option orders are placed by the branch office or guaranteed IB, those order tickets should be reviewed to ensure that they contain the additional information required by CFTC Regulation 1.35. If a branch office or guaranteed IB handles discretionary option customer orders, a sample of these order tickets should be reviewed to confirm that the customer order is approved, initialed and dated by an officer or supervisory individual.

Discretionary Accounts. If a branch office or guaranteed IB handles discretionary accounts, the supervisory visit should confirm that the branch office or guaranteed IB identifies discretionary orders as such and that the firm's procedures regarding the supervision of discretionary trading activity are followed. In the event a branch office or guaranteed IB enters block orders, those orders should be reviewed to confirm that customer orders are not included with proprietary orders and that non-discretionary customer orders are not included with discretionary customer orders. Split fills should be reviewed to ensure that they have been allocated according to established procedures.

If options are traded for discretionary accounts the on-site visit should verify that the customer was provided with an explanation of the nature and risk of strategies to be used in trading the account and that written approval by supervisory personnel was given prior to any options trading for the account.

Sales Practices. The on-site visit should include a review of sales solicitation practices as well as any promotional material utilized. A suggested starting point for review of the sales solicitation practices of a branch office or guaranteed IB is to identify the persons involved in sales solicitation and to confirm that they are properly registered. The individuals conducting the on-site review should also monitor sales solicitation while at the branch office or guaranteed IB. Interviews with selected customers should be conducted concerning the solicitation process and the handling of the customer's account. The individuals at the branch office or guaranteed IB responsible for supervising sales solicitations should be identified

and the method by which sales solicitations are supervised should be reviewed for adequacy.

The branch office or guaranteed IB's promotional material, including sales solicitation scripts, must be approved by appropriate supervisory personnel. Therefore, an on-site visit should be designed to ensure that the branch or guaranteed IB is not using any promotional material that has not received prior approval. If the main office or guarantor has not approved the promotional material, it should be reviewed during the on-site visit.

Customer Complaints. The on-site review should include steps to confirm that all complaints requiring notification have been reported to the main office.

Handling of Customer Funds. In order to assure that customer funds are being properly handled by a branch office, the on-site review should determine whether the branch office accepts funds from customers and, if so, whether appropriate bank accounts, including segregated accounts for customer funds, have been established by authorized personnel. In addition, for guaranteed IBs, the on-site review should confirm that if funds are accepted from customers, they are received in the name of the FCM. The branch office or guaranteed IB should make copies of any customer checks which they deposit into a qualifying or branch bank account. The check copies should be reviewed during the visit to ensure that the branch office or guaranteed IB only accepts checks made payable to the FCM. In addition, third party checks should be scrutinized to ensure that no customers are active as unregistered FCMs or CPOs. If the guaranteed IB receives customer funds in the FCM's name, the review should confirm that the proper authorization to do so exists, that appropriate bank accounts are maintained and that proper procedures for forwarding the funds have been established and are followed. For both branch offices and guaranteed IBs, the flow of customer funds in a sample of accounts should be reviewed to determine that all funds have been timely transmitted and properly credited.

Proprietary Trading. To the extent feasible, there should be a separation of duties between persons handling customer orders and firm employees or principals trading for the firm's proprietary accounts or their own accounts to prevent misuse of non-public information or the occurrence of other trading abuses.

III. On-Going Training

A Member's supervisory responsibilities include the obligation to ensure that its employees are properly trained to perform their duties. Procedures must be in place to ensure that employees receive adequate training to abide by industry rules and regulations and to properly handle customer accounts. Employees must be educated on developments and changes in the markets, futures products, rules and regulations, technology and firm policies and procedures. The formality of a training program will depend on the size of the firm and the nature of its business. The individuals responsible for providing the training must be qualified to do so.

Certain APs may require specific training for soliciting and handling customer accounts. If an associated person has previously worked at firms closed through an enforcement action for sales fraud and therefore received his training from such firms, that AP may need specialized training in proper sales practices.

This Notice is intended to specify minimum supervisory standards for branch offices and guaranteed IBs. A failure to adhere to the requirements specified in this Notice will be deemed a violation of NFA Compliance Rule 2-9.

:jj(ltrs:amendment)

FCM SELF EXAMINATION QUESTIONNAIRE

Instructions

NFA Compliance Rule 2-9 requires Members to diligently supervise the futures related activities of their agents and employees. To help Members to carry out their supervisory responsibilities, NFA has devised a questionnaire for each category of registrant, for branch office operations and for promotional material. The questionnaires focus on areas such as customer order flow, account documentation, and sales procedures. Completion of the questionnaire will provide a checklist for each Member to ensure that no major area of supervisory responsibility is being overlooked. NFA's Board of Directors has issued an interpretative notice requiring each Member to complete and retain the "self-audit" questionnaires which will be provided periodically by NFA.

Each item on the attached questionnaire can be answered with either a "yes" or "no" response. A "no" response to any particular question may not necessarily indicate that the Member is not providing adequate supervision. Each "no" response should, however, cause a Member to re-examine its current practice to ensure that no further improvements are necessary. Members should be able to explain or document each "yes" answer if asked to do so in the scope of any NFA audit or inquiry. If a particular question is not applicable to your business simply indicate "NA" as the answer. Members should also be able to explain NA answers if asked to do so.

Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Guaranteed Ibs should provide and guarantor FCMs should obtain copies of the completed questionnaires. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 1. Does your firm insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7R? | — | — |
| a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC. | | |
| b. Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock. | | |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| c. Any person who has contributed ten percent or more of the capital. | — | — |
| 2. Does your firm insure that all individuals which are responsible for supervising AP's are registered as AP's? | — | — |
| 3. Do your branches hold themselves out in the name of the firm? | — | — |
| 4. If your firm is a one person office, do you inform customers when you will be unavailable to service your customer accounts (i.e., vacations) and who they should contact in the your absence? | — | — |
| 5. Does your firm have procedures to review all firms which you are doing business with to insure those which are required to be registered are registered? | — | — |

Customer Order Flow

- | | | |
|--|---|---|
| 1. Are only registered Associated Persons allowed to handle customer accounts? | — | — |
| 2. Are unregistered individuals accepting/receiving customer orders? | — | — |
| If so, are they performing their duties in a purely clerical manner? | — | — |
| 3. Does your firm utilize pre-numbered customer order tickets or assign an internally generated order number to each order ticket immediately upon receipt of the order from the customer? | — | — |
| 4. Does your firm have controls in place to ensure that all customer order tickets (filled, unfilled, open, cancelled) are properly retained and filed by date? | — | — |

YES

NO

5. Is the following information recorded on all customer order tickets?

- a. Date
- b. Commodity Options/Future
- c. Account Identification
- d. Quantity Long/Short
- e. Requested Price
- f. Fill Price

For customer option orders only:

- g. Put or call
- h. Strike Price
- i. Premium

For discretionary futures/options customer orders only:

- j. Does your firm identify the customer order ticket as discretionary?

For discretionary options customer orders only:

- k. Does an officer or supervisory individual from your firm approve, initial, and date each order ticket?

6a. Does your firm time-stamp each futures order ticket upon immediate receipt of the order from the customer?

b. Does your firm time-stamp each options order ticket upon immediate receipt of the order from the customer, and upon transmission of the order for execution?

7. Upon receipt of a customer order during market hours does your firm immediately call its carrying broker or the floor directly?

8. Does your firm ensure to the extent possible customer orders executable at or near the market are transmitted to the floor before any orders in the same commodity for proprietary or other persons affiliated with the firm?

	<u>YES</u>	<u>NO</u>
9. Does your firm record the fill price when it is received?	—	—
10. Does your firm promptly call the customer with the fill information?	—	—
11. Does your firm maintain all documents produced or obtained as a result of the order flow processes for a period of five years? (i.e., customer order tickets, equity run, customer statements, open position listing, day trade listing, P & S recap)	—	—
12. Does your firm mail confirmation statements to customers no later than the business day after the customer transaction?	—	—
13. Does your firm mail monthly statements to active customers promptly after every month end?	—	—
14. Does your firm mail monthly statements to inactive customers at least every three months?	—	—
15. Does your firm offset positions on a FIFO basis unless the customer gives other instructions?	—	—
16. When errors arise between requested customer order and the executed trade, does your firm absorb the losses and give the gains to the customer?	—	—
17. Does your firm prohibit the inclusion of discretionary and non-discretionary orders on a block order?	—	—
18. Does your firm prohibit trades for proprietary and non-customer accounts to be combined with its customer orders on block orders?	—	—

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 19. Does your firm utilize a system to allocate split fills in a fair and non-preferential manner? | — | — |
| 20. Does your firm require individuals placing block orders to submit the customer account numbers prior to receiving the fill prices on those block orders? | — | — |
| 21. Does your firm have procedures to review the accounts of foreign omnibus accounts to look for unusual trading or money flow patterns which may indicate problems, such as bucketing of trades? | — | — |
| 22. Does your firm have procedures to insure proper large trader reports are being filed with the appropriate agencies? | — | — |

Customer, Proprietary, Non-customer accounts

- | | | |
|---|---|---|
| 1. Has your firm reviewed the customer account documentation to insure it complies with all applicable Rules and Regulations? | — | — |
| 2. Does your firm require that all necessary information be on file before new accounts are allowed to commence trading? | — | — |
| 3. Does your firm require a partner, officer, director, branch office manager or supervisory employee to approve customer accounts? | — | — |
| 4. Does your firm have procedures to ensure adequate risk disclosure is provided to customers, other than partnerships, corporations, and floor traders, prior to opening an account? | — | — |

	<u>YES</u>	<u>NO</u>
5. Does your firm obtain the following information from its customers:		
a. Customer's name?	—	—
b. Customer's occupation or business description?	—	—
c. Customer's estimated annual income?	—	—
d. Customer's estimated net worth?	—	—
e. Customer's approximate age?	—	—
f. Customer's prior investment and futures trading experience?	—	—
6. If your firm does not obtain the information in 5. above for any given customer, does your firm document that the customer declined to give such information?	—	—
7. Does your firm provide training to the individuals which are responsible for assessing and providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
8. Has your firm designated a supervisory individual to review the actions of the individuals providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
9. If a predispute agreement is included in the customer account documentation, does your firm provide customers with a list of three forums, one of which is NFA arbitration, in the event the customer gives notice of its intent to file a claim?	—	—
10. If your firm carries accounts of employees of other commodity firms:		
a. Do you receive written authorization from a person designated by such other Futures Commission Merchant (FCM) or Introducing Broker (IB) with responsibility for surveillance over the employees account?	—	—
b. Do you transmit regularly to such FCM or IB customer statements and order tickets for such account?	—	—

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 11. If your firm allows affiliated persons to maintain accounts at other FCM's and IB's: | | |
| a. Does your firm provide the affiliated person with a written authorization from a person designated by the firm which has responsibility for surveillance of the affiliated person's account? | — | — |
| b. Does your firm receive copies of statements and order tickets relating to the account of the affiliated person on a regular basis? | — | — |
| 12. Does your firm have procedures to insure that employees of exchanges and regulatory organizations are not allowed to trade at your firm? | — | — |
| 13. Does your firm have procedures to ensure that corporate resolutions authorizing trading authority and account (strategy) limitations are signed by the appropriate level of authority at the corporation? | — | — |
| 14. Does your firm review the financial standing of omnibus accounts and commodity pools before the accounts are accepted? | — | — |
| 15. If your firm carries accounts of investment companies or pension funds, is your firm in compliance with CFTC Interpretation #10? | — | — |
| 16. Does your firm maintain a record that clearly identifies which of the firm's accounts are discretionary? | — | — |
| 17. Does your firm have procedures regarding supervision and review of discretionary trading activity? | — | — |
| 18. Does your firm require power of attorney to be terminated in writing? | — | — |
| 19. Does your firm ensure that APs have two years experience prior to handling discretionary accounts? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 20. If your firm accepts customers which utilize a third party account controller: | | |
| a. Does your firm obtain a copy of the account controller's written trading authorization, or a written acknowledgement from the customer that such authorization has been given? | — | — |
| b. Does your firm obtain an acknowledgment from the customer that he received a disclosure document from the account controller, or a written statement from the account controller explaining why he is not required to give the customer a disclosure document? | — | — |
| 21. If your firm assesses fees and charges which are not determined on a per trade or round-turn basis, does your firm provide customers with a written explanation of the charges and reasonable examples on a per trade or round-turn basis? | — | — |
| 22 22. If your firm carries accounts of introducing brokers do the customer statements identify the name of the FCM and the IB? | — | — |
| 23. Does your firm inform NFA of the omnibus accounts it carries and its carrying brokers? | — | — |
| 24. Does your firm review its customers to ensure it is not doing business with an entity/individual which is required to be registered but is not? | — | — |
| Margins | | |
| 1. Does your firm make margin calls when account is undermargined? | — | — |
| 2. Does your firm prepare a written daily listing of outstanding calls? | — | — |
| 3. Does the daily listing indicate the number of days the call is outstanding? | — | — |
| 4. Are the margin calls cumulative? | — | — |
| 5. Does your firm collect margin calls in a timely manner? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 6. Has your firm set a pre-determined length of time allowed for the collection of outstanding margin calls? | — | — |
| 7. Does your firm refuse to allow customers to make withdrawals from accounts when the margin therein is less than the initial requirements, or when the withdrawals would impair the initial requirements? | — | — |
| 8. Are related accounts aggregated as if they were one account when determining if excess margin is available for withdrawal? | — | — |
| 9. Are all payouts to customers made only after proper approval from the margin department or other appropriate level of authority? | — | — |
| 10. Does your firm margin domestic omnibus accounts on a gross basis? | — | — |
| 11. Does your firm utilize SPAN margin rates for Chicago Mercantile Exchange positions? | — | — |
| 12. If not, how is your firm determining that your margin calls and undermargined capital charges are no less than those which would be calculated utilizing SPAN? | — | — |
| 13. Does your firm obtain current margin rates and SPAN risk parameters on a regular or daily basis? | — | — |

Option Procedures

- | | | |
|--|---|---|
| 1. Does your firm require that the customer be informed of all option transaction costs including commissions, mark-ups, costs to exercise an option, prior to the first option transaction? | — | — |
| 2. Does your firm inform its customers of the premium and strike price for subsequent option transactions? | — | — |
| 3. Does your firm document the fact that they provided the information in 1 and 2 above? | — | — |

YES

NO

NFA Fees

- 1. Does your firm invoice NFA fees to all customers and non-customers in accordance with NFA Bylaw 1301?
- 2. Does your firm separately reflect NFA fees from commissions?

—

—

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Customer Complaints and Advertising

- 1. Does your firm have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature?
- 2. Does your firm have policies and procedures in effect to handle customer complaints and inquiries?
- 3. Does your firm maintain a compliance procedures manual or other written documentation which outlines the firm's policy with respect to handling compliance matters, such as customer complaints and/or inquiries?
- 4. Does your firm have a systematic method of recording, investigating and responding to customer complaints and/or inquiries?
- 5. Does your firm require your branches and GIBs to forward complaints to the home office?
- 6. Does your firm have an Internal Audit Department or other designated individual which monitors branches and GIBs ("Auditor")?
- 7. Does the Auditor report to a partner or officer?
- 8. Does the Auditor have responsibility for conducting on-site inspections of branch offices and guaranteed Ibs?
- 9. Are the on-site inspections performed regularly?
- 10. Does the Auditor utilize an audit program when conducting on-site inspections?

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	<u>YES</u>	<u>NO</u>
11. Does your firm ensure that appropriate corrective action has been taken in the event the Auditor finds problems at a branch or GIB?	—	—
12. Is the Auditor familiar with NFA Notice I-90-14 regarding Branch Office and Guaranteed IB On-site Visits?	—	—
13. Does your firm have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud?	—	—
14. Does your firm have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel?	—	—
15. Does your firm utilize any of the following methods to supervise sales solicitation, direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?	—	—
16 16. Does your firm provide its AP's with training on the futures and options markets?	—	—
17. Does your firm provide sales solicitation training to AP's?	—	—
18. Does your firm have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted?	—	—
19. Does your firm provide adequate risk disclosure to customers wishing to purchase deep-out-of-the-money-options?	—	—
20. Does your firm review commission payout records to insure only individuals or firms which are registered are being paid?	—	—
21. Does your firm have written procedures to supervise the preparation and use of promotional material?	—	—
22. Does your firm require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use?	—	—

	<u>YES</u>	<u>NO</u>
23. Does your firm require the review and approval of promotional material to be in writing?	—	—
24. Does your firm maintain all promotional materials for a period of five years from the date last used?	—	—
25. Is the content of your firms' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.)	—	—
Cash Flow		
1. Does your firm make all disbursements by check, except petty cash?	—	—
2. Does a responsible individual at your firm approve in writing invoices prior to payment?	—	—
3. If your firm allows branch offices to write checks or make other types of disbursements, does your firm have any controls in effect to review this activity?	—	—
4. Does your firm review this activity in a timely manner?	—	—
5. If your firm disburses money to a third party, does the firm have specific written authorization from the account owner on file?	—	—
6. Does your firm ensure all requests for monies have been initiated by the account owner?	—	—
7. If introducing brokers are allowed to deposit checks in a qualifying bank account or forward checks to the home office, does your firm maintain documents authorizing such procedures?	—	—
8. Does your firm have procedures to ensure cash received at branch offices and introducing brokers is communicated timely for accounting purposes and deposited timely?	—	—

	<u>YES</u>	<u>NO</u>
9. Does your firm require the introducing broker and branch office to prepare a listing of all cash receipts?	—	—
10. Does your firm require introducing brokers and branch offices to make and keep copies of customer checks prior to depositing them?	—	—
11. Does your firm review the records above on a regular basis and compare them to the bank records?	—	—
12. If physical cash is received by your firm, is it adequately controlled through the use of pre-numbered receipts or the like?	—	—
13. Does your firm restrictively endorse checks upon receipt?	—	—
14. Does your firm have procedures to carefully review third-party checks received from customers and endorsed to your firm, to insure the initial payee is not required to be registered?	—	—
15. Does your firm verify wire transfer receipts before they are booked?	—	—
16. Does your firm prepare bank reconciliations within a month of receipt of the bank statement?	—	—
17. Does your firm insure that blank checks are only accessible to authorized personnel?	—	—
18. Does your firm insure that all voided checks are mutilated to prevent reuse and kept on file?	—	—
19. If signature plates are used, does your firm have adequate controls and limited access over plates?	—	—

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 20. Does your firm review checks and wires received to ensure they are from account owners of the account to which they are to be credited? | — | — |
| 21. Does your firm take action if money is found to be deposited by other than the account owner? | — | — |

Financial

- | | | |
|--|---|---|
| 1. Does your firm balance all accounting records on a monthly basis? | — | — |
| 2. Does your firm retain all financial and compliance records for five years? | — | — |
| 3. Does your firm maintain its general ledger on an accrual basis? | — | — |
| 4. Does your firm prepare a trial balance on a monthly basis? | — | — |
| 5. Does an individual at an appropriate level of authority approve journal entries? | — | — |
| 6. Does your firm prepare detailed support to convert your firm's trial balance or general ledger to the financial statement format? | — | — |
| 7. Does your firm prepare and maintain on file monthly capital computations within 30 days after the month end? | — | — |
| 8. Does your firm prepare quarterly 1-FR or Focus statements including Supplementary Schedules and file them with NFA within 45 days after the end of the quarter? | — | — |
| 9. Does your firm prepare daily segregation and secured amount computations by noon of the following day? | — | — |
| 10. Does your firm insure the preparer of the statements mentioned above is knowledgeable of all the requirements for financial statement preparation? | — | — |
| 12. In the case of this individual's absence, does your firm have another knowledgeable individual available to prepare the above statements? | — | — |
| 13. Does your firm monitor intra-month capital compliance? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 14. Does your firm review positions in the firm's trading account to determine their effect on the firm's compliance with NFA capital requirements? | — | — |
| 15. Does your firm have adequate physical safeguards in place to ensure that accounting and security records are accessible only to those individuals who have responsibility for maintaining such records? | — | — |
| 16. Does your firm have procedures for reconciling positions and equities with your carrying brokers in a timely manner? | — | — |
| 17. Does your firm maintain complete and detailed records of all securities held or owned by the firm? | — | — |
| 18. Does your firm have adequate safeguards and controls over all negotiable instruments including proper segregation of duties? | — | — |
| 19. Does your firm have procedures to reconcile securities held in safekeeping to the bank? | — | — |
| 20. Does your firm properly segregate and account for customer securities and property? | — | — |
| 21. Does your firm insure that all customer property is clearly designated as customer segregated? | — | — |
| 22. Does your firm regularly reconcile the customer statements to the equity system? | — | — |
| 23. Does the firm have procedures to review the equity run to insure accounts of officers, directors, partners and employees are reflected separately in the general ledger as non-customer and proprietary accordingly? | — | — |
| 24. Has your firm assigned an individual at an appropriate level of authority with responsibility for obtaining approval and/or renewal of subordination agreements and submitting them to NFA? | — | — |

Firm Name: _____

Completed By: _____

Title: _____

Date: _____

INDEPENDENT IB SELF EXAMINATION QUESTIONNAIRE

Instructions

NFA Compliance Rule 2-9 requires Members to diligently supervise the futures related activities of their agents and employees. To help Members to carry out their supervisory responsibilities, NFA has devised a questionnaire for each category of registrant, for branch office operations and for promotional material. The questionnaires focus on areas such as customer order flow, account documentation, and sales procedures. Completion of the questionnaire will provide a checklist for each Member to ensure that no major area of supervisory responsibility is being overlooked. NFA's Board of Directors has issued an interpretative notice requiring each Member to complete and retain the "self-audit" questionnaires which will be provided periodically by NFA.

Each item on the attached questionnaire can be answered with either a "yes" or "no" response. A "no" response to any particular question may not necessarily indicate that the Member is not providing adequate supervision. Each "no" response should, however, cause a Member to re-examine its current practice to ensure that no further improvements are necessary. Members should be able to explain or document each "yes" answer if asked to do so in the scope of any NFA audit or inquiry. If a particular question is not applicable to your business simply indicate "NA" as the answer. Members should be able to explain NA answers if asked to do so.

Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

YES

NO

1. Does your firm insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7R?
 - a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC.
 - b. Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock.

—

—

YES

NO

c. Any person who has contributed ten percent or more of the capital.

2. Does your firm insure that all individuals which are responsible for supervising AP's are registered as AP's?

—

—

3. Do your branches hold themselves out in the name of the firm?

—

—

4. If your firm is a one person office, do you have procedures to inform customers when you will be unavailable to service your customer accounts (i.e., vacations) and who they should contact in the your absence?

—

—

5. Does your firm have procedures to review all firms which you are doing business with to insure those which are required to be registered are registered?

—

—

Customer Order Flow

1. Are only registered Associated Persons allowed to handle customer accounts?

—

—

~~2.~~ Are unregistered individuals accepting/receiving customer orders?

—

—

If so, are they performing their duties in a purely clerical manner?

—

—

3. Does your firm utilize pre-numbered customer order tickets or assign an internally generated order number to each order ticket immediately upon receipt of the order from the customer?

—

—

4. Does your firm have controls in place to ensure that all customer order tickets (filled, unfilled, open, cancelled) are properly retained and filed by date?

—

—

YES

NO

5. Is the following information recorded on all customer order tickets?

- a. Date
- b. Commodity Options/Future
- c. Account Identification
- d. Quantity Long/Short
- e. Requested Price
- f. Fill Price

For customer option orders only:

- g. Put or call
- h. Strike Price
- i. Premium

For discretionary futures/options customer orders only:

- j. Does your firm identify the customer order ticket as discretionary?

For discretionary options customer orders only:

- k. Does an officer or supervisory individual from your firm approve, initial, and date each order ticket?

6a. Does your firm time-stamp each futures order ticket upon immediate receipt of the order from the customer?

b. Does your firm time-stamp each options order ticket upon immediate receipt of the order from the customer, and upon transmission of the order for execution?

7. Upon receipt of a customer order during market hours does your firm immediately call its carrying broker or the floor directly?

8. Does your firm ensure to the extent possible customer orders executable at or near the market are transmitted to the floor before any orders in the same commodity for proprietary or other persons affiliated with the firm?

YES

NO

9. Does your firm record the fill price when it is received? _____
10. Does your firm promptly call the customer with the fill information? _____
11. Does your firm maintain all documents produced or obtained as a result of the order flow processes for a period of five years? (i.e., customer order tickets, equity run, customer statements, open position listing, day trade listing, P & S recap) _____
12. Does your firm prohibit the inclusion of discretionary and non-discretionary orders on a block order? _____
13. Does your firm prohibit trades for proprietary and non-customer accounts to be combined with its customer orders on block orders? _____
14. Is there a system to allocate split fills in a fair and non-preferential manner? _____
15. Does your firm require individuals placing block orders to submit the customer account numbers prior to receiving the fill prices on those block orders? _____
16. Does your firm have procedures to review the accounts of foreign omnibus accounts to look for unusual trading or money flow patterns which may indicate problems, such as bucketing of trades? _____
17. Does your firm have procedures to insure proper large trader reports are being filed with the appropriate agencies? _____

Customer, Proprietary, Non-customer accounts

1. Has your firm reviewed the customer account documentation to insure it complies with all applicable Rules and Regulations? _____
2. Does your firm require that all necessary information be on file before new accounts are allowed to commence trading? _____

	<u>YES</u>	<u>NO</u>
3. Does your firm require a partner, officer, director, branch office manager or supervisory employee to approve customer accounts?	—	—
4. Does your firm have procedures to ensure adequate risk disclosure is provided to customers, other than partnerships, corporations, and floor traders, prior to opening an account?	—	—
5. Does your firm obtain the following information from its customers:		
a. Customer's name?	—	—
b. Customer's occupation or business description?	—	—
c. Customer's estimated annual income?	—	—
d. Customer's estimated net worth?	—	—
e. Customer's approximate age?	—	—
f. Customer's prior investment and futures trading experience?	—	—
6. If your firm does not obtain the information in 5. above, does your firm document that the customer, declined to give such information?	—	—
7. Does your firm provide training to the individuals which are responsible for assessing and providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
8. Has your firm designated a supervisory individual to review the actions of the individuals providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
9. If a predispute agreement is included in the customer account documentation, does your firm provide customers with a list of three forums, one of which is NFA arbitration, in the event the customer gives notice of its intent to file a claim?	—	—
10. Does your firm have procedures to ensure that corporate resolutions authorizing trading authority and account (strategy) limitations are signed by the appropriate level of authority at the corporation?	—	—

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 11. If your firm allows affiliated persons to maintain accounts at FCM's: | | |
| a. Does your firm provide the affiliated person with a written authorization from a person designated by the firm which has responsibility for surveillance of the affiliated person's account? | — | — |
| b. Does your firm receive copies of statements and order tickets relating to the account of the affiliated person on a regular basis? | — | — |
| 12. Does your firm maintain a record that clearly identifies which of the firm's accounts are discretionary? | — | — |
| 13. Does your firm have written procedures regarding supervision and review of discretionary trading activity? | — | — |
| 14. Does your firm require power of attorney to be terminated in writing? | — | — |
| 15. Does your firm ensure that APs have two years experience prior to handling discretionary accounts? | — | — |
| 16. If your firm accepts customers which utilize a third party account controller: | | |
| a. Does your firm obtain a copy of the account controller's written trading authorization, or a written acknowledgement from the customer that such authorization has been given? | — | — |
| b. Does your firm obtain an acknowledgment from the customer that he received a disclosure document from the account controller, or a written statement from the account controller explaining why he is not required to give the customer a disclosure document? | — | — |
| 17. If your firm assesses fees and charges which are not determined on a per trade or round-turn basis, does your firm provide customers with a written explanation of the charges and reasonable examples on a per trade or round-turn basis? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 18. If your firm introduces accounts, do the customer statements identify the name of the FCM and the IB? | — | — |
| 19. Does your firm review its customers to ensure it is not doing business with an entity/individual which is required to be registered but is not? | — | — |

Option Procedures

- | | | |
|--|---|---|
| 1. Does your firm require that the customer be informed of all option transaction costs including commissions, mark-ups, costs to exercise an option, prior to the first option transaction? | — | — |
| 2. Does your firm inform its customers of the premium and strike price for subsequent option transactions? | — | — |
| 3. Does your firm document the fact that they provided the information in 1 and 2 above? | — | — |

Customer Complaints and Advertising

- | | | |
|--|---|---|
| 1. Does your firm have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature? | — | — |
| 2. Does your firm have policies and procedures in effect to handle customer complaints and inquiries? | — | — |
| 3. Does your firm maintain a compliance procedures manual or other written documentation which outlines the firm's policy with respect to handling compliance matters, such as customer complaints and/or inquiries? | — | — |
| 4. Does your firm have a systematic method of recording, investigating and responding to customer complaints and/or inquiries? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 5. Does your firm require your branches to forward complaints to the home office? | — | — |
| 6. Does your firm have an Internal Audit Department or other designated individual which monitors branches ("Auditor")? | — | — |
| 7. Does the Auditor report to a partner or officer? | — | — |
| 8. Does the Auditor have responsibility for conducting on-site inspections of branch offices? | — | — |
| 9. Are the on-site inspections performed regularly? | — | — |
| 10. Does the Auditor utilize an audit program when conducting on-site inspections? | — | — |
| 11. Does your firm ensure that appropriate corrective action has been taken in the event the Auditor finds problems at a branch? | — | — |
| 12. Is the Auditor familiar with NFA Notice I-90-14 regarding Branch Office On-site Visits? | — | — |
| 13. Does your firm have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud? | — | — |
| 14. Does your firm have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel? | — | — |
| 15. Does your firm utilize the following methods to supervise sales solicitation; direct listening, reviewing taped solicitations, silent phone monitoring and customer contact? | — | — |
| 16. Does your firm provide its AP's with training on the futures and options markets? | — | — |
| 17. Does your firm provide sales solicitation training to AP's? | — | — |

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 18. Does your firm have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted? | — | — |
| 19. Does your firm provide adequate risk disclosure to customers wishing to purchase deep-out-of-the-money-options? | — | — |
| 20. Does your firm review commission payout records to insure only individuals or firms which are registered are being paid? | — | — |
| 21. Does your firm have written procedures to supervise the preparation and use of promotional material? | — | — |
| 22. Does your firm require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use? | — | — |
| 23. Does your firm require the review and approval of promotional material to be in writing? | — | — |
| 24. Does your firm maintain all promotional materials for a period of five years from the date last used? | — | — |
| 25. Is the content of your firms' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.) | — | — |

Cash Flow

- | | | |
|---|---|---|
| 1. Does your firm make all general business disbursements by check, except petty cash? | — | — |
| 2. Does a responsible individual at your firm approve in writing invoices prior to payment? | — | — |
| 3. If your firm allows branch offices to write general business checks or make other types of general business disbursements, does your firm have any controls in effect to review this activity? | — | — |

	<u>YES</u>	<u>NO</u>
4. Does your firm review this activity in a timely manner?	—	—
5. If your firm is allowed to deposit checks in a qualifying bank account or forward checks to the carrying broker, does your firm maintain documents authorizing such procedures?	—	—
6. Does your firm have procedures to ensure cash received at branch offices and at your office is deposited immediately and communicated timely to the carrying broker for accounting purposes?	—	—
7. Does your firm prepare a listing of all cash receipts?	—	—
8. Does your firm make and keep copies of customer checks prior to depositing them in a qualifying bank account?	—	—
9. Does your firm prohibit the acceptance of checks made payable to anyone other than the carrying broker FCM and physical cash from customers?	—	—
10. Does your firm return to the customer any check received which is not written to the carrying broker FCM?	—	—
11. Does your firm restrictively endorse checks upon receipt?	—	—
12. Does your firm have procedures to carefully review third-party checks received from customers and endorsed to the carrying broker FCM, to insure the initial payee is not required to be registered?	—	—
13. Does your firm prepare bank reconciliations within a month of receipt of the bank statement?	—	—
14. Does your firm insure that blank checks are only accessible to authorized personnel?	—	—
15. Does your firm insure that all voided checks are mutilated to prevent reuse and kept on file?	—	—
16. If signature plates are used, does your firm have adequate controls and limited access over plates?	—	—

YES

NO

Financial

1. Does your firm balance all accounting records on a monthly basis?
2. Does your firm retain all financial and compliance records for five years?
3. Does your firm maintain its general ledger on an accrual basis?
4. Does your firm prepare a trial balance on a monthly basis?
5. Does an individual at an appropriate level of authority approve journal entries?
6. Does your firm prepare detailed support to convert your firm's trial balance or general ledger to the financial statement format?
7. Does your firm prepare and maintain on file monthly capital computations within 30 days after the month end?
8. Does your firm prepare quarterly 1-FR or Focus statements including Supplementary Schedules and file them with NFA within 45 days after the end of the quarter?
9. Does your firm insure the preparer of the statements mentioned above is knowledgeable of all the requirements for financial statement preparation?
10. In the case of this individual's absence, does your firm have another knowledgeable individual available to prepare the above statements?
11. Does your firm monitor intra-month capital compliance?
12. Does your firm review positions in the firm's trading account to determine their effect on the firm's compliance with NFA capital requirements?

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- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 13. Does your firm have adequate physical safeguards in place to ensure that accounting and security records are accessible only to those individuals who have responsibility for maintaining such records? | — | — |
| 14. Does your firm have procedures for reconciling positions and equities with your carrying brokers in a timely manner? | — | — |
| 15. Does your firm maintain complete and detailed records of all securities held or owned by the firm? | — | — |
| 16. Does your firm have adequate safeguards and controls over all negotiable instruments including proper segregation of duties? | — | — |
| 17. Has your firm assigned an individual at an appropriate level of authority with responsibility for obtaining approval and/or renewal of subordination agreements and submitting them to NFA? | — | — |

Firm Name: _____

Completed By: _____

Title: _____

Date: _____

GUARANTEED IB SELF EXAMINATION QUESTIONNAIRE

Instructions

NFA Compliance Rule 2-9 requires Members to diligently supervise the futures related activities of their agents and employees. To help Members to carry out their supervisory responsibilities, NFA has devised a questionnaire for each category of registrant, for branch office operations and for promotional material. The questionnaires focus on areas such as customer order flow, account documentation, and sales procedures. Completion of the questionnaire will provide a checklist for each Member to ensure that no major area of supervisory responsibility is being overlooked. NFA's Board of Directors has issued an interpretative notice requiring each Member to complete and retain the "self-audit" questionnaires which will be provided periodically by NFA.

Each item on the attached questionnaire can be answered with either a "yes" or "no" response. A "no" response to any particular question may not necessarily indicate that the Member is not providing adequate supervision. Each "no" response should, however, cause a Member to re-examine its current practice to ensure that no further improvements are necessary. Members should be able to explain or document each "yes" answer if asked to do so in the scope of any NFA audit or inquiry. If a particular question is not applicable to your business simply indicate "NA" as the answer. Members should be able to explain NA answers if asked to do so.

Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Guaranteed IBs should provide and guarantor FCMs should obtain copies of the completed questionnaires. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 1. Does your firm insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7R? | — | — |
| a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC. | | |
| b. Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock. | | |

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| c. Any person who has contributed ten percent or more of the capital. | | |
| 2. Does your firm insure that all individuals which are responsible for supervising AP's are registered as AP's? | — | — |
| 3. Do your branches hold themselves out in the name of the firm? | — | — |
| 4. If your firm is a one person office, do you have procedures to inform customers when you will be unavailable to service your customer accounts (i.e., vacations) and who they should contact in the your absence? | — | — |
| 5. Does your firm have procedures to review all firms which you are doing business with to insure those which are required to be registered are registered? | — | — |

Customer Order Flow

- | | | |
|--|---|---|
| 1. Are only registered Associated Persons allowed to handle customer accounts? | — | — |
| 2. Are unregistered individuals accepting/receiving customer orders? | — | — |
| If so, are they performing their duties in a purely clerical manner? | — | — |
| 3. Does your firm utilize pre-numbered customer order tickets or assign an internally generated order number to each order ticket immediately upon receipt of the order from the customer? | — | — |
| 4. Does your firm have controls in place to ensure that all customer order tickets (filled, unfilled, open, cancelled) are properly retained and filed by date? | — | — |
| 5. Is the following information recorded on all customer order tickets? | | |
| a. Date | — | — |
| b. Commodity Options/Future | — | — |
| c. Account Identification | — | — |
| d. Quantity Long/Short | — | — |
| e. Requested Price | — | — |
| f. Fill Price | — | — |

	<u>YES</u>	<u>NO</u>
For customer option orders only:		
g. Put or call	—	—
h. Strike Price	—	—
i. Premium	—	—
For discretionary futures/options customer orders only:		
j. Does your firm identify the customer order ticket as discretionary?	—	—
For discretionary options customer orders only:		
k. Does an officer or supervisory individual from your firm approve, initial, and date each order ticket?	—	—
6a. Does your firm time-stamp each futures order ticket upon immediate receipt of the order from the customer?	—	—
6b. Does your firm time-stamp each options order ticket upon immediate receipt of the order from the customer, and upon transmission of the order for execution?	—	—
7. Upon receipt of a customer order during market hours does your firm immediately call its carrying broker or the floor directly?	—	—
8. Does your firm ensure to the extent possible customer orders executable at or near the market are transmitted to the floor before any orders in the same commodity for proprietary or other persons affiliated with the firm?	—	—
9. Does your firm record the fill price when it is received?	—	—
10. Does your firm promptly call the customer with the fill information?	—	—
11. Does your firm maintain all documents produced or obtained as a result of the order flow processes for a period of five years? (i.e., customer order tickets, equity run, customer statements, open position listing, day trade listing, P & S recap)	—	—
12. Does your firm prohibit the inclusion of discretionary and non-discretionary orders on a block order?	—	—

	<u>YES</u>	<u>NO</u>
13. Does your firm prohibit trades for proprietary and non-customer accounts to be combined with its customer orders on block orders?	—	—
14. Does your firm utilize a system to allocate split fills in a fair and non-preferential manner?	—	—
15. Does your firm require individuals placing block orders to submit the customer account numbers prior to receiving fill prices on those block orders?	—	—
16. Does your firm have procedures to review the accounts of foreign omnibus accounts to look for unusual trading or money flow patterns which may indicate problems, such as bucketing of trades?	—	—
17. Does your firm have procedures to insure proper large trader reports are being filed with the appropriate agencies?	—	—
Customer, Proprietary, Non-customer accounts		
1. Has your firm reviewed the customer account documentation to insure it complies with all applicable Rules and Regulations?	—	—
2. Does your firm require that all necessary information be on file before new accounts are allowed to commence trading?	—	—
3. Does your firm require a partner, officer, director, branch office manager or supervisory employee to approve customer accounts?	—	—
4. Does your firm have procedures to ensure adequate risk disclosure is provided to customers, other than partnerships, corporations, and floor traders, prior to opening an account?	—	—

	<u>YES</u>	<u>NO</u>
5. Does your firm obtain the following information from its customers:		
a. Customer's name?	___	___
b. Customer's occupation or business description?	___	___
c. Customer's estimated annual income?	___	___
d. Customer's estimated net worth?	___	___
e. Customer's approximate age?	___	___
f. Customer's prior investment and futures trading experience?	___	___
6. If your firm does not obtain the information in 5. above, does your firm document that the customer declined to give such information?	___	___
7. Does your firm provide training to the individuals which are responsible for assessing and providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	___	___
8. Has your firm designated a supervisory individual to review the actions of the individuals providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	___	___
9. If a predispute agreement is included in the customer account documentation, does your firm provide customers with a list of three forums, one of which is NFA arbitration, in the event the customer gives notice of its intent to file a claim?	___	___
10. Does your firm have procedures to ensure that corporate resolutions authorizing trading authority and account (strategy) limitations are signed by the appropriate level of authority at the corporation?	___	___
11. If your firm allows affiliated persons to maintain accounts at FCM's:		
a. Does your firm provide the affiliated person with a written authorization from a person designated by the firm which has responsibility for surveillance of the affiliated person's account?	___	___
b. Does your firm receive copies of statements and order tickets relating to the account of the affiliated person on a regular basis?	___	___

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 12. Does your firm maintain a record that clearly identifies which of the firm's accounts are discretionary? | — | — |
| 13. Does your firm have written procedures regarding supervision and review of discretionary trading activity? | — | — |
| 14. Does your firm require power of attorney to be terminated in writing? | — | — |
| 15. Does your firm ensure that APs have two years experience prior to handling discretionary accounts? | — | — |
| 16. If your firm accepts customers which utilize a third party account controller: | | |
| a. Does your firm obtain a copy of the account controller's written trading authorization, or a written acknowledgement from the customer that such authorization has been given? | — | — |
| b. Does your firm obtain an acknowledgment from the customer that he received a disclosure document from the account controller, or a written statement from the account controller explaining why he is not required to give the customer a disclosure document. | — | — |
| 17. If your firm assesses fees and charges which are not determined on a per trade or round-turn basis, does your firm provide customers with a written explanation of the charges and reasonable examples on a per trade or round-turn basis? | — | — |
| 18. If your firm introduces accounts, do the customer statements identify the name of the FCM and the IB? | — | — |
| 19. Does your firm review its customers to ensure it is not doing business with an entity/individual which is required to be registered but is not? | — | — |

Option Procedures

- | | | |
|--|---|---|
| 1. Does your firm require that the customer be informed of all option transaction costs including commissions, mark-ups, costs to exercise an option, prior to the first option transaction? | — | — |
|--|---|---|

YES

NO

2. Does your firm inform its customers of the premium and strike price for subsequent option transactions? _____ _____
3. Does your firm document the fact that they provided the information in 1 and 2 above? _____ _____

Customer Complaints and Advertising

1. Does your firm have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature? _____ _____
2. Does your firm have policies and procedures in effect to handle customer complaints and inquiries? _____ _____
3. Does your firm maintain a compliance procedures manual or other written documentation which outlines the firm's policy with respect to handling compliance matters, such as customer complaints and/or inquiries? _____ _____
4. Does your firm have a systematic method of recording, investigating and responding to customer complaints and/or inquiries? _____ _____
5. Does your firm require your branches to forward complaints to the home office? _____ _____
6. Does your firm have an Internal Audit Department or other designated individual which monitors branches ("Auditor")? _____ _____
7. Does the Auditor report to a partner or officer? _____ _____
8. Does the Auditor have responsibility for conducting on-site inspections of branch offices? _____ _____
9. Are the on-site inspections performed regularly? _____ _____
10. Does the Auditor utilize an audit program when conducting on-site inspections? _____ _____
11. Does your firm ensure that appropriate corrective action has been taken in the event the Auditor finds problems at a branch? _____ _____

	<u>YES</u>	<u>NO</u>
12. Is the Auditor familiar with NFA Notice I-90-14 regarding Branch Office On-site Visits?	—	—
13. Does your firm have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud?	—	—
14. Does your firm have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel?	—	—
15. Does your firm utilize the following methods to supervise sales solicitation; direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?	—	—
16. Does your firm provide its AP's with training on the futures and options markets?	—	—
17. Does your firm provide sales solicitation training to AP's?	—	—
18. Does your firm have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted?	—	—
19. Does your firm provide adequate risk disclosure to customers wishing to purchase deep-out-of-the-money-options?	—	—
20. Does your firm review commission payout records to insure only individuals or firms which are registered are being paid?	—	—
21. Does your firm have written procedures to supervise the preparation and use of promotional material?	—	—
22. Does your firm require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use?	—	—
23. Does your firm require the review and approval of promotional material to be in writing?	—	—

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 24. Does your firm maintain all promotional materials for a period of five years from the date last used? | --- | --- |
| 25. Is the content of your firms' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.) | --- | --- |

Cash Flow

- | | | |
|---|-----|-----|
| 1. Does your firm make all general business disbursements by check, except petty cash? | --- | --- |
| 2. Does a responsible individual at your firm approve in writing invoices prior to payment? | --- | --- |
| 3. If your firm allows branch offices to write general business checks or make other types general business of disbursements, does your firm have any controls in effect to review this activity? | --- | --- |
| 4. Does your firm review this activity in a timely manner? | --- | --- |
| 5. If your firm is allowed to deposit checks in a qualifying bank account or forward checks to the carrying broker FCM, does your firm maintain documents authorizing such procedures? | --- | --- |
| 6. Does your firm have procedures to ensure cash received at branch offices and at your office is deposited immediately and communicated timely to the carrying broker FCM for accounting purposes? | --- | --- |
| 7. Does your firm prepare a listing of all cash receipts? | --- | --- |
| 8. Does your firm make and keep copies of customer checks prior to depositing them in a qualifying bank account? | --- | --- |
| 9. Does your firm prohibit the acceptance of checks made payable to anyone other than the carrying broker FCM and physical cash from customers? | --- | --- |
| 10. Does your firm return to the customer any check received which is not written to the carrying broker FCM? | --- | --- |

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 11. Does your firm restrictively endorse checks upon receipt? | — | — |
| 12. Does your firm have procedures to carefully review third-party checks received from customers and endorsed to the carrying broker FCM, to insure the initial payee is not required to be registered? | — | — |
| 13. Does your firm prepare bank reconciliations within a month of receipt of the bank statement? | — | — |
| 14. Does your firm insure that blank checks are only accessible to authorized personnel? | — | — |
| 15. Does your firm insure that all voided checks are mutilated to prevent reuse and kept on file? | — | — |
| 16. If signature plates are used, does your firm have adequate controls and limited access over plates? | — | — |

Guarantee Agreements

- | | | |
|---|---|---|
| 1. Does your firm file all guarantee agreements and termination notices with NFA? | — | — |
| 2. Does your firm maintain a copy of a guarantee agreement which has been signed by principals of each party? | — | — |

Firm Name: _____

Completed By: _____

Title: _____

Date: _____

CPO SELF EXAMINATION QUESTIONNAIRE

Instructions

NFA Compliance Rule 2-9 requires Members to diligently supervise the futures related activities of their agents and employees. To help Members to carry out their supervisory responsibilities, NFA has devised a questionnaire for each category of registrant, for branch office operations and for promotional material. The questionnaires focus on areas such as customer order flow, account documentation, and sales procedures. Completion of the questionnaire will provide a checklist for each Member to ensure that no major area of supervisory responsibility is being overlooked. NFA's Board of Directors has issued an interpretative notice requiring each Member to complete and retain the "self-audit" questionnaires which will be provided periodically by NFA.

Each item on the attached questionnaire can be answered with either a "yes" or "no" response. A "no" response to any particular question may not necessarily indicate that the Member is not providing adequate supervision. Each "no" response should, however, cause a Member to re-examine its current practice to ensure that no further improvements are necessary. Members should be able to explain or document each "yes" answer if asked to do so in the scope of any NFA audit or inquiry. If a particular question is not applicable to your business simply indicate "NA" as the answer. Members should be able to explain NA answers if asked to do so.

Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

YES

NO

1. Does your firm insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7r?

a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC.

b. Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock.

—

—

YES

NO

- c. Any person who has contributed ten percent or more of the capital. _____

- 2. Does your firm insure that all individuals which are responsible for supervising AP's are registered as AP's? _____

- 3. Do your branches hold themselves out in the name of the firm? _____

- 4. If your firm is a one person office, do you have procedures to inform participants when you will be unavailable to service the pools' account (i.e., vacations) and who they should contact in the your absence? _____

- 5. Does your firm have procedures to insure that checks are received in the name of the applicable pool or carrying broker (for deposit in the pool's trading account) and not in the name of your firm? _____

- 6. Does your firm have procedures to review all firms which you are doing business with to insure those which are required to be registered are registered? _____

- 7. Is your firm a separate legal entity from each of the pools it operates? _____

Records

- 1. If a predispute agreement is included in the customer account documentation, does your firm provide customers with a list of three forums, one of which is NFA arbitration, in the event the customer gives notice of its intent to file a claim? _____

- 2. Does your firm maintain the following documents for each pool operated for five years? _____
 - a. Cash receipts and disbursements journal _____
 - b. Security purchases & sales journal _____
 - c. Adjusting journal entries _____
 - d. Subsidiary Ledger for each Participant, including
 - 1. Name _____
 - 2. Address _____
 - 3. Dates of deposits, withdrawals, etc. _____
 - 4. Amount of deposits and withdrawals, etc. _____
 - 5. Gains/Losses accruing to participant _____
 - 6. Participant equity calculated on a quarterly/monthly basis _____
 - 7. # of units owned _____

	<u>YES</u>	<u>NO</u>
e. General Ledger	—	—
f. Copies of statements received from carrying broker	—	—
g. Bank statements and cancelled checks	—	—
h. Dated copies of all reports and letters	—	—
i. Balance sheets	—	—
1. Prepared quarterly if pools' net asset value is less than \$500,000 at the beginning of the pool's fiscal year.	—	—
2. Prepared monthly if pools' net asset value is greater than \$500,000 at the beginning of the pool's fiscal year.	—	—
j. Income statement	—	—
1. Prepared either quarterly or monthly as described in i. 1 & 2 above.	—	—
2. Prepared on a year-to-date basis.	—	—
k. Account statement prepared either quarterly or monthly as described in i. 1 & 2 above.	—	—
1. Signed and dated acknowledgement of receipt of the disclosure document which was prior to the initial deposit and no more than 6 months after the date of the disclosure document.	—	—
m. Acknowledgement of receipt of the Foreign futures and options disclosure statement.	—	—
3. If your firm or principals have trading accounts, does your firm maintain copies of the statements received from the carrying broker?	—	—
4. Does your firm have procedures to file with the CFTC a Statement of Reporting Trader in the event your firm holds or controls reportable positions (CFTC Form 40)?	—	—
Customer Complaints, Sales Practices & Promotional Material		
1. Does your firm have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature?	—	—
2. Does your firm have policies and procedures in effect to handle customer complaints and inquiries?	—	—
3. Does your firm maintain a compliance procedures manual or other written documentation which outlines the firm's policy with respect to handling compliance matters, such as customer complaints and/or inquiries?	—	—

	<u>YES</u>	<u>NO</u>
4. Does your firm have a systematic method of recording, investigating and responding to customer complaints and/or inquiries?	—	—
5. Does your firm require your branches to forward complaints to the home office?	—	—
6. Does your firm have an Internal Audit Department or other designated individual which monitors branches ("Auditor")?	—	—
7. Does the Auditor report to a partner or officer?	—	—
8. Does the Auditor have responsibility for conducting on-site inspections of branch offices?	—	—
9. Are the on-site inspections performed regularly?	—	—
10. Does the Auditor utilize an audit program when conducting on-site inspections?	—	—
11. Does your firm ensure that appropriate corrective action has been taken in the event the Auditor finds problems at a branch?	—	—
12. Is the Auditor familiar with NFA Notice I-90-14 regarding Branch Office On-site Visits?	—	—
13. Does your firm have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud?	—	—
14. Does your firm have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel?	—	—
15. Does your firm utilize any of the following methods to supervise sales solicitation, direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?	—	—
16. Does your firm provide its AP's with training on the futures and options markets?	—	—
17. Does your firm provide sales solicitation training to AP's?	—	—
18. Does your firm have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted?	—	—

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 19. Does your firm have written procedures to supervise the preparation and use of promotional material? | — | — |
| 20. Does your firm require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use? | — | — |
| 21. Does your firm require the review and approval of promotional material to be in writing? | — | — |
| 22. Does your firm maintain all promotional materials for a period of five years from the date last used? | — | — |
| 23. Is the content of your firms' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.) | — | — |

Fees

- | | | |
|--|---|---|
| 1. Does your firm calculate fees in accordance with the disclosure document? | — | — |
| 2. If your firm collects fees from clients directly instead of from the carrying broker, does your firm reflect the amount in the performance record as an addition and as a debit to net performance? | — | — |

Block Orders

- | | | |
|---|---|---|
| 1. If your firm is also the CTA and operates more than one pool, does your firm utilize a system to allocate split fills in a systematic and non-preferential manner? | — | — |
| 2. If your CTA or carrying broker allocates split fills, are you aware of the method utilized and is it systematic and non-preferential? | — | — |
| 3. Are your block order procedures in writing? | — | — |
| 4. Does your firm provide the carrying broker with the account numbers to receive the fill at the time a trade is placed? | — | — |

YES

NO

Financial

1. Does your firm's monthly/quarterly account statement include:

a. Statement of Income and Loss itemizing:

- 1. Realized commodity trading gain or loss
- 2. Change in OTE
- 3. Other gains and losses
- 4. Management fees
- 5. Advisory fees
- 6. Brokerage commissions
- 7. Other fees
- 8. Other expenses

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

b. Statement of Changes in NAV itemizing:

- 1. Beginning NAV
- 2. Additions
- 3. Withdrawals
- 4. Net Income/Loss
- 5. Ending NAV
- 6. NAV per unit or individual's interest in the pool

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

c. Signed oath or affirmation

- 1. Manually signed
- 2. Signed by proper individual

_____	_____
_____	_____

d. Beneath the oath does the following appear:

- 1. The name of the individual signing the document
- 2. The capacity in which the individual is signing
- 3. The name of the commodity pool operator for which the individual is signing
- 4. The name of the commodity pool for which the document is being distributed

_____	_____
_____	_____
_____	_____
_____	_____

e. Does the account statement disclose any changes or material business dealings between the pool and its operator, trading advisor, FCM or principals not previously disclosed in the disclosure document?

_____	_____
-------	-------

YES NO

f. Statement of net asset value

- | | | |
|---|-------|-------|
| 1. Beginning NAV | _____ | _____ |
| 2. Additions | _____ | _____ |
| 3. Withdrawals | _____ | _____ |
| 4. Net Income/Loss | _____ | _____ |
| 5. Ending NAV | _____ | _____ |
| 6. NAV per unit or participant's interest in the pool | _____ | _____ |
| | | |
| 2. Has your firm examined each investment made with pool funds and the disclosure document to insure the investment is allowed? | _____ | _____ |
| | | |
| 3. Has your firm engaged an independent certified public accountant to perform a certified audit of each pool operated during the past fiscal year? | _____ | _____ |
| | | |
| 4. If trading in any of your pools has permanently ceased have you engaged an independent certified public accountant to do a certified audit? | _____ | _____ |
| | | |
| 5. Has your firm distributed copies of the certified audit reports to the CFTC, NFA and to each of the participants within 90 days of the fiscal year end or within 90 days of when the pool funds were returned to participants? | _____ | _____ |
| | | |
| 6. Do the certified audit reports include the following information for the preceding two year ends? | | |
| a. Net asset value of the pool? | _____ | _____ |
| b. Net asset value per outstanding participation unit in the pool? | _____ | _____ |
| c. Total value of the participant's interest or share in the pool? | _____ | _____ |
| d. Statement of financial condition? | _____ | _____ |
| e. Statement of Income and Loss? | _____ | _____ |
| f. Changes in Financial Position? | _____ | _____ |
| g. Changes in Ownership Equity? | _____ | _____ |
| h. Appropriate footnote disclosure and such further material information as may be necessary to make the required statements misleading? | _____ | _____ |

Disclosure Document

- | | | |
|--|-------|-------|
| 1. Does your firm file two copies to the CFTC and one copy to NFA of your disclosure documents and any amendments at least 21 calendar days prior to the date you first intend to solicit customers with the document? | _____ | _____ |
|--|-------|-------|

YES

NO

2. Does your firm file amendments or a new disclosure document when the existing document becomes materially incomplete or inaccurate? _____
3. Does your firm provide prospective clients with a disclosure document, including any existing amendments, which is six months old or less prior to soliciting, directing or guiding a clients account? _____
4. Does your firm provide existing participants with all amendments to the disclosure document? _____
5. If disclosure document deficiency letters are received by the CFTC or NFA, does your firm promptly correct your document and submit your corrections to both organizations? _____
6. Has your firm reviewed its disclosure document to insure it complies with CFTC Regulation 4.21 and NFA Compliance Rule 2-13? (See checklist guide attached.) _____

Firm Name: _____

Completed By: _____

Title: _____

Date: _____

**COMMODITY POOL
DISCLOSURE DOCUMENT CHECKLIST**

Date _____

Pool Name _____

D.D. Date _____

YES NO

A. SPECIFIC RISK STATEMENTS

1. Does the cover page of the Disclosure Document contain the cautionary statement using the language in Section 4.21(a)(18) and is the disclosure displayed in capital letters and in boldface type?

2. Does the cover page of the Disclosure Document highlight in tabular form the following, as described in the Guideline for Disclosure of Up Front Fees:

a. initial investment

b. all up front fees and charges, including all organizational and operating expenses

c. net proceeds available for trading.

d. Is the table complete and accurate? (If CPO does not require a standard initial investment, the table must highlight the up front fees and expenses proportionately as \$1,000 units.)

YES NO

- 3. Does the Risk Disclosure Statement contain the language in Section 4.21(a)(17)(i); is it the only language on the page immediately following any disclosures required to appear pursuant to registered futures associations, the commission and applicable securities law; and is the disclosure displayed in capital letters and in boldface type? _____

- 4. If the potential liability to the participant is greater than the contributions and profits, is the LAST paragraph of the Risk Disclosure Statement as stated in Section 4.21(a)(17)(ii) and is the disclosure displayed in capital letters and in boldface type? _____

- 5. If the pool intends to trade foreign futures and options is the disclosure statement required by 30.6 included and in boldface type? If not, ensure that the disclosure is provided to pool participants. _____

B. DOCUMENT SPECIFICS

- 1. Is the Disclosure Document dated? _____

- 2. Is the date of the Disclosure Document less than six months from today? _____

If not, is the document currently being used? _____

- 3. Does the CPO include the pool's most current account statement and annual report with each Disclosure Document sent to participants? _____

- 4. Is the document paginated and fastened in a secure manner? _____

YES NO

C. POOL OPERATOR AND PRINCIPALS

Does the Disclosure Document contain the following information about the CPO and its principals?

- | | | | |
|----|---|-----|-----|
| 1. | Name of CPO and principals. | ___ | ___ |
| 2. | Address and telephone of main business office. | ___ | ___ |
| 3. | If address is P.O. Box, location of records. | ___ | ___ |
| 4. | Form of organization. | ___ | ___ |
| 5. | Business background for past 5 years of CPO and principals, including: | | |
| | a. Name of employers | ___ | ___ |
| | b. Nature of business/ventures | ___ | ___ |
| | c. Duties | ___ | ___ |
| 6. | Extent of ownership/interest in pool. If none, must state. | ___ | ___ |
| 7. | Material, administrative, civil or criminal action against CPO/principals in past 5 years. If none, must state. | ___ | ___ |
| 8. | If commodity interest will be/are traded for own account(s). If not, must state. | ___ | ___ |
| 9. | If trading own account(s), statement as to whether participants may inspect records. | ___ | ___ |

YES NO

D. CTA OF SUBJECT POOL AND/OR PRINCIPALS

Does the Disclosure Document contain the following information about the trading advisor and its principals?

- | | | | |
|----|---|-------|-------|
| 1. | Name of CTA and principals. | _____ | _____ |
| 2. | Business background of CTA and its principals for past 5 years, including: | | |
| | a. Name of employers | _____ | _____ |
| | b. Nature of business/venture | _____ | _____ |
| | c. Duties | _____ | _____ |
| 3. | Extent of ownership/interest in pool. If none, must state. | _____ | _____ |
| 4. | Material, administrative, civil or criminal action against CTA/principals in past 5 years. If none, must state. | _____ | _____ |
| 5. | If commodity interest will be/are traded for own account(s). If not, must state. | _____ | _____ |
| 6. | If trading own account(s), statement as to whether participants may inspect records. | _____ | _____ |

E. FCM/IB AND PRINCIPALS

Does the Disclosure Document contain the following information about the FCM/IB and its principals?

- | | | | |
|----|---|-------|-------|
| 1. | If known, does Disclosure Document state which FCM will be clearing trades? | _____ | _____ |
|----|---|-------|-------|

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 2. Material, administrative, civil or criminal action against FCM and principals in past five years. If none, must state. | — | — |
| 3. If applicable, the IB through which the pool will introduce its trades to the FCM. | — | — |
| 4. Material, administrative, civil, or criminal actions against IB and principals in past five years. If none, must state. | — | — |

F. SUBJECT POOL

Does the Disclosure contain the following information about the pool?

- | | | |
|--|---|---|
| 1. Name. | — | — |
| 2. Form of organization. | — | — |
| 3. Types of commodity interests the pool will trade. | — | — |
| 4. Any restrictions or limitations on trading. | — | — |
| 5. Name of person who will make trading decisions. | — | — |

G. CONFLICTS OF INTEREST

- | | | |
|---|---|---|
| 1. Are actual or potential conflicts of interest disclosed relating to: | | |
| a. CPO | — | — |
| b. Principals of the CPO | — | — |
| c. CTA | — | — |
| d. Principals of the CTA | — | — |
| e. FCM | — | — |
| f. Principals of the FCM | — | — |
| g. IB | — | — |
| h. Principals of the IB | — | — |

YES NO

- 2. If the CPO, CTA, or any of their principals may benefit from the maintenance of the pool's account with an FCM or IB, is the arrangement described? _____

- 3. If the firm includes trades for its principals, APs, and/or proprietary account in block orders, is this potential conflict of interest disclosed? _____

H. REQUIREMENTS/RESTRICTIONS ON POOL

Does the Disclosure Document contain the following information?

- 1. Minimum amount of funds necessary before pool commences trading? If none, must state. _____

- 2. Disposition of funds if minimum isn't reached, including time period of disposition. _____

- 3. Maximum amount of funds accepted by pool. If none, must state. _____

- 4. Maximum time period funds can be held before pool commences trading. If none, must state. _____

- 5. Where funds will be deposited prior to the commencement of trading and who will receive interest earned on these funds? _____

YES NO

I. PAST PERFORMANCE OF POOL/POOL OPERATOR

1. If the subject pool has not begun trading,

a. Has the CPO disclosed this fact prominently in the same manner as outlined in Section 4.21(a)(4)(i)(C)?

b. Has the actual performance of each pool operated by the CPO and its principals for the past three years been disclosed?

c. If CPO and principals have not operated any other pools, is the statement required by Section 4.21(a)(4)(i)(C) included?

2. If the subject pool has traded for less than one year,

a. Has the actual performance for this pool been disclosed?

b. Has the actual performance of each pool operated by the CPO and its principals for the past three years been disclosed?

c. If CPO and principals have not operated any other pools, is the statement required by Section 4.21(a)(4)(i)(B) included?

3. If the subject pool has traded for one year or more, has the actual performance, for at least the past three years, of this pool been disclosed?

YES NO

4. Is actual performance displayed at least quarterly in a table containing the following information current as of a date not more than three months preceding the date of the Disclosure Document?

- | | | |
|---|-----|-----|
| a. Beginning Net Asset Value | --- | --- |
| b. Additions | --- | --- |
| c. Withdrawals | --- | --- |
| d. Net performance | --- | --- |
| e. Ending Net Asset Value | --- | --- |
| f. Rate of return (net performance/beginning NAV) | --- | --- |
| g. # of outstanding units | --- | --- |

5. If actual performance of all pools is shown on a composite basis, is individual performance also detailed for the subject pool?

--- ---

6. If composite is presented, are material differences of the pools described?

--- ---

7. Does the document describe how the composite was developed?

--- ---

8. Is the past performance of all other pool's operated by the pool operator and directed by the pool's advisor presented in a composite separate and apart from any other composite?

--- ---

9. If past trading profits are presented, is statement prescribed by NFA Rule 2-29(b)(5) also included?

--- ---

YES NO

10. If hypothetical performance results are presented, is the statement prescribed by CFTC Regulation Section 4.41(b)(1) also included?

J. PAST PERFORMANCE OF CTA

1. If subject pool has not commenced trading and the CTA has not previously advised any accounts, does Disclosure Document contain a statement relating these facts as described in Section 4.21(a)(5)(i)?

2. Are actual performance results of the CTA and principals for the past three years disclosed for all accounts other than subject pool?

3. Are actual performance results of the CTA displayed in table format at least quarterly and current as of date not more than three months preceding the date of the document?

4. If actual performance is displayed on a composite basis, does document describe how composite was developed?

5. If composite is presented, are material differences in the accounts described?

6. If past trading profits are presented, is statement prescribed by NFA Rule 2-29(b)(5) also included.

7. If hypothetical performance results are presented, is the statement prescribed by CFTC Regulation Section 4.41(b)(1) also included?

YES NO

K. MARGINS

Does the Disclosure state the following
pertaining to margins?

- | | | | |
|----|--|-----|-----|
| 1. | How margins will be met? | ___ | ___ |
| 2. | If margin is met with non-cash
items, | | |
| | a. Nature of items | ___ | ___ |
| | b. Who will receive interest | ___ | ___ |
| 3. | The form in which funds not
deposited as margin or paid as
premiums will be held after the
commencement of trading. If funds
will be held in assets other than
cash, the CPO must disclose: | | |
| | a. Nature of items | ___ | ___ |
| | b. Who will receive interest | ___ | ___ |
| 4. | If margin is held outside U.S.,
does Disclosure Document specify
where? | ___ | ___ |

L. EXPENSES OF POOL

- | | | | |
|----|---|-----|-----|
| 1. | Does the Disclosure Document or
audited annual report promoted with
the Disclosure Document contain the
actual amount of each expense of
the pool for the preceding year,
including: | | |
| | a. Organizational costs? | ___ | ___ |
| | b. Management fees? | ___ | ___ |
| | c. Trading advisory fees? | ___ | ___ |
| | d. Brokerage commissions? | ___ | ___ |
| | e. Legal fees? | ___ | ___ |
| | f. Accounting fees? | ___ | ___ |

	<u>YES</u>	<u>NO</u>
2. Does the Disclosure Document outline estimated dollar amounts for each expense for the current fiscal year, including:		
a. Organizational costs?	---	---
b. Management fees?	---	---
c. Trading advisory fees?	---	---
d. Brokerage commissions?	---	---
e. Legal fees?	---	---
f. Accounting fees?	---	---
3. If base amounts are used in determining expenses, are these amounts defined?	---	---
4. If a fee is based on an increase in value of the pool, is the following disclosed?		
a. How increase is calculated	---	---
b. Time period used for the calculations	---	---
c. Fee to be charged at the end of the time period	---	---
d. Value of pool when payment of fees begins	---	---
5. If any expense of the pool is paid by a person other than pool, is the following disclosed?		
a. Nature of expense	---	---
b. Amount	---	---
c. Who paid or will pay expense	---	---
6. If any commission or other fee will be or is paid <u>directly or indirectly</u> by the pool, CPO, CTA, or principals thereof, to any person in connection with solicitation of assets, is this disclosed?	---	---

	<u>YES</u>	<u>NO</u>
M. <u>POLICIES AND REPORTING</u>	—	—
1. In relation to distribution of profits and capital, does the Disclosure Document outline the following:	—	—
a. Policies/procedures?	—	—
b. Frequency?	—	—
c. Income tax effects of such distributions and tax objectives of the pool?	—	—
2. Does the Disclosure Document state the CPO will provide participants with monthly or quarterly statements and annual audited report?	—	—
3. Are restrictions or transferability of participants' interest disclosed? If none, must state.	—	—
4. Does the Disclosure Document describe procedures for redemption of participants' interests?	—	—
a. Calculation of redemption value	—	—
b. Costs involved in redemption	—	—
c. Restrictions on redemption. If none, must state.	—	—
N. Does your Disclosure Document include all other material information not specifically mentioned in the regulations?	—	—
O. Does your firm have a method to review the Federal Register for Commodity Futures Trading Commission advisories and rule changes which may affect your operations?	—	—
P. If uncertain about background and/or disciplinary history of any FCM, IB, CPO or CTA which should be disclosed in this document has your firm contacted NFA to verify and/or obtain information?	—	—

CTA SELF EXAMINATION QUESTIONNAIRE

Instructions

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Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

YES

NO

1. Does your firm insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7R?

—

—

a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC.

b. Any holder or beneficial owner of ten percent or more of the outstanding shares of any class of stock.

YES

NO

c. Any person who has contributed ten percent or more of the capital.

2. Does your firm insure that all individuals which are responsible for supervising AP's are registered as AP's?

3. Do your branches hold themselves out in the name of the firm?

4. If your firm is a one person office, do you have procedures to inform clients when you will be unavailable to service accounts (i.e., vacations) and who they should contact in your absence?

5. Does your firm have procedures to insure that checks are not received in your firm's name to margin, guarantee or secure commodity trading?

6. Does your firm have procedures to review all customer accounts to insure those which are required to be registered are registered?

Disclosure Document

~~1.~~ Does your firm file two copies to the CFTC and one copy to NFA of your disclosure documents and any amendments at least 21 calendar days prior to the date you first intend to solicit customers with the document?

2. Does your firm file amendments or a new disclosure document when the existing document becomes materially incomplete or inaccurate?

3. Does your firm provide prospective clients with a disclosure document, including any existing amendments, which is six months old or less prior to soliciting, directing or guiding a clients account?

4. Does your firm provide existing clients with all amendments to the disclosure document?

5. If disclosure document deficiency letters are received by the CFTC or NFA, does your firm promptly correct your document and submit your corrections to both organizations?

	<u>YES</u>	<u>NO</u>
6. Has your firm reviewed its disclosure document to insure it complies with CFTC Regulation 4.31 and NFA Compliance Rule 2-13? (See checklist guide attached.)	—	—

Records

1. Does your firm require a partner, officer, director, branch office manager or supervisory employee to approve customer accounts?	—	—
2. Does your firm have procedures to ensure adequate risk disclosure is provided to customers, other than partnerships, corporations, and floor traders, prior to opening an account?	—	—
3. Does your firm provide training to the individuals which are responsible for assessing and providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
4. Has your firm designated a supervisory individual to review the actions of the individuals providing risk disclosure to customers as required by NFA Compliance Rule 2-30?	—	—
5. If a predispute agreement is included in the customer account documentation, does your firm provide customers with a list of three forums, one of which is NFA arbitration, in the event the customer gives notice of its intent to file a claim?	—	—
6. Does your firm maintain the following documents or information for all clients for five years?	—	—
a. Client's name?	—	—
b. Client's address?	—	—
c. Client's occupation or business description?	—	—
d. Client's estimated annual income?	—	—
e. Client's estimated net worth?	—	—
f. Client's approximate age?	—	—
g. Client's prior investment and futures trading experience?	—	—

	<u>YES</u>	<u>NO</u>
h. Signed and dated acknowledgement of receipt of the disclosure document which was prior to the initial deposit and no more than 6 months after the date of the disclosure document?	—	—
i. Signed and dated Power of Attorney or trading authorization?	—	—
j. Acknowledgement of receipt of the Foreign futures and options disclosure statement	—	—
k. Daily and monthly activity statements from the carrying broker, or if not received, a listing of all transactions effecting each clients' account	—	—
7. If one of your clients refuses to provide the information in 6. a-g, Does your firm document that fact?	—	—
8. Does your firm have procedures to file with the CFTC a Statement of Reporting Trader in the event your firm holds or controls reportable positions (CFTC Form 40)?	—	—
9. If your firm or principals have trading accounts, does your firm maintain copies of the statements received from the carrying broker?	—	—
Customer Complaints, Sales Practices & Promotional Material		
1. Does your firm have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature?	—	—
2. Does your firm have policies and procedures in effect to handle customer complaints and inquiries?	—	—
3. Does your firm maintain a compliance procedures manual or other written documentation which outlines the firm's policy with respect to handling compliance matters, such as customer complaints and/or inquiries?	—	—
4. Does your firm have a systematic method of recording, investigating and responding to customer complaints and/or inquiries?	—	—

	<u>YES</u>	<u>NO</u>
5. Does your firm require your branches to forward complaints to the home office?	_____	_____
6. Does your firm have an Internal Audit Department or other designated individual which monitors branches ("Auditor")?	_____	_____
7. Does the Auditor report to a partner or officer?	_____	_____
8. Does the Auditor have responsibility for conducting on-site inspections of branch offices?	_____	_____
9. Are the on-site inspections performed regularly?	_____	_____
10. Does the Auditor utilize an audit program when conducting on-site inspections?	_____	_____
11. Does your firm ensure that appropriate corrective action has been taken in the event the Auditor finds problems at a branch?	_____	_____
12. Is the Auditor familiar with NFA Notice I-90-14 regarding Branch Office On-site Visits?	_____	_____
13. Does your firm have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud?	_____	_____
14. Does your firm have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel?	_____	_____
15. Does your firm utilize any of the following methods to supervise sales solicitation, direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?	_____	_____
16. Does your firm provide its AP's with training on the futures and options markets?	_____	_____
17. Does your firm provide sales solicitation training to AP's?	_____	_____

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 18. Does your firm have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted? | — | — |
| 19. Does your firm have written procedures to supervise the preparation and use of promotional material? | — | — |
| 20. Does your firm require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use? | — | — |
| 21. Does your firm require the review and approval of promotional material to be in writing? | — | — |
| 22. Does your firm maintain all promotional materials for a period of five years from the date last used? | — | — |
| 23. Is the content of your firms' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.) | — | — |

Fees

- | | | |
|--|---|---|
| 1. Does your firm calculate fees in accordance with the disclosure document? | — | — |
| 2. If your firm collects fees from clients directly instead of from the carrying broker, does your firm reflect the amount in the performance record as an addition and as a debit to net performance? | — | — |

Block Orders

- | | | |
|---|---|---|
| 1. Does your firm utilize a system to allocate split fills in a systematic and non-preferential manner? | — | — |
| 2. If your carrying broker allocates split fills, are you aware of the method utilized and is it systematic and non-preferential? | — | — |
| 3. Are your block order procedures in writing? | — | — |

YES

NO

4. Does your firm provide the carrying broker with the customer account numbers which are to receive the fill at the time a trade is placed?

—

—

Firm Name:

Completed By:

Title:

Date:

**COMMODITY TRADING ADVISOR
DISCLOSURE DOCUMENT CHECKLIST**

Date _____

CTA _____

D.D. DATE _____

Does the Disclosure Document include the following?	<u>YES</u>	<u>NO</u>
1. A date.	_____	_____
2. The Cautionary Statement from 4.31(a)(9) on the cover in capital letters and boldface type.	_____	_____
3. If up front fees are charged:		
a. Is the table, described in the Guideline for Disclosure of Up Front Fees, on the cover? (effective July 1, 1986)	_____	_____
b. Is the table complete and accurate? (If CTA does not require a standard initial investment the table must highlight up front fees and expenses proportionately as \$1,000 units.)	_____	_____
4. The Risk Disclosure Statement from 4.31(a)(8)(i) on the first page, including as the last paragraph the statement from 4.31(a)(8)(ii) if the CTA is not an FCM in capital letters and boldface type.	_____	_____
5. If the CTA will trade foreign futures and options, is the disclosure statement required by 30.6 included and in boldface type? If not, ensure that the disclosure is given to clients.	_____	_____

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 6. Name, address, and telephone number of the CTA. (If address is a P.O. Box, location of records.) | — | — |
| 7. Form of organization of the CTA. | — | — |
| 8. The name of each principal of the CTA. | — | — |
| 9. A description of the trading program. | — | — |
| 10. Types of commodity interests CTA intends to trade with a description of any restrictions or limitations on such trading established by the CTA. | — | — |
| 11. The name of the FCM with which the client will be required to maintain its account or, if the client is free to choose the FCM, the CTA must make such a statement. | — | — |
| 12. The name of the introducing broker or, if the client is free to choose the IB, the CTA must make a statement to that effect. | — | — |
| 13. The business background for five years, including name, main business, and nature of duties for: | | |
| a. CTA | — | — |
| b. Each principal of the CTA | — | — |

YES NO

14. Actual performance for three years preceding the date of the Disclosure Document of all accounts directed by the CTA and each of its principals or the statement from CFTC Regulation 4.31(a)(3)(i) if accounts had not previously been directed.

a. Presentation of actual performance must be displayed in a table showing at least quarterly information current as of a date not more than three months preceding the date of the Disclosure Document. The table should include:

- | | | | |
|-------|--|---|---|
| (i) | Beginning Net Asset Value | — | — |
| (ii) | All additions during the period | — | — |
| (iii) | All withdrawals and redemptions during the period | — | — |
| (iv) | The net performance for the period | — | — |
| (v) | The ending NAV for the period | — | — |
| (vi) | The rate of return for the period, which shall be net performance/beginning Net Asset Value. | — | — |

15. A description of material differences among accounts and, if performance is presented on a composite basis, a description of how the composite was developed.

16. The statement prescribed by NFA Rule 2-29(b)(5), if past trading profits are presented.

17. The statement prescribed by CFTC Regulation 4.41(b)(1), if hypothetical performance results are presented.

YES NO

18. A complete description of each fee, including the dollar amount, if possible. The description should include:

a. A definition of any term used to calculate the fee.

b. If the fee is based on an increase in the value of the account, how the increase is calculated, the period of time during which the increase is calculated, the fee charged at the end of the period, and the value of the account at which payment of the fee commences.

19. A description of any actual or potential conflicts of interest or statement that there is no such conflict, for each of the following (any arrangement whereby the CTA or principal would benefit from the maintenance of clients' accounts with an FCM/IB should be disclosed):

a. CTA

b. Principals of the CTA

c. FCM

d. Principals of the FCM

e. IB

f. Principals of the IB

20. A statement whether or not the CTA or its principals will be trading for its own account and a statement whether clients will be able to inspect records of such trades.

21. If firm includes trades for its principals, APs, and/or proprietary account in block orders, is this potential conflict of interest disclosed?

YES NO

22. Any material, administrative, civil, or criminal action within five years of the date of the Disclosure Document or a statement that there was no such action against each of the following:
- a. CTA
 - b. Principals of the CTA
 - c. FCM
 - d. Principals of the FCM
 - e. IB
 - f. Principals of the IB
23. Is the document paginated and fastened in a secure manner?
24. Does your Disclosure Document include all other material information not specifically mentioned in the regulations?
25. Does your firm have a method to review the Federal Register for Commodity Futures Trading Commission advisories and rule changes which may affect your operations?
26. If uncertain about background and/or disciplinary history of any FCM, IB, CPO or CTA which should be disclosed in this document, has your firm contacted NFA to verify and/or obtain information?

BRANCH SELF EXAMINATION QUESTIONNAIRE

Instructions

NFA Compliance Rule 2-9 requires Members to diligently supervise the futures related activities of their agents and employees. To help Members to carry out their supervisory responsibilities, NFA has devised a questionnaire for each category of registrant, for branch office operations and for promotional material. The questionnaires focus on areas such as customer order flow, account documentation, and sales procedures. Completion of the questionnaire will provide a checklist for each Member to ensure that no major area of supervisory responsibility is being overlooked. NFA's Board of Directors has issued an interpretative notice requiring each Member to complete and retain the "self-audit" questionnaires which will be provided periodically by NFA.

Each item on the attached questionnaire can be answered with either a "yes" or "no" response. A "no" response to any particular question may not necessarily indicate that the Member is not providing adequate supervision. Each "no" response should, however, cause a Member to re-examine its current practice to ensure that no further improvements are necessary. Members should be able to explain or document each "yes" answer if asked to do so in the scope of any NFA audit or inquiry. If a particular question is not applicable to your business simply indicate "NA" as the answer. Members should be able to explain NA answers if asked to do so.

Questionnaires should be completed by the appropriate supervisory personnel in either the home or branch office. Completed questionnaires should not be forwarded to NFA but should be retained in both the branch and home office. Completed questionnaires should be readily available for the last two years and retained for the last five.

If you have questions, please contact the NFA Compliance Department at 1-800-621-3570 (Out of State) and 1-800-572-9400 (Inside Illinois).

General

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 1. Does your branch insure that all individuals which have the following authority or ownership are listed as principals on the firm's Form 7R? | — | — |
| a. Any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the firms' activities which are subject to regulation by the CFTC. | | |

YES

NO

5. Is the following information recorded on all customer order tickets?

- a. Date
- b. Commodity Options/Future
- c. Account Identification
- d. Quantity Long/Short
- e. Requested Price
- f. Fill Price

—

—

—

—

—

—

—

—

—

—

—

—

For customer option orders only:

- g. Put or call
- h. Strike Price
- i. Premium

—

—

—

—

—

—

For discretionary futures/options customer orders only:

- j. Does your branch identify the customer order ticket as discretionary?

—

—

For discretionary options customer orders only:

- k. Does an officer or supervisory individual from your branch approve, initial, and date each order ticket?

—

—

6a. Does your branch time-stamp each futures order ticket upon immediate receipt of the order from the customer?

—

—

b. Does your branch time-stamp each options order ticket upon immediate receipt of the order from the customer, and upon transmission of the order for execution?

—

—

7. Upon receipt of a customer order during market hours does your branch immediately call its home office or the floor directly?

—

—

8. Does your branch ensure to the extent possible customer orders executable at or near the market are transmitted to the floor before any orders is the same commodity for proprietary or other persons affiliated with the firm?

—

—

	<u>YES</u>	<u>NO</u>
9. Does your branch record the fill price when it is received?	—	—
10. Does your branch promptly call the customer with the fill information?	—	—
11. Does your branch prohibit the inclusion of discretionary and non-discretionary orders on a block order?	—	—
12. Does your branch prohibit trades for proprietary and non-customer accounts to be combined with its customer orders on block orders?	—	—
13. Does your branch allocate split fills in a fair and non-preferential manner?	—	—
14. Does your branch require individuals placing block orders to submit the customer account numbers prior to receiving the fill prices on those block orders?	—	—
15. Does your branch have procedures to review the accounts of foreign omnibus accounts to look for unusual trading or money flow patterns which may indicate problems, such as bucketing of trades?	—	—
	—	—
	—	—
	—	—
	—	—

YES

NO

Customer, Proprietary, Non-customer accounts

- | | | | |
|----|--|-------|-------|
| 1. | Does your branch have procedures to check with the home office before new accounts are allowed to commence trading? | _____ | _____ |
| 2. | Does your branch have procedures to ensure adequate risk disclosure is provided to customers, other than partnerships, corporations, and floor traders, prior to opening an account? | _____ | _____ |
| 3. | Does your branch obtain the following information from its customers: | | |
| | a. Customer's name? | _____ | _____ |
| | b. Customer's occupation or business description? | _____ | _____ |
| | c. Customer's estimated annual income? | _____ | _____ |
| | d. Customer's estimated net worth? | _____ | _____ |
| | e. Customer's approximate age? | _____ | _____ |
| | f. Customer's prior investment and futures trading experience? | _____ | _____ |
| 4. | If your branch does not obtain the information in 3. above for any given customer, does your branch document that the customer declined to give such information? | _____ | _____ |
| 5. | Does your branch provide training to the individuals which are responsible for assessing and providing risk disclosure to customers as required by NFA Compliance Rule 2-30? | _____ | _____ |
| 6. | Has your branch designated a supervisory individual to review the actions of the individuals providing risk disclosure to customers as required by NFA Compliance Rule 2-30? | _____ | _____ |

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| 7. If your branch allows affiliated persons to maintain accounts at FCM's: | | |
| a. Does your branch provide the affiliated person with a written authorization from a person designated by the branch which has responsibility for surveillance of the affiliated person's account? | _____ | _____ |
| b. Does your branch receive copies of statements and order tickets relating to the account of the affiliated person on a regular basis? | _____ | _____ |
| 8. Does your branch maintain a record that clearly identifies which of the branch's accounts are discretionary? | _____ | _____ |
| 9. Does your branch have written procedures regarding supervision and review of discretionary trading activity? | _____ | _____ |
| 10. Does your branch require power of attorney to be be terminated in writing? | _____ | _____ |
| 11. Does your branch ensure that APs have two years experience prior to handling discretionary accounts? | _____ | _____ |
| 12. If your branch assesses fees and charges which are not determined on a per trade or round-turn basis, does your branch provide customers with a written explanation of the charges and reasonable examples on a per trade or round-turn basis? | _____ | _____ |
| 13. Does your branch review its customers to ensure it is not doing business with an entity/individual which is required to be registered but is not? | _____ | _____ |

	<u>YES</u>	<u>NO</u>
Option Procedures		
1. Does your branch require that the customer be informed of all option transaction costs including commissions, mark-ups, costs to exercise an option, prior to the first option transaction?	—	—
2. Does your branch inform its customers of the premium and strike price for subsequent option transactions?	—	—
3. Does your branch document the fact that they provided the information in 1 and 2 above?	—	—
Customer Complaints and Advertising		
1. Does your branch have a designated "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature?	—	—
2 2. Does your branch have policies and procedures in effect to handle customer complaints and inquiries?	—	—
3. Does your branch maintain a compliance procedures manual or other written documentation which outlines the branch's policy with respect to handling compliance matters, such as customer complaints and/or inquiries?	—	—
4. Does your branch have a systematic method of recording, investigating and responding to customer complaints and/or inquiries?	—	—
5. Do you forward complaints to the home office?	—	—
6. Does your branch have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been expelled or revoked by NFA or CFTC for fraud?	—	—

	<u>YES</u>	<u>NO</u>
7. Does your branch have procedures in effect to distribute changes in rules of regulatory agencies to appropriate personnel?	—	—
8. Does your branch utilize any of the following methods to supervise sales solicitation; direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?	—	—
9. Does your branch provide its AP's with training on the futures and options markets?	—	—
10. Does your branch provide sales solicitation training to AP's?	—	—
11. Does your branch have procedures to monitor incoming and outgoing mail to insure that customer complaints, etc. would be intercepted?	—	—
12. Does your branch provide adequate risk disclosure to customers wishing to purchase deep-out-of-the-money-options ?	—	—
13. Does your branch have written procedures to supervise the preparation and use of promotional material?	—	—
14. Does your branch require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared such material to approve promotional material before use?	—	—
15. Does your branch require the review and approval of promotional material to be in writing?	—	—
16. Does your branch maintain all promotional materials for a period of five years from the date last used?	—	—
17. Is the content of your branches' promotional material in compliance with NFA Compliance Rule 2-29? (See attached promotional material checklist.)	—	—

	<u>YES</u>	<u>NO</u>
Cash Flow		
<u>For Omnibus FCM Branch Offices Only</u>		
1. If your branch utilizes a branch bank account, does your branch ensure that all customer deposits are made immediately, and that cash receipts are reported to the home office in a timely manner?	—	—
2. Does your branch restrictively endorse checks immediately upon receipt?	—	—
3. Does your branch prepare a listing of all customer deposits?	—	—
4. Does your branch make and keep copies of customer checks prior to depositing them?	—	—
5. Does your branch have procedures to carefully review third-party checks received from customers and endorsed to your firm, to ensure that initial payee is not required to be registered?	—	—
<u>For IB and Fully Disclosed FCM Branch Offices</u>		
1. If your firm is allowed to deposit checks in a qualifying bank account or forward checks to the carrying broker FCM, does your firm maintain documents authorizing such procedures?	—	—
2. Does your branch ensure that all customer deposits are made immediately, and that cash receipts are reported to the carrying broker FCM in a timely manner?	—	—
3. Does your branch restrictively endorse checks immediately upon receipt?	—	—
4. Does your branch prepared a listing of all customer deposits?	—	—
5. Does your branch make and keep copies of customer checks prior to depositing them in a qualifying bank account?	—	—

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 6. Does your branch have procedures to carefully review third-party checks received from customers and endorsed to the carrying broker FCM, to ensure the initial payee is not required to be registered? | — | — |
| 7. Does your branch prohibit the acceptance of checks in any name other than the carrying broker FCM, and physical cash from customers? | — | — |
| 8. Does your branch return to the customer any check received which is not written to the carrying broker FCM? | — | — |

Firm Name: _____
Completed By: _____
Title: _____
Date: _____

**PROMOTIONAL MATERIAL
REVIEW CHECKLIST**

Promotional Material Title: _____

Prepared By: _____ Date: _____

Reviewed By: _____ Date: _____

For FCMs and IBs only:

Options Material submitted to DSRO _____ Date: _____

- | | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| 1.* Statistical data is mathematically accurate. [NFA Rule 2-29(b)] | — | — |
| 2.* Statistical data is accurate. [NFA Rule 2-29(b)] | — | — |
| 3.* Statements of fact are accurate. [NFA Rule 2-29(b)(2)] | — | — |
| 4.* Statements of opinion are readily identifiable as such. [NFA Rule 2-29(c)] | — | — |
| 5.* Statements of opinion have a reasonable basis in fact. (Note: any statement of opinion which does not have a reasonable basis in fact, may be deemed to be a statement which is likely to deceive the public.) [NFA Rule 2-29(c)] | — | — |
| 6. The promotional material does not contain any potentially fraudulent claims, omissions of fact, or misleading statements. [NFA Rule 2-29(b)(2)] | — | — |
| 7. The material mentions the risk of loss in an equally prominent manner with respect to the possibility of profit. [NFA Rule 2-29(b)(3)] | — | — |
| 8. If the promotional material includes hypothetical trading results: | | |
| a. The material includes the statement prescribed by CFTC Regulation 4.41(b)(1). [NFA Rule 2-29(b)(4)] | — | — |

	<u>YES</u>	<u>NO</u>
b.* The actual and hypothetical returns for the same time periods are similar or reasonable explanation for difference is disclosed. [NFA Rule 2-29(b)(2)]	—	—
9. The material states that past results are not necessarily indicative of future results, when actual past results are mentioned. [NFA Rule 2-29(b)(5)]	—	—
10. If the material contains actual past performance: [NFA Rule 2-29(b)(6)]		
a.* The actual past performance data is based on the performance of reasonably comparable accounts.	—	—
b.* If the material contains the actual past performance of the CTA's personal account and not that of the customers: [NFA Rule 2-29(b)(2)]		
1. This fact is clearly identified.	—	—
2. Differences in the performance results, commission and fee charges, strategies and other material information is fully disclosed.	—	—
11. If the data is based on the performance of a "model" account: [NFA Rule 2-29(b)(2) and (6)]		
a.* There were no accounts traded comparably and this fact is disclosed.	—	—
b.* The fact that account is hypothetical and that all trades were never made for a single account is disclosed.	—	—
c. The firm's overall actual trading results are disclosed.	—	—
d. Explanation for any differences between model and actual results are disclosed.	—	—

	<u>YES</u>	<u>NO</u>
e. Differences in the performance results, commission and fee charges, strategies and other material information is fully disclosed.	—	—
12.* For actual and hypothetical results, the firm used an acceptable method of calculating rate of return and described how that rate of return was calculated. [NFA Rule 2-29(b)(2) and (6)]	—	—
13. The material does not guarantee a customer against loss. [NFA Rule 2-29(b)(1)]	—	—
14. The term "control" is not utilized to imply that the customer will own, or hold the underlying commodity. [NFA Rule 2-29(b)(2)]	—	—
15. If the material states that options have limited risk and no margin calls, it does state that this applies to long options only. [NFA Rule 2-29(b)(2)]	—	—
16. If the material states that long options have a pre-determined limited risk, it also states that the risk is the full amount of the option premium. [NFA Rule 2-29(b)(2)]	—	—
17. If the promotional material is a paid promotional appearance, this fact has been prominently identified immediately prior, subsequent to, and during the broadcast if necessary. [NFA Rule 2-29(b)(2)]	—	—
18. If material contains results and ratings by outside sources:		
a. Material has adequately disclosed all information about the results and ratings to insure material is not misleading. [NFA Rule 2-29(b)(2)]	—	—

YES

NO

- b.* Firm must insure it has adequate support documentation for all information included in the material. [NFA Rule 2-29(d)]
- 19.* If trading championship results are advertised, material contains adequate disclosure of information about strategies employed which might differ from those utilized to trade customer accounts, smaller commission rates, incentive fee rate differences, etc., so as to not make the material misleading. [NFA Rule 2-29(b)(2)]
- 20.* If the promotional material is in the form of a reprinted article, material has been supplemented if necessary with proper disclosures and disclaimers, to insure material is not misleading. [NFA Rule 2-29(b)]

—

—

—

—

—

—

* Adequate support documentation must be on file at firm.

March 1991

nlw\ib

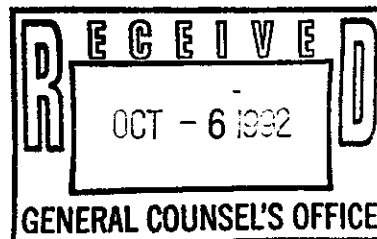
UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



October 6, 1992

Daniel J. Roth, Esq.
General Counsel
National Futures Association
200 West Madison Street -- Suite 1600
Chicago, IL 60606



Re: Proposed amendments to Compliance
Rule 2-26 and Financial
Requirements Sections 1, 6, 9, 10
and 11; and two proposed
Interpretive Notices under
Compliance Rule 2-9

Dear Mr. Roth:

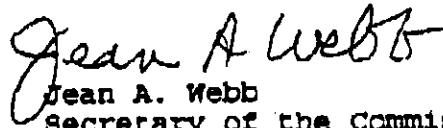
By letters dated June 11, 1991, February 7 and August 19, 1992, the National Futures Association ("NFA") submitted the captioned rule proposals pursuant to section 17(j) of the Commodity Exchange Act ("Act") for Commission approval. The proposed changes to Compliance Rule 2-26 and Financial Requirements Sections 1, 5, 9, 10, and 11 would increase the minimum net capital required of independent (i.e., non-guaranteed) introducing brokers ("IBs") and futures commission merchants. One of the new interpretive notices under Compliance Rule 2-9 would establish minimum standards for effective supervision by members of branch offices and guaranteed IBs. The other interpretive notice would require members to review and retain self-audit questionnaires to be distributed each year by NFA's Compliance Department. NFA consented to an extension of time until October 6, 1992, for the Commission to complete its review of these proposals.

The Commission notes that NFA cooperated with the Commission during the review process by responding to questions and concerns regarding the potential impact of the proposals on competition. In that regard, the Commission believes that the competitive implications of future NFA rule proposals should be taken into account prior to submission to the Commission under section 17(j).

Daniel J. Roth, Esq.
Page 2

The Commission understands that the minimum capital changes would take effect at the end of calendar year 1992, and the self-audit and supervision matters would be implemented upon Commission approval. Please be advised that the Commission has approved these proposals.

Yours truly,



Jean A. Webb
Secretary of the Commission

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581

September 30, 1992



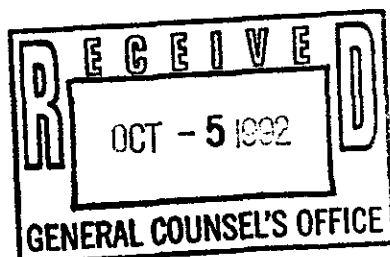
Daniel J. Roth, Esq.
General Counsel
National Futures Association
200 West Madison Street -- Suite 1600
Chicago, IL 60606

Re: Proposed amendments to NFA Code of
Arbitration §9(i) and Member Arbitration
Rules §9(i) (Summary Arbitration)

Dear Mr. Roth:

By letters dated June 7, 1990, April 17, 1991, June 11, 1991, September 6, 1991, and November 12, 1991, the National Futures Association ("NFA") submitted the captioned rule proposals pursuant to section 17(j) of the Commodity Exchange Act ("Act") for Commission approval. Because the proposals were, at the time, inconsistent with Commission regulations, NFA consented to an extension of time for review pending consideration of enabling amendments to the Commission's regulations.

The Commission has amended Regulations 180.2(d)(1) and 180.5 to permit NFA's rule changes. The Commission's amendments will take effect 30 days after publication of the enclosed notice in the Federal Register. Please be advised that the Commission concurrently has approved the captioned NFA rule proposals, to be implemented no sooner than the effective date of the Part 180 changes. In addition, as indicated in the Federal Register notice, the Commission suggests that NFA review the guidance it gives to arbitrators concerning circumstances under which it may be appropriate to provide an oral hearing in a summary proceeding.



Yours truly,

Jean A. Webb
Jean A. Webb

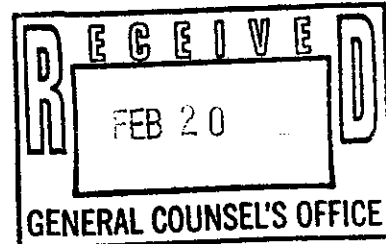
Secretary of the Commission

encl.

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581

February 18, 1992



Daniel J. Roth, Esq.
General Counsel
National Futures Association
200 W. Madison Street -- Suite 1600
Chicago, IL 60606

Re: Proposed amendments to NFA Code of Arbitration, Sections 1, 2, 4, 5, 6, 9, 10, 11, 12, and 16; proposed amendments to Rules Governing Arbitration of Disputes involving Foreign Parties, Section 11; and proposed new Member Arbitration Rules, Sections 1-15.

Dear Mr. Roth:


By letters dated June 11 and September 6, 1991, the National Futures Association ("NFA") submitted the captioned proposals pursuant to section 17(j) of the Commodity Exchange Act ("Act") for Commission approval. NFA requested that the Commission declare the proposals effective upon approval. NFA also requested, by letter of November 12, 1991, that proposed Member Arbitration Rule §9(i) be severed for approval purposes until the Commission amends Part 180 of its regulations with regard to the size of claims eligible for summary arbitration.

Please be advised that the Commission has approved NFA's rule proposals, except Member Arbitration Rules §9(i). The Commission understands that the new rules governing member-member arbitrations will not apply to proceedings initiated at NFA prior to the effective date. The Commission requests NFA, as it gains experience with the various new procedures, to monitor its

Daniel J. Roth, Esq.
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arbitration process and to advise the Commission regarding the effects of the new hearing fees and other revised procedures.

Sincerely,

A handwritten signature in cursive script that reads "Jean A. Webb". The signature is written in dark ink and is positioned above the typed name and title.

Jean A. Webb
Secretary of the Commission



NATIONAL FUTURES ASSOCIATION

200 W. MADISON ST. • CHICAGO, IL • 60606-3447 • (312) 781-1300

January 13, 1992

Linda Kurjan, Esq.
Special Counsel
Division of Trading and Markets
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association; Proposed Amendments to
NFA Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11,
12 and 16

Dear Ms. Kurjan:

By letter dated June 11, 1991, National Futures Association ("NFA") submitted a number of proposed changes to NFA Requirements to the Commodity Futures Trading Commission ("CFTC") for review and approval pursuant to Section 17(j) of the Commodity Exchange Act, as amended. Included were proposed amendments to NFA Code of Arbitration Sections 1, 4, 5, 6, 9, 10, 11, 12 and 16. As we discussed over the telephone, NFA agrees to extend the time for Commission review and approval of these proposed amendments until February 28, 1992.

If I can be of any further assistance, please contact me.

Very truly yours,

Kathryn Page Camp
Assistant General Counsel

KPC:jac(Ltr\Kurjan1.KPC)