



**NATIONAL FUTURES ASSOCIATION**

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

March 5, 1993

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 Registration Rules 201, 203 and 401 and NFA Bylaw  
512

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") proposed amendments to NFA Registration Rules 201, 203 and 401 and NFA Bylaw 512. These amendments were approved by NFA's Board of Directors ("Board") at its meeting on February 25, 1993. NFA respectfully requests Commission review and approval of the amendments.

**PROPOSED AMENDMENTS**

- A. Proposed amendments to NFA Registration Rules 201 and 203 and NFA Bylaw 512 (additions are underscored and deletions are bracketed):

**REGISTRATION RULES**

\* \* \*

**PART 200. REGISTRATION REQUIREMENTS AND PROCEDURES**

**Rule 201. Registration Requirements and Procedures.**

Types of persons other than floor brokers and floor traders subject to regulation under the Act, as defined in the Act or Commission Regulations, for which NFA has been granted registration responsibilities pursuant to Section 8a(10) or Section 17(o) of the Act shall be required to register if required to register under the Act and not exempt from registration by Commission rule or order. All such persons shall be subject to and NFA shall perform registration functions with respect to such persons in



Ms. Jean A. Webb

March 5, 1993

accordance with all of the Rules governing registrations contained in these Registration Rules ("Rules").

NFA shall perform registration functions with respect to persons required to register under the Act as floor brokers or floor traders in accordance with all of the Regulations governing the registration of floor brokers and floor traders contained in Part 3 of the Commission's Regulations, except that Rule 203 of these Rules shall govern floor broker and floor trader registration fees and Part 700 of these Rules shall govern access to and certification of floor broker and floor trader records maintained by NFA.

(Note: Exemptions from Registration. Persons seeking exemption from registration should refer to Appendix A of these Rules.)

\* \* \*

**Rule 203. Registration Fees.**

**(a) Amount.**

\* \* \*

(6) **Floor Broker.** Each application for registration as a floor broker must be accompanied by a fee of \$70.

(7) **Floor Trader.** Each application for registration as a floor trader must be accompanied by a fee of \$70.

[(7)] (8) **Principal.** Each Form 8-R submitted by a principal of an applicant or registrant must be accompanied by a fee of \$70 unless the principal is also applying for registration as an associated person of the applicant or registrant.

[(8)] (9) **Annual Update.** Each Form 7-R submitted on an annual basis by a futures commission merchant, introducing broker, commodity pool operator, commodity trading advisor or leverage transaction merchant in compliance with Registration Rule



Ms. Jean A. Webb

March 5, 1993

204(c) shall be accompanied by a fee of \$100 for each registration category.

[(9)](10) **Late Termination Notice.** Each notice required by Registration Rule 210(c) which is filed more than 20 days after the occurrence of the event requiring the notice shall be accompanied by a fee of \$100.

[(10)](11) **Disqualification Fee.** A written submission to the President filed under Registration Rule 505 shall be accompanied by a fee of \$1,000 for the first submission only. The fee shall be refunded if the President or the Membership Committee or its designated Subcommittee finds that the applicant or registrant is not subject to a statutory disqualification.

\* \* \*

**BYLAWS  
OF  
NATIONAL FUTURES ASSOCIATION**

**CHAPTER 5  
BOARD OF DIRECTORS**

\* \* \*

**Bylaw 512. Voting on Floor Broker or Floor Trader Registration Responsibilities.**

NFA will not seek or accept any authority in connection with the registration of floor brokers or floor traders that exceeds the authority granted to NFA in the initial Commission orders authorizing NFA to perform certain floor broker and floor trader registration functions or any other authority sought or accepted by NFA under the terms of this Bylaw, without the consent of contract market directors representing two-thirds of contract market Members.

\* \* \*



Ms. Jean A. Webb

March 5, 1993

- B. Proposed amendment to NFA Registration Rule 401 (additions are underscored and deletions are bracketed):

REGISTRATION RULES

\* \* \*

PART 400. PROFICIENCY REQUIREMENTS

Rule 401. Qualification Testing Requirement.

(a) Except as provided in Rule 401(b) [A]ny individual applying to NFA for registration under the Act as a futures commission merchant, an introducing broker, a commodity pool operator, a commodity trading advisor, a leverage transaction merchant, or as an associated person of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b) shall not be registered, temporarily licensed, or an Associate Member of NFA unless:

[(a)] (1) NFA receives satisfactory evidence that the applicant has taken and passed the National Commodity Futures Examination on a date which is no more than two years prior to the date the application is received by NFA; or

[(b)] (2) the applicant has been duly registered under the Act as a futures commission merchant, an introducing broker, a commodity pool operator, a commodity trading advisor, a leverage transaction merchant, or an associated person of any of the foregoing, at any time during the two-year period immediately preceding the date the application is received by NFA; or

[(c)] (3) NFA receives a certification, which shall be considered incorporated into the application for registration under the Act, signed by both the applicant and the applicant's sponsor, stating that:

[(1)] (A) the applicant currently is registered with the National Association of Securi-



Ms. Jean A. Webb

March 5, 1993

ties Dealers, Inc., as a General Securities Representative; and

- [(2)] (B) the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to [:(A) the solicitation of funds, securities, or property for participation in a commodity pool; or (B)] referring clients to an associated person who has satisfied the proficiency requirements set forth in this Rule, provided that the applicant's referral of clients is solely incidental to his business as a General Securities Representative; or [(C)] the supervision of persons whose activities are so limited [as set forth in paragraph (c)(2) of this Rule]; and
- [(3)] (C) the applicant's sponsor understands that the sponsor must supervise the applicant's compliance with the limitations on the applicant's activities set forth above [in paragraph (c)(2) of this Rule] and that any failure of the applicant to adhere to such limitations may be cause for, among other things, disciplinary action by NFA against the sponsor for violation of NFA Compliance Rule 2-9; and
- [(4)] (D) the applicant and the applicant's sponsor understand that willfully making a materially false or misleading statement in any part of the application for registration, including the certification required by [in paragraph (c) of] this Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.
- [(5)] (E) The limitations set forth in [paragraph (c)(2) of] this Rule shall remain in effect until the applicant or the applicant's sponsor submits to NFA satisfac-



Ms. Jean A. Webb

March 5, 1993

tory evidence of having taken and passed the National Commodity Futures Examination.

(b) Notwithstanding the provisions of Rule 401(a) a person applying to be registered as an associated person may satisfy the proficiency requirements of this Rule by:

(1) providing satisfactory evidence to NFA that the applicant has taken and passed the Futures Managed Funds Examination and providing to NFA a certification which shall be considered incorporated into the application for registration under the Act signed by both the applicant and the applicant's sponsor, stating that:

(A) the applicant currently is registered with the National Association of Securities Dealers, Inc., as a General Securities Representative; and

(B) the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to the solicitation of funds, securities, or property for participation in a commodity pool; the solicitation of clients to open discretionary accounts to be managed by registered commodity trading advisors; or the supervision of persons whose activities are so limited unless and until the applicant submits to NFA satisfactory evidence of having taken and passed the National Commodity Futures Trading Examination; and

(C) the applicant's sponsor understands that the sponsor must supervise the applicant's compliance with the limitations on the applicant's activities set forth above and that any failure of the applicant to adhere to such limitations may be cause for, among other things, disciplinary action by NFA against the sponsor for violation of NFA Compliance Rule 2-9; and



Ms. Jean A. Webb

March 5, 1993

- (D) the applicant and the applicant's sponsor understand that willfully making a materially false or misleading statement in any part of the application for registration, including the certification required by this Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.
  
- (E) The limitations set forth in this Rule shall remain in effect until the applicant or the applicant's sponsor submits to NFA satisfactory evidence of having taken and passed the National Commodity Futures Examination.

**EXPLANATION OF PROPOSED AMENDMENTS**

**A. Explanation of proposed amendments to NFA Registration Rules 201 and 203 and NFA Bylaw 512.**

By letter dated January 26, 1993, the Commission's Division of Trading & Markets requested NFA to perform the same registration role for floor traders that it has performed for floor brokers since 1986. Thus, NFA would have the authority to process and, where appropriate, grant applications for floor trader registration. NFA would not, however, have the authority to initiate proceedings to deny or revoke floor trader registrations. That authority would remain with the Commission.

NFA is certainly willing to perform registration processing functions for floor traders, and at its meeting on February 25, NFA's Board of Directors granted NFA the authority to accept that responsibility. The proposed amendment to NFA Registration Rule 201 makes clear that NFA will perform its floor trader registration responsibilities in accordance with the Commission's Part 3 Regulations. The proposed amendment to NFA Registration Rule 203 will establish a \$70 application fee for floor traders, the same fee imposed on floor brokers and associated persons. The proposed amendment to NFA Bylaw 512 will make clear that NFA will not seek additional responsibilities for



Ms. Jean A. Webb

March 5, 1993

floor trader registrations without the consent of two-thirds of the contract market Members represented on the Board.\*

**B. Explanation of proposed amendment to NFA Registration Rule 401.**

NFA has recently developed a specialized examination for registered representatives of securities broker/dealers whose only involvement in the futures industry will be to market interests in commodity pools. These persons are not required by CFTC or NFA rules to register as associated persons, and they are exempt from taking the Series 3 examination if they do become registered. However, the NASD has had a long-standing policy that such registered representatives are not allowed to receive trailing commissions relating to their sales of commodity pool interests unless they have passed the Series 3 and are registered as APs. NASD has informed NFA that it will now allow registered representatives to receive trailing commissions if they pass the new specialized examination in lieu of the Series 3 and register as APs.

NFA has also conducted research to determine whether the scope of activities in which these registered representatives would be allowed to engage could be expanded to include soliciting clients to open accounts managed by registered CTAs. We have concluded that the content of the new examination is sufficient to test for entry level proficiency with respect to managed account solicitation.

NFA can begin administering the new examination to securities representatives who want to sell pool units without any amendments to NFA's registration rules because they can currently become registered without taking any futures-related test. However, securities representatives who solicit futures managed accounts, unlike those who market pool interests, are required to be registered as APs and under current NFA rules must pass the Series 3. Therefore, a rule change is required to allow registered representatives who have passed the new test in lieu of the Series 3 to solicit for managed accounts.

---

\* The Board also voted to waive the \$70 fee for all floor trader and floor broker applicants who apply for registration during the no-action period granted by the Commission.



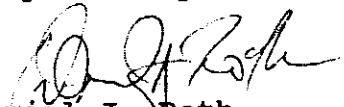
Ms. Jean A. Webb

March 5, 1993

The proposed amendment to NFA Registration Rule 401 provides that General Securities Representatives applying to become registered as APs may pass NFA's new Managed Funds Examination in lieu of the Series 3 Examination if they limit their activities to the marketing of commodity pool interests or the solicitation of clients to open discretionary accounts to be managed by registered CTAs. In one sense, the proposed amendment imposes an additional testing requirement on registered representatives who market interests in commodity pools since those individuals may currently become registered without any proficiency examination. In practice, however, a test was already required by the NASD's policy. Therefore, the Board decided to eliminate the unused exemption and place registered representatives marketing interests in commodity pools on the same footing as registered representatives who solicit for managed accounts. As stated above, this alternative testing requirement is limited to those whose only futures activities include the solicitation of pool interests or CTA managed accounts. Thus, any individual who as part of his duties also accepts customers orders would not be covered by this rule.

NFA respectfully requests that the Commission review and approve the proposed amendments to NFA Registration Rules 201, 203 and 401 and NFA Bylaw 512. NFA understands that the Commission is under a statutory deadline of April 26, 1993 to adopt rules governing floor trader registration and that it would be necessary for the proposed amendments to NFA Registration Rules 201, 203 and Bylaw 512 to become effective in conjunction with that deadline. NFA requests that the amendment to NFA Registration Rule 401 be declared effective upon Commission approval.

Respectfully submitted,



Daniel J. Roth  
General Counsel

DJR:cm(sub/022593)

cc: Acting Chairman William P. Albrecht  
Commissioner Sheila C. Bair  
Commissioner Joseph B. Dial  
Andrea M. Corcoran, Esq.  
Dennis P. Klejna, Esq.

Joanne T. Medero, Esq.  
Alan L. Seifert, Esq.  
Susan C. Ervin, Esq.  
Lawrence B. Patent, Esq.  
David Van Wagner, Esq.

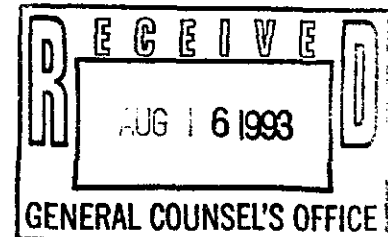
UNITED STATES OF AMERICA  
**COMMODITY FUTURES TRADING COMMISSION**

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

August 11, 1993



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



Re: NFA Registration Rule 401

Dear Mr. Roth:

By letter dated March 5, 1993, the National Futures Association ("NFA") submitted, pursuant to Section 17(j) of the Commodity Exchange Act (the "Act"), a proposed amendment to NFA Registration Rule 401 concerning proficiency testing for applicants for associated person registration whose sole activities that are subject to CFTC regulation are and will continue to be limited to the solicitation of funds, securities or property for participation in a commodity pool, the solicitation of clients to open discretionary accounts to be managed by registered commodity trading advisors, or the supervision of persons whose activities are so limited.

We understand that the activities of persons permitted pursuant to this amendment to satisfy the proficiency test requirement by taking the Managed Futures Funds Examination are limited to the specified solicitation activities or supervision thereof, and are not permitted to include any ongoing dealings with pool participants or managed account customers. NFA should review with the Joint Audit Committee and the National Association of Securities Dealers, as applicable, the current joint audit plan programs regarding verification of AP registration with a view towards incorporating a procedure to distinguish between "general" APs, who may engage in solicitation or supervision with respect to all commodity interests, and "restricted" APs, who may engage in solicitation or supervision only with respect to commodity pools and managed accounts. In addition, consideration should be given to including in the relevant oversight programs an audit step to verify that internal controls are in place at those firms with restricted APs to ensure that such persons do not act as general APs, in furtherance of the supervisory obligation undertaken by the firm and set forth in condition (3) of the certification signed by the AP and the firm as part of the AP's registration application. Commission staff are available to discuss this issue further.

Daniel J. Roth, Esq.  
Page 2

Please be advised that on this date the Commission has determined to approve the amendments to the above-referenced NFA rule pursuant to Section 17(j) of the Act.

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.

Jean A. Webb  
Secretary of the Commission

UNITED STATES OF AMERICA  
**COMMODITY FUTURES TRADING COMMISSION**

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

April 8, 1993



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

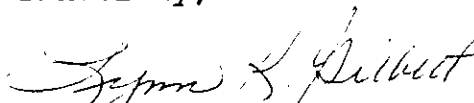
Re: Amendments to NFA Registration  
Rules 201 and 203 and NFA Bylaw 512

Dear Mr. Roth:

By a letter dated March 5, 1993, the National Futures Association (the "NFA") submitted, pursuant to Section 17(j) of the Commodity Exchange Act (the "Act"), proposed amendments to NFA Registration Rules 201 and 203 and NFA Bylaw 512 concerning registration of floor traders. The Commission is separately considering the proposed amendment to NFA Rule 401 regarding proficiency requirements for certain associated persons also submitted by NFA in its March 5 letter.

The Commission understands that NFA intends to implement the amendments to Rules 201 and 203 and Bylaw 512 in conjunction with the effective date of the Commission's rules governing registration of floor traders, April 26, 1993. Please be advised that on this date the Commission has determined to approve the amendments to the above-referenced NFA rules and bylaw pursuant to Section 17(j) of the Act.

Sincerely,

  
Lynn K. Gilbert  
Deputy Secretary of the  
Commission

