

May 29, 1991

VIA AIRBORNE EXPRESS

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 Bylaws 1301 and 1302

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 Bylaws 1301 and 1302. The amendments were approved by NFA's Board of Directors ("the Board") at its meeting on May 23, 1991. NFA intends to make the amendments to NFA Bylaws 1301 and 1302 effective on July 1, 1991 unless the Commission notifies NFA, within 10 days after receipt of this submission, that the Commission has determined to review the amendments for approval.

- A. Amendments to NFA Bylaws 1301 and 1032 to raise the assessment fee and change the frequency of payments to NFA (additions are underscored and deletions are [bracketed]):

BYLAWS

* * *

CHAPTER 13

DUES AND ASSESSMENTS

Bylaw 1301. Schedule of Dues and Assessments.

* * *

(b) FCM Members.

- (i) Each FCM Member shall pay to NFA an assessment equal to:



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- (A) [\$0.20] \$0.24 for each commodity futures contract traded on a contract market (other than an option contract) on a round-turn basis, and
- (B) [\$0.12] \$0.14 for each option contract traded on a contract market on a per trade basis,

carried by it for a customer other than (1) a person having privileges of membership on a contract market where such contract is entered or (2) a business affiliate of such FCM that directly or indirectly owns 100% of or is owned 100% by or has 100% ownership in common with such FCM provided such FCM has privileges of membership on the contract market where such contract is entered or (3) an omnibus account carried for another FCM Member for which assessments are payable to NFA by the other FCM;

- (C) [\$0.20] \$0.24 for each commodity futures contract traded on a foreign board of trade (other than an option contract) on a round turn basis, and
- (D) [\$0.12] \$0.14 for each option contract traded on a foreign board of trade on a per trade basis,

carried by it for a customer other than on an omnibus account basis for another FCM Member for which assessments are payable to NFA by the other FCM; and

- (E) [\$0.12] \$0.14 for each dealer option contract on a per trade basis carried by it for a customer other than a business affiliate of such FCM that directly or indirectly owns 100% of or is owned 100% by or has 100% ownership in common with such FCM Member:

Provided, however, such assessments shall be suspended or adjusted by the Board for a period not to exceed three months when in the judgment of the Board such action is appropriate in light of NFA's overall financial goals. The FCM Member shall invoice these assessments to its customer and shall remit the amount due to NFA; and

- (ii) Each FCM Member shall pay to NFA annual dues of \$1,000 if such FCM Member does not carry dealer option contracts for customers or \$1,500 if such FCM Member does carry dealer option contracts for customers.

(c) LTM Members.



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- (i) Each LTM Member shall pay to NFA an assessment equal to [~~\$.12~~] \$0.14 for each leverage contract purchased from or sold to the LTM by a customer. Provided, however, such assessments shall be suspended or adjusted by the Board for a period not to exceed three months when in the judgment of the Board such action is appropriate in light of NFA's overall financial goals. The LTM Member shall invoice these assessments to its customer and shall remit the amount due to NFA; and
- (ii) Each LTM Member shall pay to NFA annual dues of \$1,000.

* * *

Bylaw 1302. Payment of Dues and Assessments.

Annual dues shall be payable in advance on the first of January of each year, or at such other time or times as the Board shall determine. Members paying dues after the date such dues are payable shall be subject to a late payment charge of \$25 per month or portion thereof. Assessments based upon futures transactions shall be payable to NFA within thirty (30) days after the end of each [NFA fiscal quarter] month for transactions effected during that [quarter] month. In addition to such assessments each FCM and LTM shall pay to NFA an amount equal to one month's interest at an annual rate of 10% (or such other rate of interest as the President, with the concurrence of the Executive Committee, may determine from time to time) on the amount of any such assessment payable by that FCM or LTM for every month or fraction thereof such assessment payment is late. If a Member claims overpayment of its assessments based upon futures transactions, the Member may request a refund at any time prior to the end of the eighteenth calendar month following the due date for payment of assessments for the [NFA fiscal quarter] month with respect to which such claimed overpayment was made. After that time, no refunds, adjustments or offsets will be made or allowed. Except as the Board may otherwise provide by resolution, each Member shall pay dues and assessments, as applicable, for each category in which the Member -- or an affiliate thereof, unless such affiliate is a Member in its own right -- is registered with the Commission and conducts business.

- B. Explanation of amendments to NFA Bylaws 1301 and 1302 to raise the assessment fee and change the frequency of payments to NFA.



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The amendments to NFA Bylaw 1301 increase the assessment fee from \$.20 to \$.24 per round-turn futures contract and from \$.12 to \$.14 per option transaction.¹ The amendments to NFA Bylaw 1302 change the timing of payments to NFA by the futures commission merchants responsible for collecting the assessment fees by providing for monthly rather than quarterly payments. The Board believes that these changes are necessary for NFA to maintain sufficient working capital to effectively perform those functions mandated by Congress and those functions delegated to NFA by the Commission.

Since NFA began operations in 1982, it has reduced assessment fees four times -- from a high of \$.33 for each round-turn futures contract and \$.20 per option transaction to the current low of \$.20 for each round-turn futures contract and \$.12 per option transaction. This is the first time in its nine-year history that NFA has acted to raise the assessment fee, and the increased fees are still far below the original rates charged by NFA.

The last decrease in the assessment fee occurred two years ago. At that time the Board reduced the assessment fee with the goal of gradually reducing NFA's working capital to somewhere between \$5 million and \$6 million. The Board realized, of course, that the assessment fee would need to be raised when working capital neared its desired level, or else working capital would continue to fall below acceptable levels. The Board also projected that it would take approximately two years for working capital to drop to the point where an increase in the assessment fees would be advisable.

NFA is projecting working capital of \$6.8 million at the end of fiscal year 1991. This represents a drop in working capital of approximately \$8.3 million over the past two fiscal years. At the current assessment fee rates and level of public participation in the futures markets, NFA projects that working capital will fall below \$5 million during the third quarter of fiscal year 1992. The Board believes that NFA must increase assessment fees to their previous levels of \$.24 for each round-turn futures contract and \$.14 per option transaction in order to maintain sufficient working capital to cover anticipated and

¹ For the sake of consistency, the amendments to Bylaw 1301 also increase the assessment fee from \$.12 to \$.14 per leverage transaction even though there are no leverage transaction merchants currently registered.



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foreseeable expenses and to provide a cushion against a sudden, unforeseen drop in income.

Even with this increase, however, the Board is concerned that the level of working capital will not be sufficient to see NFA through the three months between due dates for assessment fees, which currently provide between 80 and 85% of NFA's income.² Therefore, the Board also voted to amend Bylaw 1302 to provide for monthly payment of assessment fees to NFA. The Board believes that these changes are necessary to ensure that NFA is able to continue performing its regulatory functions effectively.

As stated above, NFA intends to make the proposed amendments to Bylaws 1301 and 1302 effective July 1, 1991 unless NFA receives notification that the Commission has determined to review the amendments for approval.

Respectfully submitted,

Daniel J. Roth
General Counsel

DJR:cmc(1trs-webb5.kpc)

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

² NFA's budget for fiscal year 1992, which was also approved by the Board on May 23, 1991, is \$28.1 million. This represents a flat budget with no increase over the budget for fiscal year 1991.

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

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



June 7, 1991

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

Re: Proposed Amendments to National Futures
Association Bylaws 1301 and 1302--Increase to
Transaction Assessment Fees

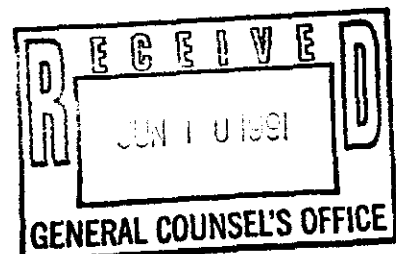
Dear Mr. Roth:

By letter dated May 29, 1991 and received by the Commission on May 30, 1991, the National Futures Association ("NFA") submitted pursuant to Section 17(j) of the Commodity Exchange Act ("Act") proposed amendments to NFA Bylaws 1301 and 1302.

This is to inform you that on this date the Commission determined pursuant to Section 17(j) of the Act to review these proposed rule amendments for approval.

Sincerely,

Lynn K. Gilbert
Deputy Secretary of the
Commission



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

June 20, 1991

David Van Wagner, Esq.
Division of Trading and Markets
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

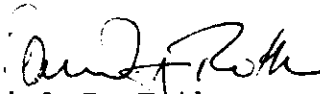
Dear David:

Pursuant to our telephone conversation today, this letter will provide the additional information which you requested. Under the current assessment fee rules, given our projections for both volume and public participation we would project assessment fee revenue for fiscal year 1992 of \$18 million. Furthermore, under the current assessment fee rules we would project that our cash flow could be insufficient to meet our operating needs by the second quarter of this fiscal year.

We certainly recognize that even with the proposed increase in assessment fees our budget projects a deficit operation for fiscal year 1992. Given our projections, however, we do not anticipate a need for additional changes to the assessment fee during fiscal year 1992. We do anticipate the need to address the assessment fee question again next year unless volume and/or public participation prove to be higher than we currently project.

If we can provide any further information, please do not hesitate to call.

Sincerely,


Daniel J. Roth
General Counsel

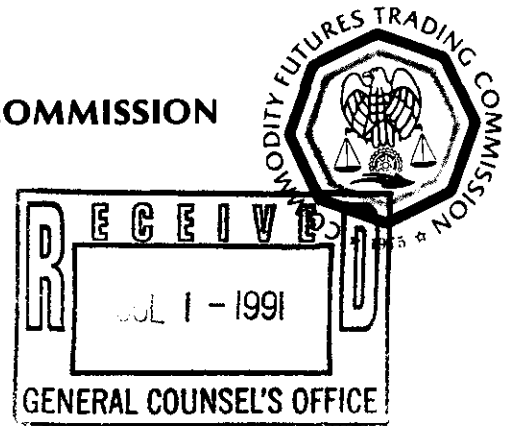
DJR:cm(ltr/DVW)
Via Telefax

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

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

June 28, 1991

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



Re: Proposed Amendments to National Futures
Association's Bylaws 1301 and 1302.

Dear Mr. Roth:

By letters dated May 29, 1991 through June 20, 1991, the National Futures Association ("NFA") submitted, pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), proposed amendments to NFA Bylaws 1301 and 1302. NFA's original submission indicated that it intended to make the proposed amendments effective on July 1, 1991, unless the Commission, consistent with Section 17(j) of the Act, notified NFA, within ten days of the Commission's receipt of the submission, that the Commission had determined to review the amendments for approval. On June 7, 1991, the Commission determined to take review of NFA's proposal pursuant to Section 17(j) of the Act and so advised NFA by letter dated June 7, 1991.

Please be advised that on this date the Commission has determined not to disapprove NFA's proposed amendments to Bylaws 1301 and 1302 pursuant to Section 17(j) of the Act. Accordingly, those amendments may become effective on July 1, 1991 as requested by NFA.

The Commission reminds NFA that any proposed revisions to its transaction assessment fee levels or procedures are rule changes which must be submitted to the Commission pursuant to Section 17(j) of the Act. Any such proposals must be accompanied by a justification as to why they are needed and why they are consistent with the equitable allocation requirements of Section 17(b)(6) of the Act. NFA also should be prepared to provide the Commission with zero-based budgeting information upon request.

Finally, in the future the NFA should provide earlier notice to the Commission of any transaction assessment fee increases than was provided for the subject proposal, so that the Commission has adequate time to obtain public comment to the extent that the Commission deems such comment appropriate.

Sincerely,

Jean A. Webb
Secretary of the Commission