



# **Self-Examination Questionnaire**

## **For FCMs, FDMs, IBs, CPOs and CTAs**

**March 2017 Revisions:** Updated to incorporate the amendments to NFA Compliance Rule 2-36 regarding requirements for forex transactions. Added question under Supplemental Questionnaire for FDMs on Disclosure.

**March 2017**

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## Introduction

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-related activities, while NFA Compliance Rule 2-36 (and Compliance Rule 2-39 by reference to Compliance Rule 2-36), imposes the same requirements on Members with respect to their forex-related activities. NFA recognizes that, given the differences in the size 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. However, NFA believes that all Members should regularly review the adequacy of their supervisory procedures.

In order to satisfy their continuing supervisory responsibilities under NFA Compliance Rules 2-9, 2-36 and 2-39 NFA Members must review their operations on a yearly basis using NFA’s Self-Examination Questionnaire, which includes a general questionnaire that must be completed by all Members and five supplemental questionnaires ( i.e., FCM, FDM, IB, CPO and CTA) that must be completed as applicable. The questionnaires are designed to aid Members in recognizing potential problem areas and to alert them to procedures that need to be revised or strengthened. The questionnaires focus on the Member’s regulatory responsibilities and solicit information regarding whether the Member’s internal procedures are adequate for meeting these responsibilities.

After reviewing the annual questionnaires, an appropriate supervisory person must sign and date a written attestation stating that he/she has reviewed the Member’s operations in light of the matters covered by the questionnaire. Although a Member may review more than one supplemental questionnaire, only one attestation is necessary per office. A separate attestation must be made for each branch office and if the branch office reviews its own operations then the main office must receive a copy of the questionnaire's signed attestation. Guarantor FCMs and FDMs must obtain copies of the questionnaire's signed attestation from guaranteed IBs, including branch offices of these guaranteed IBs. These attestations **should not** be forwarded to NFA but should be retained by the Member. Signed attestations should be readily available for the most recent two years and retained for the most recent five years. As necessary, NFA updates these questionnaires to reflect new and amended rules. Members should obtain the most recent version of the questionnaires from NFA’s website ([www.nfa.futures.org](http://www.nfa.futures.org)). If you have questions, please contact NFA's Compliance Department at (800) 621-3570.

**Sample Attestation**

(On Member's Letterhead)

Appropriate supervisory personnel for Member's Name have reviewed and evaluated the current procedures of Member's Name (and branch location, if applicable) using the NFA Self-Examination Questionnaire. Based on that review, it appears that Member's Name current procedures are adequate to meet its supervisory responsibilities.

\_\_\_\_\_  
**Signed**

\_\_\_\_\_  
**Date**

## **General Self-Examination Questionnaire for All Members**

### **Registration**

- Has the Member listed all of the following individuals as principals on the Member's Form 7-R? (Registration Rules 208 and 101(t)):
  - Individuals who hold the following positions with the Member:
    - Sole proprietor of a sole proprietorship;
    - General partner of a partnership;
    - Director, president, chief executive officer, chief operating officer, chief financial officer or a person in charge of a business unit, division or function subject to regulation by the Commission of a corporation, limited liability company or limited partnership;
    - Manager, managing member or a member vested with the management authority for a limited liability company or limited liability partnership; or
    - Chief compliance officer.
  - Individuals who directly or indirectly, through agreement, holding companies, nominees, trusts or otherwise, have the following financial relationships to the Member:
    - Own 10 percent or more of the outstanding shares of any class of the Member's stock, other than non-voting stock;
    - Are entitled to vote 10 percent or more of any class of the Member's voting securities;
    - Have the power to sell or direct the sale of 10 percent or more of any class of the Member's voting securities;
    - Have contributed 10 percent or more of a Member's capital;
    - Are entitled to receive 10 percent or more of a Member's net profits.
  - Individuals who have the power to exercise a controlling influence over an applicant's or registrant's activities that are subject to regulation by the Commission.
- Has the Member listed all of the following entities as principals on the Member's Form 7-R? (Registration Rules 208 and 101(t)):
  - A general partner of a partnership;
  - The direct owner of 10 percent or more of any class of an entity's securities, other than non-voting stock; or
  - Entities that have directly contributed 10 percent or more of a Member's capital unless such capital contribution consists of subordinated debt contributed by:
    - An unaffiliated bank insured by the Federal Deposit Insurance Corporation;

- A United States branch or agency of an unaffiliated foreign bank that is licensed under the laws of the United States and regulated, supervised and examined by United States government authorities having regulatory responsibility for such financial institutions; or
  - An insurance company subject to regulation by any State.
- Has the Member listed all branch office locations and branch office managers on the Member's Form 7-R? (Interpretive Notice ¶9002)
- Have all branch office managers passed the branch office manager proficiency exam? (NFA Compliance Rule 2-7)
- Do all branch offices hold themselves out in the name of the Member? (CFTC Regulation 166.4)
- Has the Member listed on the Form 7-R or updated on the Form 3-R all "doing business as" names? (Registration Rules 204 and 210)
- Does the Member prohibit individuals who are not registered as associated persons ("AP") from soliciting or accepting customer orders (except in a clerical capacity) or from supervising those individuals? (CEA Section 4k)
- If the Member terminated any principal's, branch office manager's or AP's affiliation with the Member, did the Member file with NFA an Individual Withdrawal Notice (Form 8-T) within 30 days after the termination? (Registration Rule 214)
- Is the information provided on the Member's Form 7-R still accurate and complete (including but not limited to names, addresses, phone numbers, e-mail addresses, etc.). If there were any changes that rendered the information inaccurate or incomplete, did the Member update and correct the information on NFA's Online Registration System? (Registration Rule 210)
- Has the Member reviewed commission payouts and other disbursements to ensure that only NFA Members are being paid for customer business? (NFA Bylaws 301 and 1101)
- Does the Member review all parties it does business with to ensure those that are required to be registered are registered, and, if required to be an NFA Member, are NFA Members? (NFA Bylaw 1101 and Compliance Rule 2-36(d))
- If the Member and any of its Associates intend to engage in retail forex transactions, has the Member designated itself a forex firm and designated the Associate(s) a forex AP on NFA's Online Registration System? (NFA Bylaw 301(j))

**Supervision** (NFA Compliance Rules 2-9 and 2-36, and Interpretive Notices ¶9019 and 9053)

- Has the Member designated a "compliance officer" who is responsible for handling customer complaints or inquiries of a compliance nature including matters received in branch offices?

- Does the Member have a compliance procedures manual or other written documentation that outlines the Member's policy with respect to handling compliance matters, such as customer complaints or inquiries?
- Does the Member have a systematic method of recording, investigating and responding to customer complaints or inquiries?
- If the Member has any branch offices or GIBs, does it have an Internal Audit Department or other designated individual ("Auditor") who monitors the branch offices and/or GIBs, including annual on-site inspections, using a written audit program?
  - Has the Auditor prepared a written summary of findings noted during an on-site inspection of a branch office or GIB and submitted the report to a partner or officer?
  - If the Auditor noted any problems during an on-site visit or other during other monitoring, has the Member taken appropriate corrective action?
- Does the Member have policies and procedures regarding the hiring and supervision of APs who have been or whose past employers have been disciplined by NFA or the CFTC for fraud?
- If the Member engages in retail forex, does the Member have procedures to screen prospective Associates to ensure that they are qualified and to determine the extent of supervision they will need if hired?
- Does the Member supervise sales solicitations by one or more of the following methods: direct listening, reviewing taped solicitations, silent phone monitoring and customer contact?
- Does the Member provide its APs with training on proper sales solicitations for transactions in the forex, futures and options markets?
- Does the Member distribute changes in rules or regulations to appropriate personnel?
- Does the Member monitor incoming and outgoing mail in order to intercept/identify any customer complaints?
- Does an officer or other supervisory personnel regularly review trading in non-customer and proprietary trading accounts?
- If the firm has had any traders with reportable positions, has it filed a Form 40 with the CFTC? (CFTC Regulation 15.02 and 15.03) If not, the firm must file this form immediately.

**Ethics Training** (NFA Compliance Rule 2-9 and Interpretive Notice ¶19051)

- Does the Member have policies and procedures regarding the ethics training requirements for APs, detailing areas such as content, frequency and format of training? For further assistance in drafting these ethics training procedures, see [Appendix C on NFA's website](#).



- Have all of the Member's APs received ethics training in accordance with the firm's procedures? Has the Member maintained records documenting compliance with these procedures, including dates and providers of training and materials used or distributed?
- Does the firm use an ethics training provider (either internal or external) who is qualified to conduct training (e.g. has completed relevant proficiency testing and has three years of relevant industry experience, or similar experience)?

**Business Continuity and Disaster Recovery Plan** (NFA Compliance Rule 2-38 and Interpretive Notice ¶9052)

- Does the firm have a written business continuity and disaster recovery plan (BCDR) that outlines the procedures to be followed in the event of an emergency or significant disruption? (See Appendix B for assistance in drafting a BCDR plan)
- Does the firm test the effectiveness of its (BCDR) plan on a periodic basis or at least once a year and maintain evidence of that review?
- Does the firm update its BCDR plan as necessary to respond to material changes in the Member's operations?
- Has a supervisory individual reviewed the plan and signed off that review?
- Has the firm distributed the BCDR plan to its key employees and communicated the essential components of the BCDR plan to all employees?
- Does the Member maintain copies of the BCDR plan at one or more off-site locations that are readily accessible to key employees?
- If an FDM or FCM Member, has the firm provided or updated NFA with the name and contact information for all key management employees? Has the firm provided NFA with the location, address and telephone number of its primary and alternative disaster recovery sites?
- If an IB, CPO, or CTA Member, has the firm provided or updated NFA with emergency contact information for one or more individuals NFA can contact in the event of an emergency? Are those individuals authorized to make key decisions in the event of an emergency?

**Account Opening** (NFA Compliance Rules 2-9, 2-10, 2-30 and 2-36)

- Does the firm obtain the following information from customers who are individuals: name, address, occupation or business description, estimated annual income, estimated net worth, age and prior investment and futures trading experience? For all other non-ECP customers: name, address, principal business, net worth or net assets and current estimated annual income (if not available the previous year's annual income)?
- Does the Member require that the necessary information be obtained and recorded prior to permitting a new account to commence trading?

- If an account is opened in the name of an entity, does the Member obtain some type of authorization signed by appropriate personnel (such as a corporate resolution) indicating who has the authority to open and trade the account and identifying any account limitations?
- Does the Member require a partner, officer, director, branch office manager or other supervisory employee to approve a new customer account and document this review?
- Does the firm provide adequate risk disclosure to customers prior to opening an account?

**Privacy Rules** (CFTC Regulation 160 and NFA Compliance Rule 2-4)

- Does the firm have a written privacy policy pertaining to consumer financial information as required by CFTC Regulation 160? Does the firm provide the privacy notice to customers at the time the account is opened and where required annually thereafter?
- Does the firm provide and obtain customer “opt out” notices as required?
- For further assistance in drafting these privacy procedures, see [Appendix D on NFA's website](#).

**Promotional Material** (NFA Compliance Rules 2-29 and 2-36)

- Does the Member have written procedures to supervise the preparation and use of promotional material?
- Does the Member require an officer, general partner, sole proprietor, branch office manager or other supervisory employee other than the individual who prepared the material to approve promotional material in writing before its use?
- Does the Member maintain all promotional materials and written approvals for a period of five years from the date last used?
- Does the Member maintain supporting documentation for all statements, claims and performance results?
- Does the firm ensure that the promotional material includes all material information necessary to ensure that it is not misleading?
- If the material mentions the possibility of profit including the presentation of profitable past performance results, does the Member include an equally prominent statement of the risk of loss?
- Does the Member calculate rates of return in a manner consistent with CFTC Part 4 Regulations?
- Does the Member ensure that any presentation of past performance of any actual accounts is representative of the actual performance of all reasonably comparable accounts for the same time period?
- Does the Member include a statement that past results are not necessarily indicative of future results when past performance is mentioned?

- Does the Member ensure that statements of opinion are identifiable as such and have a reasonable basis in fact? Does the Member maintain support for such statements?
- Does the Member ensure that the promotional material does not include any guarantee against loss?
- Does the Member ensure that reprints of articles have been supplemented with the proper disclosures and disclaimers?
- Does the Member include the hypothetical performance disclaimer prescribed by NFA Compliance Rule 2-29(c) with any hypothetical performance results? The Member must cease using hypothetical results when there are three months or more of actual trading results for the offered program.
- When the Member uses hypothetical results for a trading system, does the Member also include either the actual results of all customer accounts directed by the Member for the past five years (or entire performance history if less than five years), or if the Member has less than one year of experience directing accounts, the results of any proprietary trading over the past five years (or the entire performance history if less than five years)?
- Does the Member calculate hypothetical results in the same way as actual results?
- When the Member uses both hypothetical results and actual results, does the Member ensure that the actual results and hypothetical results are appropriately identified, separately formatted, discussed in an equally balanced manner and calculated pursuant to the same rate of return method?
- Does the Member explain all material assumptions made in preparing hypothetical results, including at least the minimum investment amount, distribution or reinvestment of profits, commission charges, management and incentive fees, and the method used to determine the purchase and sale price for each trade? (NFA Interpretive Notice ¶ 9025)
- Does the Member submit all radio, television advertisements, audio podcasts and videos on the internet that make any specific recommendations or refer to or describe the extent of any profit obtained in the past or that can be achieved in the future to NFA's promotional material review team for its review and approval at least 10 days prior to first use?
- Does the Member prohibit the use of promotional material that contains any of the following below?
  - Claims regarding seasonal trades;
  - Claims regarding historical price moves;
  - Claims regarding price movements that are characterized as conservative estimates when in fact such price movements would be dramatic;
  - Claims using certain pricing data for a product different from the one being marketed in the promotional material;

- Claims containing profit projections;
- Claims containing “cherry picked” trades; and
- Claims regarding mathematical examples of leverage as a means of suggesting that prospective customers are likely to earn large profits from trading.
- Does the Member ensure employees and agents are not purchasing leads from non-Members required to be registered and/or using fraudulent advertising practices? Does the Member maintain a record of any non-member or member advertisement used?
- If the Member engages in retail forex, has the Member ensured that its promotional material does not represent any of the following below?
  - Forex funds deposited with an FDM are given special protection under the bankruptcy laws or that assets necessary to satisfy its obligations to customers are more secure because the Member keeps some or all of those assets at a regulated entity in the U.S. or a money center country. (NFA Interpretive Notice ¶ 9053)
  - Its services are commission free without prominently disclosing how it is compensated in near proximity to that representation. (NFA Interpretive Notice ¶ 9053)
  - It offers trading with "no-slippage" or that it guarantees the price at which a transaction is filled (unless it can also demonstrate that all orders for all customers have been executed and fulfilled at the price initially quoted on the trading platform when the order was placed and no authority exists, pursuant to a contract, agreement, or otherwise, to adjust customer accounts in a manner that would have the direct or indirect effect of changing the price at which an order was executed). (NFA Interpretive Notice ¶9053)
  - Solicits customers based on the leverage available unless the material balances any discussion regarding the advantages or leverage with an equally prominent contemporaneous disclosure that increasing leverage increases risk. (NFA Interpretive Notice ¶9053)

**E-Mails** (NFA Compliance Rules 2-9 and 2-29, and Interpretive Notice ¶ 9037)

- Does the Member have written procedures to review the use of futures-related e-mail by employees and agents, which identify by title or position the person responsible for conducting the review and address how and with what frequency e-mails will be reviewed, how that review will be documented and what type of e-mails will be pre-reviewed and post reviewed?
- Does the Member ensure e-mails are in compliance with NFA’s promotional material content and review procedures?

**Websites and Social Networking Groups** (NFA Compliance Rules 2-9 and 2-29, and Interpretive Notices ¶ 9037, ¶ 9053, and ¶ 9063)

- Does the Member have written procedures to supervise the preparation and use of websites?
- Does the Member require prior review and written approval of the website by an appropriate supervisor?
- Does the Member ensure the website meets the standards of content established in NFA Compliance Rule 2-29?
- Does the Member ensure paid hyperlinks to the firm's website do not contain deceptive information regarding futures or options trading?
- Does the Member monitor the general content of any websites to which the Member links?
- Does the Member properly review personal websites or on-line social networking groups used by employees or agents to attract business for the firm?
- Does the Member monitor blogs, chat rooms or futures or forex-related forums hosted by the firm or its Associates and take down any misleading or fraudulent posts and ban users for egregious or repeat violations?

**Cybersecurity** (NFA Interpretive Notice ¶ 9070)

National Futures Association ("NFA") has developed the following questionnaire to assist firms in meeting their obligations under NFA's [Interpretive Notice to NFA Compliance Rules 2-9, 2-36 and 2-49 entitled \*Information Systems Security Programs\*](#) (Cybersecurity Notice). The Cybersecurity Notice adopts a principles-based risk approach to allow Member firms some degree of flexibility in determining what constitutes "diligent supervision," given the differences in Members' size and complexity of operations, the make-up of customers and counterparties serviced by Members, and the extent of Members' interconnectedness. NFA recognizes that a one-size-fits-all approach will not work for the application of these requirements. However, the Cybersecurity Notice does require each Member to adopt and enforce an information systems security program (ISSP) appropriate to its circumstances.

The firm must develop and maintain a written ISSP for securing customer data and access to their electronic systems, which should be maintained with the rest of the firm's written procedures. Although the firm is not required to have a separate single document describing every aspect of its ISSP, a comprehensive written policy may be the best way to ensure that firm personnel know what the firm's policy is, depending upon the firm's size and complexity of business and technological operations. Similarly, while the ISSP may be implemented at an enterprise wide level, the ISSP should be appropriate to the Member's information security risks.

This is important because just having a policy is not enough to meet your regulatory requirements. You must also implement and follow that policy and review it at least annually to keep it current and complete.

The questions listed below are very general and do not cover every aspect of the Cybersecurity Notice, which you should consult when designing your ISSP. The questions are intended to provide a tool or process to assist you in developing the written ISSP. The firm should also consider whether it has the internal expertise to develop and implement a written ISSP or whether additional resources are needed either through hiring cyber professionals or engaging consultants with the necessary expertise.

You should complete this questionnaire as appropriate in light of your firm's size and complexity of operations, the make-up of your customers and counterparties, and the extent of your interconnectedness. You should carefully consider the firm's operations before deciding that a particular point is not applicable.

#### **Identification of threats and vulnerabilities:**

##### Taking an inventory of information assets

- Has the firm taken an inventory of the data and information that the firm creates, collects, receives, uses, processes, stores, or communicates to others?
- Has the firm identified the systems, networks and processes by which such data is created, collected, received, used, processed, stored, or communicated?
- Has the firm identified where in the firm (e.g., which office and which department), the data and systems are located, and who controls them?
  - Has the firm identified all data privacy or data security laws that apply to the information collected, processed, and stored?
  - Does the firm have data that is in the possession and control of a third party, such as an outsource service provider, back-up facility provider or cloud storage provider?
  - Does the firm provide third-party service providers with access to its

data and systems?

### Conducting a risk assessment

A risk assessment identifies threats and vulnerabilities to the information assets used by the company and assesses the potential impact/harm that would result if a threat materializes. Threats include, for example cyber or physical attacks; human errors; disasters, accidents, and failures beyond the control of the organization, such as a fire, flood, or tornado. A vulnerability is a flaw or weakness that could be exploited by a threat e.g., unrestricted access to the firm's premises where information systems hardware is located, a system with easy to guess passwords, unencrypted data on a laptop computer or disgruntled or poorly trained employees.

- Has the firm identified the reasonably foreseeable internal and external threats to the information and system assets?
- Has the firm identified the vulnerabilities that could be exploited by threat sources?
- Has the firm assessed the likelihood that the identified threats will materialize, and if so, the probability that it will exploit one or more of the vulnerabilities to cause harm?
- Has the firm evaluated the potential damage that will result in such case?
- Has the firm assessed the sufficiency of the security controls in place to guard against the threat?

### **Deployment of protective measures against the identified threats and vulnerabilities:**

#### Physical Security

- Has the firm considered and, when appropriate, implemented restrictions on physical access to:
  - the premises where its information systems are located; and
  - the data processing equipment used for storing, accessing and processing data?
- Has the firm considered and, when appropriate, implemented measures to:
  - protect against power interruptions and other potential physical hazards such as water and fire damage;

- restrict access to specific types of digital or printed information only to authorized users;
- securely store removable media, such as USB drives and CD/DVDs;
- secure the information on equipment and removable media that are taken out of the premises; and
- securely destroy and dispose of digital and printed information?

## Technical Security

### Access

- Has the firm considered and, when appropriate, implemented measures to:
  - prevent unauthorized persons from accessing information systems and data;
  - limit and control the scope of access by authorized users to information systems and data; and
  - authenticate and identify authorized users?

### System Acquisition, Configuration and Change Management

- Has the firm considered and, when appropriate, implemented measures to:
  - with respect to third-party service providers, to the extent practical:
    - conduct reasonable due diligence on third-party service providers that possess, control or have access to the firm's data or information systems;
    - include contractual provisions in contracts with these third-party service providers requiring appropriate information security practices; and
    - monitor the performance of these third-party service providers with respect to information security practices?
  - include appropriate security practices into the design and implementation of information systems;
  - test and evaluate the security of new systems;
  - verify that the system and software configuration are appropriate from a security perspective; and
  - ensure that system modifications are consistent with the firm's security program?

### System and Information Integrity

- Has the firm considered and, when appropriate, implemented measures to:



- protect against unauthorized changes to software;
- protect information from unauthorized access, alteration, disclosure or destruction through, for example encryption of data; and
- prevent the introduction of and protect against the effects of malicious software, e.g., viruses, etc.?

#### Data Movement

- Has the firm considered and, when appropriate, implemented measures to:
  - prevent unauthorized persons from moving data outside of the premises;
  - establish when, by whom and to whom sensitive data is transmitted; and
  - protect the confidentiality and integrity of data in the process of transfer or transmission through encryption?

#### Maintenance

- Has the firm considered and, when appropriate, implemented measures to:
  - identify, test and install software patches in a timely manner;
  - remove data from equipment that is sent off-site for repair and verify hardware and software security features functionality when the equipment is returned; and
  - approve, control and monitor remote maintenance activity?

#### System Activity Monitoring and Audit Records

- Has the firm considered and, when appropriate, implemented measures to:
  - determine whether continuous auditing of access to and alteration, deletion and copying of sensitive data is required;
  - identify the events which require auditing if auditing is not continuous; and
  - determine the content of audit logs?

#### Personnel

- Has the firm considered and, when appropriate, implemented measures to:
  - verify that its employees and service providers are technically qualified and are sufficiently trustworthy to access information systems containing sensitive data; and
  - specify the security obligations of its employees and service providers who have access to information systems containing sensitive data?
- Has the firm implemented information security training that

- is appropriate based upon the employees' roles; and
- is conducted for all employees upon hire and periodically thereafter?

### **Detection of Threats in a Timely Manner**

- Has the firm deployed tools, techniques and procedures to:
  - monitor log-in attempts and report discrepancies;
  - detect actual and attempted attacks on or intrusions into the firm's information systems; and
  - identify unauthorized users
- Has the firm considered and, where appropriate, installed intrusion detection software that detect and reports unauthorized access to or actual or attempted installation of malicious software on the firm's information systems?

### **Response to Events that Threaten the Security of Electronic Systems**

- Has the firm developed an Incident Response Plan (IRP) in the event of a security incident that identifies the team of people who are responsible for implementing the IRP and that contains procedures:
  - for timely notification of appropriate firm personnel and external parties;
  - to obtain the appropriate internal and external support to handle and report security incidents to regulatory and law enforcement authorities and persons or business partners whose information may have been compromised;
  - to take timely action to contain and recover from the security incident;
  - to document the date, time, nature and impact of and response to the security incident;
  - for training of the IRP team; and
  - for periodically testing the IRP to determine its effectiveness and document the test.

### **Recovery from the Events**

- Has the firm integrated its ISSP with the firm's business continuity/disaster recovery plan?

### **Training**

- Has the firm internally developed and implemented or contracted with a qualified service provider to provide an information security training program that
  - is designed to provide an understanding of the firm's ISSP and limit human error;

- includes training for employees upon hiring and periodically thereafter appropriate to its employees' access to or involvement with its information systems; and
- includes training topics such as social engineering tactics and other general threats that could compromise the firm's information system or result in data loss/breach?

### **Annual Review of ISSP**

- Has the firm implemented a process to monitor the effectiveness of its ISSP at least on an annual basis?
- Has the firm considered whether its internal staff has the appropriate knowledge and training to perform the annual effectiveness review and, if not, engaged a qualified service provider to perform the review?
- Has the firm considered whether, based on the firm's size, business, technology, electronic connectivity with other entities and the potential threats identified in the firm's risk assessment whether to perform penetration testing of its information systems?
- Does the firm's ISSP effectiveness review include a process of remediating issues identified by the review?

## **Supplemental Questionnaire for FCMs**

### **Financial (for all FCMs)**

- Is the preparer of the firm's financial books and records an AP/Principal or under the direct supervision of an AP/Principal? (CFTC Regulation 1.10 and NFA Financial Requirements Section 4)
- Does the firm balance accounting records on a regular basis? (CFTC Regulation 1.18(a) and NFA Compliance Rule 2-10)
- Does the firm retain financial and compliance records for five years? (CFTC Regulation 1.31 and NFA Compliance Rule 2-10)
- Does the firm maintain a general ledger on an accrual basis? (CFTC Regulation 1.18(a) and NFA Compliance Rule 2-10)
- Does the firm prepare a trial balance on a regular basis? (CFTC Regulation 1.18(a) and NFA Compliance Rule 2-10)
- Does the firm prepare detailed support to convert the trial balance or general ledger to the financial statement format? (CFTC Regulation 1.18(a) and NFA Compliance Rule 2-10)
- Does the firm prepare monthly capital computations and required 1-FR or FOCUS statements including supplementary schedules within 17 business days after the month end? (CFTC Regulation 1.10(a)(2), CFTC Regulation 1.10(b), and NFA Financial Requirements Section 1(b))
- Does the firm file the required 1-FR and FOCUS statement with NFA or the firm's DSRO, and the CFTC, by the due dates? (CFTC Regulation 1.10(a)(2), CFTC Regulation 1.10(b), NFA Financial Requirements Section 1, NFA Financial Requirements Section 1(b))
- Does the firm monitor intra-day capital compliance? (CFTC Regulation 1.12 and NFA Financial Requirements Section 4)
- Does the firm ensure that the independent certified public accountant that the firm has engaged to certify its year-end 1-FR or FOCUS report is registered with the Public Company Accounting Oversight Board (PCAOB) and has undergone an examination by the PCAOB? (CFTC Regulation 1.16) (Effective for FOCUS and 1-FR reports dated as of 12/31/2015)
- Does the firm have procedures to ensure that it provides notification (immediately or within 24 hours where applicable) electronically through WinJammer™ to the CFTC and its DSRO for all [notices](#) required under CFTC Regulation 1.12?
- Has the firm submitted subordinated loan agreements to the DSRO for approval at least 10 days before the effective date? In addition, for FCMs that are also registered as broker-dealers, is a copy of the firm's securities industry designated examining authority's

approval filed with NFA immediately upon receipt? (CFTC Regulation 1.17(h)(3)(vi) and NFA Financial Requirements Section 4)

**Financial (for FCMs that hold customer funds)**

- Does the firm prepare daily segregation, secured amount and cleared swaps customer collateral computations as of the close of business by noon of the following day? (CFTC Regulations 1.32, 30.7(l) and 22.2(g); NFA Compliance Rule 2-10)
- Does the firm maintain sufficient funds in United States Dollar ("USD") held in segregated and cleared swaps customer collateral accounts within the United States to cover its USD customer segregated, and cleared swaps customer collateral liabilities (as applicable), respectively? (CFTC Regulations 1.49(e) and 22.9)
- Does the firm clearly designate all customer securities and property as customer segregated? (CFTC Regulation 1.20 and NFA Financial Requirements Section 4)
- Does the firm perform due diligence as required by CFTC Regulation 1.11 on the location of customer funds? (CFTC Regulations 1.11 and 1.20)
- Does the firm obtain acknowledgement letters from depositories, including derivatives clearing organizations and other FCMs, where applicable, holding customer funds in the form prescribed under CFTC Regulations 1.20, 1.26, 22.5, and 30.7 within three business days of opening any new accounts? Do the firm and their depositories file copies of the acknowledgment letters with both the CFTC and its DSRO through WinJammer™?
- Does the firm instruct each depository holding customer segregated, customer secured and cleared swaps customer collateral accounts to report the balances in these accounts on a daily basis to NFA or a third party designated by NFA, in the form and manner prescribed by NFA, to be considered as an acceptable depository to hold customer segregated funds, customer secured funds and cleared swaps customer collateral? (NFA Financial Requirements Section 4)
- Does the firm maintain written policies and procedures that establish a target amount (either by percentage or dollars) that the FCM seeks to maintain as its residual interest in its customer segregated, customer secured, and cleared swaps customer collateral accounts, which are designed to reasonably ensure the FCM maintains these amounts and remains in compliance with the segregation, secured amount and cleared swaps customer collateral amounts at all times? (CFTC Regulations 1.11 and 1.23 and NFA Financial Requirements Section 16(a))
- Have the procedures been approved in writing by the FCM's Board of Directors or similar governing body? (NFA Financial Requirements Section 16(a))
- Have any material changes to the firm's procedures regarding residual interest in customer segregated, customer secured or cleared swaps customer collateral accounts

been approved in writing by the FCM's Board of Directors or similar governing body?  
(NFA Financial Requirements Section 16(a) and Interpretive Notice ¶9066)

- Does the firm ensure that if it does not hold sufficient funds to meet its target residual amount in customer segregated, customer secured or cleared swaps customer collateral accounts that it files immediate notice of this occurrence with the CFTC and the firm's DSRO? (NFA Interpretive Notice ¶9066 and CFTC Regulation 1.12(j))
- Does the firm require that any withdrawal, transfer or disbursement, not made for the benefit of customers from any customer segregated funds account, customer secured, or cleared swaps customer collateral account that exceeds 25% of the firm's residual interest meets the requirements of NFA Financial Requirements Section 16(b), (c) and (d)?
- Does the firm ensure that in those instances where it withdraws a portion of its residual interest not for the benefit of customers, and the withdrawal causes it to fall below its target residual amount, that by the close of business the next day the firm either deposits funds in the segregated, secured funds or cleared swaps customer collateral account(s), as applicable, to restore the respective account balance to the target residual amount or if appropriate revise the target residual amount in accordance with its policies and procedures on doing so? (NFA Interpretive Notice ¶9066 and CFTC Regulation 1.23(e)).
- Does the firm prepare semi-monthly Segregated Investment Detail Reports (SIDRs) and file with its DSRO within one business day? (NFA Financial Requirements Section 16(e))
- Does the firm review the equity run to ensure accounts of officers, directors, partners and employees are reflected separately from customers? (NFA Compliance Rules 2-9 and 2-10)
- Does the firm maintain complete and detailed records of all securities held or owned by the firm which represents an investment of customer funds? (CFTC Regulation 1.27)

### **Risk Management**

- If the FCM holds customer funds, does the firm establish, maintain and enforce a system of risk management policies and procedures, known as the Risk Management Program, which is designed to monitor and manage the risks associated with the FCM's activities? (CFTC Regulation 1.11)
- Does the firm provide its senior management and its governing body with a quarterly Risk Exposure Report (RER), as well as interim RERs at anytime the firm detects a material change in its risk exposure? (CFTC Regulation 1.11)
- Does the firm file a copy of the quarterly and any interim RER within five business days of providing the report to its senior management through WinJammer™? (CFTC Regulation 1.11)

- Does the firm file an annual Risk Assessment Report containing a copy of the firm's organizational chart and copies of the financial, operational and risk management policies, procedures and systems, as well as fiscal year-end consolidated financial statements for certain affiliates through WinJammer™? If a material change occurs in the firm's organizational chart and/or financial, operational and risk management policies and procedures, does the firm report the material change within 60 days after the end of the fiscal quarter where the change has occurred? (CFTC Regulations 1.15 and 5.11)

### **Supervision**

- Has the firm provided adequate risk disclosure to customers purchasing deep out-of-the-money options? (NFA Compliance Rules 2-30 and 2-4, and NFA Interpretive Notices ¶9004 and ¶9013)
- If the FCM permits its APs to maintain an account at other IBs or FCMs, does the firm require an AP to obtain written authorization from an appropriate supervisory person of the firm who will be responsible for reviewing the AP's account and require the AP to instruct the other IB or FCM to transmit copies of statements and order tickets relating to his/her account to the FCM on a regular basis? (CFTC Regulation 155.3(c), and NFA Compliance Rules 2-9 and 2-10)
- Does the FCM maintain records that clearly identify which customer accounts are discretionary? (NFA Compliance Rule 2-8(a))
- Has the firm established written procedures to supervise the trading of discretionary accounts? (NFA Compliance Rule 2-8(b))
- Does the firm require something in writing, such as a power of attorney or other instrument, authorizing the member or AP to exercise discretion? (NFA Compliance Rule 2-8(b))
- Does the FCM require that an appropriate supervisory person regularly review discretionary trading activity and prepare a written record of the review of discretionary accounts? (NFA Compliance Rule 2-8(b))
- Does the firm ensure that APs have been continuously registered and working in that capacity for a minimum of two years prior to handling discretionary accounts? (NFA Compliance Rule 2-8(c))
- If fees and charges are not determined on a per-trade or round-turn basis, has the firm provided customers with a written explanation of the charges and reasonable examples on a per-trade or round-turn basis? (NFA Compliance Rule 2-4 and Interpretive Notice ¶9005)
- For accounts of employees of other commodity firms, does the firm obtain written authorization from a person designated by such other FCM or IB with responsibility for surveillance over the employee's account and transmit regularly to the FCM or IB

customer statements and order tickets for the account? (CFTC Regulation 155.3(c) and NFA Compliance Rule 2-10)

- Has the firm designated a Chief Compliance Officer ("CCO") who is also listed as a principal of the firm per NFA's Online Registration System? (CFTC Regulation 3.3)
- Does the firm's CCO prepare the CCO Annual Report covering the firm's most recent completed fiscal year containing the information required by CFTC Regulation 3.3? Does the firm provide the report to its Board of Directors or the senior officer? Does the firm file a copy of the report through WinJammer™ not more than 90 days after the firm's fiscal year end?

#### **Due Diligence Prior to Trading**

- Does the firm carefully examine a potential customer's creditworthiness, business reputation, market knowledge and anticipated trading patterns before authorizing a customer to commence trading? (NFA Compliance Rules 2-9 and 2-30)
- Does the firm establish margin requirements and risk guidelines or limits for each customer? Does the firm periodically review these parameters and revise them as necessary? (NFA Financial Requirements Section 7)
- Does the firm provide adequate risk disclosure about the markets appropriate to the particular customer and type of trading anticipated? (NFA Compliance Rule 2-30)
- Has the firm established customer confidentiality procedures to prevent unauthorized use of customer information and trade data for the benefit of other customers? (CFTC Regulation 160.30)

#### **Anti-Money Laundering** (NFA Compliance Rule 2-9(c) and NFA Interpretive Notice ¶ 9045)

- Has the firm adopted a policy statement that clearly outlines the firm's policy against money laundering and terrorist financing, its commitment to follow all applicable laws to ensure that its business is not used to facilitate money laundering and the consequences to employees for not following the firm's procedures?
- Does the firm have a written anti-money laundering program that includes: a customer identification program that enables the firm to form a reasonable belief that it knows the true identity of each customer; procedures that enable firm personnel to recognize suspicious customers and transactions, require personnel to report suspicious or unusual activity or transactions to appropriate supervisory personnel and FinCEN when required, and ensure that the firm maintains an adequate audit trail to assist law enforcement agencies in any investigation? For further assistance in drafting an anti-money laundering program, see [Appendix A on NFA's website](#).
- Has the firm ensured that senior management has approved the anti-money laundering program in writing?



- Has the firm provided training at least every 12 months to all of its employees that work in areas susceptible to money laundering?
- Has the program been subject to an independent review at least every 12 months that tests the adequacy of the program?
- Does the firm have a designated person or persons to oversee the AML program who is either a designated principal or Associate Member or who reports to the firm's senior management?

**Public Disclosures** (CFTC Regulation 1.55)

- Does the firm provide the Disclosure Document required under CFTC Regulation 1.55(i), which includes the information required in CFTC Regulation 1.55(k) to each customer prior to opening an account?
- Does the firm publicly display the Disclosure Document on its website, and update when necessary, but at least annually to keep it accurate and complete?
- Does the firm make the following financial information publicly available on its website including:
  - The daily segregated, secured, and cleared swaps customer collateral computations for the most current 12-month period;
  - The summary schedule of month end net capital, adjusted net capital, and excess net capital for the most current 12 month period;
  - The segregated, secured and cleared swaps customer collateral computations included in the firm's 1-FR-FCM for the most current 12-month period; and
  - The most current certified financial statement including all applicable footnotes?
- Does the firm's website contain a link to the CFTC's webpage for financial data—where additional information on all FCMs is available—and a link to NFA's BASIC system—where additional information on how it invests and holds customer funds is disclosed?

**Customer Trading**

- Does the firm maintain any documents produced or obtained as a result of the order flow/trading process for a period of five years (i.e., customer order tickets, trade listing, equity run, customer statements, open position listing, day trade listing, and P&S recap)? (CFTC Regulation 1.31 and 1.35, and NFA Compliance Rule 2-10)
- Does the firm keep all customer order records (filled, unfilled, open, or canceled)? (CFTC Regulation 1.35(a) and NFA Compliance Rule 2-10)
- Does the firm immediately upon receipt of a customer order that cannot be immediately entered into a trade matching engine prepare a written record (order ticket) of the order that includes as applicable, commodity option/futures contract, quantity long/short, put/call, strike price, premium, requested price, account identification, order number and a timestamp indicating the date and time to the nearest minute the order is received? For

commodity options only, a time stamp indicating the date and time to the nearest minute that the order is transmitted for execution. (CFTC Regulation 1.35(b) and NFA Compliance Rule 2-10)

- Does the firm transmit customer orders executable at or near the market to the floor before any orders in the same commodity for proprietary accounts or other accounts affiliated with the firm? (CFTC Regulation 155.3(a))
- Does the firm record the fill price when it is received? (CFTC Regulation 1.35 and NFA Compliance Rule 2-10)
- Does the firm promptly call the customer with the fill information? (Recommended Best Practice)
- Does the firm maintain a record of all oral (therefore tape record) and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading and prices that lead to the execution of a transaction in a commodity interest and related cash or forward transaction, whether communicated by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media? (CFTC regulations 1.13 and 1.35(a), and NFA Compliance Rule 2-10)
- Does the firm keep the oral communication records for a period of one year? (CFTC Regulations 1.31 and 1.35(a), and NFA Compliance Rule 2-10)
- Does the firm keep the written communications records for a period of five years? (CFTC Regulation 1.35(a) and NFA Compliance Rule 2-10)

#### **Discretionary Trading and Bunched Orders**

- Does the firm identify discretionary customer orders as discretionary? (NFA Compliance Rule 2-8(a))
- For discretionary accounts included in a bunched order, does the firm establish written procedures to allocate split fills and partial fills in a systematic and non-preferential manner? (NFA Compliance Rule 2-4 and Interpretive Notice ¶ 9029)
- Does the firm prohibit discretionary and non-discretionary orders being included in the same a block order? (CFTC Regulation 155.3(a))
- Does the firm prohibit trades for proprietary and non-customer accounts to be combined with customer orders on block orders? (CFTC Regulation 155.3(a))
- For bunched orders placed by CTAs, does the firm ensure that required information is obtained prior to the end of the trading day concerning the number of contracts to be allocated to each account included in a bunched order along with instructions for the allocation of split and partial fills among accounts? (NFA Compliance Rule 2-4 and Interpretive Notice ¶ 9029)

- Does the firm ensure that sufficient information to identify the customer from entry through post-execution reporting is obtained? (CFTC Regulation 1.35(b) and NFA Compliance Rule 2-10)
- In situations where the FCM is acting as an eligible account manager for trades eligible for post execution allocation, does the firm make the following information available to customers upon request: (1) the general nature of the allocation methodology; (2) a summary of composite data sufficient for a customer to compare his results with those of other relevant customers and any account in which the account manager has an interest; and (3) an indication whether any account in which the account manager has an interest can be included with customer accounts in bunched orders? (CFTC Regulation 1.35(b)(5), NFA Compliance Rule 2-10 and Interpretive Notice ¶ 9029)
- Does the firm analyze each trading program at least once a quarter to ensure that the allocation method has been fair and equitable?
- Does the firm document and maintain its internal audit procedures and results of its allocation methodology as the firm's records are subject to review during an examination?

### **Margins**

- Does the firm make margin calls when an account is under margined? Does the firm maintain a written record of all margin calls? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm prepare a written daily listing of outstanding calls that indicates the number of days the call is outstanding? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm keep documentation on file for any manual adjustments made to equity system reports to determine an account's margin status? (Margins Handbook)
- Does the firm collect margin calls in a timely manner? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm accept only immediately available funds from omnibus accounts—acceptable forms are wire transfers or certified checks? (NFA Compliance Rule 2-33)
- Does the firm prohibit customers from funding their futures accounts with a credit card or other electronic funding mechanisms that draw funds from a credit card?
- If the firm permits customers to fund their account with other electronic funding methods that draw funds directly from the customer's account at a financial institution, such as a debit card, is the firm able to distinguish prior to accepting the funds between an electronic funding method that draws funds from a customer's account at a financial institution and a traditional credit card, and be able to reject the credit card before accepting customer funds? (NFA Compliance Rule 2-4 and Interpretive Notice ¶ 9068)

- Does the firm set a pre-determined length of time allowed for the collection of outstanding margin calls? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm aggregate related accounts as if they were one account when determining if excess margin is available for withdrawal? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm margin domestic omnibus accounts on a gross basis? (CFTC Regulation 1.58, NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm obtain current margin rates and SPAN risk parameters on a daily basis? (NFA Financial Requirements Section 7 and Margins Handbook)
- Does the firm compute the aggregate amount of its customers' undermargined accounts as the close of business each day? (CFTC Regulation 1.22)
- Does the firm maintain a sufficient amount of residual interest in the customer segregated, customer secured or cleared swaps customer collateral accounts by the Residual Interest Deadline of 6:00 p.m. Eastern time on the next business day to cover the customer's undermargined amounts that were computed as of close of the business on the previous day? (CFTC Regulation 1.22)

#### **Account Statements**

- Does the firm furnish confirmation statements to customers no later than the business day after the customer transaction? (CFTC Regulation 1.33(b))
- Does the firm furnish monthly statements to active customers promptly after every month end and inactive customers at least every three months? (CFTC Regulation 1.33(a))
- Does the firm forward daily and monthly trade confirmations by means of electronic media to any customer who consents to delivery by that method, subject to certain conditions? (CFTC Regulation 1.33(g))
- For accounts of IBs, does the firm identify the FCM and IB on the account statements? (CFTC Regulation 1.33(f) and NFA Compliance Rule 2-10)
- Does the firm offset positions on a FIFO basis unless the customer gives other instructions? (CFTC Regulation 1.46 and NFA Compliance Rule 2-10)

#### **Give-Up Transactions**

- Does the firm know their rights and responsibilities for a give-up transaction? (Recommended Best Practice)
- Does the executing broker notify the carrying broker promptly after an order has been executed if a customer has initiated trades that, in the circumstances, appear to deviate significantly from the customer's normal trading activities? (Recommended Best Practice)
- Does the executing broker provide all relevant trade information to the carrying broker as soon as practicable after a trade has been executed? (Recommended Best Practice)

- Does the carrying broker keep a list of customers' executing brokers and adopt procedures to assure that the list is current? Does the carrying broker establish and communicate to an executing broker limits (e.g., order size, daily aggregate positions) on the trades that the executing broker can accept for each customer? (Recommended Best Practice)

**Automatic Order Routing System** (NFA Interpretive Notice ¶ 9046 and NFA Compliance Rules 2-4, 2-9 and 2-10)

- Has the firm established written procedures to ensure that:
  - The order-routing process protects the integrity and confidentiality of orders and account information at all points during the process?
  - The delivery and reporting of customers orders is timely and efficient? Customer complaints about order delivery and reporting are addressed expeditiously?
  - The system monitors trading and imposes controls on trading activity for each customer in order to prevent the customer from entering into trades that create undue financial risks for the firm or its other customers?
- Does the firm disclose pertinent information about the Automatic Order Routing System, including, but not limited to the following below?
  - The time frame established for completion of transactions.
  - The time frame and process for informing customers of exceptions to normal processing of orders or requests.
  - Days and hours of operation.
  - Fees, commissions or costs associated with the transaction. Information to enable customers to file claims, ask questions, register complaints and obtain information on customer recourse.
- Has the firm established security appropriate to protect internal systems from viruses and malicious code and to prevent unauthorized access?
- Does the firm monitor security procedures and update due to technology changes?
- Does the firm identify and authenticate authorized users and the protection of personally identifiable information? This should include limiting access to systems and data only to authorized employees based upon their assigned roles and responsibilities, using encryption or other equivalent security procedure to protect the transmission of information, and preventing customers from accessing others' information.
- Has the firm established procedures to disclose to users any breaches or possible breaches to the system?
- Has the firm established procedures to monitor availability and capacity compared to the disclosed commitments and provide for expected future requirements?

- Does the firm document, authorize, test and approve proposed system changes before implementation to protect the availability of the system?
- Does the firm provide for back-up, offsite storage, restoration and disaster recovery processes sufficient to achieve the disclosed availability commitments?
- Does the firm ensure policies are current with disclosed business practices, laws and regulations?

**Security Futures Products** (NFA Compliance Rule 2-37 and Interpretive Notices ¶ 9043, ¶ 9044, ¶ 9049 and ¶ 9050)

- Does the Member have a designated security futures principal at each main or branch office?
- Does the Member check the Central Registration Depository (CRD) for information on prospective employees who will be involved in security futures activities and obtain and review a copy of the individual's most recent Form 8-T or U5?
- Does the Member require APs to complete appropriate security futures products training modules?
- Does the Member ensure that the firm's written procedures address the following below?
  - Compliance with applicable securities laws, including Sections 9(a), 9(b), and 10(b) of the Securities Exchange Act of 1934.
  - The review and approval of customer accounts including:
    - Specific criteria and standards to be used in evaluating the suitability of a customer to engage in security futures transactions.
    - Specific procedures for approving accounts to engage in security futures transactions, including requiring written approval by a designated security futures principal.
    - A requirement that the designated security futures principal explain, in writing, why he or she has approved an account that does not meet the specific criteria and standards set forth in the procedures.
    - Specific financial requirements for initial approval and maintenance of customer accounts that engage in security futures transactions.
- Before entering into a guarantee agreement with an IB, does the Member check the Central Registration Depository (CRD) for any derogatory information on the IB, its principals and its employees who will be involved in security futures activities?
- Does the Member provide the risk disclosure statement required by NFA Compliance Rule 2-30(b) prior to approving an account to trade security futures?
- Does the Member obtain the following additional information below from customers before commencing trading?
  - Identification that the customer account is speculative or hedge;

- Employment status;
- Estimated liquid net worth;
- Marital status; and
- Number of dependents.
- Does the Member require that the customer account record include the name of the Associate, how the customer account information was obtained and the date the required risk disclosure statement was provided?
- Does the Member ensure that on an annual basis, customers are provided with written notice regarding NFA's Background Affiliation Status Information Center (BASIC) at [www.nfa.futures.org/basicnet](http://www.nfa.futures.org/basicnet)?
- Does the Member notify NFA within 10 business days of any required reportable events?
- Does the Member submit a quarterly report to NFA regarding written customer complaints?
- Does the Member ensure that promotional material meets the following requirements below?
  - Prominently identifies the Member;
  - Includes the date that the material was first used;
  - Provides contact information for obtaining a copy of the disclosure statement for security futures products;
  - States that security futures products are not suitable for all customers;
  - Does not include any statement suggesting that security futures positions can be liquidated at any time;
  - Does not include any cautionary statement, caveat, or disclaimer that is not legible, that attempts to disclaim responsibility for the content of the promotional material or the opinions expressed in the material, that is misleading, or that is otherwise inconsistent with the content of the material;
  - Discloses the source of any statistical tables, charts, graphs or other illustrations from a source other than the Member, unless the source of the information is otherwise obvious;
  - States that supporting documentation will be furnished upon request if it includes any claims, comparisons, recommendations, statistics or other technical data;
  - If soliciting for a trading program that will be managed by an FCM or IB or Associate of an FCM or IB, it includes the cumulative performance history of the Member's customers or states that the trading program is unproven;
  - Refers to past recommendations regarding security futures products, the underlying securities, or a derivative thereof only if it lists all similar recommendations made by the Member or Associate within the last year;

- Includes current recommendations regarding security futures products only if: (i) the Member has a reasonable basis for the recommendation; (ii) the material discloses all material conflicts of interest created by the Member's or Associate's activities in the underlying security; and (iii) the material contains contact information for obtaining a list of prior recommendations;
- Includes only a general description of the security futures products for which accounts, orders, trading authorization, or pool participations are being solicited; the name of the Member; and contact information for obtaining a copy of the current disclosure statement for security futures products; (unless the promotional material is accompanied or preceded by the disclosure statement for security futures products); and
- Has been submitted to NFA for review and approval at least ten days prior to first use if it reaches or is designed to reach a public audience through mass media.

**Conflict of Interest**

- Does the firm maintain all records regarding conflict of interest requirements? (CFTC Regulation 1.71 and NFA Compliance Rule 2-10)



## **Supplemental Questionnaire for FDMs**

### **Financial**

- Is the preparer of the firm's financial books and records an AP/Principal or under the direct supervision of an AP/Principal? (NFA Financial Requirements Section 13)
- Does the firm balance accounting records on a regular basis? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- Does the firm retain financial and compliance records for five years? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- Does the firm maintain a general ledger on an accrual basis? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- Does the firm prepare a trial balance on a regular basis? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- Does the firm prepare and maintain detailed support to convert the trial balance or general ledger to the financial statement format? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- Does the firm prepare monthly capital computations and required 1-FR or Focus statements including supplementary schedules within 17 business days after the month end? (CFTC Regulation 5.12 and NFA Financial Requirements Section 11)
- Does the firm file the required 1-FR and Focus statement with NFA or the firm's DSRO, and the CFTC, by the due dates? (CFTC Regulation 5.12 and NFA Financial Requirements Section 11)
- Does the firm prepare forex daily reports each business day and file the reports by noon on the following business day? (NFA Financial Requirements Section 13)
- Does the firm prepare monthly operational risk reports and quarterly reports with up-to-date performance disclosures within 17 business days after the end of each month or quarter for which the report is prepared? (NFA Financial Requirements Section 13)
- Does the firm monitor trading activity to ensure intra-day capital compliance and file the appropriate notices with NFA, other DSROs and the CFTC if the firm falls below required capital levels? (CFTC Regulation 5.16 and NFA Compliance Rule 2-36(k))
- For purposes of determining adjusted net capital under CFTC Regulation 5.7 (incorporating CFTC Regulation 1.17), does the firm ensure it has not included assets held by an affiliate (unless approved by NFA) or an unregulated person in its current assets? An affiliate is any person that controls, is controlled by, or is under common control with the FDM. (NFA Financial Requirements Section 11)
- For purposes of calculating adjusted net capital under NFA Financial Requirements Section 11, does the firm take the capital charges required under Financial Requirements

Section 11(a) related to liabilities owed to customers and to eligible contract participant counterparties?

- Does the firm maintain complete and detailed records of all securities held or owned by the firm? (CFTC Regulation 5.14 and NFA Compliance Rule 2-36(k))
- On a periodic basis, does the firm review the equity run to ensure accounts of officers, directors, partners and employees are reflected separately from customers? (CFTC Regulation 5.8 and NFA Compliance Rule 2-36(k))
- Has the firm submitted all subordinated loan agreements to the firm's DSRO for approval at least 10 days before the effective date? In addition, for FDMs that are also registered as broker-dealers, is a copy of the firm's securities industry designated examining authority's approval filed with NFA? (CFTC Regulation 5.7 and NFA Compliance Rule 2-36(k))
- On a daily basis, does the firm calculate the amount owed to customers for forex transactions and ensure it holds assets equal to or in excess of that amount, at one or more qualifying institutions in the United States or money center countries as defined in CFTC Regulations 1.49 and 5.8 and in accordance with NFA Financial Requirements Sections 11 and 14?
- Does the firm instruct each forex fund depository holding assets used to cover the firm's liabilities to its retail forex customers to report the balances in these accounts on a daily basis? Does the firm ensure the forex fund depository reports the balances in these accounts to NFA or a third party designated by NFA, in the form and manner prescribed by NFA, to be considered as an acceptable depository for retail forex assets? (NFA Financial Requirements Section 14)

#### **Risk Management Program**

- Has the firm established, maintained and enforced a Risk Management Program designed to monitor and manage the risks associated with its forex activities? (Compliance Rule 2-36 and NFA Interpretive Notice ¶ 9069)
- Does the firm provide its senior management and its governing body with a quarterly Risk Exposure Report (RER), as well as interim RERs at anytime the firm detects a material change in its risk exposure? (NFA Interpretive Notice ¶ 9069)
- Does the firm file a copy of the quarterly and any interim RER within five business days of providing the report to its senior management through WinJammer™? (NFA Interpretive Notice ¶ 9069)
- Does the firm conduct stress tests under extreme but plausible conditions of all positions in the proprietary account and in each counterparty account (both retail and ECPs) at least on a semi-monthly basis? (NFA Interpretive Notice ¶ 9069)

- Does the firm ensure that the Risk Management Program is reviewed and tested at least annually or upon any material change in the FDM's business that is reasonably likely to alter the FDM's risk profile? (NFA Interpretive Notice ¶9069)
- Does the firm file an annual Risk Assessment Report containing a copy of the firm's organizational chart and copies of the financial, operational, and risk management policies, procedures and systems, as well as fiscal year-end consolidated financial statements for certain affiliates through WinJammer™? If a material change occurs in the firm's organizational chart and/or financial, operational, and risk management policies and procedures, does the firm report the material change within 60 days after the end of the fiscal quarter where the change has occurred? (CFTC Regulations 1.15 and 5.11)

### **Disclosure**

- Prior to opening a customer account, does the firm provide customers with a risk disclosure statement that meets the criteria of CFTC Regulation 5.5 and obtain a signed and dated acknowledgement from the customer indicating that he/she received and understood the statement? Does the firm ensure that the statement includes the performance disclosures required by CFTC Regulation 5.5(e)? (CFTC Regulation 5.5 and NFA Compliance Rule 2-36(k)).
- Does the firm provide customers with information relating to NFA's BASIC system prior to engaging in forex transactions and annually thereafter? (NFA Compliance Rule 2-36(f) and NFA Interpretive Notice ¶ 9053)
- Does the firm publicly display the information required by NFA Compliance Rule 2-36(n) on its website, and update when necessary, but at least annually to keep it accurate and complete?
- Does the firm provide to a customer, within 30 minutes of request, the transaction data required by NFA Compliance Rule 2-36(o)? Does the firm prominently display a notice that customers may request the transaction data listed in NFA Compliance Rule 2-36(o) on its website, each customer's trading portal, and each transaction confirmation?

### **Supervision**

- Has the firm designated a CCO who is also listed as a principal of the firm per NFA's Online Registration System? (CFTC Regulation 3.3(a) and NFA Compliance Rule 2-36(j))
- Does the CCO report to the Board of Directors or the senior officer of the firm? (CFTC Regulation 3.3(a), and NFA Compliance Rule 2-36(j))
- Does the CCO prepare an annual report that meets the requirements of CFTC Regulation 3.3(e) and provide the annual report to the firm's Board of Directors or the senior officer? (CFTC Regulation 3.3 and NFA Compliance Rule 2-36(j))
- Does the firm submit the annual report to NFA within 60 days after the firm's fiscal year end? Does that report contain a certification by the CCO or chief executive officer that to

the best of his or her knowledge and reasonable belief, and under penalty of law, the information contained in the annual report is accurate and complete? (CFTC Regulation 3.3 and NFA Compliance Rule 2-36(j))

- Has the firm ensured that no AP, principal, or the firm itself maintains discretion over customer accounts? (CFTC Regulation 5.2(c) and NFA Compliance Rule 2-36(k))
- For third party discretionary accounts, does the firm review these accounts on a periodic basis and maintain written evidence of the review? (NFA Compliance Rule 2-36(e))
- Does the firm establish, maintain and enforce written supervisory procedures over the Member's forex business, including the activities of the Member's Associates and agents? (NFA Compliance Rule 2-36(e))
- Does the firm screen the background of prospective Associates, as well as persons who introduce customer business or manage customer accounts? (NFA Compliance Rule 2-36 and NFA Interpretive Notice ¶ 9053)
- Does the firm establish, maintain and enforce written supervisory procedures over the activities of third parties with which it does business? (NFA Compliance Rule 2-36(e) and NFA Interpretive Notice ¶ 9053)
- Does the firm conduct an annual on-site visit to branch offices, guaranteed IBs and affiliates with which it conducts forex business? (NFA Compliance Rule 2-36(e) and NFA Interpretive Notice ¶ 9053)
- Does the firm maintain a record of any communication regarding possible violations of the CEA or CFTC Regulations? The record must include the name of complainant (if known), date of the communication, the agreement, contract or transaction at issue, the substance of the communication and the name of the person who received the communication. Does the firm provide CFTC Division of Enforcement an electronic copy of these communications no later than 30 days after it is received or within 3 business days if the communication concerns facts giving rise to possible fraud under the CEA or CFTC Regulations? (CFTC Regulation 5.18(g) and NFA Compliance Rule 2-36(k))

#### **Customer Trading and Reporting**

- Does the firm maintain procedures to monitor the activity in customer accounts and maintain written evidence of the review? (NFA Compliance Rule 2-36(e))
- Does the firm ensure that any price adjustments have been made in accordance with NFA Compliance Rule 2-43?
- Does the firm report price adjustments to NFA on a daily basis? (NFA Compliance Rule 2-36(e) and NFA Interpretive Notice ¶ 9060)
- Does the firm provide daily, monthly account statements required under CFTC Regulation 5.13 that prominently display the account's equity? The account equity is the

sum of all realized profits and losses, all unrealized profits and losses, and any other cash and collateral in the account

- Does the firm tape record all oral communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading and prices that lead to the execution of a transaction in a commodity interest **and** related cash or forward transaction, whether communicated by telephone, voicemail, mobile device, or other digital or electronic media for a period of one year? Does the firm keep the records for a period of five years and in a form and manner that is identifiable and searchable by transaction? (CFTC Regulation 1.35(a) and NFA Compliance Rule 2-10)

### **Security Deposits**

- Does the firm collect and maintain the required security deposit for its customers and/or eligible contract participants? (CFTC Regulation 5.9 and NFA Financial Requirements Section 12)
- Does the firm increase security deposits collected from customers for market events where NFA's Executive Committee increases requirements? (NFA Financial Requirements Section 12)
- Does the firm review customer accounts to ensure that customers are in compliance with security deposit requirements? (CFTC Regulation 5.9 and NFA Financial Requirements Section 12)
- Does the firm require customers to post additional security deposits when their account falls below security deposit requirements? (CFTC Regulation 5.9 and NFA Financial Requirements Section 12)
- Does the firm collect additional security deposits in a timely manner? (CFTC Regulation 5.9 and NFA Financial Requirements Section 12)
- Does the firm liquidate the customer's positions if the customer does not post any additional security deposit necessary to maintain the required security deposit amount? (CFTC Regulation 5.9 and NFA Financial Requirements Section 12)
- Does the firm immediately notify NFA if the firm changes the security deposit amount required by NFA Financial Requirements Section 12 (a) or (b)? (NFA Financial Requirements Section 12)
- Does the firm ensure it is not violating the prohibition against acting as a counterparty to an eligible contract participant acting as a dealer, as defined in NFA Financial Requirements Section 11(e), unless the dealer collects and maintains from its customers and eligible contract participant counterparties security deposit amounts for forex equal to or greater than amounts required in NFA Financial Requirements Section 12?
- Does the firm prohibit customers from funding their forex accounts with a credit card or other electronic funding mechanisms that draw funds from a credit card?

- If the firm permits customers to fund their accounts with other electronic funding methods that draw funds directly from the customer's account at a financial institution, such as a debit card, is the firm able to distinguish prior to accepting the funds between an electronic funding method that draws funds from a customer's account at a financial institution and a traditional credit card, and be able to reject the credit card before accepting customer funds? (NFA Interpretive Notice ¶ 9068)

**Electronic Trading Systems** (CFTC Regulation 5.18, NFA Compliance Rule 2-36(e), and NFA Interpretive Notice ¶ 9060)

- Has the firm established ETS procedures in accordance with NFA Interpretive Notice ¶ 9060 and CFTC Regulation 5.18? At a minimum, the firm's procedures must address security, capacity, integrity, recordkeeping, and credit and risk management controls.
- Did the firm provide NFA with a copy of these procedures?
- Has the firm assigned the responsibility for complying with the ETS Notice to individuals who are under the ultimate supervision of an associated person who is also a listed principal?
- Has the firm notified NFA about its current trading platforms in use?
- Does the firm notify NFA if they change their trading platforms?
- Does the firm ensure that the system produces profit and loss reports, assessment reports and exception reports?
- If the FDM white labels a platform of another FDM, the FDM may rely on the procedures of the sponsor FDM. However, if the FDM white labels a non-FDM system, does the firm ensure that the white label sponsor is complying with NFA's ETS Interpretive Notice?
- Does the firm ensure that an AP who is also a principal certifies annually that the system is in compliance with NFA's Requirements?
- Does the firm conduct periodic reviews of the system and document these reviews?
- Does the firm maintain a record of how rollovers are calculated?
- Does the firm maintain a record of the method used to calculate the bid/ask spread?
- Does the firm ensure that the system provides customers symmetrical re-quoting? This means if you provide a retail forex customer a new bid price for a retail forex transaction that is lower than its previous bid, you must provide a new asked price that is also lower than its previously asked price by a similar amount. This also means if you provide a retail forex customer a new bid price for a retail forex transaction that is higher than its previous bid, you must provide a new asked price that is also higher than its previously asked price by a similar amount.
- Has the firm established and implemented a prompt and effective method to notify customers when operational difficulties occur?

- Has the firm established and implemented a procedure to inform NFA no later than 24 hours after an outage of the firm's trading system has occurred?
- Has the firm provided customers with advance disclosure of factors that may adversely impact a firm's system?

### **Supplemental Questionnaire for IBs**

#### **Supervision of Accounts**

- If the IB permits its APs to maintain an account at other IBs or FCMs, does the firm require the AP to obtain written authorization from an appropriate supervisory person of the IB who will be responsible for reviewing the AP's account and require the AP to instruct the other IB or FCM to transmit copies of statements and order tickets relating to his/her account to the IB on a regular basis? (CFTC Regulation 1.55 and NFA Compliance Rules 2-9 and 2-10)
- Does the IB maintain records that clearly identify which customer accounts are discretionary? (NFA Compliance Rule 2-8(b))
- Does the IB have written procedures to supervise the trading of discretionary accounts? (NFA Compliance Rule 2-8(b))
- Does the IB require that an appropriate supervisory person regularly reviews discretionary trading activity and prepare a written record of the review? (NFA Compliance Rule 2-8(b))
- Does the firm ensure that APs have been continuously registered for a minimum of two years prior to handling discretionary accounts? (NFA Compliance Rule 2-8(c))
- If the IB accepts accounts controlled by a third party, does the IB obtain a copy of the account controller's written trading authorization or a written acknowledgment from the customer that such authorization has been given prior to accepting any orders from the third party? (NFA Compliance Rule 2-8)
- If the IB imposes fees and/or charges that are not determined on a per-trade or round-turn basis, does the IB provide customers with a complete written explanation of the charges? (NFA Interpretive Notice ¶ 9005 and NFA Compliance Rule 2-4)

#### **Due Diligence Prior to Trading**

- Does the IB review the financial standing of omnibus accounts and commodity pools before the accounts are accepted? (NFA Compliance Rule 2-9)
- Does the IB carefully examine a potential customer's creditworthiness, business reputation, market knowledge and anticipated trading patterns before authorizing a customer to commence trading? (NFA Compliance Rules 2-9 and 2-30)

- Does the IB provide adequate and appropriate risk disclosure about the markets appropriate based on the particular customer and type of trading anticipated? (NFA Compliance Rules 2-4 and 2-30)
- If the IB trades one or more proprietary accounts, either on its own behalf or for an affiliate, does the IB have clearly defined trading objectives and loss limits or risk guidelines consistent with these objectives? If the IB has granted trading authority to an account manager or relies on individuals to implement the entity's objectives, has the IB instituted appropriate procedures to protect against unauthorized trading by employees or independent account managers? (NFA Compliance Rules 2-9 and 2-4)

**Anti-Money Laundering Program** (NFA Compliance Rule 2-9(a) and NFA Interpretive Notice ¶ 9045)

- Has the firm adopted a policy statement that clearly outlines the firm's policy against money laundering and terrorist financing, its commitment to follow all applicable laws to ensure that its business is not used to facilitate money laundering and the consequences to employees for not following the firm's procedures?
- Does the firm have a written anti-money laundering program that includes: a customer identification program that enables the firm to form a reasonable belief that it knows the true identity of each customer; procedures that enable firm personnel to recognize suspicious customers and transactions, require personnel to report suspicious or unusual activity or transactions to appropriate supervisory personnel and FinCEN when required, and ensure that the firm maintains an adequate audit trail to assist law enforcement agencies in any investigation? See [Appendix A](#) for assistance in drafting an AML program.
- Has a member of the firm's senior management approved the AML program in writing?
- Has the firm provided training at least every 12 months to all of its employees that work in areas susceptible to money laundering?
- Has the program been subject to an independent review at least every 12 months that tests the adequacy of the program?
- Does the firm have a designated person or persons to oversee the AML program who is either a designated principal or Associate Member or who reports to the firm's senior management?

**Cash Flow** (CFTC Regulation 1.57 and NFA Compliance Rule 2-4)

- Does the IB prohibit employees or agents from accepting any money or other property from customers except checks that are made payable to the FCM? (CFTC Regulation 1.57)
- If the IB accepts checks made payable to the FCM, has the IB received written authorization from the FCM to do so, and does the IB deposit the check in a qualifying



bank account or forward the check to the FCM on the same day the check is received?  
(CFTC Regulation 1.57)

### **Customer Trading**

- Does the IB provide the carrying broker with the account numbers at the time a trade is placed? (NFA Compliance Rule 2-10 and NFA Interpretive Notice ¶ 9029)
- Does the IB maintain any documents produced or obtained as a result of the order flow/trading process for a period of five years (i.e., customer order tickets, trade listing, equity run, customer statements, open position listing, day trade listing, and P&S recap)? (CFTC Regulation 1.31 and NFA Compliance Rule 2-10)
- Does the IB keep all customer order tickets (filled, unfilled, open, or canceled)? (CFTC Regulation 1.31 and NFA Compliance Rule 2-10)
- Does the IB immediately upon receipt of a customer order that cannot be immediately entered into a trade matching engine prepare a written record (order ticket) of the order that includes as applicable, commodity option/futures contract, quantity long/short, put/call, strike price, premium, requested price, account identification, order number and a timestamp indicating the date and time to the nearest minute that the order is received? For commodity options only, a time stamp indicating the date and time to the nearest minute that the order is transmitted for execution? (CFTC Regulation 1.35(b) and NFA Compliance Rule 2-10)
- Does the IB immediately call the carrying broker or the floor directly upon receipt of a customer order during market hours? (CFTC Regulation 155.4 and NFA Compliance Rule 2-4)
- Does the IB transmit customer orders executable at or near the market to the floor before any orders in the same commodity for proprietary accounts or other accounts affiliated with the firm? (CFTC Regulation 155.4 and NFA Compliance Rule 2-4)
- Does the IB promptly call the customer with the fill information? (Recommended Best Practice)
- Does the IB prohibit discretionary orders and non-discretionary orders from being included in the same bunched order? (CFTC Regulation 155.4 and NFA Compliance Rule 2-4)
- Does the IB prohibit trades for proprietary and non-customer accounts from being combined with customer orders on block orders? (CFTC Regulation 155.4)
- Does the IB have procedures to identify and investigate in a timely manner unusual activity within or among accounts that may indicate illicit trading practices; including large or non-routine account transfers, account number changes and error accounts that appear to be used for trading purposes? (NFA Compliance Rules 2-9 and 2-4)

- Does the IB maintain a record of all oral communications (therefore tape record) and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading and prices that lead to the execution of a transaction in a commodity interest and related cash or forward transaction, whether communicated by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media (Note: IBs that have not generated \$5 million in gross aggregate revenue over the preceding three years are not required to tape record oral communications).
- Does the firm keep the oral communication records (if applicable) for a period of one year in a form and manner that is identifiable and searchable by transaction? (CFTC Regulation 1.31 and 1.35(a), and NFA Compliance Rule 2-10) Does the firm keep written communication records for a period of five years in a form and manner that is identifiable and searchable by transaction? (CFTC Regulation 1.35(a) and NFA Compliance Rule 2-10)
- For GIBs relying upon its guarantor FCM to satisfy the tape recording of oral communications requirement:
  - Does the FCM's recording of the oral communication duplicate the information that the GIB is required to record and maintain under CFTC Regulation 1.35(a)?
  - Does the FCM maintain the record in accordance with Regulation 1.35(a) and 1.31?
  - Does the FCM provide the GIB with access to the record?
  - Does the FCM and GIB enter into a written agreement specifying each party's responsibilities and requiring the FCM to make and retain the record in accordance with CFTC Regulations 1.35(a) and 1.31, and provide the GIB with access to the record?

However, a GIB's reliance on its guarantor FCM to satisfy its recordkeeping obligations does not relieve the GIB of the responsibility to comply with Regulations 1.35(a) and 1.31.

**Financial (Independent IBs only)**

- Does the IB monitor for daily capital compliance? (NFA Financial Requirements Section 5 and NFA Compliance Rule 2-10)
- Does the IB maintain a general ledger on an accrual basis? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB balance accounting records on a regular basis? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB prepare a trial balance on a regular basis? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)

- Does the IB prepare detailed support to convert the trial balance or general ledger to the financial statement format? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB maintain complete and detailed records of all securities held or owned by the firm? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB review positions in the firm's trading account to determine their effect on the firm's compliance with minimum capital requirements? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB prepare monthly capital computations within 17 business days after the month end? (CFTC Regulation 1.18 and NFA Compliance Rule 2-10)
- Does the IB prepare required 1-FR or Focus statements including Supplementary Schedules and file them with NFA or the DSRO, and the CFTC, by the due dates? (CFTC Regulation 1.10 and NFA Compliance Rule 2-10)
- Has the IB submitted all subordinated loan agreements to the firm's DSRO for approval at least 10 days before the effective date? In addition, for IBs that are also registered as broker-dealers, is a copy of the firm's securities industry designated examining authority's approval filed with NFA? (CFTC Regulation 1.17 and NFA Compliance Rule 2-10)
- Does the IB retain financial and compliance records for five years? (CFTC Regulation 1.31 and NFA Compliance Rule 2-10)

**Post-Execution Allocation of Bunched Orders** (CFTC Regulation 1.35(b)(5), NFA Compliance Rule 2-10 and NFA Interpretive Notice ¶ 9029)

- In situations where the IB is acting as an eligible account manager for trades eligible for post execution, does the IB make the following information available to customers upon request? (1) The general nature of the allocation methodology; and (2) a summary of composite data sufficient for a customer to compare his results with those of other relevant customers. Prior to the end of the trading day, does the Member provide the FCM that executes or clears the trade with information concerning the number of contracts to be allocated to each account included in the bunched order along with instructions for the allocation of split and partial fills among accounts?
- If fill prices are allocated by an FCM, does the Member maintain a written agreement with the FCM that clearly describes that the FCM is responsible for the allocation?
- Does the IB analyze each trading program at least once a quarter to ensure that the allocation method has been fair and equitable?
- Does the IB document and maintain its internal audit procedures and results of its allocation methodology as the firm's records are subject to review during an NFA examination?

**Automatic Order Routing System** (NFA Compliance Rules 2-4, 2-9 and 2-10, and NFA Interpretive Notice ¶ 9046)

For an IB that permits a customer to use an automated order routing system,

- Does the IB have written procedures to ensure that:
  - The order-routing process protects the integrity and confidentiality of orders and account information at all points during the process?
  - The delivery and reporting of customer orders is timely and efficient?
  - Customer complaints about order delivery and reporting are handled expeditiously?
  - The system monitors trading and imposes controls on trading activity for each customer in order to prevent the customer from entering into trades that create undue financial risks for the firm or its other customers?
- Does the IB disclose pertinent information about the Automatic Order Routing System, including, but not limited to the following below?
  - The time frame established for completion of transactions;
  - The time frame and process for informing customers of exceptions to normal processing of orders or requests;
  - Days and hours of operation;
  - Fees, commissions or costs associated with the transaction; and
  - Information to enable customers to file claims, ask questions, register complaints and obtain information on customer recourse.
- Does the IB establish security appropriate to protect internal systems from viruses and malicious code and to prevent unauthorized access?
- Does the IB monitor security procedures and updates due to technology changes?
- Does the IB identify and authenticate authorized users? Does the IB ensure that personally identifiable information is protected? This should include limiting access to systems and data only to authorized employees based upon their assigned roles and responsibilities, using encryption or other equivalent security procedure to protect the transmission of information, and preventing customers from accessing others' information.
- Does the IB have procedures to disclose to users any breaches or possible breaches to the system?
- Does the IB have procedures to monitor availability and capacity compared to the disclosed commitments and provide for expected future requirements?
- Does the IB document, authorize, test and approve proposed system changes before implementation to protect the availability of the system?
- Does the IB provide for back-up, offsite storage, restoration and disaster recovery processes sufficient to achieve the disclosed availability commitments?

- Does the IB ensure policies are current with disclosed business practices, laws and regulations?

**Security Futures Products** (NFA Compliance Rule 2-37 and Interpretive Notices ¶ 9043, ¶ 9044, ¶ 9049 and ¶ 9050)

- Does the Member have a designated security futures principal at each main or branch office?
- Does the Member check the Central Registration Depository (CRD) for information on prospective employees who will be involved in security futures activities and obtain and review a copy of the individual's most recent Form 8-T or U5?
- Does the Member require APs to complete appropriate security futures products training modules?
- Does the Member ensure that the firm's written procedures address the following below?
  - Compliance with applicable securities laws, including Sections 9(a), 9(b), and 10(b) of the Securities Exchange Act of 1934.
  - The review and approval of customer accounts including:
    - Specific criteria and standards to be used in evaluating the suitability of a customer to engage in security futures transactions.
    - Specific procedures for approving accounts to engage in security futures transactions, including requiring written approval by a designated security futures principal.
    - A requirement that the designated security futures principal explain, in writing, why he or she has approved an account that does not meet the specific criteria and standards set forth in the procedures.
    - Specific financial requirements for initial approval and maintenance of customer accounts that engage in security futures transactions.
- Before entering into a guarantee agreement with an IB, does the Member check the Central Registration Depository (CRD) for any derogatory information on the IB, its principals and its employees who will be involved in security futures activities?
- Does the Member provide the risk disclosure statement required by NFA Compliance Rule 2-30(b) prior to approving an account to trade security futures?
- Does the Member obtain the following additional information below from customers before commencing trading?
  - Identification that the customer account is speculative or hedge;
  - Employment status;
  - Estimated liquid net worth;
  - Marital status; and
  - Number of dependents.

- Does the Member require that the customer account record include the name of the Associate, how the customer account information was obtained and the date the required risk disclosure statement was provided?
- Does the Member ensure that on an annual basis, customers are provided with written notice regarding NFA's Background Affiliation Status Information Center (BASIC) at [www.nfa.futures.org/basicnet](http://www.nfa.futures.org/basicnet)?
- Does the Member notify NFA within 10 business days of any required reportable events?
- Does the Member submit a quarterly report to NFA regarding written customer complaints?
- Does the Member ensure that promotional material meets the following requirements below?
  - Prominently identifies the Member;
  - Includes the date that the material was first used;
  - Provides contact information for obtaining a copy of the disclosure statement for security futures products;
  - States that security futures products are not suitable for all customers;
  - Does not include any statement suggesting that security futures positions can be liquidated at any time;
  - Does not include any cautionary statement, caveat, or disclaimer that is not legible, that attempts to disclaim responsibility for the content of the promotional material or the opinions expressed in the material, that is misleading, or that is otherwise inconsistent with the content of the material;
  - Discloses the source of any statistical tables, charts, graphs or other illustrations from a source other than the Member, unless the source of the information is otherwise obvious;
  - States that supporting documentation will be furnished upon request if it includes any claims, comparisons, recommendations, statistics or other technical data;
  - If soliciting for a trading program that will be managed by an FCM or IB or Associate of an FCM or IB, it includes the cumulative performance history of the Member's customers or states that the trading program is unproven;
  - Refers to past recommendations regarding security futures products, the underlying securities, or a derivative thereof only if it lists all similar recommendations made by the Member or Associate within the last year;
  - Includes current recommendations regarding security futures products only if: (i) the Member has a reasonable basis for the recommendation; (ii) the material discloses all material conflicts of interest created by the Member's or Associate's

activities in the underlying security; and (iii) the material contains contact information for obtaining a list of prior recommendations;

- Includes only a general description of the security futures products for which accounts, orders, trading authorization, or pool participations are being solicited; the name of the Member; and contact information for obtaining a copy of the current disclosure statement for security futures products; (unless the promotional material is accompanied or preceded by the disclosure statement for security futures products); and
- Has been submitted to NFA for review and approval at least ten days prior to first use if it reaches or is designed to reach a public audience through mass media.

#### **Conflict of Interest**

- Does the firm maintain all records regarding conflict of interest requirements? (CFTC Regulation 1.71 and NFA Compliance Rule 2-10)

**Forex Electronic Trading Systems—applicable only to IBs that offer a trading system separate from the system offered by the FDM with which it conducts business** (NFA Compliance Rule 2-39, and NFA Interpretive Notice ¶ 9060)

- Does the firm have procedures in place to monitor the activity and address security, capacity, credit and risk-management controls, integrity, and recordkeeping as discussed in NFA Interpretive Notice 9060?
- Is the Member conducting periodic reviews (at least annually, but more frequently if the circumstances warrant a more frequent review) of any electronic trading system it utilizes?
- Is the member providing an annual certification signed by a principal who is a registered AP and filing the certification with NFA?

### **Supplemental Questionnaire for CPOs**

- Does the Member operate all of its pools as separate legal entities from the CPO? (CFTC Regulation 4.20(a)(1) and NFA Compliance Rule 2-13)
- Does the Member ensure that all funds, securities, or other property received by the CPO from an existing or prospective pool participant for an investment in a pool is received in the name of that pool? (CFTC Regulation 4.20(b) and NFA Compliance Rule 2-13)
- Does the Member ensure that the pool does not make a direct or indirect loan or advance of pool assets to the Member or any other affiliated person or entity, except in certain specified transactions as discussed in Interpretive Notice ¶ 9062?

### **Account Statements** (CFTC Regulations 4.7 and 4.22, and NFA Compliance Rule 2-13)

- Does the Member distribute account statements to pool participants at least monthly within 30 days of month end for pools with net asset value of more than \$500,000 (or at least on a quarterly basis within 30 days of the quarter end for pools with net asset value less than \$500,000 or exempt pools under CFTC Regulation 4.7)?
- For non-exempt pools, does the account statement for the pool include:
  - Statement of Income and Loss itemizing: realized commodity trading gain or loss, change in unrealized gain or loss, other gains and losses, management fees, advisory fees, brokerage commissions, other fees and other expenses?
  - Statement of Changes in net asset value ("NAV") itemizing: beginning NAV, additions, withdrawals, net income/loss, ending NAV, NAV per unit or individual's interest in the pool, and oath or affirmation manually signed by the proper individual?
  - An oath or affirmation that to the best of the knowledge and belief of the individual making the oath or affirmation, that the information contained in the oath or affirmation is accurate and complete and the name of the individual signing the oath or affirmation, the capacity in which he/she is signing, the name of the commodity pool operator for which he/she is signing and the name of the commodity pool for which the account statement is being distributed?  
(CFTC Regulation 4.22)
- For 4.7 exempt pools, does the account statement for the pool include:
  - The NAV of the exempt pool as of the end of the reporting period, the change in NAV from the end of the previous reporting period, NAV per unit or individual's interest in the pool, and oath or affirmation manually signed by the proper individual?



- An oath or affirmation that to the best of the knowledge and belief of the individual making the oath or affirmation, that the information contained in the oath or affirmation is accurate and complete and the name of the individual signing the oath or affirmation, the capacity in which he/she is signing, the name of the commodity pool operator for which he/she is signing and the name of the commodity pool for which the account statement is being distributed?

(CFTC Regulation 4.7)

- Does the Member ensure that for pools comprised of more than one ownership class or series, the series or class on which the account statement is reporting is presented in addition to the information presented for the pool as a whole? (Except that, for a pool that is a series fund structured with a limitation on liability among the different series, the account statement is not required to include consolidated information for all series.)
- Does the Member ensure that any material business dealings between the pool, the pool's operator, commodity trading advisor, futures commission merchant or their principals that has not previously disclosed in the disclosure document are disclosed in the account statement?

**Financial** (CFTC Regulation 4.22, 4.23 and 4.27, and NFA Compliance Rule 2-13)

- Does the Member retain an independent certified public accountant to do a certified audit of each pool operated during the past fiscal year, including those pools which have permanently ceased trading? (Note: Liquidation statements are not required to be certified, as long as the Member obtains and maintains written waivers from all participants waiving rights to an audit.)
- Does the Member distribute copies of the certified reports to NFA and to each of the participants within 90 days of the fiscal year-end or within 90 days of the permanent cessation of trading?
- Does the certified audit for each pool include the following information for the preceding two year-ends: NAV of the pool, NAV per outstanding participation unit in the pool or total value of the participant's interest or share in the pool, statement of financial condition, statement of operations, changes in net assets, appropriate footnote disclosure, and such further material information as may be necessary to ensure that the required statements are not misleading?
- Does the Member maintain the following documents for each pool: cash receipts and disbursements journal; security purchases and sales journal; adjusting journal entries; subsidiary ledger for each participant, including name, address, dates of deposits, withdrawals, etc., amount of deposits and withdrawals, etc., gains/losses accruing to participant, participant equity calculated on a quarterly/monthly basis, and the number of units owned; general ledger; copies of statements from any entity holding pool assets;

copies of statements received from carrying brokers; bank statements and cancelled checks; dated copies of all reports and letters; balance sheets; income statements; account statements; and signed and dated acknowledgments of receipt of the disclosure document?

- Does the Member use NFA's EasyFile to report on a quarterly basis with NFA or the CFTC specific information about the firm and the pools that it operates? These quarterly reports are due within 60 days after the end of the quarters ending March 31, June 30 and September 30. Reports for the quarter ending December 31 are due within 90 days of the calendar year-end for Small CPOs (less than \$150 million in assets under management (AUM)) or Mid-size CPOs (greater than \$150 million but less than \$1.5 billion in AUM) and within 60 days for Large CPOs (greater than \$1.5 billion in AUM). All Pool Quarterly Reports (PQR) must be filed electronically using NFA's EasyFile system regardless of whether the PQR is being filed to fulfill NFA or CFTC requirements. The content of the quarterly PQR filing will depend upon the CPO's highest AUM during the reporting period. CPOs that file a Form PF with the SEC will continue to be required to file a PQR with NFA for quarters ending March 31, June 30 and September 30 and with the CFTC for the quarter ending December 31. CPOs that do not operate any pools, or that only operate pools pursuant to CFTC Regulations 4.5 or 4.13(a)(3), do not need to complete PQR filings.

**Disclosure Document** (CFTC Regulations 4.21, 4.24, 4.25 and 4.26, NFA Compliance Rules 2-13, 2-34, 2-35 and 2-45, and NFA Interpretive Notices ¶ 9006, ¶ 9023, ¶ 9034, ¶ 9035, and ¶ 9062)

- Does the Member's disclosure document comply with NFA Rules and CFTC Regulations?
- Does the Member file the disclosure document and any amendments with NFA electronically at least 21 calendar days prior to the date it first intends to solicit clients with the document?
- Does the Member file amendments or a new disclosure document when the existing document becomes materially incomplete or inaccurate?
- Does the Member provide prospective pool participants with a disclosure document, including any existing amendments, which is dated no more than twelve months prior to the date of delivery before accepting funds from the participant?
- Does the Member provide existing pool participants with all amendments to the disclosure document?
- Does the Member calculate fees in accordance with the method described in the disclosure document?

**Security Futures Products** (NFA Compliance Rule 2-37 and Interpretive Notices ¶ 9043, ¶ 9044, ¶ 9049 and ¶ 9050)

- Does the Member check the Central Registration Depository (CRD) for information on prospective employees who will be involved in security futures activities and obtain and review a copy of the individual's most recent Form 8-T or U5?
- Does the Member require APs to complete appropriate security futures products training modules?

**Supplemental Questionnaire for CTAs**  
**Financial**

- For a Member that has a reporting requirement under CFTC Regulation 4.27 and directs trading of commodity interests, does the Member file a Form PR on a quarterly basis containing general information about the Member, its trading programs, the pool assets directed by the Member and the identity of the CPOs that operate those pools? Using NFA's EasyFile System, the quarterly Form PR must be filed within 45 days after the quarters ended March, June and September, and a year-end report filed within 45 days of the calendar year end (satisfying the CFTC's Form PR annual report requirement). (NFA Compliance Rule 2-46 and CFTC Regulation 4.27)

**Disclosure Document** (CFTC Regulations 4.31, 4.34, 4.35 and 4.36, NFA Compliance Rules 2-13, 2-34 and 2-35, and NFA Interpretive Notices ¶ 9006, ¶ 9023, ¶ 9034, and ¶ 9035)

- Does the Member's disclosure document comply with NFA Rules and CFTC Regulations?
- Does the Member file the disclosure document and any amendments with NFA electronically at least 21 calendar days prior to the date it first intends to solicit clients with the document?
- Does the Member file amendments or a new disclosure document when the existing document becomes materially incomplete or inaccurate?
- Does the Member provide prospective clients with a disclosure document, including any existing amendments, which is dated no more than twelve months prior to the date of delivery?
- Does the Member provide existing clients with all amendments to the disclosure document?
- Does the Member maintain signed and dated acknowledgments of receipt of disclosure documents from each client?
- Does the Member calculate fees in accordance with the disclosure document?
- If the Member collects fees directly from clients instead of from the carrying broker, is that amount reflected in the performance record supporting worksheets as an addition and as a debit to net performance?

**Bunched Orders** (CFTC Regulation 1.35(b)(5), NFA Compliance Rule 2-10 and NFA Interpretive Notice ¶ 9029)

- Does the Member maintain specific allocation procedures that are fair and equitable so that no account or group of accounts receives consistently favorable or unfavorable treatment?
- Does the Member ensure that all customer accounts have the correct allocation of contracts on each trade?

- Does the Member analyze each trading program at least once a quarter to ensure the allocation method has been fair and equitable? Does the Member maintain records of the review and any deficiencies that are discovered through the review?

**Post-Execution Allocation of Bunched Orders** (CFTC Regulation 1.35(b)(5), NFA Compliance Rule 2-10 and NFA Interpretive Notice ¶ 9029)

- Does the Member make the following information available to customers upon request? (1) The general nature of the allocation methodology; (2) a summary of composite data sufficient for a customer to compare his results with those of other relevant customers and any account in which the account manager has an interest; and (3) an indication whether any account in which the account manager has an interest can be included with customer accounts in bunched orders. Prior to the end of the trading day, does the Member provide the FCM that executes or clears the trade with information concerning the number of contracts to be allocated to each account included in the bunched order along with instructions for the allocation of split and partial fills among accounts?
- If fill prices are allocated by an FCM, does the Member maintain a written agreement with the FCM that clearly describes that the FCM is responsible for the allocation?
- Does the Member document and maintain its internal audit procedures and results of its allocation methodology as the firm's records are subject to review during an NFA examination?

**Security Futures Products** (NFA Compliance Rule 2-37 and Interpretive Notices ¶ 9043, ¶ 9044, ¶ 9049 and ¶ 9050)

- Does the Member check the Central Registration Depository (CRD) for information on prospective employees who will be involved in security futures activities, and obtain and review a copy of the individual's most recent Form 8-T or U5?
- Does the Member require APs to complete appropriate security futures products training modules?

## **Sources of Additional Information**

### **Your attorney and accountant**

#### **American Institute of Certified Public Accountants**

1211 Avenue of the Americas  
New York, NY 10036  
(212) 596-6200  
[www.aicpa.org](http://www.aicpa.org)

#### **CME Group**

20 South Wacker Drive  
Chicago, IL 60606  
(312) 930-1000  
[www.cmegroup.com](http://www.cmegroup.com)

#### **Commodity Futures Trading Commission**

Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581  
(202) 418-5000  
[www.cftc.gov](http://www.cftc.gov)

#### **FIA/Institute for Financial Markets**

2001 Pennsylvania Avenue, N.W., Suite 600  
Washington, D.C. 20006  
(202) 466-5460  
(202) 223-1528  
[www.fia.org](http://www.fia.org)  
[www.theifm.org](http://www.theifm.org)

#### **Managed Funds Association**

2025 M Street, N.W., Suite 800  
Washington D.C. 20036-3309  
(202) 367-1140  
[www.mfainfo.org](http://www.mfainfo.org)

#### **Financial Industry Regulatory Authority**

9509 Key West Avenue  
Rockville, MD 20850  
(301) 590-6500  
[www.finra.org](http://www.finra.org)

#### **National Introducing Brokers Association**

c/o Melinda Schramm  
55 West Monroe Street, Suite 3330  
Chicago, IL 60603  
(312) 977-0598  
[www.theniba.com](http://www.theniba.com)

**National Futures Association**

300 South Riverside Plaza, Suite 1800  
Chicago, IL 60606-6615  
(312) 781-1410  
[www.nfa.futures.org](http://www.nfa.futures.org)

**U.S. Securities and Exchange Commission**

450 Fifth Street, N.W.  
Washington, D.C. 20549  
(202) 942-7040  
[www.sec.gov](http://www.sec.gov)