

May 27, 2009

**Via Federal Express**

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

Re: National Futures Association: Prohibition of Loans by Pools to Commodity Pool Operators and Related Parties – Proposed Adoption of Compliance Rule 2-45

Dear Mr. Stawick:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association (“NFA”) hereby submits to the Commodity Futures Trading Commission (“CFTC” or “Commission”) proposed Compliance Rule 2-45 regarding prohibition of loans by pools to commodity pool operators and related parties. This proposal was approved by NFA’s Board of Directors (“Board”) on May 21, 2009. NFA respectfully requests Commission review and approval.

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**PROPOSED AMENDMENTS  
(additions are underscored)**

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**COMPLIANCE RULES**

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**PART 2 – RULES GOVERNING THE BUSINESS CONDUCT OF  
MEMBERS REGISTERED WITH THE COMMISSION**

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**RULE 2-45. PROHIBITION OF LOANS BY COMMODITY POOLS TO  
CPOS AND AFFILIATED ENTITIES.**

No Member CPO may permit a commodity pool to use any means to make a direct or indirect loan or advance of pool assets to the CPO or any other affiliated person or entity.

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### EXPLANATION OF PROPOSED AMENDMENTS

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In February, NFA took two Member Responsibility Actions ("MRAs") against three NFA Member commodity pool operators ("CPOs"). Although the basis of both MRAs was the CPOs' failure to cooperate with NFA in an investigation, the limited investigation that NFA was able to perform revealed that the CPOs had misappropriated pool funds through improper loans from pools to the CPOs or related entities. The CFTC charged all three of the CPOs with misappropriating pool assets through improper loans, and all three were charged criminally with fraud.

These two matters are not the first instances of CPOs misappropriating pool participant funds through direct or indirect loans from a pool to the CPO or a related entity. Over the years, there have been a number of regulatory actions involving this type of fraud. Given the significant losses suffered by pool participants as a result of these improper loans, NFA is proposing to prohibit direct or indirect loans from commodity pools to the CPO or any affiliated person or entity.

NFA staff discussed this matter with NFA's CPO/CTA Advisory Committee, which supported prohibiting loans because it believes that absent extraordinary circumstances there is no legitimate reason for a pool to make a direct or indirect loan to its CPO or a related party. The Committee indicated, however, that participants, including a CPO's principal, should not be prevented from borrowing against their equity interest in the pool.

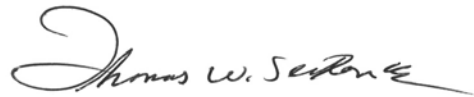
NFA Compliance Rule 2-45 provides for a complete prohibition of direct or indirect loans or any advance of pool assets between a pool and its CPO or any other affiliated person or entity. NFA recognizes that there may be circumstances where a carve out to this prohibition may be appropriate, such as where a CPO permits participants, including a pool's general partner, to borrow against their equity interest in the pool in lieu of a withdrawal, provided that the loan is collateralized by the participant's interest in the pool. NFA believes that these types of situations are best handled on a case by case basis, with the CPO seeking a no-action letter from NFA.

Mr. David Stawick

May 27, 2009

NFA respectfully requests that the Commission review and approve proposed Compliance Rule 2-45 regarding prohibition of loans by pools to commodity pool operators and related parties.

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas W. Sexton" with a stylized flourish at the end.

Thomas W. Sexton  
Senior Vice President and General Counsel