

August 21, 2013

**Via Federal Express**

Mr. Christopher J. Kirkpatrick  
Deputy Secretary  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, DC 20581

Re: National Futures Association: Increase to Fees for Late Financial and  
Regulatory Filings - Proposed Amendments to NFA Financial  
Requirements Sections 10 and 13 and NFA Compliance Rule 2-48\*

Dear Mr. Kirkpatrick:

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”) the proposed amendments to NFA Financial Requirements Sections 10 and 13 and NFA Compliance Rule 2-48 regarding an increase to fees for late financial and regulatory filings. NFA’s Board of Directors (“Board”) approved the proposal on August 15, 2013.

NFA is invoking the “ten-day” provision of Section 17(j) of the Commodity Exchange Act (“CEA”) and will make these proposals effective ten days after receipt of this submission by the Commission unless the Commission notifies NFA that the Commission has determined to review the proposals for approval.

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**PROPOSED AMENDMENTS**

**(additions are underscored and deletions are ~~stricken through~~)**

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**FINANCIAL REQUIREMENTS**

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**SECTION 10. LATE FINANCIAL REPORTS.**

Each financial report required by Section 1, 5, 6, or 11 that is filed after it is due shall be accompanied by a fee of \$1,000 ~~\$200~~ for each business day it is late. Payment and acceptance of the fee does not preclude NFA from filing a disciplinary action under the Compliance Rules for failure to comply with the deadlines imposed by NFA Financial Requirements or CFTC rules.

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**SECTION 13. FOREX DEALER MEMBER REPORTS.**

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(d) Any report that is filed after it is due shall be accompanied by a fee of \$1,000 ~~\$200~~ for each business day it is late. Payment and acceptance of the fee does not preclude NFA from filing a disciplinary action for failure to comply with the deadlines imposed by this rule.

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**COMPLIANCE RULES**

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**RULE 2-48. FOREX DEALER MEMBER DAILY TRADE DATA REPORTS**

(a) Each Forex Dealer Member must file a daily electronic report of trade data with NFA using the electronic filing method required by NFA. The report must contain the data and be in the format prescribed by NFA. Each Forex Dealer Member must prepare the report as of 5:00 P.M. Eastern time and file it with NFA by 11:59 P.M. Eastern time the same day.

(b) By submitting the report, the FDM certifies that the report is true and complete.

(c) Each daily report that is filed after it is due shall be accompanied by a late fee of \$1,000 ~~\$200~~ for each business day that it is late. Payment and acceptance of the fee

does not preclude NFA from filing a disciplinary action for failure to comply with the deadlines imposed in this rule.

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### **EXPLANATION OF PROPOSED AMENDMENTS**

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NFA is increasing the late fee for FDM and IB required financial filings to make the fee consistent with the fee charged to FCMs. By way of background, in 2003, NFA adopted NFA Financial Requirements Section 10 to impose a late filing fee on FCMs, IBs and LTMs that file required financial reports after the due date. The fee was set at \$200 for each business day the filing is late. In 2010, NFA amended Section 10 to impose that same late fee on FDMs that file any of their financial reports after the due date. When NFA adopted NFA Financial Requirements Section 13 in 2006, which requires FDMs to file certain daily, monthly and quarterly reports with NFA, Section 13 included a \$200 late fee for reports filed after the due date. Similarly, in 2011, when NFA adopted Compliance Rule 2-48, which requires FDMs to file daily electronic reports of trade data, the Rule included the \$200 late fee for each business day a report is late.

At the time NFA developed Financial Requirements Section 16 in 2012, however, it was determined that a \$200 per day late fee was not a sufficient deterrent to filing information beyond its due date. Therefore, Section 16 imposes a late fee of \$1,000 upon FCMs for each business day that an FCM Financial Report is late rather than Section 10's \$200 fee. In other words, FCMs are currently charged \$1,000 per day for late financial filings, while IBs and FDMs currently pay \$200 per day.

NFA believes that the \$1,000 late fee amount imposed by Financial Requirements Section 16 should be imposed on all late financial and regulatory filings. This issue was presented to NFA's FCM and IB Advisory Committees. The IB Advisory Committee felt that a fee of \$1,000 per business day for IBs was not appropriate since they are a smaller operation than an FCM, and they do not hold customer funds. The Committee suggested that IBs be subject to a \$500 per business day late fee. The FCM Advisory Committee, however, felt that the fine amount should be the same for all late filings regardless of membership category, and late financial and regulatory filings may be indicative of other problematic issues at an NFA Member IB or FDM.

Mr. Christopher J. Kirkpatrick

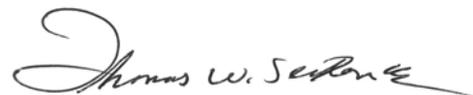
August 21, 2013

NFA considered the comments of both Advisory Committees and concluded that given the importance of financial regulatory filings over all categories of membership, there should be a significant fee for late regulatory filings, and that the fee should be the same for all membership categories.

As a result, NFA Financial Requirements Section 10 is amended to make it consistent with Section 16 with respect to the late fee assessed to FCMs, and to impose the \$1,000 per business day fee on IBs and FDMs for late financial filings. Similarly, NFA Financial Requirements Section 13 and Compliance Rule 2-48 are amended to impose the \$1,000 per business day fee on FDMs that file any of the required FDM reports beyond the due date.

As mentioned earlier, NFA is invoking the “ten-day” provision of Section 17(j) of the Commodity Exchange Act. NFA intends to make the proposed amendments to NFA Financial Requirements Sections 10 and 13 and NFA Compliance Rule 2-48 effective ten days after receipt of this submission by the Commission, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

Respectfully submitted,



Thomas W. Sexton  
Senior Vice President and  
General Counsel

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\*The proposed amendments to NFA Financial Requirements Sections 10 and 13 and NFA Compliance Rule 2-48 will become effective December 2, 2013.