

2. At all times relevant to this Complaint, Dam was an associated person (AP) of Direct Hedge and approved as an NFA Associate. As such, Dam was required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof. Direct Hedge is liable for violations of NFA Requirements committed by Dam in the course of his activities on behalf of the firm.

BACKGROUND

3. Direct Hedge has been an NFA IB Member since January 2015. It is headquartered in Hellerup, Denmark and currently has branch offices in Florida and Spain.
4. The firm operates as an execution only IB, specializing in brokering block futures and bilateral over-the-counter swap contracts for institutional customers interested in fertilizer contracts.
5. At all times relevant to this Complaint, Direct Hedge utilized a proprietary electronic trading platform that allowed customers, or APs on customers' behalf, to post, view and/or express interest in trading fertilizer products. The platform did not execute trades automatically, and the firm's APs posted executed trades onto the platform.
6. Dam is one of seven registered APs, an approved branch manager, and principal of Direct Hedge and an NFA Associate. He reported directly to Lars Trygved (Trygved) from at least April 2019 until December 2021.
7. Trygved was the firm's sole chief executive officer (CEO) from April 2019 until December 2021, when a co-CEO was appointed to whom Dam began to report.

8. Trygved has been a principal since May 2019, but has never been registered as an AP or approved as an NFA Associate.
9. NFA commenced an examination of Direct Hedge in August 2021. The exam found compliance and supervisory deficiencies at Direct Hedge, leading to the Counts below.

APPLICABLE RULES

10. NFA Compliance Rule 2-10(a) requires Members to maintain adequate books and records necessary and appropriate to conduct their business including, without limitation, the records required to be kept under CFTC Regulation 1.35 for the period required under CFTC Regulation 1.31.
11. CFTC Regulation 1.35 requires IBs and other CFTC registrants to keep full, complete, and systematic records of all transactions relating to their business of dealing in commodity interests. The Regulation also requires, in pertinent part, certain IBs to keep 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 whether transmitted by telephone, voicemail, instant messaging, chat rooms, electronic mail, mobile device or other digital or electronic media.
12. CFTC Regulation 1.31 requires, in pertinent part, IBs that are required to retain oral communications to keep them for a period of not less than one year from the date of the communication.

13. NFA Bylaw 301(b) provides, in pertinent part, that no person may be associated with a Member of NFA unless the person is registered with NFA as an NFA Associate or is an NFA Member.
14. NFA Compliance Rule 2-9(a) requires NFA Members and Associates to diligently supervise their employees and agents in the conduct of their commodity interest activities for or on behalf of the Member.

COUNT I

VIOLATIONS OF NFA COMPLIANCE RULE 2-10(a): FAILURE TO KEEP FULL, COMPLETE, AND SYSTEMATIC RECORDS OF ALL TRANSACTIONS RELATING TO ITS BUSINESS OF DEALING IN COMMODITY INTERESTS.

15. The foregoing paragraphs are realleged as if fully stated herein.
16. Under NFA Rule 2-10(a), Direct Hedge is required to maintain adequate books and records, including records required to be kept under CFTC Regulation 1.35 for the period required under CFTC Regulation 1.31.
17. Since at least 2017, and every year since then, Direct Hedge has generated sufficient gross revenues to require the firm to keep all oral pre-trade communications for a year as required under CFTC Regulations 1.35 and 1.31.
18. As alleged above, Direct Hedge offers its customers a proprietary electronic platform for trading fertilizer products.
19. The firm represented to NFA at the beginning of the 2021 examination that APs did not engage in oral pre-trade communications with customers.
20. During the 2021 exam, NFA reviewed a sample of eight orders posted on Direct Hedge's electronic trading platform between April 1, 2021 and July 16, 2021.

21. Despite the firm's representation that APs did not engage in oral pre-trade communications, NFA found that at least two APs had engaged in oral conversations with customers on five of the eight orders reviewed. Direct Hedge failed to maintain records of those oral communications.
22. NFA also reconstructed three trades between April 1, 2021 and July 16, 2021 from the firm's trade blotter. In all three instances, APs engaged in oral pre-trade communications with customers, and Direct Hedge failed to maintain recordings of them.
23. As part of its electronic communications review, NFA found another trade where an AP, having received an offer to sell by chat message from a customer, responded by chat with a request to discuss the offer over the phone. The AP later confirmed in writing a lower sales price, with no other intervening written communications to explain the reason for the price change.
24. When NFA asked about the adjusted price, Direct Hedge confirmed that the AP discussed the price change with the customer over the phone and that the firm had no recordings of the call.
25. By reason of the foregoing acts and omissions, Direct Hedge is charged with violation of NFA Compliance Rule 2-10(a).

COUNT II

VIOLATION OF NFA BYLAW 301(b): FAILURE TO REGISTER AN INDIVIDUAL AS AN ASSOCIATED PERSON AND AN NFA ASSOCIATE.

26. The foregoing paragraphs are realleged as if fully stated herein.

27. Under NFA Bylaw 301(b), Direct Hedge is required to register as an Associate of NFA any person associated with the firm who is required to be registered as an AP with the CFTC.
28. Dam directly supervised the firm's trading, APs, branch offices, and compliance.
29. Dam also reported AP issues to Trygved and consulted him on appropriate responses.
30. In addition, Dam actively solicited customer orders.
31. Trygved was ultimately responsible for overseeing the firm and its operations, trading, and APs, and was also directly responsible for supervising Dam's trading from April 2019 until December 2021.
32. As a result, Trygved was at the top of the supervisory chain-of-command at the firm from April 2019 until December 2021.
33. Trygved should have been, but was not, registered as an AP of Direct Hedge and an NFA Associate.
34. By reason of the foregoing acts and omissions, Direct Hedge is charged with violation of NFA Bylaw 301(b).

COUNT III

VIOLATIONS OF NFA COMPLIANCE RULE 2-9(a): FAILURE TO SUPERVISE.

35. The foregoing paragraphs are realleged as if fully stated herein.
36. Under NFA Compliance Rule 2-9(a), Direct Hedge is required to diligently supervise its employees and agents in the conduct of their commodity interest activities for or on behalf of the firm.

37. Under NFA Compliance Rule 2-9(a), Dam is required to diligently exercise his supervisory duties in the conduct of his commodity interest activities on behalf of the firm.
38. As the violations alleged in Count I and II illustrate, Direct Hedge fell short of fulfilling its supervisory obligations to ensure the firm complied with its oral communications' recordkeeping obligations and AP registration requirements.
39. Direct Hedge also failed to implement adequate supervisory policies and procedures over several other areas of the firm's operations, which led to additional compliance deficiencies.
40. To illustrate, Direct Hedge had no written procedures covering its branch office supervision, failed to document initial branch office reviews or annual inspections, and failed to list its branches with NFA until November 2021, after examiners pointed out the omission.
41. Direct Hedge additionally failed to implement a written Information Systems Security Program (ISSP) until August 2021, subsequent to NFA's announcement of its exam. The firm also failed to ensure its employees completed initial and ongoing cybersecurity training.
42. The firm likewise had no written procedures covering its ethics training program and failed to document its employees' annual ethics training.
43. As alleged in Count II, Dam supervised the firm's trading, APs, branch offices and compliance. Despite these supervisory responsibilities, the foregoing allegations demonstrate he failed to ensure the firm's APs kept complete communication records or that written procedures covering the firm's branch

offices and other general areas of compliance were developed and implemented to ensure Direct Hedge complied with NFA Rules and CFTC Regulations.

44. Dam's supervisory shortcomings are also illustrated in connection with the firm's Self-Examination Questionnaire, which Members use to review their operations annually to aid in recognizing potential problem areas and alert them to procedures that must be adopted in writing, revised or strengthened.
45. In both January 2020 and January 2021, Dam signed written statements indicating that he reviewed Direct Hedge's then current procedures using the Questionnaire and represented the firm's procedures, particularly those relating to registration, cybersecurity, ethics training and supervision, were adequate to meet its supervisory responsibilities.
46. Had he reviewed the Questionnaire, Dam knew or should have known that Direct Hedge failed to develop, adopt or implement adequate supervisory policies and procedures in those areas.
47. By reason of the foregoing acts and omissions, Direct Hedge and Dam are charged with violations of NFA Compliance Rule 2-9(a).

PROCEDURAL REQUIREMENTS

ANSWER

You must file a written Answer to the Complaint with NFA within thirty (30) days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or infor-

mation to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

The place for filing an Answer shall be:

National Futures Association
300 South Riverside Plaza
Suite 1800
Chicago, Illinois 60606
Attn: Legal Department-Docketing

Email: Docketing@nfa.futures.org

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

POTENTIAL PENALTIES, DISQUALIFICATION, AND INELIGIBILITY

At the conclusion of the proceedings conducted in connection with the issuance of this Complaint, one or more of the following penalties may be imposed:

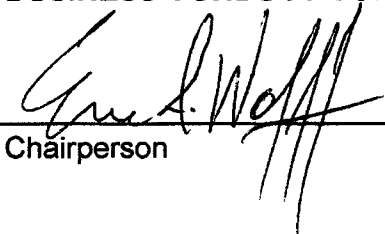
- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$500,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a(3)(M) of the Commodity Exchange Act. A Respondent in this matter who applies for registration in any new capacity, including as an AP with a new sponsor, may, after opportunity for hearing, be denied registration or conditionally registered based on the pendency of this proceeding.

Pursuant to CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render a Respondent who is an individual ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: 6/29/2022

By: 
Chairperson

M/TDK/BCC&Investigations/Direct HedgeDanmark/DirectHedgeComplaint