

November 4, 2009

Via Federal Express

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

Re: National Futures Association: Increase in Public Director Representation on NFA's Board of Directors and NFA's Executive Committee - Proposed Amendments to NFA's Articles of Incorporation*

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 amendments to NFA's Articles of Incorporation ("Articles") to increase public director representation on NFA's Board of Directors and NFA's Executive Committee. The amendments were unanimously ratified by NFA's Board of Directors ("Board") on August 20, 2009, and have since been adopted by a majority of those Members actually voting in each of the Contract Market; FCM, LTM, and IB; and CPO and CTA categories.

NFA is invoking the "ten-day" provision of Section 17(j) of the Commodity Exchange Act ("CEA") and will make this proposal 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.

PROPOSED AMENDMENTS

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

ARTICLE VII: BOARD OF DIRECTORS

* * *

Section 2: Composition of Board.

The Board of Directors shall be comprised as follows:

(a) Contract Market Representatives.

(i) In the event that there are ~~five (5)~~ four (4) or less contract market Members having annual transaction volume during the prior calendar year of more than 1,000,000, then one representative of each such contract market Member.

(ii) In the event that there are more than ~~five (5)~~ four (4) contract market Members with annual transaction volume during the prior calendar year of more than 1,000,000:

(a) One representative of each contract market Member ranked in the top three (3) contract market Members based on annual transaction volume during the prior calendar year.

(b) ~~Two (2)~~ One (1) elected representatives of contract market Members with annual transaction volume during the prior calendar year of more than 1,000,000 that are not included in Section 2(a)(ii)(a) above. Only contract market Members not represented in accordance with Section 2(a)(ii)(a) shall be eligible to vote for the representatives elected in accordance with this Section 2(a)(ii)(b).

* * *

(c) Commodity Pool Operator, and Commodity Trading Advisor ~~and Public~~ Representatives.

(i) Four (4) elected representatives of registered commodity pool operators (hereinafter "CPOs") and registered commodity trading advisors (hereinafter "CTAs") that are NFA Members, including at least two (2) representatives of CPOs or CTAs that rank within the top 20 percent of CPOs or CTAs with funds under management allocated to futures (as defined in Article XVIII(k)).

~~(ii) Five (5) individuals who are not officers, directors, partners, employees or beneficial owners of more than 10 percent of the~~

~~equity stock of any Member of NFA (hereinafter "Public Representatives").~~

(iii) No CPO or CTA may have more than one representative on the Board at any one time. For purposes of this limitation, a person shall be deemed a representative of a CPO or CTA if the person is an officer, director, partner, employee or beneficial owner of more than 10 percent of the equity stock of the CPO or CTA, and the person is not a contract market representative.

(d) Public Representatives

(a) Effective as of the 2010 annual meeting of the Board, seven (7) individuals who are Public Representatives (see Article XVIII(r);

(b) Effective as of the 2011 annual meeting of the Board, ten (10) Public Representatives (see Article XVIII(r).

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ARTICLE VIII: EXECUTIVE COMMITTEE

* * *

Section 3: Composition.

The Executive Committee shall comprise the following:

(a) NFA's President, who shall be an *ex officio*, non-voting member; and

(b) (i) Effective as of the 2010 annual meeting of the Board, Nine (9) Ten (10) Directors as follows:

(A)(i) The Chairman of the Board of Directors, and

(B)(ii) Eight (8) Nine (9) other Directors, as follows:

(A)(1) Two (2) Directors representing contract markets:

~~(1)~~(a) One (1) representative of a contract market that had transaction volume of more than 20 percent of aggregate contract market transaction volume during the prior calendar year. A specific contract market's transaction volume shall be the number of commodity futures contracts entered into on the contract market. The aggregate contract market transaction volume shall be the number of such contracts entered into on all U.S. contract markets. The number of contracts entered into on a contract market shall be adjusted where necessary because of differences in sizes of contracts (e.g., one 5,000 oz. contract for a particular commodity would equal five 1,000 oz. contracts for that commodity for purposes of the computation); and

~~(2)~~(b) One (1) representative of a contract market other than a contract market described in clause (1) above: *Provided, however,* if no contract market described in clause (1) above is represented on the Board, there shall be two Directors on the Committee from contract markets represented on the Board;

~~(B)~~(2) Three (3) Directors representing FCMs, LTMs or IBs;

~~(C)~~(3) Two (2) Directors representing CPOs and CTAs; and

~~(D)~~(4) ~~One (1)~~ Two (2) Directors who ~~is a~~ are Public Representatives (see Article XVIII(r)).

(ii) Effective as of the 2011 annual meeting of the Board, Eleven (11) Directors, including the Chairman of the Board of Directors, as follows:

(A) Two (2) Directors representing contract markets:

(1) One (1) representative of a contract market that had transaction volume of more than 20 percent of aggregate contract market transaction volume during the prior calendar year. A specific contract market's

transaction volume shall be the number of commodity futures contracts entered into on the contract market. The aggregate contract market transaction volume shall be the number of such contracts entered into on all U.S. contract markets. The number of contracts entered into on a contract market shall be adjusted where necessary because of differences in sizes of contracts (e.g., one 5,000 oz. contract for a particular commodity would equal five 1,000 oz. contracts for that commodity for purposes of the computation); and

(2) One (1) representative of a contract market other than a contract market described in clause (1) above: *Provided, however,* if no contract market described in clause (1) above is represented on the Board, there shall be two Directors on the Committee from contract markets represented on the Board;

(B) Three (3) Directors representing FCMs, LTMs or IBs;

(C) Two (2) Directors representing CPOs and CTAs; and

(D) Four (4) Directors who are Public Representatives (see Article XVIII(r)).

Section 4: Election of Members; Vacancies.

The elected members of the Executive Committee shall be chosen by the Board at the regular annual meeting as follows: The Directors representing contract markets that had transaction volume of more than 20 percent of aggregate contract market transaction volume during the prior calendar year shall elect the Committee member in category (b)(i)(B)(1)(a) above at the 2010 annual meeting and (b)(ii)(A)(1) above thereafter; the Directors representing all other contract markets shall elect the Committee member in category (b)(i)(B)(1)(b) at the 2010 annual meeting and (b)(ii)(A)(2) above thereafter; the Directors representing FCMs, LTMS, and IBs shall elect the Committee members in category (b)(i)(B)(2) above at the 2010 annual meeting and (b)(ii)(B) above thereafter; the Directors representing CPOs and CTAs shall elect the Committee members in category

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(b)(i)(B)(3) above at the 2010 annual meeting and (b)(ii)(C) above thereafter; and the Public Representative Directors shall be elected by the Board. A vacancy that occurs on the Executive Committee shall be filled in like manner. Tie votes may be resolved by the Board by random draw.

* * *

ARTICLE XVIII: DEFINITIONS

As used in these Articles-

* * *

(r) "Public Representative"-refers to those members of NFA's Board of Directors who are not employed by any NFA Member, as described in paragraph 2(cd)(ii) of Article VII are public directors as that term is defined in Section (b)(2) of Core Principle 15 in Appendix B to Part 38 of the CFTC's Regulations.

* * *

BYLAWS

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BYLAW 507. SPECIAL MEETINGS.

* * *

(b) Notice of Emergencies.

Notice of each special meeting shall be provided in accordance with such procedures as the Board may specify by resolution. The Chairman shall cause notice of the meeting to be given at the earliest practicable time, and, except in unusual circumstances, at least two days before the date on which the meeting is to be held.

Attendance of a Director at the meeting shall constitute a waiver of notice of the meeting, except where a Director attends a meeting exclusively for the limited purpose of objecting to the transaction of any business thereat on the ground that the meeting shall be limited to the matters specified in the notice of such meeting.

In the event of an emergency (as defined herein), the Chairman or President may call a meeting on one-hour notice to all Directors. Such notice may be given by telephone, telegraph or other means. The business of the meeting shall be limited to the emergency. A quorum shall consist of 8 Directors, provided there is present at least one contract market Director, one FCM, LTM or IB Director, and one CPO, or CTA Director, ~~or~~ and one Public Representative Director (See Article VII, Sections 2(a)-(ed)). For purposes of this Bylaw, an emergency shall exist when the Chairman or President determines that, because of an unusual, unforeseeable and adverse circumstance, it is necessary to hold a meeting on one hour notice.

* * *

BYLAW 702. APPEALS COMMITTEE.

There shall be an Appeals Committee, consisting of five Directors, at least one of whom shall be a Public Representative (See Article XVIII(r)) Director and not more than three of whom shall represent FCMs, IBs, and CPO/CTAs.

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BYLAW 705. FINANCE COMMITTEE.

There shall be a Finance Committee not having or exercising the authority of the Board, to advise the Executive Committee on matters of NFA financial policy including the establishment of major plans and priorities regarding the commitment and expenditure of NFA funds and the establishment of dues, assessments, fees and other charges upon Members and others. The Finance Committee shall consist of six members as follows:

- (a) NFA's President;
- (b) NFA's Vice Chairman (who shall act as Chairman of the Finance Committee); and
- (c) Four (4) other Directors as follows who shall not also be members of the Executive Committee and who shall be proposed by the Executive Committee and appointed by the Board at the first Board meeting in each fiscal year:

- (i) One (1) Director representing contract markets;
- (ii) One (1) Director representing FCMs, LTM's or IBs;
- (iii) One (1) Director representing CPOs or CTAs; and
- (iv) One (1) Director who is a Public Representative (See Article XVIII(r)).

EXPLANATION OF PROPOSED AMENDMENTS

On August 20, 2009, NFA's Board of Directors ("Board") unanimously ratified a proposal to amend NFA's Articles of Incorporation ("Articles") to increase public director representation on NFA's Board and Executive Committee ("Committee") to 35%. Specifically, the amendments change the structure of the Board by increasing its size from 23 Directors to 28 Directors with the addition of five Public Directors and by decreasing the allowable maximum number of Contract Market Representatives on the Board from five to four. Additionally, the amendments change the structure of the Committee by providing that NFA's President/CEO shall be a non-voting, *ex officio* member of the Committee, by providing that NFA's Chairman will sit on the Committee as a representative of the category that he or she represents on the Board, and by adding three Public Directors to the Committee, thereby increasing the size of the Committee from nine Directors to eleven Directors.

In February 2007, the CFTC adopted final acceptable practices for minimizing conflicts of interest in decision making by designated contract markets, pursuant to Core Principle 15 of the Commodity Exchange Act. Among other things, the CFTC's board composition acceptable practices – which is designed to offer exchanges a safe harbor by which they can comply with Core Principle 15 of the Commodity Exchange Act – requires that at least 35% of an exchange's board and executive committee be public directors.

Although the 35% public representative board composition acceptable practices have not been formally applied to NFA, NFA's Board felt that NFA should apply the 35% public director acceptable practice to NFA's Board and Committee. The Board noted that if NFA did not adhere to this acceptable practice, then after April 2010 NFA would be the only self-regulatory organization in the futures and securities industries with less than 35% public director representation on its Board. In the Board's

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view, therefore, public policy warrants greater public director representation on the Board and Committee.

Pursuant to Article VII, NFA's Board can have a maximum of 24 Directors. Currently, however, since there are only four contract market Members of NFA, NFA has 23 positions on the Board, and the public representatives constitute just over 20% of the Board.

NFA must structurally realign its Board to have public directors constitute 35% of the Board. In realigning the Board, the Board was committed to maintaining its effectiveness as a governing body. The Board considered several alternatives and concluded that reducing the number of Member directors would dilute the specialized knowledge, expertise and experience in the futures industry that Member directors bring to the Board, attributes that the Board believes to be essential for the proper governance of NFA. Therefore, the Board's proposal recommends maintaining the same number of Member directors and adding five public directors, thereby increasing the Board's size to 28 directors.

Immediately identifying five new public directors with appropriate backgrounds and qualifications and who are willing to serve could prove difficult. Therefore, the Board determined that the increase in public directors will occur in two steps over two years. Two additional public directors will be elected in February 2010 and three additional public directors will be elected in February 2011.

Restructuring the Board in this manner also assumes that no more than four contract market Member directors will sit on the Board. Given the continued consolidation of futures exchanges, the Board believed that the number of contract market Board representatives should be reduced from a maximum of five to a maximum of four. This change will have no practical effect at present since there only four contract market Members of NFA. If there are more than four exchange Members of NFA, then (a) each exchange Member ranked in the top three Member exchanges based on volume would have one representative; and (b) one additional exchange Member having volume in excess of 1,000,000 but not ranked among the top three shall be elected by exchange Members not ranked in the top three.

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In addition, NFA's Executive Committee will be structurally realigned to be comprised of 35% public representatives. The Committee currently has ten members – NFA's Chairman, NFA's President, two exchanges, three FCMs/IBs, two CPOs/CTAs, and one public representative.

As with the restructuring of the Board, the Board placed high value on the Committee's Member directors' expertise and considered the addition of public directors preferable to reducing the number of Member directors on the Committee. However, the Board was also concerned that simply adding four public directors and increasing the Committee from ten to fourteen members may result in a Committee unwieldy in size. Thus, the Board determined that two additional changes to the Committee's structure should be made, which would result in meeting the 35% public director requirement without significantly altering the Committee's size and Member composition.

First, NFA's President will be designated as a non-voting, *ex officio* member of the Committee, which would make a position available for an additional public director. Second, currently Article VIII, Section 3 provides that NFA's Chairperson has a separate position allocated to him/her on the Executive Committee by virtue of being the Chairperson. Since the Chairperson is drawn from a Member or public director category, it is appropriate that the Chairperson have a seat on the Committee as a representative of his/her respective category. The Board recognizes that this change eliminates a position but permits the election of another public director to the Committee without expanding its overall size.

Implementing the two changes would allow NFA to elect three additional public representatives to the Committee to meet the 35% requirement but only increase the Committee's overall size by one. The result would be an eleven-member Committee comprised of seven Member directors and four public directors. NFA's President would serve on the Committee in an *ex officio* non-voting capacity.

With regard to timing, the Board determined that the changes to the Committee should run parallel to the changes to the Board and be phased in over two years. Specifically, in February 2010, NFA's President/CEO would become a non-voting, *ex officio* member of the Committee and one public director would be elected; and in February 2011, NFA's Chairman will sit on the Committee as a representative of

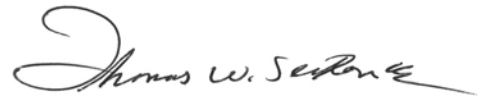
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the category that he or she represents on the Board and two public directors would be elected.

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’s Articles of Incorporation 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,

A handwritten signature in cursive script, appearing to read "Thomas W. Sexton".

Thomas W. Sexton
Senior Vice President and
General Counsel

* The proposed amendments to NFA's Articles of Incorporation and Bylaws became effective November 16, 2009.