

November 20, 2012

Via Federal Express

Ms. Sauntia Warfield
Assistant Secretary
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: National Futures Association: Revenue Structure for Swap Dealers and
Major Swap Participants – Proposed Amendments to NFA Bylaw 1301(f)*

Dear Ms. Warfield:

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 Bylaw 1301(f) relating to a proposed revenue structure for swap dealers (SDs) and major swap participants (MSPs). NFA’s Board of Directors (“Board”) approved the proposal on November 15, 2012, and NFA respectfully requests Commission review and approval of the proposal.

**PROPOSED AMENDMENTS
(additions are underscored)**

BYLAWS

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CHAPTER 13. SCHEDULE OF DUES AND ASSESSMENTS

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BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.

Subject to the provisions of Article XII, dues and assessments of Members shall be as follows:

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(f) Swap Dealer and Major Swap Participant Members

- (i) Each Swap Dealer Member that meets the definition of a Large Financial Institution pursuant to Article XVIII(n) of the Articles of Incorporation shall pay to NFA annual dues in the amount of \$1,000,000;
- (ii) Each Swap Dealer Member that does not meet the definition of a Large Financial Institution pursuant to Article XVIII(n) of the Articles of Incorporation shall pay to NFA annual dues in the amount of \$250,000;
- (iii) Each Major Swap Participant Member shall pay to NFA annual dues in the amount of \$250,000; and
- (iv) Any Swap Dealer Member or Major Swap Participant Member that is an affiliate as defined in Article XVIII(b) of the Articles of Incorporation of a Swap Dealer Member that pays annual dues in the amount described in subsections (i) or (ii) above or a Major Swap Participant Member that pays annual dues in the amount described in subsection (iii) above shall pay annual dues in the amount of \$150,000.

These dues apply when a firm first becomes approved as a Swap Dealer Member or Major Swap Participant Member. Thereafter, dues will be assessed on the firm's membership renewal date. Dues will be invoiced and paid quarterly. If an existing Member becomes approved as a Swap Dealer Member or Major Swap Participant Member, then NFA will send the Member an invoice for the dues amount owed minus any membership dues amount already paid during the firm's current membership year.

EXPLANATION OF PROPOSED AMENDMENTS

Section 3 of Article XV of NFA's Articles of Incorporation provides that NFA's dues, assessment fees and other charges should reflect the differences in the financial burden borne or expected to be borne by NFA in carrying out its duties and programs for each Member category. In addition, NFA's Board has consistently agreed on three guiding principles as it pertains to the organization's dues and fee structure. First, any structure should be fair and equitable. Second, the structure must provide sufficient revenue to cover NFA's financial needs necessary to provide regulation to the Members. Finally, any dues or fee structure should be simple and easy to administer for both NFA Members and NFA staff. These guiding principles were influential in

determining the proposed revenue structure for SDs and MSPs (together, Swap Participants).

NFA's Finance Committee met in mid-September to discuss a proposed revenue structure to recover anticipated costs associated with the regulation of SDs and MSPs. Representatives from several potential SDs joined the Finance Committee members in these discussions. The Finance Committee reached the following recommendations:

- NFA's revenue structure from SDs and MSPs should be generated in the form of membership dues alone and not a combination of dues and a transaction fee; and
- There should be two Tiers of membership dues, which will be divided as follows—Tier 1 roughly comprises SD Members that meet the definition of a Large Financial Institution pursuant to Article XVIII(n) of the Articles of Incorporation (i.e. the dealer signatories on the commitment letters executed with the OTC Derivatives Supervisors Group a/k/a currently the G-14) and they shall pay dues of \$1 million annually; Tier 2 comprises SD Members that do not meet the definition of a Large Financial Institution pursuant to Article XVIII(n) and MSPs (provided they are not affiliates of Large Financial Institution SD Members) and shall pay \$250,000 annually; and affiliates of Large Financial Institution SD Members shall pay \$150,000 annually.

The Finance Committee recommended a proposed dues amount of \$150,000 for SD Member affiliates of Large Financial Institution SD Members because it is anticipated that NFA will be able to exploit common processes and policies amongst affiliated Members while conducting simultaneous exams and gain efficiencies by doing so. Additionally, the SD representatives participating in the Finance Committee's deliberations represented that not only will most Large Financial Institution SD Members have several affiliates that are SD Members but some of those affiliates may perform only a modest amount of swaps activity.

In early October, NFA's Swap Dealer Advisory Committee (SDAC) reviewed the Finance Committee's proposed revenue structure and was supportive of its recommendation. The SDAC noted, however, that non-Large Financial Institution SD Members and MSP Members may also have affiliates just like Large Financial Institution SD Members. The SDAC therefore proposed that affiliates of non-Large Financial Institution SD Members and MSP Members be subject to the same \$150,000 annual membership dues as affiliates of Large Financial Institution SD Members. NFA's Finance Committee supported the SDAC's proposed common treatment of SD and

MSP affiliates and recommended this revenue structure for approval to NFA's Executive Committee and Board.

At its meeting on November 15th, upon recommendation of NFA's Executive Committee, the Board approved the following amendments to NFA Bylaw 1301(f) to adopt an annual membership dues structure for SDs and MSPs:

- Each SD Member that meets the definition of a Large Financial Institution pursuant to Article XVIII(n) of NFA's Articles of Incorporation shall pay to NFA annual dues in the amount of \$1,000,000;
- Each SD Member that does not meet the definition of a Large Financial Institution pursuant to Article XVIII(n) of NFA's Articles of Incorporation shall pay to NFA annual dues in the amount of \$250,000;
- Each MSP Member shall pay to NFA annual dues in the amount of \$250,000; and
- Any SD Member or MSP Member that is an affiliate as defined in Article XVIII(b) of NFA's Articles of Incorporation of a SD Member that pays annual dues in the amount described above (i.e. either \$1,000,000 or \$250,000) or a MSP Member that pays annual dues in the amount described above (i.e. \$250,000) shall pay annual dues in the amount of \$150,000.

At this time, one of the obvious challenges in determining a revenue structure for Swap Participants is estimating NFA's regulatory costs in the embryonic stage of NFA's oversight program because we do not know how many Swap Participants will ultimately become Members and how resource intensive their examinations will be. NFA assumed that examinations of Large Financial Institution SD Members would be significantly more resource intensive than examinations of other Swap Participants. We also estimated that approximately 60% of staff time would be devoted to examinations, with the balance spent on other regulatory duties, such as review of financial statements, investigations and ongoing training. NFA's estimated regulatory costs for Large Financial Institution SDs and the other Swap Participants are \$875,000 and \$220,000, respectively. We also estimated the regulatory costs for affiliates of Swap Participants to be \$130,000 per year. Lastly, annual membership dues were set about 12% above projected fully operational Swap Participant regulatory costs in order to recover program start-up costs and to gradually build operating reserves.

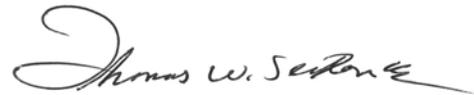
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Upon adopting a revenue structure for Swap Participants, the Board agreed that after NFA gains actual experience with the regulation of Swap Participants the level of membership dues for each tier should be reviewed and adjusted accordingly, along with the definition of which SDs fall within each dues tier. Therefore, NFA staff will closely monitor revenue and the costs associated with the swap regulatory program, and propose appropriate adjustments as actual experience is gained. The Board recognized, however, that it is important to have a revenue structure in place as soon as the membership process begins in early 2013.

NFA respectfully requests that the Commission review and approve the proposed amendments to NFA Bylaw 1301(f) regarding a revenue structure for SDs and MSPs.

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas W. Sexton".

Thomas W. Sexton
Senior Vice President and
General Counsel

* The proposed amendments to the Bylaw become effective April 1, 2013.