



May 25, 2021

**Via Email (secretary@cftc.gov)**

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

Re: National Futures Association: Proposed Amendments to NFA Bylaw 1301 and NFA Interpretive Notice 9053 entitled *Forex Transactions* to Reduce Forex Dealer Member Assessment on Order Segment Fees Submitted to FORTRESS

Dear Mr. Kirkpatrick:

Pursuant to Section 17(j) of the Commodity Exchange Act ("CEA"), as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("CFTC" or "Commission") the proposed amendments to NFA Bylaw 1301(e) and to NFA Interpretive Notice 9053 entitled *Forex Transactions* regarding a reduction in the assessments for each order segment fee a Forex Dealer Member ("FDM") submits to NFA's Forex Transaction Reporting Execution Surveillance System ("FORTRESS"). On May 20, 2021, NFA's Board of Directors ("Board") unanimously approved the adoption of the proposed amendments.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make the amendments to NFA Bylaw 1301(e) and to NFA Interpretive Notice 9053 effective as early as 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.

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

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**NATIONAL FUTURES ASSOCIATION**

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**BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.**

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**(e) Forex Dealer Members.**

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(ii) Each Forex Dealer Member shall pay an assessment of ~~\$.003~~ \$.001 on each order segment submitted by the Forex Dealer Member to NFA's Forex Transaction Reporting Execution Surveillance System. For purposes of this requirement, an order segment is a record of any line of data associated with an order, and includes when an order is added, modified, cancelled or filled.

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**INTERPRETIVE NOTICES**

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**9053 - FOREX TRANSACTIONS**

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**C. OTHER REQUIREMENTS**

This section of the notice provides guidance on dues, capital requirements, and security deposits. These requirements apply only to Forex Dealer Members.

**1. Bylaw 1301**

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Each Forex Dealer Member is also required to pay an assessment of ~~\$.003~~ \$.001 on each order segment submitted by the Forex Dealer Member to NFA's Forex Transaction Reporting Execution Surveillance System. For purposes of this requirement, an order segment is a record of any line of data associated with an order, and includes when an order is added, modified, cancelled or filled. In addition, unfilled open orders that are carried over by the system are considered a new order segment the next day.

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**EXPLANATION OF PROPOSED AMENDMENTS**

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NFA's forex regulatory program currently obtains the revenue needed to operate the program from three sources: (i) annual membership dues for FDMs for which NFA serves as the DSRO; (ii) annual membership dues for non-FDM Forex

Members; and (iii) an assessment of \$.003 on each order segment submitted to NFA's FORTRESS by FDM Members. NFA utilizes FORTRESS to perform surveillance of FDM trading activity.

NFA's Board requires that each of NFA's regulatory programs be financially self-sufficient and maintain a minimum amount of reserves to cover the program's projected operating expenses. Although NFA's Board reduced the FORTRESS segment fee effective January 1, 2020, the program continues to maintain reserves above the amount the Board believes is necessary for the program. Moreover, based upon current funding sources, it is expected that the forex regulatory program's reserves will continue to increase without a reduction in its funding level. Therefore, NFA's Board resolved to reduce the FORTRESS segment fee to reduce NFA's forex regulatory program's reserve balance to a level not to fall below at least 10 months of operating expenses. Once the amendments to Bylaw 1301 and the interpretive release become effective, NFA intends to notify FDMs that if the forex regulatory program is not able to maintain at least a 10-month reserve level, NFA will have to consider increasing the fee.

As stated earlier, on May 20, 2021, NFA's Board unanimously approved the proposed amendments to NFA Bylaw 1301(e) and the Interpretive Notice entitled *Forex Transactions* to reduce the FORTRESS segment fee from \$.003 to \$.001. In addition, NFA's Finance Committee and Executive Committee fully supported the proposed decrease in the FORTRESS segment fee.

Furthermore, as mentioned earlier, NFA is invoking the "ten-day" provision of Section 17(j) of the CEA. NFA intends to issue a Notice to Members establishing an effective date of the proposed amendment to NFA Bylaw 1301(e) and the Interpretive Notice entitled *Forex Transactions* regarding a reduction in the FORTRESS segment fee from \$.003 to \$.001 as early as 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,



Carol A. Wooding  
Senior Vice President  
and General Counsel