



May 29, 2020

Via E-mail (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 Interpretive Notice 9050 – *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts*

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 Interpretive Notice 9050 – *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts*. The proposed amendments will update the Risk Disclosure Statement section of the existing Interpretive Notice to incorporate recent changes to CFTC Regulation 41.25 and to reflect other minor updates and non-substantive technical changes. NFA's Board of Directors ("Board") unanimously approved the proposal on May 14, 2020.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to issue a Notice to Members establishing an effective date for this proposal as early as ten days after receipt of this submission by the Commission unless NFA is notified that the Commission has determined to review the proposal for approval.

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

NATIONAL FUTURES ASSOCIATION
INTERPRETIVE NOTICES

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9050 – NFA COMPLIANCE RULE 2:30(b): RISK DISCLOSURE STATEMENT FOR SECURITY FUTURES CONTRACTS

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RISK DISCLOSURE STATEMENT FOR SECURITY FUTURES CONTRACTS

This disclosure statement discusses the characteristics and risks of standardized security futures contracts traded on regulated U.S. exchanges. At present, regulated exchanges are authorized to list futures contracts on individual equity securities registered under the Securities Exchange Act of 1934 (including common stock and certain exchange-traded funds and American Depositary Receipts), futures on certain debt instruments as well as narrow-based security indices. Futures on other types of securities and options on security futures contracts may be authorized in the future. The glossary of terms appears at the end of the document.

Customers should be aware that the examples in this document are exclusive of fees and commissions that may decrease their net gains or increase their net losses. The examples also do not include tax consequences, which may differ for each customer.

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2.7. Trading Halts

The value of your positions in security futures contracts could be affected if trading is halted in either the security futures contract or the underlying security. In certain circumstances, regulated exchanges are required by law to halt trading in security futures contracts. For example, trading on a particular security futures contract must be halted if trading is halted on the listed market for the underlying security as a result of pending news, regulatory concerns, or market volatility. Similarly, trading of a security futures contract on a narrow-based security index must be halted under such circumstances if trading is halted on securities accounting for at least 50 percent of the market capitalization of the index. In addition, regulated exchanges are required to halt trading in all security futures contracts for a specified period of time when the ~~Dow Jones Industrial Average (“DJIA”)~~S&P 500 Index experiences one-day declines of ~~40~~seven-, ~~20~~13- and ~~30~~20-percent. The regulated exchanges may also have discretion under their rules to halt trading in other circumstances – such as when the exchange determines that the halt would be advisable in maintaining a fair and orderly market.

A trading halt, either by a regulated exchange that trades security futures or an exchange trading the underlying security or instrument, could prevent you from liquidating a position in security futures contracts in a timely manner, which could prevent you from liquidating a position in security futures contracts at that time.



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8.2. Position Limits and Large Trader Reporting

All security futures contracts trading on regulated exchanges in the United States are subject to position limits or position accountability limits. Position limits restrict the number of security futures contracts that any one person or group of related persons may hold or control in a particular security futures contract. In contrast, position accountability limits permit the accumulation of positions in excess of the limit without a prior exemption. In general, position limits and position accountability limits are beyond the thresholds of most retail investors. Whether a security futures contract is subject to position limits, and the level for such limits, depends upon the trading activity and market capitalization of the underlying security of the security futures contract.

Position limits are required for security futures contracts ~~that overlie on~~ a security ~~that has an average daily trading volume of 20 million shares or fewer. In the case of a security futures contract overlying a security index, position limits are required if any one of the securities in the index has an average daily trading volume of 20 million shares or fewer.~~ Position limits also apply only to an expiring security futures contract during its last ~~five~~ three trading days. A regulated exchange must establish a default position limits on a security futures contract that are is no greater than 13,500-25,000 (100-share) contracts (or the equivalent if the contract size is different than 100 shares), either net or on the same side of the market, unless the underlying security meets certain volume and shares outstanding thresholds exceeds 20 million shares of estimated deliverable supply, in which case the limit may be increased to 22,500 (100 share) contracts set at a level no greater than 12.5 percent of the estimated deliverable supply of the underlying security, either net or on the same side of the market.

For a security futures contracts overlying on a security or securities with an average a six-month total trading volume of more than 20 million 2.5 billion shares and there are more than 40 million shares of estimated deliverable supply, a regulated exchanges may adopt a position accountability rules in lieu of a position limit, either net or on the same side of the market. Under position accountability rules, a trader holding a position in a security futures contract that exceeds 22,500 25,000 100-share contracts (or such lower limit established by an exchange the equivalent if the contract size is different than 100 shares) or such lower level specified under the rules of the exchange, must agree to provide information regarding the position and consent to halt increasing that position if requested by the exchange.

Brokerage firms must also report large open positions held by one person (or by several persons acting together) to the CFTC as well as to the exchange on which the positions are held. The CFTC's reporting requirements are 1,000 contracts for security futures



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positions on individual equity securities and 200 contracts for positions on a narrow-based index. However, individual exchanges may require the reporting of large open positions at levels less than the levels required by the CFTC. In addition, brokerage firms must submit identifying information on the account holding the reportable position (on a form referred to as either an "Identification of Special Accounts Form" or a "Form 102") to the CFTC and to the exchange on which the reportable position exists ~~within three business days of~~ no later than the following business day when a reportable position is first established.

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EXPLANATION OF PROPOSED AMENDMENTS

NFA Compliance Rule 2-30(b) and its related Interpretive Notice entitled *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts* require NFA Members and Associates who are registered as brokers or dealers under Section 15(b)(11) of the Securities Exchange Act of 1934 to provide a disclosure statement for security futures products (SFPs) to a customer at or before the time the Member approves the account to trade SFPs. The risk disclosure statement for SFPs (Risk Disclosure Statement) is a uniform statement which describes the features of an SFP.

NFA recently became aware that the CFTC issued a final rule that amended CFTC Regulation 41.25, which governs position limits and position accountability for SFPs. These amendments became effective on November 26, 2019. Generally, the amendments increase the default maximum level of equity-based SFP limits and provide guidance as to when a designated contract market (DCM) may adopt position limits for non-equity based SFPs; modify the criteria for setting a higher position limit and position accountability level based on estimated deliverable supply; adjust the time during which position limits or position accountability must be in effect; and, finally, provide that a DCM may exercise discretion in applying limits to either a trader's net position or a trader's position on the same side of the market. NFA's Board has approved an update to the Risk Disclosure Statement section of the Interpretive Notice to incorporate these recent changes to CFTC Regulation 41.25.

NFA's Board has also approved two other minor updates to the Risk Disclosure Statement section of the Interpretive Notice to reflect the fact that the CFTC and the SEC permit exchanges to list SFPs on certain debt instruments and that a trading halt is no longer triggered based on a decline in the Dow Jones Industrial Average, but rather the S&P Index. FINRA staff notified NFA that it also intends to make the same amendments to its risk disclosure statement to cover its members.



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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 for the proposed amendments to Interpretive Notice 9050 – *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts* 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,

A handwritten signature in black ink that reads "Carol A. Wooding". The signature is written in a cursive style with a large, looping "C" and "W".

Carol A. Wooding
Senior Vice President and
General Counsel