

June 1, 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 Technical Amendments to NFA
Bylaws and Rules to Provide for Electronic Service of Process

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 507; Compliance Rules 3-3 and 3-15; and Financial Requirements Sections 5, 6, 9, and 11 to provide for electronic service of process. On May 20, 2021, NFA's Board of Directors ("Board") unanimously approved 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 507; Compliance Rules 3-3 and 3-15; and Financial Requirements Sections 5, 6, 9, and 11 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.

PROPOSED AMENDMENTS

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

NATIONAL FUTURES ASSOCIATION

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Bylaws

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BYLAW 507. SPECIAL MEETINGS.

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(b) Notice of Emergencies.

Except in the event of an emergency (as defined below), the Chairman shall cause notice of any special meeting of the Board to be given at least 48 hours before the time at which the meeting is to be held.

Notices to Directors may be given in writing and delivered personally or mailed to the Directors at their addresses appearing on the books of NFA or may be given by ~~telecopier~~, telephone or other means of electronic transmission.

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, at the beginning of the meeting, to the transaction of any business thereat on the ground that the meeting is not lawfully called or convened.

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Compliance Rules

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RULE 3-3. SERVICE.

For purposes of any proceeding brought under Part 3 of these Rules:

(a) service of a Complaint will be sufficient if: ~~mailed to the person charged ("the Respondent") by first class or overnight mail, to the last address provided by the Respondent on record with NFA, or the address of his duly authorized agent for service~~

(i) mailed to the person charged ("the Respondent") by first class or overnight mail, to the last address provided by the Respondent on record with NFA, or the address of his duly authorized agent for service; or

(ii) sent using electronic mail, provided the party has an electronic mail address on record with NFA. However, if service by electronic mail is not acknowledged by the recipient, then NFA will serve the Complaint by mailing it to the Respondent as described in (i);

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RULE 3-15. MEMBER OR ASSOCIATE RESPONSIBILITY ACTIONS.

* * *

(b) Procedure.

The following procedures shall be observed in actions under this Rule:

(i) The subject of the action (the "Respondent") shall, whenever practicable, be served with a notice before the action is taken. If prior notice is not practicable, the Respondent shall be served with a notice at the earliest opportunity. This notice shall (A) state the action taken or to be taken; (B) briefly state the reasons for the action; (C) state the time and date when the action became or becomes effective and its duration; and (D) state that any person aggrieved by the action may petition the Commission for a stay of the effective date of the action pending a hearing pursuant to Commission Regulations, Part 171, within 10 days of service. Service may be made by personal delivery (effective upon receipt), by telefax (effective upon transmission), or by mail (effective upon deposit). When service is effected by mail, the time within which the person served may respond shall be increased by five days. Service may also be made by electronic mail, provided the party has an electronic mail address on record with NFA. However, if service by electronic mail is not acknowledged by the Respondent, then NFA will serve the notice by personal delivery, by telefax or by mail.

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Financial Requirements

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SECTION 5. INTRODUCING BROKER FINANCIAL REQUIREMENTS.

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(c) A Member IB that is required to file any document with or give any notice to the CFTC under CFTC Regulations 1.10 [Financial reports of futures commission merchants and introducing brokers], 1.12 [Maintenance of minimum financial requirements by futures commission merchants and introducing brokers], 1.16 [Qualifications and reports of accountants], or 1.17 [Minimum financial requirements for futures commission merchants and introducing brokers] or is required to file any financial report or statement (e.g., FOCUS Reports) with any other securities or futures self-regulatory organization of which it is a member shall also electronically file one copy

of such document with ~~or give such notice to NFA at its Chicago office~~ no later than the date such document or notice is due to be filed with or given to the CFTC or the self-regulatory organization.

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SECTION 6. LEVERAGE TRANSACTION MERCHANT FINANCIAL AND REPORTING REQUIREMENTS.

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(b) Each Member LTM required to file any document with or give notice to the CFTC under CFTC Regulations 31.7 [Maintenance of minimum financial, cover and segregation requirements by leverage transaction merchants], 31.13 [Financial reports of leverage transaction merchants], 31.16 [Monthly reporting requirements], and 31.26 [Quarterly reporting requirements] shall also electronically file one copy of such document with ~~or give such notice to NFA at its Chicago office~~ no later than the date such document or notice is due to be filed with or given to the CFTC.

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SECTION 9. NOTIFICATION OF REPORTABLE POSITIONS.

Each Member FCM for which NFA is the DSRO and which is required to file any document with or give notice to the CFTC under CFTC Regulation ~~17.00~~ 15.03 shall also electronically file one copy of such document with ~~or give such notice to NFA at its Chicago office~~ no later than the date such document or notice is due to be filed with or given to the CFTC.

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SECTION 11. FOREX DEALER MEMBER FINANCIAL REQUIREMENTS.

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(e) An FDM for which NFA is the DSRO that is required to file any document with or give any notice to its DSRO under CFTC Regulations 5.6 [Maintenance of minimum financial requirements by retail foreign exchange dealers and futures commission merchants offering or engaging in retail forex transactions], 5.7 [Minimum financial requirements for retail foreign exchange dealers and future commission merchants offering or engaging in retail forex transactions] and 5.12 [Financial reports of retail foreign exchange dealers], or is required to file any financial report or statement with any other securities or futures self-regulatory organization of which it is a member shall

also electronically file one copy of such document with ~~or give such notice to NFA at its Chicago office~~ no later than the date such document or notice is due to be filed with or given to the CFTC or the self-regulatory organization.

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EXPLANATION OF PROPOSED AMENDMENTS

NFA's Rulebook contains provisions that permit Members to file certain financial and regulatory notices by hand-delivery or by transmitting by facsimile to NFA's Chicago office. Given the changes in technology since these provisions were adopted, and the efficiencies gained by electronic submission, NFA's Board has approved amendments to Financial Requirements Sections 5, 6, 9, and 11 to remove references to hand-delivery and facsimile as acceptable methods of filing with NFA and replaced them with a requirement that all notices be electronically filed with NFA. The Board also approved eliminating the reference to telecopier in NFA Bylaw 507. Further, the Board approved a minor amendment to Financial Requirements Section 9 updating the reference to the CFTC Regulation that requires FCMs to file reports on reportable positions.

NFA's Part 3 Compliance Rules that govern service of process reference delivery by first-class or overnight mail. Given the widely-accepted use of e-mail, as well as the fact that e-mail is substantially more efficient than other methods of service, NFA's Board also amended these provisions to permit service by e-mail provided that NFA has an email address on file for the Member or Associate and the Member or Associate acknowledges receipt of the e-mail. These changes are consistent with changes to NFA's Code of Arbitration and Member Rules the Board approved last August and were submitted to the Commission for review on August 27, 2020.

As mentioned earlier, NFA is invoking the "ten-day" provision of Section 17(j) of the CEA. NFA intends to make the proposed amendments to NFA Bylaw 507; Compliance Rules 3-3 and 3-15; and Financial Requirements Sections 5, 6, 9, and 11 effective as soon 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.

Mr. Christopher J. Kirkpatrick

June 1, 2021

Respectfully submitted,

A handwritten signature in cursive script, reading "Carol A. Wooding". The signature is fluid and elegant, with a large initial "C" and a long, sweeping underline.

Carol A. Wooding
Senior Vice President and
General Counsel