

June 7, 2022

**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 Compliance Rule 2-43 Regarding Forex Dealer Members that Exclusively Straight Through 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 Compliance Rule 2-43. On May 19, 2022, 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 Compliance Rule 2-43 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 underscoring and deletions are ~~stricken through~~)**

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**NATIONAL FUTURES ASSOCIATION**

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**Compliance Rules**

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**Part 2 – Rules Governing the Business Conduct of Members  
Registered with the Commission**

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## Rule 2-43. FOREX ORDERS

### (a) Price Adjustments

(1) A Forex Dealer Member may not cancel an executed customer order or adjust a customer account in a manner that would have the direct or indirect effect of changing the price of an executed order except when:

(i) the cancellation or adjustment is favorable to the customer and is done as part of a settlement of a customer complaint, provided, however, that individual customer complaints are not required in order for a Forex Dealer Member to favorably adjust all customer orders that were adversely affected by circumstances beyond the customer's control and that are unrelated to market price movements (except that the Forex Dealer Member must adjust all customer orders adversely affected and may not, except as provided in section (a)(1)(ii), adjust any order that received a favorable price due to the problem); or

(ii) ~~if a~~ the Forex Dealer Member exclusively uses straight-through processing, (as defined in NFA Compliance Rule 2-36(s)(5)) with a counterparty that is not an affiliate of the Forex Dealer Member, and that counterparty cancels or adjusts the price at which the offsetting position with the Forex Dealer Member was executed.

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### EXPLANATION OF PROPOSED AMENDMENTS

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In 2009, NFA's Board had concerns that Forex Dealer Members (FDMs) were changing prices on orders after they had been executed and reported to customers. After considering this issue, the Board adopted NFA Compliance Rule 2-43 to prohibit an FDM from cancelling or adjusting a customer account in a manner that would directly or indirectly change the price of the executed order except under two limited circumstances. Currently, the first exception under Compliance Rule 2-43(a)(1)(i), permits a cancellation or adjustment if it is favorable to the customer and is done as part of settling a customer complaint, provided the FDM adjusts all customer orders adversely affected. The second exception, under Compliance Rule 2-43(a)(1)(ii), permits an FDM to adjust or cancel if the FDM exclusively uses straight-through processing,<sup>[1]</sup> and the counterparty to the offsetting position with the FDM cancels or adjusts that order.

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<sup>[1]</sup> NFA Compliance Rule 2-36(s)(5) defines "straight through processing" as when an FDM automatically executes (without human intervention and without exception) an offsetting position to a customer order with another counterparty prior to providing an execution to the customer order.

NFA recently identified an FDM that intended to use an affiliate as its straight-through processing counterparty and that further intended to cancel or adjust customer orders when this affiliate canceled the FDM's offsetting positions, relying on the exception found in Compliance Rule 2-43(a)(1)(ii). NFA's Board does not believe that this type of arrangement comports with its intent when it adopted Compliance Rule 2-43, which is premised on the FDM not having control over any price change to its offsetting transaction and that the offsetting transaction with the straight-through processing counterparty is an arm's length transaction. Therefore, the Board is amending NFA Compliance Rule 2-43 to specify that the exception under NFA Compliance Rule 2-43(a)(1)(ii) is limited to FDMs that exclusively use straight-through processing with a counterparty that is not an affiliate of the FDM.

NFA discussed this amendment with each of NFA's FDMs. All of the FDMs, except for the FDM that intended to use an affiliate as a straight-through processing counterparty and rely on Compliance Rule 2-43(a)(1)(ii), supported the proposed rule change.

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 Compliance Rule 2-43 effective as soon as ten days after the 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, appearing to read "Carol A. Wooding", with a stylized flourish at the end.

Carol A. Wooding  
Senior Vice President  
and General Counsel