

August 23, 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 Financial Requirements Section 10 to Impose Late Fee for Certain Swap Dealer Filings and Proposed Interpretive Notice entitled *Financial Requirements Section 17: Initial Margin Model Ongoing Monitoring Reports*

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 Financial Requirements Section 10 and the proposed adoption of an Interpretive Notice entitled *Financial Requirements Section 17: Initial Margin Model Ongoing Monitoring Reports*. On August 19, 2021, NFA's Board of Directors ("Board") unanimously approved the proposed rule amendments and the adoption of the proposed Interpretive Notice.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make the amendments to NFA Financial Requirements Section 10 and the Interpretive Notice 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 proposals for approval.

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

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**NATIONAL FUTURES ASSOCIATION**

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**FINANCIAL REQUIREMENTS**

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**SECTION 10. LATE FINANCIAL REPORTS AND OTHER FILINGS.**

Each financial report or other filing required by Section 1, 5, 6, 11, 17 or 18 that is filed after it is due shall be accompanied by a fee of \$1,000 for each business day it is late. Payment and acceptance of the fee does not preclude NFA from filing a disciplinary action under the Compliance Rules for failure to comply with the deadlines imposed by NFA Financial Requirements or CFTC rules.

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**INTERPRETIVE NOTICES**

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**XXXX - FINANCIAL REQUIREMENTS SECTION 17: INITIAL MARGIN MODEL  
ONGOING MONITORING REPORTS**

Swap Dealer and Major Swap Participant (collectively, SD) Members that are subject to the CFTC's initial margin (IM) requirements under CFTC Regulation 23.154 may calculate (IM) using a standardized table based method or an internal risk based IM model that has been approved by the CFTC or NFA. In 2016, NFA established an IM model approval program and subsequently established an IM model oversight program to ensure that SD Members using an approved IM model could demonstrate that the model complied with CFTC Regulation 23.154 (incorporated by reference in NFA Compliance Rule 2-49) on an ongoing basis.

SD Members using NFA approved IM models are required to submit certain information on IM model performance to NFA on a periodic basis. This Interpretive Notice specifically identifies the required filings.

SD Members using an approved IM model must submit the following information to NFA in the noted time frames:<sup>[1]</sup>

**Quarterly (due by the last day of the following month):**

- AcadiaSoft IM portfolio reconciliation reports for each of the three month ends in the quarter;
- A listing of the top five backtesting and benchmarking shortfalls; and
- An analysis of exceedances that breached the firm's internal thresholds and a description of remedial actions on the IM amount.

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<sup>[1]</sup> In the instance the due date does not fall on a business day, the information must be filed with NFA the immediate business day prior.

**Annually (due by January 31 each year):**

- The annual internal audit report required by CFTC Regulation 23.154(b)(5)(iv); and
- NFA's IM Model monitoring questionnaire.

NFA may also request other information from SD Members using approved IM models. SD Members must submit any additional information to NFA in the required time frame.

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**EXPLANATION OF PROPOSED AMENDMENTS  
AND INTERPRETIVE NOTICE**

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NFA's Board has amended NFA Financial Requirements Section 10 to impose a \$1,000 per business day late fee on each financial report or other filing required by NFA Financial Requirements Section 17 that is filed after it is due. NFA Financial Requirements Section 17 requires Swap Dealers and Major Swap Participant Members (collectively, SDs or SD Members) to file with NFA financial, operational, risk management and other information required by NFA. NFA uses Section 17 to impose monthly risk data filings on SDs and to require SDs that use an approved initial margin (IM) model to file certain information on IM model performance with NFA as part of NFA's IM model oversight program to ensure compliance with CFTC Regulation 23.154 (which is incorporated by reference in NFA Compliance Rule 2-49).

NFA's Board also adopted a new Interpretive Notice to Financial Requirements Section 17 entitled *Financial Requirements 17: Initial Margin Model Ongoing Monitoring Reports* to clarify existing reporting requirements for SD Members related to IM model performance by specifying the currently required information and to make clear NFA's expectations regarding the quarterly and annual filings (IM model ongoing monitoring reports).

The information provided in the risk data filings and IM model ongoing monitoring reports allows NFA to identify firms that may pose a heightened risk and allocate NFA's resources accordingly. NFA has experienced a continuing problem with firms filing the monthly risk data reports and the IM model ongoing monitoring reports after the due date. Receiving these filings on a timely basis is essential for NFA to carry out its oversight responsibilities. The proposed \$1,000 per business day late fee for SDs that submit these late filings is consistent with the late filing fee that NFA imposes on FCM, FDM, and IB Members that submit late financial filings.

NFA's Swap Participant Advisory Committee and Executive Committee fully supported the proposed amendments to Financial Requirements 10 and related Interpretive Notice, which were unanimously approved by NFA's Board. As stated 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 NFA Financial Requirements Section 10 and the Interpretive Notice entitled *Financial Requirements Section 17: Initial Margin Model Ongoing Monitoring Reports* 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, reading "Carol A. Wooding". The signature is written in a cursive, flowing style with a large, stylized 'C' and a long, sweeping tail.

Carol A. Wooding  
Senior Vice President and  
General Counsel