

November 22, 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 18 Swap Dealer and Major Swap Participant Financial Requirements

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 18. On November 18, 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 Financial Requirements Section 18 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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Financial Requirements

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SECTION 18. SWAP DEALER AND MAJOR SWAP PARTICIPANT FINANCIAL REQUIREMENTS

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(e) Financial Reporting

(i) Each Member SD and MSP must file unaudited financial reports with NFA for each month-end or quarter-end, as required under CFTC Regulation 23.105(d), including its fiscal year end, within 17 business days of the date for which the report is prepared using an electronic medium approved by NFA.

(ii) Within 60 days of the Member's fiscal year end, or within 90 days of the Member's fiscal year end for those SDs or MSPs electing to be subject to minimum capital requirements under CFTC Regulation 23.101(a)(2) or CFTC Regulation 23.101(b), each Member SD and MSP must file with NFA its annual audited financial report as required per CFTC Regulation 23.105(e) in a form and manner required by NFA.

(iii) SD Members must file their financial reports on the following forms: Form FR-CSE-NLA or FR-CSE-BHC, except that an SD Member that is an SEC registered broker-dealer, security-based swap dealer or major security-based swap participant must file its financial reports on the FOCUS report if it otherwise files such report with the SEC.

~~(1) A Member SD that is a broker-dealer, security-based swap dealer or major security-based swap participant must file its financial reports on the FOCUS Report.~~

~~(2) All other SD Members must file their financial reports on Form FR-CSE-NLA or FR-CSE-BHC.~~

EXPLANATION OF PROPOSED AMENDMENTS

NFA Financial Requirements Section 18 requires that a swap dealer Member (SD Member) that is also a broker-dealer, security-based swap dealer (SBSD), or security-based swap participant to file its financial reports with NFA on the FOCUS report. NFA drafted Financial Requirements Section 18 under the assumption that all SDBDs would be filing the FOCUS report with the SEC and to ensure that NFA receives the same information as the SEC. However, under SEC Rule 18a-10, an SBSBD with minimal security-based swap activity may choose to comply with the capital, margin, segregation, recordkeeping, and reporting requirements of the CFTC in lieu of the equivalent SEC regulations. NFA recently learned that two SDs intend to operate under

this alternative compliance mechanism, and therefore will not be filing a FOCUS report with the SEC. Therefore, NFA's Board has approved amendments to NFA Financial Requirements Section 18(e) to only require SBDS that file the FOCUS form with the SEC to use the FOCUS form to file financial reports with NFA. Any SBSD not using the FOCUS form is required to use one of the other two forms developed by NFA. Since the first financial filings required under NFA Financial Requirements Section 18 are due on November 24, 2021, NFA will accept Form FR-CSE-NLA or FR-CSE-BHC from the impacted SDs for this upcoming filing.

As mentioned above, NFA's Board unanimously approved this amendment and 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 18 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" at the beginning and a long, sweeping tail at the end.

Carol A. Wooding
Senior Vice President and
General Counsel