

August 28, 1986

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association, Proposed Amendments to Bylaws 301(g), 305 (Schedule A, Sections I(a), (g) and (f)), and 1302; and Proposed Bylaw 512.

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") proposed amendments to NFA Bylaws 301, 305 and 1302, and proposed Bylaw 512. The amendments and the new Bylaw were approved by NFA's Board of Directors at its meeting on August 21, 1986.

I. THE PROPOSED AMENDMENTS AND BYLAW

- A. Amendment to Bylaw 301(g) allowing NFA's Membership Committee to appoint, by majority vote, Subcommittees consisting of at least three Committee members (additions are under-scored):

**BYLAWS OF
NATIONAL FUTURES ASSOCIATION**

* * *

**CHAPTER 3
MEMBERSHIP AND ASSOCIATION WITH A MEMBER**

* * *

Bylaw 301. Requirements and Restrictions.

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(g) Denial and Revocation

- (i) If the President has reason to believe that: an applicant for membership or registration with NFA as an Associate does not meet the qualifications set forth in this Chapter for NFA membership or association with a Member, as the case may be; a Member or registered Associate does not meet the qualifications set forth in this Chapter for continuation as a Member or Associate; or the person has submitted an intentionally incomplete, inaccurate or otherwise false application to NFA for membership or registration as an Associate -- the President shall promptly so notify the person in writing and furnish a copy of the notice to the Membership Committee, setting forth the specific grounds for the determination. The person shall be given an opportunity to show to the President that the qualifications are met, or that the application is not intentionally incomplete, inaccurate or false. If the person requests, or if the Membership Committee orders, a hearing shall be held before the Membership Committee or its designated Subcommittee, and a record shall be kept. Such designated Subcommittee shall consist of at least three members of the Membership Committee. Each member of the designated Subcommittee shall be appointed by a majority of the Membership Committee.
- (ii) If a hearing before the Membership Committee is held, the Committee or Subcommittee shall make a final, written determination upon the record before it, setting forth the specific grounds for its determination. A copy of the determination shall promptly be sent to the person. If the determination is to deny or revoke membership or registration as an Associate, the Membership Committee or its designated Subcommittee shall, in the denial or revocation notice, inform the person of the right of such person under the Act to petition the Commission, within 30 days after the denial or revocation, for the review of the action under Section 17(h) of the Act. The person may be represented at the hearing, and submit evidence in the proceeding, call and examine witnesses, examine the evidence upon which the President's determination was based, and, in the discretion of the Membership Committee or its designated Subcommittee, present written or oral argument.



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- B. Amendment to Bylaw 305, Schedule A, Sections I(a) and (g), and proposed Bylaw 512, relating to NFA's registration responsibilities for floor brokers which the Commission has indicated it will authorize NFA to perform no later than October 1, 1986 (additions are underscored):

BYLAWS OF
 NATIONAL FUTURES ASSOCIATION

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CHAPTER 3
 MEMBERSHIP AND ASSOCIATION WITH A MEMBER

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Bylaw 305. Registration and Proficiency Requirements.

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SCHEDULE A

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I. Registration

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(a) Registration Requirement.

Types of persons other than floor brokers subject to regulation under the Act, as defined in the Act or Commission regulations, for which NFA has been delegated registration responsibilities pursuant to Section 8a(10) or Section 17(o) of the Act shall be required to register if required to register under the Act and not exempt from registration by Commission rule or order.

* * *

(g) Registration of Floor Brokers.

NFA shall perform registration functions with respect to persons required to register under the Act as floor brokers in accordance with all of the Rules governing the registration of floor brokers contained in Part 3 of the Commission's Rules, except that, NFA Bylaw



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305, Schedule B shall govern access to and certification of floor broker registration records maintained by NFA.

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CHAPTER 5
BOARD OF DIRECTORS

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Bylaw 512. Voting on Floor Broker Registration Responsibilities.

NFA will not seek or accept any authority in connection with the registration of floor brokers that exceeds the authority granted to NFA in the initial Commission order authorizing NFA to perform certain floor broker registration functions or any other authority sought or accepted by NFA under the terms of this Bylaw, without the consent of contract market directors representing two-thirds of contract market Members.

- C. Amendment to Bylaw 305, Schedule A, Section I, adding Sub-section (f) authorizing NFA to grant temporary licenses to qualified applicants for registration as introducing brokers that are guaranteed by futures commission merchants. (A proposed amendment to Bylaw 305, Schedule A, Section I(f) was submitted to the Commission for approval by letter of December 3, 1985. That submission is hereby withdrawn and the following revised amendment is submitted):

BYLAWS OF
NATIONAL FUTURES ASSOCIATION

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CHAPTER 3
MEMBERSHIP AND ASSOCIATION WITH A MEMBER

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Bylaw 305. Registration and Proficiency Requirements.

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Schedule A

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I. Registration

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(f) Temporary Licenses for Guaranteed Introducing Brokers.

Qualifications

Notwithstanding any other provisions of these regulations, NFA may grant a temporary license to any applicant for registration as an Introducing Broker upon the contemporaneous filing with NFA of:

- (A) A properly completed Guarantee Agreement (Form 1-FR Part B) from an FCM which is eligible to enter into such an agreement pursuant to CFTC Regulation 1.10(j)(2); and
- (B) A properly completed Form 7-R; and
- (C) A properly completed Form 7-R Schedule A; and
- (D) A properly completed Form 8-R for all persons that are principals and branch managers which contain no "yes" answers indicating that the applicant may be subject to a statutory disqualification under the Commodity Exchange Act; and
- (E) A signed and dated certification from the FCM providing the Guarantee Agreement required by paragraph (i)(A), signed by an officer, if the FCM is a corporation, by a general partner, if a partnership, or by the sole proprietor, if a sole proprietorship, stating that:
 - (1) The FCM has verified the information on the Forms 8-R filed pursuant to paragraph (i)(D) which relate to the applicant's principals' education and employment history during the preceding five years; and
 - (2) To the best of the FCM's knowledge, information, and belief, all of the publicly available information supplied by the applicant and its principals on the Form 7-R and Forms 8-R, as



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appropriate, is accurate and complete;
and

- (F) Legible fingerprints on cards provided by NFA for all persons that are principals and branch managers: Except that, principals currently registered as associated persons or principals of current registrants must complete and file only the Disciplinary History portion of Form 8-R to satisfy the filing requirements of (i)(D) and (i)(E) if they are not required to register as an associated person of the applicant; and
- (G) Proof of satisfaction of the applicable proficiency requirements set forth in this Schedule A, or exemption therefrom, by all branch managers and all principals acting in a capacity which requires registration as an associated person; and
- (H) All of the other forms and documents, properly completed, that are required to become registered as an Introducing Broker and to become an NFA Member.

A guarantee agreement filed in connection with (i)(A) shall become effective upon the granting of the temporary license.

The FCM providing the certification required by paragraph (i)(E) must take all measures necessary to prevent the unwarranted dissemination of any of the information contained in the Form 7-R and Forms 8-R and in the records and documents obtained in support of the required certification.

(ii) Withdrawal of Application

Failure of an applicant to respond to NFA's request for clarification of application information or resubmission of fingerprints will be deemed to be a withdrawal of the registration application and an immediate termination of the temporary license.



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(iii) Restrictions Upon Activities

- (A) An applicant for registration as an Introducing Broker who has received written notification that a temporary license has been granted may act in the capacity of a guaranteed Introducing Broker, subject to all CFTC Rules, Regulations and orders and all requirements of an NFA Member.
- (B) An applicant for registration as an Introducing Broker who has received a temporary license may be guaranteed by an FCM other than the FCM which provided the initial guarantee agreement described in (i)(A): Provided that, written notice is given to NFA 10 days prior to the effective date of such termination or such other period of time as NFA may allow for good cause shown of the termination of the existing guarantee agreement in accordance with NFA Financial Requirements Section 9 and CFTC Regulations 1.10(j)(4)(ii) or (j)(5) and a properly completed guarantee agreement (Form 1-FR Part B) effective the day following the last effective date of the existing guarantee agreement.

(iv) Termination

- (A) A temporary license shall terminate:
 - (1) Five days after service upon the applicant of a notice by NFA that the applicant for registration may be found subject to a statutory disqualification from registration; or
 - (2) Immediately upon termination or suspension of the applicant's or guarantor FCM's NFA membership or upon termination of the applicant's guarantee agreement in accordance with NFA Financial Requirements Section 9 and CFTC Regulations 1.10(j)(4)(ii) or (j)(5) unless a new guarantee agreement is filed in accordance with (f)(iii)(B) above; or
 - (3) Upon failure of an applicant to respond to NFA's request for clarification of appli-



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cation information or resubmission of fingerprints pursuant to (ii) above.

(B) Upon termination, the applicant may not engage in any activity which requires registration as an Introducing Broker.

(v) Relationship to Registration and Membership

(A) A temporary license shall not be deemed to be a registration or to confer any right to such registration.

(B) The granting of a temporary license shall constitute the granting of NFA membership.

(C) Termination of a temporary license will affect NFA membership as described in Bylaw 301(h)(i).

(D) The renewal date of a registration granted from a temporary license will be determined upon registration with such date not causing a registration to expire less than one year nor more than two years from the date of the granting of registration.

(E) Unless a temporary license has terminated, a temporary license shall become a registration upon the earlier of:

(1) A determination by NFA that the applicant is qualified for registration as an Introducing Broker; or

(2) The expiration of six months from the date of its issuance.

D. Amendment to Bylaw 1302 limiting the amount of time in which an NFA Member may request a refund for overpayment of NFA assessment fees (additions are underscored):

**BYLAWS OF
NATIONAL FUTURES ASSOCIATION**

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**CHAPTER 13
DUES AND ASSESSMENTS**



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Bylaw 1302. Payment of Dues and Assessments.

Annual dues shall be payable in advance on the first day of January of each year, or at such other time or times as the Board shall determine. Members paying dues after the date such dues are payable shall be subject to a late payment charge of \$25 per month or portion thereof. Assessments based upon futures transactions shall be payable to NFA within thirty (30) days after the end of each NFA fiscal quarter for transactions effected during that quarter. In addition to such assessments each FCM shall pay to NFA an amount equal to one month's interest at an annual rate of 10% (or such other rate of interest as the President, with the concurrence of the Executive Committee, may determine from time to time) on the amount of any such assessment payable by that FCM for every month or fraction thereof such assessment payment is late. If a Member claims overpayment of its assessments based upon futures transactions, the Member may request a refund at any time prior to the end of the eighteenth calendar month following the due date for payment of assessments for the NFA fiscal quarter with respect to which such claimed overpayment was made. After that time, no refunds, adjustments or offsets will be made or allowed. Except as the Board may otherwise provide by resolution, each Member shall pay dues and assessments, as applicable, for each category in which the Member - or an affiliate thereof, unless such affiliate is a Member in its own right - is registered with the Commission and conducts business.

XV. EXPLANATION OF THE PROPOSED AMENDMENTS AND BYLAW

- A. Explanation of amendment to Bylaw 301(g) allowing NFA's Membership Committee to appoint, by majority vote, Subcommittees consisting of at least three Committee members.

NFA's Rules for conducting adverse registration proceedings (Bylaw 305, Schedule A, Sections I(c) and (d)) allow the Membership Committee to designate a Subcommittee in proceedings to deny, condition, suspend, restrict or revoke registration. However, the Membership Committee does not currently have the authority to designate a Subcommittee in membership cases. The proposed amendment to Bylaw 301(g) would allow the Membership Committee to appoint, by majority vote, Subcommittees consisting of at least three Committee members. This will allow the Committee greater flexibility in scheduling hearings and handling cases in which the hearing may extend over several days.



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- B. Explanation of amendments to Bylaw 305, Schedule A, Sections I(a) and (g), and proposed Bylaw 512 relating to NFA's registration responsibilities for floor brokers which the Commission has indicated it will authorize NFA to perform no later than October 1, 1986.

By letter dated June 27, 1986, NFA requested the Commission to authorize NFA, pursuant to Section 8a(10) of the Act, to perform certain of the Commission's registration functions with respect to applications for registration as a floor broker. This request was the culmination of a series of discussions between the staffs of the Commission and NFA, and between NFA and the several exchanges acting on behalf of their member floor brokers, undertaken for the purpose of developing a mutually acceptable plan for the transfer of the Commission's floor broker registration responsibilities.

Specifically, NFA requested from the Commission authorization to perform the processing and granting of applications for initial registration of floor brokers in accordance with standards established by the Act and the regulations promulgated thereunder by the Commission. It was mutually agreed upon by the Commission, NFA and the various exchanges that the Commission would retain responsibility for granting conditional registrations to floor brokers and for denying, revoking or taking any other adverse actions with respect to such registrations. It was also agreed upon that the Commission would retain the authority to act upon requests for exemption or withdrawal from registration as a floor broker and to render "no-action" opinions with respect to applicable registration requirements.

By letter dated July 18, 1986, the Commission informed NFA that it fully expects to grant NFA the authority to perform the requested registration responsibilities no later than October 1, 1986. In anticipation of granting NFA registration responsibilities for floor brokers, the Commission issued a Notice and Order, effective July 17, 1986, authorizing NFA to take official custody of certain registration records of floor brokers as requested by NFA.

The proposed amendments to Bylaw 305, Schedule A, Sections I(a) and (g) make explicit the understanding of the Commission, NFA and the contract markets that NFA will perform its floor broker registration responsibilities in accordance with the Act and the Commission regulations thereunder and that Bylaw 305, Schedule B shall govern access to and certification of floor broker registration records maintained by NFA in connection with its registration processing responsibilities for



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floor brokers.

NFA's proposed Bylaw 512 defines the super-majority approval of contract market directors that must be obtained before NFA can seek or accept any additional authority relating to floor order registration.

- C. Explanation of amendment to Bylaw 305, Schedule A, Section I, adding Subsection (f) authorizing NFA to grant temporary licenses to qualified applicants for registration as introducing brokers that are guaranteed by futures commission merchants.

The purpose of the amendment to Bylaw 305, Schedule A, Section I to add Subsection (f) was discussed in NFA's letter to the Commission of December 3, 1985. At the request of the Commission, the proposed amendment has been revised to require that, as a condition to issuing a temporary license to an applicant for registration as an introducing broker operating under a guarantee agreement, the applicant's guarantor futures commission merchant ("FCM") must certify that, with respect to the introducing broker applicant and any principals thereof: (1) the FCM has verified the information on the Form 8-R filed with NFA which relates to the education and employment history of the applicant's principals; and (2) to the best of the FCM's knowledge, information and belief, all of the publicly available information supplied by the applicant and its principals on the Form 7-R and Form 8-R is accurate and complete.

- D. Explanation of amendment to Bylaw 1302 limiting the amount of time in which an NFA Member may request a refund for overpayment of NFA assessment fees.

NFA Bylaw 1301 provides for the payment of assessment fees to NFA by contract markets and FCM Members of NFA. On occasion, Members overpay the assessment fees actually due NFA under Bylaw 1301. It has been NFA's experience that in some instances, Members have requested refunds or deductions from current assessment fees based on overpayments claimed as many as nine calendar quarters prior to such request. If a Member has the ability to request a refund on an overpayment made at any time in the past, NFA's accounting records are, in effect, never closed with respect to assessment fees. Additionally, unlimited requests for overpayments of assessment fees could conceivably result in a substantial and unanticipated draw on NFA assets.



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The proposed amendment to Bylaw 1302 would allow a Member to request a refund for a claimed overpayment at any time prior to the end of the eighteenth calendar month following the due date for payment of assessments for the quarter for which such claimed overpayment was made. Such limitation, if approved, would give Members adequate time to account for or discover overpayments, and limit NFA's exposure on overpayments to a year and a half.

NFA respectfully requests that the amendments to NFA Bylaws 301(g), 305 (Schedule A, Sections I(a) and (g)), and 1302, and proposed Bylaw 512, be declared effective upon approval by the Commission. With respect to the amendment to Bylaw 305 (Schedule A, Section I(f)) NFA intends that the amendment become effective when NFA's registration systems can be adapted to accommodate the amendment.

Very truly yours,

Karen M. Dorff
Assistant General Counsel

cc: Chairman Susan M. Phillips
Commissioner Kalo A. Hineman
Commissioner Fowler C. West
Commissioner William E. Seale
Commissioner Robert R. Davis
Andrea M. Corcoran, Esq.
Kenneth M. Raisler, Esq.
Dennis Klejna, Esq.
Kevin M. Foley, Esq.
Kenneth M. Rosenzweig, Esq.
Linda Kurjan, Esq.

CS:nm
(D28/F13)

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



December 30, 1986

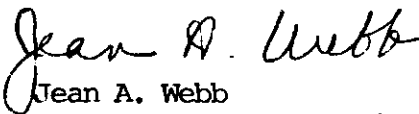
Karen M. Dorff, Esq.
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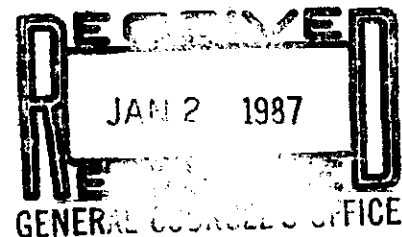
Re: Amendments to NFA Bylaws 301(g) and 1302.

Dear Ms. Dorff:

This is to notify the National Futures Association that the Commission has on this date approved, pursuant to Section 17(j) of the Commodity Exchange Act, the amendments to NFA Bylaws 301(g) (allowing NFA's Membership Committee to appoint, by majority vote, Subcommittees consisting of at least three Committee members) and 1302 (establishing an eighteen month time limitation on requests by NFA Members for refunds from overpayments of assessment fees), as submitted by your letter dated August 28, 1986.

Very truly yours,


Jean A. Webb
Secretary of the Commission



UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



December 16, 1986

Karen M. Dorff, Esq.
Assistant General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

Re: Temporary Licensing of Guaranteed Introducing Broker Applicants
and NFA Bylaw 305.

Dear Ms. Dorff:

This is to notify the National Futures Association that the Commission has on this date approved, pursuant to Section 17(j) of the Commodity Exchange Act, the amendments to NFA Bylaw 305, Schedule A, Section I to allow the temporary licensing of guaranteed introducing broker applicants, as submitted by your letter dated August 28, 1986. The Commission understands that the amendments will become effective after January 1, 1987.

Very truly yours,

Jean A. Webb

Jean A. Webb
Secretary to the Commission

