

August 25, 2009

**Via Federal Express**

Mr. David A. Stawick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

Re: National Futures Association: Forex Dealer Members Dues - Proposed  
Amendments to NFA Bylaw 1301\*

Dear Mr. Stawick:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("CFTC" or "Commission") proposed amendments to NFA Bylaw 1301 regarding Forex Dealer Members dues. This proposal was approved by NFA's Board of Directors ("Board") on August 20, 2009.

NFA is invoking the "ten-day" provision of Section 17(j) of the Commodity Exchange Act ("CEA") and will make these proposals effective 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**  
**(additions are underscored and deletions are ~~stricken through~~)**

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**BYLAWS**

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**CHAPTER 13**  
**SCHEDULE OF DUES AND ASSESSMENTS**

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**BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.**

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**(b) FCM Members.**

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(ii) Each FCM for which NFA serves as the DSRO, as defined in NFA Financial Requirements Section 2 1, shall pay to NFA annual dues of \$5,625 and each FCM for which NFA does not serve as the DSRO as defined in NFA Financial Requirements Section 2 1, shall pay to NFA annual dues of \$1,500.

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**(e) Forex Dealer Members.**

(i) Each Forex Dealer Member shall pay to NFA annual dues in the amount provided under section (b)(ii) of this bylaw plus a surcharge of \$44,375 if its gross annual revenue from the activities described in Bylaw 306(a) is \$500,000 or less, a surcharge of \$69,375 if its gross annual revenue from those activities is more than \$500,000 but not more than \$2,000,000, a surcharge of \$94,375 if its gross annual revenue from those activities is more than \$2,000,000 but not more than \$5,000,000, and a surcharge of \$119,375 if its gross annual revenue from those activities is more than \$5,000,000; provided, however, that a Forex Dealer Member for which NFA does not serve as the DSRO, as defined in NFA Financial Requirements Section 1, shall pay a surcharge of \$12,000, if the Forex Dealer Member's DSRO, or the entity to which the DSRO has delegated such responsibilities, agrees in writing to examine the Forex Dealer Member's forex activities to ensure compliance with all applicable NFA requirements as part of the annual examination of the Forex Dealer Member. These dues replace the dues that would otherwise be payable based on the Forex Dealer Member's registration category.

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**EXPLANATION OF PROPOSED AMENDMENTS**

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Bylaw 1301(e)(i) requires FDMs to pay the same dues as regular FCMs plus a surcharge based on the firm's revenue from its retail forex activities. NFA designed the surcharge to cover part of the additional cost of regulating those Members' forex activities. The FDM revenue structure also includes an assessment fee and a charge for unregulated solicitors. This overall structure is designed to recover NFA's forex regulatory costs.

NFA has lower regulatory costs when an exchange audits a Member and conducts the ongoing financial and regulatory surveillance. Therefore, NFA Bylaw 1301(b)(ii) imposes annual dues of \$5,625 on FCMs for which NFA is the designated self-regulatory organization ("DSRO") but reduces that amount to \$1,500 for FCMs for which an exchange is the DSRO. Although this reduction in the general FCM dues carries through to FDMs, there is no similar reduction for the forex-specific part of the dues. There is a very simple reason for this distinction: an exchange's DSRO duties do not currently include the Member's forex activities, and NFA incurs these expenses regardless of whether it is the firm's DSRO.

NFA is the DSRO for all but two FDMs, for which the CME serves as the DSRO. Recently, the CME agreed to include forex activities in its annual examinations of those two FDMs, thereby reducing NFA's regulatory costs. NFA believes it is appropriate to reduce the surcharge to reflect this difference.

Although the CME will now include these firms' forex operations in its annual examinations, NFA will still be responsible for reviewing certain aspects of their forex activities. NFA estimates that it will incur forex costs of approximately \$12,000 per year in excess of the other forex revenue (i.e., assessment fees and charges for unregulated solicitors) generated by these firms.

As noted above, Bylaw 1301(e) imposes a surcharge on FDMs based on their gross annual revenue from their forex business. The current surcharges range from \$44,375 (for those firms with revenue of \$500,000 or less) to \$119,375 (for those firms with revenue in excess of \$5,000,000). Since the DSRO, rather than NFA, will bear the brunt of the increased compliance costs incurred as the firm's forex business increases, the surcharge for these FDMs should not be tied to their forex revenue. The amendment to Bylaw 1301(e) provides for a flat \$12,000 surcharge for exchange-member FDMs that their DSRO has agreed to examine for compliance with applicable

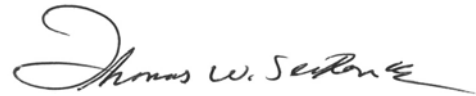
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NFA forex rules. Technical amendments to Bylaw 1301(b) and (e) update references to NFA Financial Requirements that defines "DSRO."

As mentioned earlier, NFA is invoking the "ten-day" provision of Section 17(j) of the Commodity Exchange Act. NFA intends to make the amendments to NFA Bylaw 1301 regarding FDMs dues effective 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, appearing to read "Thomas W. Sexton", with a long horizontal flourish extending to the right.

Thomas W. Sexton  
Senior Vice President and  
General Counsel

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\* The proposed amendments to NFA Bylaw 1301 became effective September 11, 2009.