August 30, 2010

Via Federal Express

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

Re: National Futures Association: Assessment of Trades on Foreign Exchanges – 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 assessment of trades on foreign exchanges. NFA's Board of Directors ("Board") approved this proposal on August 19, 2010.

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.

PROPOSED AMENDMENTS
(additions are <u>underscored</u> and deletions are ~~stricken through)~~

BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.

Subject to the provisions of Article XII, dues and assessments of Members shall be as follows:

* * *

(b) FCM Members.

(i) Each FCM Member shall pay to NFA an assessment equal to:

* * *

(D) $.02 for each commodity futures contract traded on or entered into subject to the rules of a foreign board of trade (other than an option contract) on a round-turn basis;

(E) $.01 for each option contract traded on or entered into subject to the rules of a foreign board of trade on a per trade basis,

carried by it for a customer other than: <u>(1)</u> on an omnibus account basis for another FCM Member for which assessments are payable to NFA by the other FCM; <u>or (2) for the proprietary trades of a person who has privileges of membership on any NFA Member contract market that has annual transaction volume of 1,000,000 calculated in conformance with Article VII, Section 2(a)(iii) of NFA's Articles of Incorporation provided, however, that this exemption shall not be afforded for the foreign proprietary trades of a person's parent, affiliate, or subsidiary unless these entities separately meet the requirements of this subsection.</u>

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EXPLANATION OF PROPOSED AMENDMENTS

NFA has always been mindful that no person should have to pay an exorbitant amount of NFA assessment fees. With this precept in mind, NFA's Finance Committee recently reviewed the payment pursuant to NFA Bylaw 1301(b) of NFA's assessment fee for firms engaging in proprietary trading on foreign exchanges. Since 1998, NFA has exempted proprietary trades by Member firms that are also members of the foreign exchange at which the trade is executed. The Finance Committee's review was based on the fact that an NFA Member firm trading on certain foreign exchanges that do not make a membership structure available to the NFA Member firm was paying a significant amount of NFA fees for proprietary trades conducted on these exchanges.

Therefore, NFA reviewed the appropriateness of broadening the current exemption from the NFA assessment fee for firms with privileges of membership on an NFA Member contract market engaging in proprietary trading on foreign exchanges regardless of whether the firm was a member of the foreign exchange. Based on this review, the Finance Committee recommended that NFA exempt a person's proprietary trading from the NFA assessment fee for trades on all foreign contract markets if the person has privileges of membership on any NFA Member contract market that meets the volume threshold (i.e., 1,000,000) contained in Article VII, Section 2(a) of NFA's Articles of Incorporation. The Finance Committee favored this solution for a number of reasons:

- It does not deviate widely from the current assessment fee interpretation for foreign proprietary trading;
- It is simple to administer;
- It limits the exemption to mostly high volume traders and consequently serves to mitigate the adverse impact on NFA's revenue; and
- Unlike all foreign contract markets, large U.S. traders have access to memberships on U.S. contract markets and the volume threshold (i.e., 1,000,000) contained in Article VII, Section 2(a) is designed to ensure that this exemption would not apply merely because the proprietary trader obtains a low cost U.S. contract market membership.

In particular, with respect to the volume threshold issue, some concerns were expressed that since some U.S. contract market memberships can be obtained for perhaps as little as $1,000, low volume proprietary traders might try to obtain these memberships to avoid having to pay the NFA assessment fee on foreign trades. However, the least expensive membership is about $10,000 on NFA Member contract markets that meet the volume threshold (i.e. 1,000,000) contained in Article VII, Section 2(a) relating to contract market board representatives. Viewed at today's assessment fee rate of $0.01 per side, this would represent 500,000 round-turn futures trades; should the assessment fee be increased to $0.02 per side sometime in the future, $10,000 would represent 250,000 round-turn futures trades.

The amendments to Bylaw 1301(b) exempt a person having privileges of membership on any NFA Member contract market that meets the volume threshold contained in Article VII, Section 2(a) of NFA's Articles of Incorporation from paying the assessment fee on proprietary trades on foreign contract markets.

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 effective ten days after receipt of the submission by the Commission, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

Respectfully submitted,

Thomas W. Sexton

Thomas W. Sexton
Senior Vice President and General Counsel

*The proposed amendments to NFA Bylaw 1301 become effective November 1, 2010.