

August 22, 2012

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: Swap Registration Requirements –
Proposed Amendments to NFA Bylaw 301 and Registration Rules 401
and 402*

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”) the proposed amendments to NFA Bylaw 301 and Registration Rules 401 and 402 regarding swaps activity eligibility and proficiency requirements. NFA’s Board of Directors (“Board”) approved the proposal on August 16, 2012.

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 underscored and deletions are ~~stricken through~~)

BYLAWS

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CHAPTER 3
MEMBERSHIP AND ASSOCIATION WITH A MEMBER

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BYLAW 301. REQUIREMENTS AND RESTRICTIONS.

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(l) Eligibility to Conduct Swaps Activities

(i) Any Member that is registered with the Commission as an FCM, IB, CPO, or CTA and engages in activities involving swaps subject to the jurisdiction of the CFTC must be approved as a swaps firm by NFA.

(ii) Any person associated with a Member that is registered with the Commission as an FCM, IB, CPO, or CTA and engages in activities involving swaps subject to the jurisdiction of the CFTC must be approved as a swaps associated person by NFA in order to engage in swaps activities on behalf of such Member.

(iii) No Member may be approved as a swaps firm unless at least one of its principals is registered as an "associated person" and approved as a swaps associated person.

(iv) If any Member that has been approved as a swaps firm fails to have at least one principal that is registered as an "associated person" and approved as a swaps associated person, then NFA shall deem such failure as a request to have the approval of the Member as a swaps firm withdrawn and shall notify that Member accordingly.

(v) Any request for approval as a swaps firm or swaps associated person must be filed electronically through NFA's Online Registration System.

(m) Withdrawal of Approval as a Swaps Firm

A Member may request that its approval, or pending application for approval, as a swaps firm be withdrawn by filing such a request through NFA's Online Registration System. Such a request shall become effective on the 30th day after the Member files the request, or earlier upon notice from NFA of the granting of such request.

(n) Notice.

NFA may provide any notice required by Bylaw 301 electronically unless written notice is specifically required. Notices provided electronically shall be complete upon display in NFA's Online Registration System. Notices provided in writing shall be complete upon mailing.

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REGISTRATION RULES

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PART 400. PROFICIENCY REQUIREMENTS

RULE 401. QUALIFICATION TESTING REQUIREMENT.

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(e) Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an AP will satisfy the proficiency requirements of this Rule if the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to:

(1) the solicitation or acceptance on behalf of the sponsor of orders for swaps subject to the jurisdiction of the CFTC;

(2) solicitation on behalf of the sponsor of funds, securities, or property for participation in a commodity pool that:

(i) exclusively trades swaps subject to the jurisdiction of the CFTC; or

(ii) trades swaps subject to the jurisdiction of the CFTC in a commodity pool and the sponsor has been granted or is seeking a waiver from the Series 3 for its APs on the basis that but for the trading of swaps it would be eligible for the exclusion under CFTC Regulation 4.5(c)(2)(iii)(A) or (B) or the exemption under CFTC Regulation 4.13(a)(3).

(3) the solicitation on behalf of the sponsor of clients to open discretionary accounts that exclusively trades swaps subject to the jurisdiction of the CFTC to be managed by registered CTAs; or

(4) the supervision on behalf of the sponsor of persons whose activities are so limited.

(ef) Notwithstanding the provisions of Rule 401(a), any individual applying to become a Member of NFA as an FCM, an RFED, an IB, a CPO, a CTA, an LTM, or for registration under the Act as an AP of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b), will satisfy the proficiency requirements of this Rule if:

(1) the applicant is or within the past two years has been registered or licensed in a jurisdiction outside the United States;

(2) the applicant has satisfied the proficiency requirements in that foreign jurisdiction and the Board of Directors has designated those proficiency requirements as an appropriate substitute for the market fundamentals portion of the National Commodity Futures Examination (Series 3); and

(3) NFA has received satisfactory evidence that the applicant has taken and passed the Limited Futures Examination-Regulation (Series 32) on a date which is no more than two years prior to the date the application is received by NFA; or

(4) NFA has received satisfactory evidence that the applicant has taken and passed the Limited Futures Examination-Regulation (Series 32) and since the date the applicant last passed such examination, there has been no period of two consecutive years during which the applicant has not been either registered as an AP or a principal of an FCM, RFED, IB, CTA, CPO or LTM.

(fg) The applicant's sponsor must supervise the applicant's compliance with the limitations on the applicant's activities set forth in paragraphs (b)-(de) of this Rule. Any failure of the applicant to adhere to such limitations may be cause for, among other things, disciplinary action by NFA against the sponsor for violation of NFA Compliance Rule 2-9. The limitations set forth in paragraphs (b)-(de) of this Rule shall remain in effect until the applicant or the applicant's sponsor submits to NFA satisfactory evidence of having taken and passed the National Commodity Futures Examination (Series 3).

(gh) An individual may contemporaneously engage in any activity permitted pursuant to the provisions of paragraphs (b)(2), (c)(4) and (d)(3) provided that the individual meets the other pertinent requirements of paragraphs (b)-(d).

(hi) Willfully making any materially false or misleading statement or willfully omitting to state any material fact in any part of the application for registration, including information concerning the requirements of this Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.

RULE 402. WAIVER OF TESTING REQUIREMENT.

The Vice-President of Registration and Membership may waive the requirements of Rule 401 under circumstances approved by the Board of Directors. The decision of the Vice-President of Registration and Membership shall be final. Any sponsor which has been granted a waiver with respect to its APs that becomes ineligible for such waiver

shall promptly notify the Vice-President of Registration and Membership in writing of such ineligibility.

EXPLANATION OF PROPOSED AMENDMENTS

Swaps Eligibility Requirements

Among its many provisions, Dodd-Frank amended the definitions of FCM, IB, CPO, and CTA to include "swaps." In order to track firms and individuals engaged in swaps activities, NFA's Board approved an amendment to Bylaw 301 to require FCMs, IBs, CPOs and CTAs whose activities involve swaps and the APs of these firms to be approved as a swap firm ("Swap Firms") or swaps associated person ("Swap APs"), respectively. Additionally, since Swap Firms may also engage in futures or retail forex activities, the "Swap AP" designation allows NFA to track these firms' APs who will be Swap APs. Under Bylaw 301, Member firms may file a request for this approval electronically through NFA's Online Registration System.

NFA's Board also approved an amendment to Bylaw 301 to provide that each firm seeking Swap Firm designation must have at least one individual who is a listed principal, and is registered as an AP and is designated as a Swap AP ("Swap AP/Principal"). If after registration and membership are granted, the firm terminates its last Swap AP/Principal, then the firm will be deemed to have requested withdrawal of its Swap Firm designation. Finally, the Board approved an amendment to Bylaw 301 to provide a mechanism for a Member to withdraw its request for approval as a swaps firm.

Proficiency Requirements

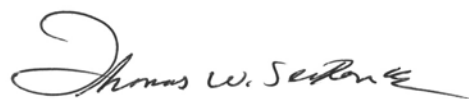
NFA has not developed a new proficiency examination specific to swaps, mainly because all the regulatory requirements for swaps activities have yet to be promulgated and made effective. Moreover, none of the existing proficiency examinations test for either the product or regulatory knowledge that is relevant to swaps activities. NFA has not ruled out creating a swaps proficiency examination, but no decision on that issue will be made until NFA has more experience related to regulating Members' swaps activities.

Therefore, NFA's Board adopted Registration Rule 401(e) to provide that an AP who limits his/her activity to swaps will not need to take and pass a proficiency exam in order to become designated as a Swap AP. Additionally, the Board adopted Registration Rule 401(e)(2) to exempt from the proficiency requirements APs of a CPO

that is required to be registered solely due to the firm's swaps activities. This rule provides an AP with an exemption from the proficiency requirements even if the CPO's commodity pool engages in a *de minimis* amount of futures trading. In this particular case, but for the trading of swaps, the CPO would be eligible for the exemption from registration under CFTC Regulation 4.13(a)(3) or the collective investment vehicle exclusion from the definition of a commodity pool under CFTC Regulation 4.5(c) because its commodity futures, commodity options contracts or swaps positions fall below either of the *de minimis* alternative trading tests set forth in CFTC Regulation 4.5(c)(2)(iii)(A) and (B), respectively. The CPO would have to obtain a waiver of the Series 3 requirement for its APs under Registration Rule 402 on that basis. Finally, the Board amended Registration Rule 402 to clarify that a sponsor that obtains a waiver on behalf of its APs on any basis approved by the Board must notify NFA if it becomes ineligible for the waiver. In this case, that could occur if the CPO's futures trading activity in and of itself exceed the levels of CFTC Regulations 4.13(a)(3) or 4.5(c)(2)(iii)(A) and (B).

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 301 and Registration Rules 401 and 402 regarding swaps activity eligibility and proficiency requirements, 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,



Thomas W. Sexton
Senior Vice President and
General Counsel

*The proposed amendments to Registration Rules 401 and 402 are effective immediately, October 3, 2012. The proposed amendments to NFA Bylaw 301 will become effective January 1, 2013.