

November 25, 2016

**Via Federal Express**

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: Disclosure of Transaction Data to Forex  
Customers – NFA Compliance Rule 2-36: Requirements for Forex  
Transactions\*

Dear Mr. Kirkpatrick:

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 amendment to NFA Compliance Rule 2-36. NFA's Board approved the proposed amendment on November 17, 2016, and NFA respectfully requests Commission review and approval of the proposed amendment.

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**PROPOSED AMENDMENT**  
**(additions are underscored and deletions are ~~stricken through~~)**

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**NATIONAL FUTURES ASSOCIATION**

**COMPLIANCE RULES**

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**Part 2 – RULES GOVERNING THE BUSINESS CONDUCT OF  
MEMBERS REGISTERED WITH THE COMMISSION**

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## Rule 2-36. REQUIREMENTS FOR FOREX TRANSACTIONS

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### (o) Disclosure of Transaction Data to Customers

(1) Upon the request of an FDM's customer with respect to a particular executed forex transaction of that customer, an FDM must provide the customer, within 30 minutes of the customer's request, with the following transaction data for the 15 forex transactions that occur immediately before and after in the same currency pair of the customer's transaction:

- (i) Execution date and time (to the nearest millisecond in Eastern time);
- (ii) Customer side (i.e., buy or sell);
- (iii) Quantity;
- (iv) Currency pair;
- (v) Execution price (including any mark-up);
- (vi) Commission and other charges assessed by the FDM (if applicable); and
- (vii) Currency denomination of commission or other charges.

Provided, however, that an FDM only has to provide transaction data pursuant to this subsection for any transactions that occur within 15 minutes before and after the execution of the customer's transaction.

(2) Each FDM must provide NFA with a copy of any customer request made under subsection (1) above and the FDM's response in the form and manner prescribed by NFA.

(3) Each FDM must inform customers of their ability to request this information by a notice prominently displayed on the FDM's website, each customer's trading portal and each customer transaction confirmation statement.

~~(e)~~(p) Scope

This rule governs forex transactions as defined in Bylaw 1507(b).

~~(e)~~(q) Exemptions for Certain Transactions

Transactions entered into through a Member to hedge currency exposure from positions on regulated exchanges are exempt from all forex requirements except sections (b) and (c) of this rule if the on-exchange transactions are handled by the same Member.

~~(g)~~(r) Definitions

For purposes of this rule:

- (1) "Affiliate" means any person that controls, is controlled by, or is under common control with the Forex Dealer Member;
- (2) "Customer" means a counterparty that is not an eligible contract participant as defined in Section 1a(18) of the Act; and
- (3) "Dealer" means any person that (i) holds itself out as a dealer in forex or in retail commodity transactions as defined in 2(c)(2)(D) of the Act; (ii) makes a market in forex or in retail commodity transactions as described in 2(c)(2)(D) of the Act; (iii) regularly enters into forex or in retail commodity transactions as described in 2(c)(2)(D) of the Act with counterparties as an ordinary course of business for its own account; or (iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in forex or in retail commodity transactions as described in 2(c)(2)(D) of the Act. Dealer includes other FDMs, as well as any entity acting in this manner that is not required to be an FDM.

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**EXPLANATION OF PROPOSED AMENDMENT**

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NFA Compliance Rule 2-36 sets forth requirements for Forex Dealer Members (FDM), including required disclosures to customers. NFA's Board of Directors has determined that retail forex customers should have greater transparency with respect to FDM transaction execution data.

The proposed rule change will provide retail forex customers with a framework for obtaining execution information to review the quality of the execution the customer received compared to that of other customers at the FDM. Specifically, an FDM will be required, upon the request of a customer of the FDM regarding a specific executed forex transaction of that customer, to provide the customer with specified transaction data for the 15 transactions in the same currency pair that occurred immediately before and after the customer's transaction (limited to those transactions that occur 15 minutes before and after the transaction). Each FDM will be required to notify its customers of their ability to request this information by a notice prominently displayed on the FDM's website, on each customer's trading portal, and on each

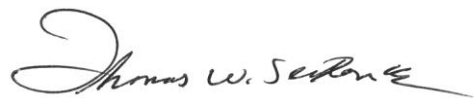
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customer transaction statement. Further, each FDM is required to provide NFA with a copy of any customer requests and the FDM's response in the form and manner required by NFA.

Representatives from the five FDMs indicated that they had no objection to providing this transaction information to their customers. The Board unanimously approved the proposed amendment on November 17, 2016. NFA respectfully requests the Commission's review and approval of the proposed amendment to NFA Compliance Rule 2-36 regarding FDMs' disclosure of transaction data to forex customers.

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas W. Sexton".

Thomas W. Sexton  
Senior Vice President and  
General Counsel

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\*The proposed amendment to NFA Compliance Rule 2-36 became effective March 31, 2017.