

August 21, 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: Protection of Customer Funds – Proposed Amendments to NFA Financial Requirements Section 4 To Provide On-Line View-Only Access to FCM Customer Segregated/Secured Amount Bank Account Information

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 Financial Requirements Section 4 that require FCMs to provide their designated self-regulatory organization (“DSRO”) with on-line view-only access to FCM customer segregated/secured amount bank account information. The proposed amendments also add CFTC Regulation 1.49 to the list of CFTC Regulations that if violated by an FCM, RFED or IB will also be deemed to be a violation of an NFA Requirement. NFA’s Board of Directors (“Board”) approved both amendments on August 16, 2012, and NFA respectfully requests Commission review and approval of the proposal.

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**PROPOSED AMENDMENTS  
(additions are underscored)**

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**FINANCIAL REQUIREMENTS**

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**SECTION 4. FINANCIAL REQUIREMENTS AND TREATMENT OF  
CUSTOMER PROPERTY.**

- (a) Any Member FCM, RFED, or IB who violates any of CFTC Regulations 1.10, 1.12, 1.16, 1.17 1.20 through 1.30, 1.49, 5.6, 5.7 or 30.7 (as applicable) shall be deemed to have violated an NFA Requirement.
- (b) Each Member FCM must provide its Designated Self-Regulatory Organization (DSRO) with view-only full access via the Internet to account information, in a form and manner prescribed by the DSRO, for each of the FCM's customer segregated funds account(s) maintained pursuant to CFTC Regulation 1.20 and held at a bank or trust company and each of the FCM's customer secured amount account(s) maintained pursuant to CFTC Regulation 30.7 and held at a bank or trust company.
- (c) In addition to the requirements of CFTC Regulation 1.49(d), in order for a bank or trust company to be an acceptable depository to hold customer segregated funds accounts identified in CFTC Regulation 1.20, the bank or trust company must allow the FCM to provide its DSRO with view-only full access via the Internet, in the form and manner prescribed by the DSRO, to account information for each of the FCM's customer segregated funds account(s) held at the bank or trust company.
- (d) In addition to the requirements of CFTC Regulation 30.7(c), in order for a bank or trust company to be an acceptable depository to hold customer secured amount accounts identified in CFTC Regulation 30.7, the bank or trust company must allow the FCM to provide its DSRO with view-only full access via the Internet, in the form and manner prescribed by the DSRO, to account information for each of the FCM's customer secured amount account(s) held at the bank or trust company.
- (e) Any Member FCM that receives money, securities and/or other property from, for or on behalf of a customer to margin, guarantee or secure the customer's positions in cleared OTC derivatives (as defined in CFTC Regulation 190.01(o)) must comply with CFTC requirements and the requirements established by the applicable contract market and/or derivatives clearing organization for such activity.

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## EXPLANATION OF PROPOSED AMENDMENTS

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Over the past several months, NFA has been involved in a number of initiatives to strengthen and help restore the public's confidence in the integrity of the

futures industry's customer funds protection regime. One of those initiatives involved NFA's participation on a committee made up of representatives from the futures industry's self-regulatory organizations ("SRO Committee"). The SRO Committee was instrumental in the development of NFA Financial Requirements Section 16, which the Commission recently approved and which will become fully effective on September 1, 2012. Although NFA Financial Requirements Section 16 will significantly strengthen the industry's customer protection regime, both the SRO Committee and NFA's Board were dedicated to exploring additional customer protection measures. As a result, the SRO Committee turned its attention to identifying ways to make better use of technology to provide DSROs with additional information regarding FCM financial data, including customer segregated and secured amount funds.

Specifically, the SRO Committee focused its efforts on exploring the feasibility of requiring FCMs to grant their DSRO with view-only on-line access to FCM customer segregated and secured amount accounts that are held at a bank or trust company in order to spot check an FCM's compliance with its segregation and secured amount requirements. This regulatory tool will permit DSROs to review an FCM's customer segregated and secured amount accounts on-line and determine whether balances reflected in each of the bank or trust company depositories holding customer segregated/secured amount funds were generally in line with the amount the FCM reported as held in cash at banks on its daily segregation and secured amount reports. The SRO Committee also recognized that in order to properly implement this requirement, banks and trust companies would have to provide DSROs with this access. Therefore, the SRO Committee also determined that a bank or trust company will not be an acceptable depository for holding customer segregated and secured amount funds unless the bank or trust company allowed an FCM to give this access to its DSRO.

Staff discussed this proposal with NFA's FCM Advisory Committee, which supported the proposal but requested that NFA be mindful that FCMs will need a sufficient amount of time to provide the required on-line access. NFA informed the FCM Advisory Committee that once the Board approved the proposal, then NFA will start working with the exchanges, FCMs and bank depositories to implement the on-line access process. The FCM Advisory Committee encouraged NFA to begin these discussions as soon as possible and, in fact, this process has already begun.

In order to implement the SRO Committee's recommendation, NFA's Board approved amendments adding additional provisions to NFA Financial Requirements Section 4. Subsection (b) requires FCMs to provide their DSRO with view-only full access via the internet to account information for each of its customer segregated funds accounts that are held at a bank or trust company and each of its

Mr. David A. Stawick

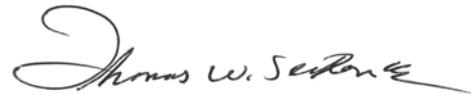
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customer secured amount accounts held at a bank or trust company. Subsection (c) provides that in addition to the requirements of CFTC Regulation 1.49(d), in order for a bank or trust company to be an acceptable depository for customer segregated funds, the bank or trust company must allow the FCM to provide this access to its DSRO. Subsection (d) imposes similar requirements in order for a bank or trust company to be an acceptable depository for customer secured amount funds.

NFA's Board also approved a minor amendment to subsection (a) of Financial Requirements Section 4 to add CFTC Regulation 1.49 to the list of CFTC Regulations that if violated by an FCM, RFED or IB will also be deemed to be a violation of an NFA Requirement.

NFA respectfully requests that the Commission review and approve the proposed amendments to NFA Financial Requirements Section 4 regarding on-line view-only access to FCM customer segregated/secured amount bank account information, as well as the minor amendment adding a reference to CFTC Regulation 1.49.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas W. Sexton".

Thomas W. Sexton  
Senior Vice President and  
General Counsel