

August 21, 2018

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: Proposed Amendments to NFA's
Interpretive Notice: *NFA Compliance Rule 2-30(b): Risk Disclosure
Statement for Security Futures Contracts*

Dear Mr. Kirkpatrick:

Pursuant to Section 17(j) of the Commodity Exchange Act ("CEA"), as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("CFTC" or "Commission") the proposed amendments to NFA's Interpretive Notice entitled *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts*. NFA's Board of Directors ("Board") unanimously approved the proposed amendments at its meeting on August 16, 2018.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make this proposal 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.

PROPOSED AMENDMENTS

(additions are underscored and deletions are ~~stricken through~~)

INTERPRETIVE NOTICES

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**NFA COMPLIANCE RULE 2-30(b): RISK DISCLOSURE STATEMENT FOR
SECURITY FUTURES CONTRACTS**

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Section 5 – Settlement

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5.2 – Settlement by physical delivery

Settlement by physical delivery is carried out by clearing brokers or their agents with National Securities Clearing Corporation ("NSCC"), an SEC-regulated securities clearing agency. Such settlements are made in much the same way as they are for purchases and sales of the underlying security. Promptly after the last day of trading, the regulated exchange's clearing organization will report a purchase and sale of the underlying stock at the previous day's settlement price (also referred to as the "invoice price") to NSCC. In general, if NSCC does not reject the transaction by a time specified in its rules, settlement is effected pursuant to the rules of the exchange and NSCC's Rules and Procedures within the normal clearance and settlement cycle for securities transactions, which currently is two business days. However, settlement may be effected on a shorter timeframe based on the rules of the exchange and subject to NSCC's Rules and Procedures.

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Section 6 – Customer Account Protections

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6.1 Protections for Securities Accounts

If your positions in security futures contracts are carried in a securities account, they are covered by SEC rules governing the safeguarding of customer funds and securities. These rules prohibit a broker-dealer from using customer funds and securities to finance its business. As a result, the broker-dealer is required to set aside funds equal to the net of all its excess payables to customers over receivables from customers. The rules also require a broker-dealer to segregate all customer fully paid and excess margin securities carried by the broker-dealer for customers.

The Securities Investor Protection Corporation (SIPC) also covers positions held in securities accounts. SIPC was created in 1970 as a non-profit, non-government, membership corporation, funded by member broker-dealers. Its primary role is to return funds and securities to customers if the broker-dealer holding these assets becomes insolvent. SIPC coverage applies to customers of

current (and in some cases former) SIPC members. Most broker-dealers registered with the SEC are SIPC members; those few that are not must disclose this fact to their customers. SIPC members must display an official sign showing their membership. To check whether a firm is a SIPC member, go to www.sipc.org, call the SIPC Membership Department at (202) 371-8300, or write to SIPC Membership Department, Securities Investor Protection Corporation, 1667 K Street NW, Suite 1000, Washington, DC 20006-1620.

SIPC coverage is limited to \$500,000 per customer, including up to ~~\$100,000~~ \$250,000 for cash. For example, if a customer has 1,000 shares of XYZ stock valued at \$200,000 and \$10,000 cash in the account, both the security and the cash balance would be protected. However, if the customer has shares of stock valued at \$500,000 and ~~\$100,000~~ \$250,000 in cash, only a total of \$500,000 of those assets will be protected.

For purposes of SIPC coverage, customers are persons who have securities or cash on deposit with a SIPC member for the purpose of, or as a result of, securities transactions. SIPC does not protect customer funds placed with a broker-dealer just to earn interest. Insiders of the broker-dealer, such as its owners, officers, and partners, are not customers for purposes of SIPC coverage.

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EXPLANATION OF PROPOSED AMENDMENTS

NFA Compliance Rule 2-30(b) requires Members and Associates who are registered as brokers or dealers under Section 15(b)(11) of the Securities Exchange Act of 1934 to provide a disclosure statement for security futures products to a customer at or before the time the Member approves the account to trade security futures products. The text of the disclosure statement is set forth in NFA's Interpretive Notice entitled *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts* ("Risk Disclosure Statement"). Section 6.1 of the Risk Disclosure Statement discusses the Securities Investor Protection Corporation coverage for security futures contracts held in a securities account and indicates that SIPC coverage is limited to \$500,000 per customer, including up to \$100,000 in cash. NFA recently learned that SIPC coverage for cash protection has increased from \$100,000 to \$250,000. At its meeting on August 16, 2018, NFA's Board unanimously approved a proposed amendment to the Interpretive Notice to update the Risk Disclosure Statement to reflect the correct limit of SIPC cash protection. FINRA staff notified NFA that it also intends to make the same modification to its risk disclosure statement to cover its members.

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As mentioned earlier, NFA is invoking the “ten-day” provision of Section 17(j) of the CEA. NFA intends to make the proposed amendments to NFA's Interpretive Notice entitled *NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts* 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 that reads "Carol A. Wooding". The signature is written in a cursive style with a large, looping 'C' at the beginning and a long, sweeping tail at the end.

Carol A. Wooding
Vice President and General Counsel