

March 12, 1990

Ms. Jean A. Webb
Secretariat
Commodity Futures Trading
Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association:

Proposed Amendments to NFA Registration Rule 203; NFA Code of Arbitration Section 15 and Rules Governing Arbitration of Disputes Between U.S. Customers and Non-Member Foreign Firms; and NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f.

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, ("the Act"), National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") proposed amendments to NFA Registration Rule 203, NFA Code of Arbitration Section 15 and the Rules Governing Arbitration of Disputes Between U.S. Customers and Non-Member Foreign Firms (the "Rules") thereunder, and NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f. These amendments were approved by NFA's Board of Directors ("the Board") at its meeting on February 15, 1990. NFA respectfully requests Commission review and approval of the amendments.

I. Amendments to NFA Registration Rule 203

- A. Amendments to NFA Registration Rule 203 to raise the current Form 8-R application fee for an associated person ("AP") from \$30.00 to \$35.00 (additions are underscored and deletions are [bracketed]):



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REGISTRATION RULES

* * *

PART 200. REGISTRATION REQUIREMENTS
AND PROCEDURES

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RULE 203. REGISTRATION FEES

(a) Amount.

- (1) Associated Person. Each Form 8-R submitted in connection with the registration of an associated person must be accompanied by a fee of [~~\$30~~] \$35.

* * *

- B. Explanation of amendment to NFA Registration Rule 203 to raise the current Form 8-R application fee for an AP from \$30.00 to \$35.00.

The Federal Bureau of Investigation ("FBI") recently notified NFA that, effective March 1, 1990, its charge for processing fingerprints will increase from \$14.00 to \$20.00.¹ The Board believes that most of this increase should be passed on to AP and floor broker applicants. Therefore, the Board adopted the proposed amendment to NFA Registration Rule 203 raising the current Form 8-R application fee for an AP from \$30.00 to \$35.00.²

1 From 1984 to 1987, the FBI charged \$12.00 to process a fingerprint card. In 1987, the FBI raised its fingerprint processing fees from \$12.00 to \$14.00 per fingerprint card. At that time, NFA did not raise its application fees to offset this increase. In fact, the current AP application fee of \$30.00 has remained unchanged since December of 1984 when NFA assumed registration responsibilities from the Commission.

2 The Board also granted to NFA authorization to request that the Commission amend CFTC Regulation 3.3(a) to raise the application fee for a floor broker from \$25.00 to \$30.00. That issue is being addressed in a separate letter to Andrea M. Corcoran, Director, Division of Trading and Markets.



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II. Amendment to NFA Code of Arbitration Section 4(a)

- A. Amendment to NFA Code of Arbitration Section 4(a) to increase the length of time a non-Member arbitrator must be out of the industry (additions are underscored and deletions are [bracketed]):

CODE OF ARBITRATION

* * *

Section 4. Arbitration Panel.

(a) Appointment of Panel.

All arbitration proceedings under this Code shall be conducted before an arbitration panel consisting of three NFA Members or individuals connected therewith (one such Member or individual designated as Panel Chairman) appointed by the President, except that where the aggregate amount of the customer's claims (exclusive of interest and costs) plus the aggregate amount of any counterclaims (exclusive of interest and costs) do not exceed \$10,000, the Panel shall consist of one such person unless the Secretary directs otherwise: Provided, however, if the customer in an arbitration under Section 2(a) of this Code so requests in the Demand for Arbitration (see Section 6(c) of this Code), the Chairman and at least one other member of the Panel, and the Panel member where there is a single-member Panel, shall not be connected with an NFA Member or NFA (except as NFA arbitrators). For purposes of this section, any individual who performs a significant amount of work on behalf of NFA Members or Associates and any individual who was a Member or Associate or was an employee of a Member within the past three [two] years shall be considered to be connected with an NFA Member.

* * *

- B. Explanation of amendment to NFA Code of Arbitration Section 4(a) to increase the length of time a non-Member arbitrator must be out of the industry.

Pursuant to the recommendation contained in the Commission's September 26, 1989 audit report evaluating NFA's arbitration program, NFA has undertaken a thorough re-evaluation

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of its arbitrator classification criteria. Specifically, NFA's classification criteria were reviewed in an effort to decrease the extent of allowable non-Member arbitrator ties to the industry while continuing to maintain an adequate pool of non-Member arbitrators.³ The review and NFA's findings are described in a March 6, 1990 letter from Robert K. Wilmouth to Andrea M. Corcoran.

On February 15, 1990, the Board adopted several changes to NFA's arbitrator classification policy to further reduce the level of non-Member ties to the industry and increase public confidence in NFA's arbitration forum. These changes increase the number of years out of the industry for former industry personnel and NFA Members from two to three years, require that individuals formerly employed in the industry for ten or more years be classified as Member arbitrators, that related industry employees be classified as Member Arbitrators, and that close relatives of an NFA Member or employee thereof, Associate or floor broker be classified as Member arbitrators.

Section 4(a) of NFA's Code of Arbitration has been amended to reflect the increase in the number of years out of the industry from two to three years. The other changes in the policy do not require changes to the Code.

III. Amendment to NFA Code of Arbitration Section 15 and the Rules Thereunder

- A. Amendments to NFA Code of Arbitration Section 15 and the Rules thereunder to expand NFA's jurisdiction to arbitrate disputes under the Rules (additions are underscored and deletions are [bracketed]):

³ From the very outset of our arbitration program, NFA has been sensitive to the possible public perception of industry bias when classifying arbitrators. NFA rules and procedures, therefore, have always classified professionals who spend 50% or more of their time representing NFA Members and individuals who have worked for an NFA Member in the last two years as "Member" rather than "non-Member" panelists.



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CODE OF ARBITRATION

* * *

Section 15. Disputes [Between U.S. Customers and Non-Member Foreign Firms] Not Covered Under This Code.

Pursuant to such rules as may be approved by the Board of Directors, NFA may provide an arbitration forum for the resolution of futures related disputes [between and among U.S. customers and non-Member foreign firms] not covered under this Code.

* * *

**RULES GOVERNING ARBITRATION OF DISPUTES
[BETWEEN U.S. CUSTOMERS AND NON-MEMBER FOREIGN FIRMS]
INVOLVING FOREIGN PARTIES**

Section 1. Definitions. As used in these Rules-

- (a) **"Associate"** - means a person who is registered with NFA as an Associate or was so registered when the acts or transactions that are the subject of the dispute occurred.
- [(a)](b) **"Claimant"** - means a [Foreign Futures or Foreign Options Customer or a Foreign Firm] person making a proper and timely Demand for Arbitration under these Rules.
- [(b)](c) **"Commission"** - means the Commodity Futures Trading Commission.
- (d) **"Foreign Customer"** - means any person not located in the U.S. who trades in Foreign Futures or Foreign Options.
- [(c)](e) **"Foreign Futures" and "Foreign Options"** - means futures and options transactions made or to be made on or subject to the rules of a foreign board of trade [for or on behalf of Foreign Futures or Foreign Options Customers] as those terms are defined in the Commission's Rules.

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- [(d)](f) "Foreign Futures or Foreign Options Customer" - means any person located in the U.S. who trades in Foreign Futures or Foreign Options.
- [(e)](g) "Foreign Firm" - means any person not located in the U.S. who is exempt from registration with the Commission by Commission action [under Part 30 of the Commission's Rules] and is not a Member of NFA.
- (h) "Member" - means a Member of NFA or a person that was a Member at the time the acts or transactions that are the subject of the dispute occurred.
- [(f)](i) "NFA" - means National Futures Association.
- [(g)](j) "Panel" - means the arbitration panel appointed pursuant to Section 3(a) of these Rules.
- [(h)](k) "Person" - includes individuals, corporations, partnerships, trusts, associations and other entities.
- [(i)](l) "President" - means the President of NFA.
- [(j)](m) "Respondent" - means a [Foreign Futures or Foreign Options Customer or a Foreign Firm] person against whom a claim is asserted under these Rules.
- [(k)](n) "Secretary" - means the Secretary of NFA.
- [(l)](o) "U.S." - includes the United States of America, its territories and possessions.

Section 2. Jurisdictional Limitations.

(a) Arbitrable Disputes.

- (1) **Claims.** Except as provided in Sections 4 and 5 of these Rules with respect to timeliness requirements, a dispute may, in the President's discretion, be arbitrated under these Rules if it:
 - (i) involves Foreign Futures or Foreign Options;
 - (ii) does not require for its adjudication the presence of witnesses or other third parties over whom NFA lacks jurisdiction and who are not otherwise available; and



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- (iii) is sought by [either] a Foreign Futures or Foreign Options Customer against a Foreign Firm (or employee thereof) [or]; by a Foreign Firm (or employee thereof) against a Foreign Futures or Foreign Options Customer[.]; by a Foreign Customer against a Member (or employee thereof) or Associate; or by a Member (or employee thereof) or Associate against a Foreign Customer.

The parties must agree or have agreed to such arbitration in writing (a copy of which has been provided to NFA).

* * *

Section 3. Arbitration Panel.

(a) Composition of Panel.

All arbitration proceedings under these Rules shall be conducted before an arbitration Panel consisting of three [NFA] Members or individuals connected therewith (one such [NFA] Member or individual designated as Panel Chairman) appointed by the President, except that where the aggregate amount of the claims (exclusive of interest and costs) plus the aggregate amount of any counterclaims (exclusive of interest and costs) do not exceed \$20,000, the Panel shall consist of one such person unless the Secretary directs otherwise: Provided, however, if the Foreign Futures or Foreign Options Customer or the Foreign Customer so requests in the Demand for Arbitration or in the Answer (see Sections 5(c) and 5(e) of these Rules), the Chairman and at least one other member of the Panel, and the Panel member where there is a single-member Panel, shall not be connected with a[n NFA] Member or NFA (except as NFA arbitrators). For purposes of this section, any individual who performs a significant amount of work on behalf of [NFA] Members or Associates and any individual who was a[n NFA] Member or Associate or was an employee of a[n NFA] Member within the past [two] three years shall be considered to be connected with a[n NFA] member. Each Panel member shall reside in the continental U.S.

(b) Appointment of Panel; Disclosure and Challenge.

After the Answer is due or after the Reply is due if a counterclaim has been asserted, the President shall thereupon appoint an arbitration Panel to resolve the dispute. The Secretary shall promptly notify the parties of the names, business affiliations, and other information relevant to the

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classification of the arbitrator as a[n NFA] Member or non-[NFA] Member panelist. Any objection of a party to such appointment shall be specific and for cause and submitted to the President in written form. Each member appointed shall disclose to the President any circumstances likely to affect impartiality, including any bias or any financial interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Upon receipt of such information from such member or other source, the President shall communicate such information to the parties, and if the President deems it appropriate to do so, to the member and others. Thereafter, the President shall determine whether the member should be disqualified and shall inform the parties of the decision, which shall be conclusive.

* * *

Section 5. Initiation of Arbitration.

An arbitration proceeding under these Rules shall be initiated as follows:

(a) Notice of Intent to Arbitrate.

[A Foreign Futures or Foreign Options Customer or a Foreign Firm] Any person desiring arbitration under these Rules shall notify the Secretary, either in writing or orally, of such [customer's or Foreign Firm's] person's intent to arbitrate. If a prior notice of intent has not been received, the serving of a Demand for Arbitration shall act as notice. The Secretary shall maintain a record of the receipt of each such notice.

(b) Documents Furnished.

If a notice of intent to arbitrate is received prior to a Demand for Arbitration, the Secretary shall promptly provide [such Foreign Futures or Foreign Options Customer or Foreign Firm] the person desiring arbitration with a copy of these Rules and a Demand for Arbitration.

(c) Demand for Arbitration.

If such [Foreign Futures or Foreign Options Customer or Foreign Firm] person wishes to proceed with the arbitration, such [customer or Foreign Firm] person, within 35 days after the date of transmittal by the Secretary under (b) above, shall serve the completed Demand for Arbitration on the Secretary together with the appropriate fee (see Section 11 below). The Secretary shall

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promptly review each Demand for Arbitration for completeness. Any Demand for Arbitration which the Secretary deems to be incomplete, or which is not accompanied by the appropriate fee, shall be returned by certified mail if the [customer or Foreign Firm] person directs NFA to forward his mail to a location within the U.S.; otherwise, by U.S. mail, airmail postage prepaid. In that event, such [customer or Foreign Firm] person shall serve a completed Demand for Arbitration on the Secretary, together with any unpaid fee, within 25 days following transmittal by the Secretary. The Secretary shall reject any Demand for Arbitration which has not been timely filed, or for which the appropriate fee has not been paid.

(d) Notice to Respondent.

The Secretary shall promptly serve a copy of the completed Demand for Arbitration on the designated U.S. agent for service of process required to be maintained under the Commission's Rules by each Foreign Firm named in the Demand for Arbitration as a Respondent (or, in the Secretary's discretion, the Foreign Firm may be served instead) or on the Foreign Futures or Foreign Options Customer, Foreign Customer, Member (or employee thereof) or Associate named in the Demand for Arbitration as a Respondent.

* * *

Section 8. Summary Proceeding.

* * *

(c) Procedures.

* * *

(5) The Panel may direct [NFA] Members and persons connected therewith to produce documentary evidence.

* * *

Section 9. Oral Hearing.

(a) Requirements.

An oral hearing may, in the discretion of the Panel, be held if:



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(1) the aggregate amount of the claims (exclusive of interest and costs) plus the aggregate amount of counterclaims (exclusive of interest and costs) exceeds \$20,000; and

(2) an oral hearing is requested or agreed to by all [Foreign Firms] foreign parties.

(b) Preliminary Hearing.

The Panel has discretion, at the written request of a party or on its own motion, to schedule a preliminary hearing when appropriate. Such hearings shall be conducted by written submissions unless the Panel directs otherwise with the consent of all [Foreign Firms] foreign parties.

* * *

(d) Procedure.

* * *

(7) The Panel may direct [NFA] Members and persons connected therewith to testify and produce documentary evidence.

* * *

B. Explanation of Amendments to Section 15 of NFA Code of Arbitration and to the Rules thereunder to expand NFA's jurisdiction to arbitrate disputes under the Rules.

On June 12, 1989, the Commission approved an amendment to NFA's Code of Arbitration ("Code") to include new Section 15. Section 15 allows NFA to provide an arbitration forum whereby U.S. customers can arbitrate claims against non-Member foreign firms operating pursuant to a CFTC Part 30 exemption from registration. The Commission also approved separate NFA Rules which govern the arbitration of such disputes.

The Division of Trading and Markets has advised NFA that the Commission, rather than granting French firms an exemption under its Part 30 Regulations, is currently negotiating a Mutual Recognition Memorandum of Understanding ("MRMOU") with the French government. The MRMOU essentially will give French firms the same status as non-Member foreign firms operating pursuant to a CFTC Part 30 exemption from registration.

Among the issues being negotiated by the Commission is a provision allowing both U.S. and French customers to file a



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demand for arbitration with NFA for a dispute with a firm located in the other country. In accord with such negotiations, the Commission requested that NFA modify Section 15 of the Code and expand the Rules thereunder to give NFA discretionary arbitration jurisdiction over disputes between an NFA Member and a French customer for transactions on a French exchange.

In response to the Commission's request, the Board adopted both the proposed general amendment to Section 15 of the Code and the proposed amendments to the Rules thereunder. First, the general amendment to Section 15 of the Code will alleviate the need to adopt additional amendments to the Code should NFA's jurisdiction in this area continue to expand. Second, the amendments to the Rules effectively limit jurisdiction under the Rules to the resolution of futures related disputes between and among (1) U.S. customers and non-Member foreign firms operating pursuant to an exemption from registration; and (2) NFA members and foreign customers for transactions on foreign exchanges.

IV. Amendments to NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f.

- A. Amendments to NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f to reflect the recent proposed increase in the minimum net capital requirement (additions are underscored and deletions are [bracketed]):

FINANCIAL REQUIREMENTS

* * *

SCHEDULE B

EQUITY CAPITAL

* * *

Sec. B2. Equity Withdrawal.

B2. The following are prohibited:

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(ii) The making of an unsecured loan (including an advance) to a stockholder, partner, sole proprietor, or employee - if, after giving effect to such withdrawal or loan, and capital reductions which are scheduled to occur within 6 months, Adjusted Net Capital of any of the consolidated entities would be less than the greatest of -

(A) [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements;

* * *

SCHEDULE C

SUBORDINATED LOAN AGREEMENTS

* * *

C1-b. Minimum Requirements for Subordination Agreements.

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(vi) Collateral for secured demand notes. Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale, and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if any time the sum of the amount of any cash, plus the collateral value of any securities then pledged as collateral to secure the secured demand note, is less than the unpaid principal amount of the secured demand note, the Member FCM must immediately transmit written notice to that effect to the lender and its DSRO. The secured demand note agreement shall also require that following such transmittal:

* * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by (B) above, the lender with the prior written consent of the Member FCM and the DSRO may reduce the unpaid principal amount of the secured demand note: Provided, that after giving effect to such reduction the Adjusted Net Capital of the member FCM would not be less than the greater of 7 percent of the funds required to be segregated pursuant to the



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Commodity Exchange Act and CFTC Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(b)(6)(iii) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(6)(iii)). Provided further, that no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. The DSRO shall not consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, Adjusted Net Capital would be less than [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements.

- (vii) **Permissive prepayments "and special prepayments".** A Member FCM at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the schedule maturity date of such payment obligation (hereinafter referred to as "prepayment"), but in no event may any prepayment be made before the expiration of 1 year from the date such subordination agreement became effective: Provided, however, that the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of C2-e below, nor shall it apply to revolving agreements covered under Section C2-f. No prepayments shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within 6 months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the Member FCM, either the Adjusted Net Capital of the Member FCM is less than the greatest of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign



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board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of Net Capital specified in Rule 15c3-1d(b)(7) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(7)); or [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements. Notwithstanding the above, no prepayment shall occur without the prior written approval of the Member FCM's DSRO.

(viii) **Suspended repayment.**

(A) The payment obligation of the Member FCM with respect to any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the Member FCM under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the Adjusted Net Capital of the Member FCM would be less than the greatest of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(b)(8)(i) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(b)(8)(i)); or [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements. Provided, that the subordinated agreement may provide that if the payment obligation of the Member FCM thereunder does not mature and is suspended as a result of the requirement of this paragraph for a period of not less than 6 months, the Member FCM shall then commence the rapid and orderly liquidation of its business but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this Section.



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Sec. C2. Miscellaneous Provisions.

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C2-b. Notice of Maturity or Accelerated Maturity.

Every Member FCM shall immediately notify its DSRO if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following 6 months without reference to any projection of profit or loss of the Member FCM, its Adjusted Net Capital would be less than [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements or, its Adjusted Net Capital would be less than the greatest of 6 percent of the funds required to be segregated pursuant to the Commodity Exchange Act and CFTC Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)(2) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(2)).

* * *

C2-e. Temporary Subordinations.

To enable a Member FCM to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the financial requirements, a Member FCM shall be permitted, on no more than three occasions in any 12-month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective. Provided, that this temporary relief shall not apply to any Member FCM if the Adjusted Net Capital of the Member FCM is less than the greatest of 7 percent of the funds required to be segregated under the Commodity Exchange Act and CFTC Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers



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on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)(5)(1) of the Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(1)); or [\$60,000] 120 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements, or if the amount of equity capital as defined in Schedule B is less than the limits specified in Section 3. Such temporary subordination agreement shall be subject to all of the other provisions of Schedule C.

C2-f. Revolving Subordination - Special Payments.

A Member FCM shall be allowed to enter into a revolving subordination agreement which, at the option of the Member FCM but not at the option of the lender, if the agreement so provides, allows a prepayment at anytime prior to the scheduled maturity date, subject to the prior written approval of the Member FCM's DSRO. However, no such prepayment shall be made if:

- i. After giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special payment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such special payment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the Adjusted Net Capital of the applicant or registrant is less than the greatest of 10 percent of the funds required to be segregated pursuant to the Act and CFTC Regulations and the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade, provided, however, the deduction for each customer shall be limited to the amount of customer funds in such customer's account and foreign futures and foreign options secured amounts; or, for securities brokers or dealers, the amount of net capital specified in Rule 15c3-1d(c)(5)(ii) of the



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Regulations of the Securities and Exchange Commission (17 CFR 240.15c3-1d(c)(5)(ii)); or [\$100,000] 200 percent of the minimum dollar amount required by Section 1(a)(i) of these Requirements, or

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- B. Explanation of Amendments to NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(c), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f to reflect the recent proposed increase in the minimum net capital requirement.

On December 7, 1989, the Board approved proposed changes to NFA's Financial Requirements Sections 1, 6 and Schedule D, Section D3-d and Compliance Rules 2-12 and 2-33 (collectively referred to as "Proposed Rules") to provide additional protection against Futures Commission Merchant ("FCM") insolvencies. On January 25, 1990, NFA submitted to the Commission a rule submission letter requesting approval of the Board's Proposed Rules. One of the major changes adopted by the Board in the Proposed Rules was an increase in the FCM minimum adjusted net capital requirement from \$50,000 to \$250,000.

The Board recognizes that certain sections of the Financial Requirements relating to subordinated loan agreements and withdrawal of equity capital base their calculations on the minimum net capital requirement. The Board believes that those sections need to be amended in order to reflect the Board's recently adopted increase in the minimum net capital requirements under the Proposed Rules. To accomplish this the Board adopted amendments to Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f. The Board also believes that the adoption of such changes would most effectively promote continuity and uniformity in the application of NFA Financial Requirements if approved concurrently with the Board's adopted Proposed Rules submitted to the Commission on January 25, 1990.

NFA respectfully requests that the amendments to NFA Financial Requirements Sections B2-a(ii)(A), C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e and C2-f be considered for approval with and be declared effective at the same time as the Proposed Rules submitted to the Commission on January 25, 1990.



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Finally, NFA requests that the amendments to NFA Registration Rule 203, NFA Code of Arbitration Section 4(a), Section 15 and the Rules thereunder be declared effective upon Commission approval.

Respectfully submitted,

Daniel J. Roth
General Counsel

JJF:nm(LTRS:Webb)

cc: Chairman, Wendy L. Gramm
Commissioner Kalo A. Hineman
Commissioner Fowler C. West
Commissioner William P. Albrecht
Andrea M. Corcoran, Esq.
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UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



October 29, 1990

Daniel J. Roth, Esq.
General Counsel
National Futures Association
200 West Madison Street -- Suite 1600
Chicago, Illinois 60606

Re: Proposed Amendments to Sections 4(a) and 15
of the Code of Arbitration and to Rules 1, 2,
3, 5, 8(c), and 9 under Code Section 15

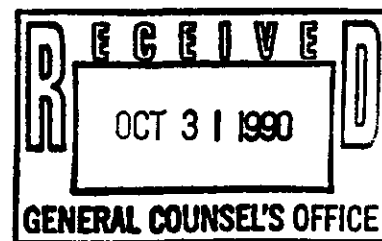
Dear Mr. Roth:

By letter dated March 12, 1990, the National Futures Association ("NFA") submitted the captioned proposals pursuant to section 17(j) of the Commodity Exchange Act ("Act") for Commission approval. NFA requested that the Commission declare the proposals effective upon approval. By letter dated September 7, 1990, NFA agreed to extend the Commission's review period to October 29, 1990. Please be advised that the Commission approved the captioned amendments on this date pursuant to section 17(j) of the Act, as proposed.

Sincerely,

Jean A. Webb

Jean A. Webb
Secretary of the Commission



September 7, 1990

David Van Wagner, Esq.
Division of Trading and Markets
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, D.C. 20581

Re: National Futures Association; Proposed Amendments to
NFA Code of Arbitration Sections 4 and 15 and NFA Rules
Governing Arbitration of Disputes Between U.S.
Customers and Non-Member Foreign Firms

Dear Mr. Van Wagner:

By letter dated March 12, 1990, National Futures Association ("NFA") submitted a number of proposed changes to NFA Requirements to the Commodity Futures Trading Commission ("CFTC") for review and approval pursuant to Section 17(j) of the Commodity Exchange Act, as amended. Included were proposed amendments to NFA Code of Arbitration Sections 4 and 15 and NFA Rules Governing Arbitration of Disputes Between U.S. Customers and Non-Member Foreign Firms. As we discussed over the telephone, NFA agrees to extend the time for Commission review and approval of these proposed amendments until October 29, 1990.

If I can be of any further assistance, please contact me.

Very truly yours,



Kathryn Page Camp
Assistant General Counsel

KPC:jac(Ltr\VWagner1.KPC)

UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



August 27, 1990

Mr. Daniel J. Roth
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

Re: Proposed amendments to National Futures
Association Financial Requirements Sections
1 and 6 and Schedules B and C

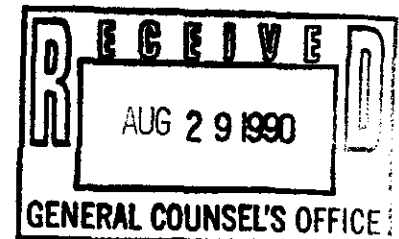
Dear Mr. Roth:

By letters dated January 25, 1990 and March 12, 1990, the National Futures Association ("NFA"), pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), submitted to the Commission proposed amendments to NFA Financial Requirements Sections 1 and 6; Schedule B, Section B2-a(ii)(A); and Schedule C, Sections C1-b(vi)(C), C1-b(vii), C1-b(viii)(A), C2-b, C2-e, and C2-f. The Commission understands that NFA intends to implement these rule amendments with respect to existing futures commission merchants ("FCMs") on December 31, 1990. The Commission further understands that any firm seeking FCM status after Commission approval of the proposed rules, but before December 31, 1990, would be required to meet the new minimum adjusted net capital requirement.

Please be advised that on this date the Commission has approved the above-referenced rule amendments pursuant to Section 17(j) of the Act.

Sincerely

Jean A. Webb
Secretary of the Commission



UNITED STATES OF AMERICA
COMMODITY FUTURES TRADING COMMISSION

2033 K Street, N.W.
Washington, D.C. 20581



August 3, 1990

Daniel J. Roth, Esq.
General Counsel
National Futures Association
200 West Madison Street
Chicago, Illinois 60606

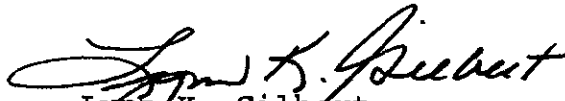
Re: The National Futures Association's Proposed
Amendments to Bylaw 406 and Registration
Rules 201 and 203

Dear Mr. Roth:

By letters dated March 12, 1990 and June 7, 1990, the National Futures Association ("NFA") submitted pursuant to Section 17(j) of the Commodity Exchange Act ("Act") proposed amendments to its Bylaw 406 and Registration Rules 201 and 203.

The Commission understands that NFA intends to implement the proposed amendments upon receipt of notice of Commission approval. Please be advised that on this date the Commission has approved the above-referenced proposed amendments under Section 17(j) of the Act.

Sincerely,


Lynn K. Gilbert
Deputy Secretary
of the Commission

