

March 8, 1994

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 401

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act, as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") proposed amendments to NFA Registration Rule 401. The amendments were approved by NFA's Board of Directors on February 24, 1994. NFA respectfully requests Commission review and approval of the proposed amendments.

**THE PROPOSED AMENDMENTS**

The proposed amendments to NFA Registration Rule 401 are as follows (additions are underscored and deletions are bracketed):

REGISTRATION RULES

\* \* \*

PART 400. PROFICIENCY REQUIREMENTS

Rule 401. Qualification Testing Requirement.

(a) Except as provided elsewhere in this Rule, [in Rule 401(b)] any individual applying to NFA for registration under the Act as a futures commission merchant, an introducing broker, a commodity pool operator, a commodity trading advisor, a leverage transaction merchant, or as an associated person of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b) shall not be registered, temporarily licensed, or an Associate Member of NFA unless:



Ms. Jean A. Webb

March 8, 1994

- (1) NFA receives satisfactory evidence that the applicant has taken and passed the National Commodity Futures Examination on a date which is no more than two years prior to the date the application is received by NFA; or
- (2) the applicant has been duly registered under the Act as a futures commission merchant, an introducing broker, a commodity pool operator, a commodity trading advisor, a leverage transaction merchant, or an associated person of any of the foregoing, at any time during the two-year period immediately preceding the date the application is received by NFA[; or].

(b) [(3)] [NFA receives] Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an associated person may satisfy the proficiency requirements of this Rule by providing to NFA a certification, which shall be considered incorporated into the application for registration under the Act, signed by both the applicant and the applicant's sponsor, stating that:

- (1) [(A)] the applicant is currently registered with the National Association of Securities Dealers, Inc., as a General Securities Representative; and
- (2) [(B)] the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to referring clients to an associated person who has satisfied the proficiency requirements set forth in this Rule, provided that the applicant's referral of clients is solely incidental to his business as a General Securities Representative; or the supervision of persons whose activities are so limited; and
- (3) [(C)] the applicant's sponsor understands that the sponsor must supervise the applicant's compliance with the limitation on the applicant's activities set forth above and that 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; and
- (4) [(D)] the applicant and the applicant's sponsor understand that willfully making a materially false or misleading statement in any part of the application for registra-



Ms. Jean A. Webb

March 8, 1994

tion, including the certification required by this Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.

(5) [(4)] The limitations set forth in 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.

(c) [(b)] Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an associated person may satisfy the proficiency requirements of this Rule by: (1) providing satisfactory evidence to NFA that the applicant has taken and passed the Futures Managed Funds Examination and providing to NFA a certification which shall be considered incorporated into the application for registration under the Act signed by both the applicant and the applicant's sponsor, stating that:

(1) [(A)] the applicant currently is registered with the National Association of Securities Dealers, Inc., as a General Securities Representative; and

(2) [(B)] the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to the solicitation of funds, securities, or property for participation in a commodity pool[;], the solicitation of clients to open discretionary accounts to be managed by registered commodity trading advisors[;], or the supervision of persons whose activities are so limited unless and until the applicant submits to NFA satisfactory evidence of having taken and passed the National Commodity Futures Trading Examination; and

(3) [(C)] the applicant's sponsor understands that the sponsor must supervise the applicant's compliance with the limitations on the applicant's activities set forth above and that 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; and

(4) [(D)] the applicant and the applicant's sponsor understand that willfully making a materially false or misleading statement in any part of the application for registration, including the certification required by this



Ms. Jean A. Webb

March 8, 1994

Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.

(5)[(E)] The limitations set forth in 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.

(d) Notwithstanding the provisions of Rule 401(a), a person applying to be registered as a futures commission merchant, an introducing broker, a commodity pool operator, a commodity trading advisor, a leverage transaction merchant, or as an associated person of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b) may satisfy the proficiency requirements of this Rule by providing satisfactory evidence to NFA that:

- (1) the applicant is or within the past two years has been registered with the Securities and Futures Authority of the United Kingdom as a General Representative or Futures and Options Representative; and
- (2) the applicant has taken and passed the Securities and Futures Authority's Futures and Options Examination; and
- (3) the applicant has taken and passed the regulatory portion of the National Commodity Futures Examination on a date which is no more than two years prior to the date the application is received by NFA.

#### EXPLANATION OF PROPOSED AMENDMENTS

The Securities and Futures Authority ("SFA") has recently asked NFA to consider alternative testing requirements for persons who have already satisfied SFA's testing requirements. Specifically, the SFA suggests that SFA registrants seeking registration in the U.S. should either be exempt from further testing requirements or be subject to an abbreviated version of the Series 3 examination.

SFA generally requires individuals wishing to register as a General Representative (permitted to sell both securities and futures and options) or a Futures and Options Representative to take and pass the Futures and Options Representatives Exam ("SFA Futures Exam"). The SFA Futures Exam is divided into two



Ms. Jean A. Webb

March 8, 1994

sections, one dealing with the regulatory requirements in the U.K. and the other with market fundamentals. SFA grants a complete exemption from this testing requirement to individuals who have taken and passed the Series 3 exam and who have gained three years of relevant experience during the last seven years. SFA also grants a limited exemption to individuals who have taken and passed the Series 3 but who do not meet the experience requirement. This limited exemption permits those individuals seeking to be registered with the SFA to meet SFA proficiency requirements by passing a shortened version of the SFA Futures Exam. This shortened version of the SFA Futures Exam concentrates on U.K. rules and regulations.

SFA provides similar testing exemptions from its Securities Representatives Examination to individuals registered with the National Association of Securities Dealers, Inc. ("NASD") as General Securities Representatives who have taken and passed the Series 7 examination. On the U.S. side, the NASD grants a limited testing exemption from the Series 7 to individuals registered with the SFA as General Representatives. Under this testing exemption, SFA General Representatives may satisfy NASD proficiency requirements by passing the Series 17, a shortened version of the Series 7.

A similar approach would seem appropriate with respect to futures testing requirements. The Series 3 exam is also in two sections, testing knowledge of market fundamentals and U.S. regulatory requirements, respectively. NFA believes that the market fundamentals portion of the SFA Futures Exam is very similar to that portion of the Series 3 Exam, and that passage of the SFA test is an adequate demonstration of proficiency in that area. Therefore, NFA recommends that SFA General Representatives and Futures and Options Representatives who have passed the SFA Futures Exam be permitted to satisfy NFA's proficiency requirements by taking a shortened version of the Series 3 which would focus exclusively on U.S. regulatory requirements.

NFA believes that granting a limited testing relief to SFA registrants would satisfy the regulatory objectives of NFA's testing program, would reciprocate relief which the SFA affords U.S. registrants and would be consistent with the position taken by the NASD with respect to its testing requirements.

The proposed amendments to NFA Registration Rule 401 permit SFA registered General Representatives and Futures and Options Representatives who have taken and passed the SFA Exam to



Ms. Jean A. Webb

March 8, 1994

meet NFA proficiency requirements by passing a shortened version of the Series 3.

NFA respectfully requests that the Commission review and approve the proposed amendments to NFA Registration Rule 401. NFA requests that these amendments be declared effective upon Commission approval.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel J. Roth', written in a cursive style.

Daniel J. Roth  
General Counsel

DJR:ckm(sub\sfa)

cc: Acting Chairman Barbara Pedersen Holum  
Commissioner Sheila C. Bair  
Commissioner Joseph P. Dial  
Commissioner John E. Tull, Jr.  
Andrea M. Corcoran, Esq.  
Dennis P. Klejna, Esq.  
Alan L. Seifert, Esq.  
Susan C. Ervin, Esq.  
Lawrence B. Patent, Esq.  
David Van Wagner, Esq.

UNITED STATES OF AMERICA  
**COMMODITY FUTURES TRADING COMMISSION**

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

May 4, 1994



Daniel J. Roth, Esq.  
General Counsel  
National Futures Association  
200 West Madison Street  
Chicago, Illinois 60605

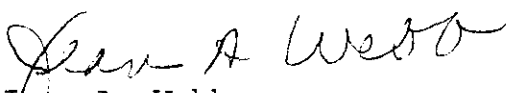
Re: The National Futures Association's Proposed  
Amendments to Registration Rule 401--  
Alternative Proficiency Testing Requirements

Dear Mr. Roth:

By letter dated March 8, 1994, and received by the Commission on March 11, 1994, the National Futures Association ("NFA") submitted to the Commission for its approval, pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), proposed amendments to its Registration Rule 401.

The Commission understands that the 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,

  
Jean A. Webb  
Secretary of the Commission

