



May 30, 1995

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 Section 11 of NFA's Code of Arbitration and Sections 2 and 11 of NFA's Member Arbitration Rules; and Resubmission of Proposed Amendments to the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Supervision of Telemarketing Activity

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 Section 11 of NFA's Code of Arbitration and Sections 2 and 11 of NFA's Member Arbitration Rules. NFA also hereby resubmits proposed amendments to the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Supervision of Telemarketing Activity which were submitted to the Commission for its review and approval by letter dated March 15, 1995. The amendments contained herein were approved by NFA's Board of Directors on May 18, 1995. NFA respectfully requests Commission review and approval of the proposed amendments.

PROPOSED AMENDMENTS

- A. The proposed amendments to Section 11 of NFA's Code of Arbitration and Sections 2 and 11 of NFA's Member Arbitration Rules are as follows (additions are underscored and deletions are bracketed):

CODE OF ARBITRATION

* * *

Section 11. Arbitration Fees.

(a) Filing and Hearing Fees.

Except as provided in Section 18 of this Code, each party filing a claim under this Code shall pay a filing and hearing fee based on the amount claimed, including punitive and treble damages but exclusive of interest and costs, as follows:



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<u>Amount of Claim</u>	<u>Filing Fee</u>	<u>Hearing Fee</u>
\$ 0.00 - \$ 2,500.00	\$ 50.00	\$ 50.00
\$ 2,500.01 - \$ 5,000.00	\$ 100.00	\$ 50.00
\$ 5,000.01 - \$ 10,000.00	\$ 150.00	\$ 150.00
\$10,000.01 - \$ 15,000.00	\$ 175.00	[\$ 450.00] <u>\$ 500.00</u>
\$15,000.01 - \$150,000.00	\$ 200.00 plus 1% of excess over \$15,000.00	[\$ 675.00] <u>\$ 725.00</u>
More than \$150,000.00	\$1,550.00	[\$1,350.00] <u>\$1,450.00</u>

Where multiple hearing sessions, including preliminary hearing sessions, are required in excess of those covered by the hearing fee, the arbitrators shall assess fees for the additional hearing sessions in an amount equal to the standard preset fees to be paid by the Secretary to the arbitrators for the additional hearing sessions. The arbitrators, in their discretion, may assess the entire fee against any party or may divide the fee among any or all parties. Hearing session fees shall be paid to the Secretary in advance of the hearing sessions to which they apply.

* * *

MEMBER ARBITRATION RULES

* * *

Section 2. Arbitrable Disputes.

(a) **Claims.** Except as provided in Sections 4 and 5 of these Rules with respect to timeliness requirements, disputes between and among Members and Associates shall be arbitrated under these Rules, at the election of the person filing the claim, [upon the filing of a claim by a Member or Associate] unless:

- (1) the parties, by valid and binding agreement, have committed themselves to the resolution of such dispute in a forum other than NFA;
- (2) the parties to such dispute are all required by the rules of another self-regulatory organization to submit the controversy to the settlement procedures of that self-regulatory organization; or



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- (3) all parties to the dispute are members of a contract market which has jurisdiction over the dispute.

Once a claim is filed under the Rules, arbitration is mandatory for the Member or Associate the claim is against.

* * *

Section 11. Arbitration Fees.

(a) Filing and Hearing Fees.

Each Member or Associate filing a claim under these Rules shall pay a filing and hearing fee based on the amount claimed, including punitive and treble damages but exclusive of interest and costs, as follows:

<u>Amount of Claim</u>	<u>Filing Fee</u>	<u>Hearing Fee</u>
\$ 0.00 - \$ 10,000.00	\$ 750.00	\$ 50.00
\$10,000.01 - \$ 20,000.00	\$1,900.00	\$ 150.00
\$20,000.01 - \$150,000.00	\$4,400.00	[\$ 675.00] <u>\$ 725.00</u>
More than \$150,000.00	\$4,400.00	[\$1,350.00] <u>\$1,450.00</u>

Where multiple hearing sessions, including preliminary hearing sessions, are required in excess of those covered by the hearing fee, the arbitrators shall assess fees for the additional hearing sessions in an amount equal to the standard preset fees to be paid by the Secretary to the arbitrators for the additional hearing sessions. The arbitrators, in their discretion, may assess the entire fee against any party or may divide the fee among any or all parties. Hearing session fees shall be paid to the Secretary in advance of the hearing sessions to which they apply.

- B. **The proposed amendments to the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Telemarketing Activity are as follows (additions are underscored and deletions are bracketed). The following text replaces the proposed text submitted on March 15, 1995:**

**INTERPRETIVE NOTICE TO COMPLIANCE RULE 2-9:
SUPERVISION OF TELEMARKETING ACTIVITY**

NFA's Board of Directors has over the years adopted strict and effective rules to prohibit deceptive sales



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practices, and those rules have been vigorously enforced by NFA's Business Conduct Committees. The Board notes, however, that by their very nature enforcement actions occur after the customer abuse has taken place. The Board recognizes that NFA's goal must be not only to punish such deception of customers through enforcement actions but to prevent it, or minimize its likelihood, through fair and effective regulation.

One NFA rule designed to prevent abusive sales practices is NFA Compliance Rule 2-9. That rule places a continuing responsibility on every Member to supervise diligently its employees and agents in all aspects of their futures activities, including telemarketing. Although NFA has not attempted to prescribe a set of supervisory procedures to be followed by all NFA Members, NFA's Board of Directors believes that Member firms which are identified as having a sales force which has received questionable training in sales practices should be required to adopt specific supervisory procedures designed to prevent sales practice abuse. Rule 2-9 authorizes the Board of Directors to require Members which meet certain criteria established by the Board to adopt specific supervisory procedures designed to prevent abusive sales practices.

The Board believes that in order for the criteria used to identify firms subject to the enhanced supervisory requirements to be useful, those criteria must be specific, objective and readily measurable. The Board also believes that any supervisory requirements imposed on a Member must be designed to quickly identify potential problem areas so that the Member will be able to take corrective action before any customer abuse occurs. The purpose of this Interpretive Notice is to set forth the criteria established by the Board and the enhanced supervisory procedures which are required of firms meeting these criteria.

In developing the criteria, the Board concluded that it would be helpful to review Member firms which had been closed through enforcement actions taken by the CFTC or NFA for deceptive sales practices. The Board's purpose was to identify factors common to these Member firms and probative of their sales practice problems which could be used to identify other Member firms with potential sales practice problems.



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One factor identified by the Board as common to these firms and directly related to their sales practice problems is the employment history and training of their sales forces. For many of these Members, a significant portion of their sales force was previously employed and trained by one or more of the other Member firms closed for fraud. The Board believes that the employment history of a Member's sales force is a relevant factor to consider in identifying firms with potential sales practice problems. If a Member firm is closed for fraud related to widespread telemarketing problems, it is reasonable to conclude that the Member's training and supervision of its sales force was wholly inadequate or inappropriate. It is also reasonable to conclude that an AP who received inadequate or inappropriate training and supervision may have learned improper sales tactics which he will carry with him to his next job. Therefore, the Board believes that a Member firm employing such a sales force must have stringent supervision procedures in place in order to ensure that the improper training its APs have previously received does not taint their sales efforts on behalf of the Member.

The Board has determined that a Member will be required to adopt the specific supervisory procedures over its telemarketing activities if:

- for firms with at least 5 but less than 10 APs, [50%] 40% or more of its APs have been employed by one or more Member firms which have been disciplined by NFA or the CFTC for sales practice fraud ("Disciplined Firms");
- for firms with at least 10 but less than 20 APs, [5] 4 or more of its APs have been employed by one or more [Member] Disciplined F[f]irms[which have been disciplined by NFA or the CFTC for sales practice fraud];
- for firms with at least 20 or more APs, [25%] 20% or more of its APs have been employed by one or more [Member] Disciplined F[f]irms[which have been disciplined by NFA or the CFTC for sales practice fraud].

For purposes of this requirement, a [d]Disciplined [Member] [f]Firm is defined very narrowly to include only those firms which meet the following three criteria:



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1. The firm has been formally charged by either the CFTC or NFA with deceptive telemarketing practices;
2. those charges have been resolved; and
3. the firm has been closed down and permanently barred from the industry as a result of those charges.

Attached is a list of firms currently meeting the definition of a [d]Disciplined [f]Firm. Although this list is current as of the date of this Interpretive Notice, NFA will provide Members with updated lists as necessary.

Those Members meeting the criteria will be required to tape record all [sales solicitations] telephone conversations which occur between their APs and both existing and potential customers [prior to the receipt of a customer's initial deposit and until the first order is received and entered for the customer's account]. The Board believes that tape recording [sales solicitations] these conversations provides these Members with the best opportunity to monitor closely the [sales solicitations] activities of their APs and also provides these Members with complete and immediate feedback on each AP's method of soliciting customers. Members meeting the criteria must tape record [solicitations] these conversations for a period of one year and must retain such tapes for a period of [six months] one year.

In addition, those Members meeting the criteria will be required to file all promotional material, as defined in NFA Compliance Rule 2-29(g), with NFA at least ten days prior to its first use.

Any Member required to adopt these enhanced procedures may seek a waiver of the enhanced supervisory requirements. NFA may grant such a waiver upon a satisfactory showing that the Member's current supervisory procedures provide effective supervision over its employees including enabling the Member to identify potential problem areas before customer abuse occurs.

A Member firm that does not comply with this Interpretive Notice will violate NFA Compliance Rule 2-9 and will be subject to disciplinary action.



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EXPLANATION OF PROPOSED AMENDMENTS

A. Explanation to Proposed Amendments to NFA's Code of Arbitration and Member Arbitration Rules

• Additional Honorarium for Chairman of an Arbitration Panel

At the time NFA's arbitrator payment schedule was adopted, the extra duties performed by a panel chairman were minimal. However, that is no longer the case. NFA arbitration cases have increased in complexity and the average claim amount has increased from \$63,091.00 in 1991 to \$191,959.49 in 1994. As a result, the number of pre-hearing motions being filed in NFA cases has increased. Since the chairman is responsible for calling the other members of the panel and ensuring that pre-hearing motions are ruled on, the chairman's role has increased substantially. In light of this, NFA's Board of Directors determined that the chairman of a three-person panel should receive an additional honorarium of \$50. In other words, the chairman will receive \$200 for a half-day oral hearing and \$275 for a full-day oral hearing.

The entire cost of paying the arbitrators is passed through to the parties by initially assessing a hearing fee to the party filing the claim. Consequently, NFA proposes an amendment to Section 11 of NFA's Code of Arbitration and Member Arbitration Rules to adjust the hearing fees charged by NFA for claims where a chairman is appointed (i.e., claims over \$10,000 in customer cases and claims over \$20,000 in Member cases). Since most of NFA's claims are filed by customers, customers would initially be subjected to the increased cost for arbitration. However, arbitrators can, and often do, order Members to reimburse customers for the hearing fees. In any event, the proposed increases are slight and NFA arbitration is still a relatively low cost alternative for resolving disputes.

• "Mandatory Claims" Under the Member Arbitration Rules

Rules making the arbitration of Member disputes mandatory for the respondent have been effective since March 1992. Under the Member Arbitration Rules, NFA arbitration is mandatory for the respondent but not the claimant. In other words, the choice of whether to file a claim under the



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Rules is up to the Member or Associate who suffered the loss (subject to certain restrictions set forth in Section 2 of the Rules and the terms of a contractual provision requiring the parties to arbitrate at NFA). As long as NFA has jurisdiction under Section 2, however, once a claim is filed at NFA the Member or Associate the claim is against is required to submit.

Before the Rules were adopted, NFA staff conducted a survey of the membership and asked, among other things, about the type of arbitration format Members and Associates would prefer. Of those Members and Associates who were in favor of mandatory Member-to-Member arbitration, 65 percent preferred an arrangement which would allow the Member or Associate with the claim, at his option, to file for arbitration at NFA and would then compel the other party to arbitrate here. This is the approach that NFA's Advisory Committees, Executive Committee and Board adopted.

NFA staff believes, however, that the intent of the Rules may not be clear to someone reading the Rules without knowledge of their history. Specifically, there have been several instances where the Member with the claim has chosen to file in court and the Member respondent argued that the Rules require the claim to be arbitrated at NFA. NFA is aware of at least one case that was ordered to NFA arbitration after this argument was made, though it is not clear whether the language in the Rules was the basis for the judge's decision in that case. As a result, the Member who actually suffered the loss may have been denied the opportunity to proceed in the forum of its choice.

The proposed amendment to Section 2 of the Member Arbitration Rules makes it crystal clear that the Member who has the claim can select the forum of its choice (unless there is a contract to the contrary).

B. Explanation of Proposed Amendments to the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Supervision of Telemarketing Activity (the following explanation replaces the explanation submitted on March 15, 1995)

As approximately two years have passed since the Commission approved the amendment to NFA Compliance Rule 2-9 and the Interpretive Statement concerning Supervision of Telemarketing Activity, NFA determined to review the effec-



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tiveness of the Telemarketing Requirements. Overall, NFA found that the Telemarketing Requirements have been very useful to gather evidence in enforcement actions relating to deceptive telemarketing sales activities. NFA believes that the general decline in customer complaints and arbitration demands received by NFA during the last two years provides evidence that the Telemarketing Requirements have reduced the occurrence of widespread telemarketing fraud. While NFA's review illustrated the overall effectiveness of the Telemarketing Requirements, the review also indicated that certain minor amendments to the Interpretive Notice may offer increased protection against fraudulent sales practices.

As the Commission is aware, the current Interpretive Notice to NFA Compliance Rule 2-9 concerning Supervision of Telemarketing Activity requires an NFA Member firm which meets specific criteria relating to the employment history of its APs to adopt supervisory procedures for the supervision of telemarketing. The amended Interpretive Notice makes this criteria more stringent by establishing a lower "trigger" for Member firms to adopt the Telemarketing Requirements.

The current Interpretive Notice to NFA Compliance Rule 2-9 requires Members meeting the Telemarketing Requirements' criteria to tape record all sales solicitations which occur prior to the receipt of a customer's initial deposit and until the first order is received and entered for a customer's account. While this taping requirement substantially deters APs from making misleading statements during initial sales solicitations, recent NFA disciplinary cases indicate that in some instances the most egregious sales practice violations occur after the customer has already begun trading. To address this problem, the amended Interpretive Notice requires Members meeting the Telemarketing Requirements' criteria to tape record all telephone conversations which occur between their APs and both existing and potential customers.

While the current Interpretive Notice does not address the use of promotional material by Members meeting the Telemarketing Requirements' criteria, prior NFA disciplinary cases indicate that Member firms which had lax supervisory requirements relating to telemarketing had similar lax requirements relating to the review and use of promotional



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material. The amended Interpretive Notice requires Members meeting the Telemarketing Requirements' criteria to file all promotional material, as defined in NFA Compliance Rule 2-29(g), with NFA at least ten days prior to its first use.

Finally, although the Telemarketing Requirements have been very useful to NFA staff for gathering evidence in enforcement actions relating to deceptive telemarketing sales activities, an NFA Member firm subject to the Telemarketing Requirements is only required to retain tape recorded conversations for a period of six months. NFA staff has found that this short retention period has hampered NFA's ability to fully investigate a Member's compliance with the Telemarketing Requirements. Therefore, NFA is proposing that the Interpretive Notice be amended to require Members meeting the Telemarketing Requirements' criteria to retain tapes for a period of one year.

NFA respectfully requests that the Commission review and approve the proposals contained in this submission and requests that they be declared effective upon Commission approval.

Respectfully submitted,

Daniel J. Roth
General Counsel

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

December 5, 1995

David VanWagner, Esq.
Special Counsel
Division of Trading & Markets
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

Re: National Futures Association: Proposed Amendments to
Section 11 of NFA's Code of Arbitration and Sections 2
and 11 of NFA's Member Arbitration Rules

Dear David:

By letter dated May 30, 1995, National Futures Association ("NFA") submitted proposed amendments to the NFA Code of Arbitration and the NFA Member Arbitration Rules to the Commodity Futures Trading Commission for review and approval pursuant to Section 17(j) of the Commodity Exchange Act, as amended. As you discussed over the telephone with Cindy Cain, Director of Arbitration at NFA, NFA agrees to extend the time for Commission review and approval of the proposed amendments until January 2, 1996.

Very truly yours,



Kathryn Page Camp
Associate General Counsel

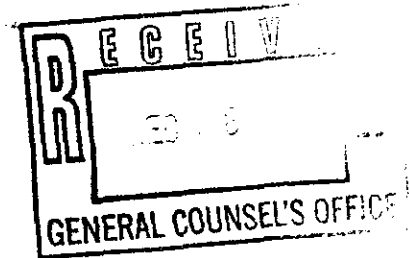
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U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5000
Facsimile: (202) 418-5521



December 12, 1995



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

Re: Code of Arbitration Section 11(a) and Member
Arbitration Rule Sections 2(a) and 11(a) -- Hearing
Fees and Mandatory Arbitration

Dear Mr. Roth:

By letter dated May 30, 1995, and received June 1, 1995, the National Futures Association ("NFA") submitted to the Commission, pursuant to Section 17(j) of the Commodity Exchange Act, proposed amendments to NFA's Code of Arbitration Section 11(a) and Member Arbitration Rules Sections 2(a) and 11(a). NFA has indicated that it intends to implement the proposed amendments immediately upon receipt of notice of Commission approval.

Please be advised that on this date the Commission has determined to approve the proposed amendments to NFA's Code of Arbitration Section 11(a) and Member Arbitration Rules Sections 2(a) and 11(a) pursuant to Section 17(j) of the Commodity Exchange Act.

The Commission notes that in addition to hearing fee levels, Code of Arbitration Section 11(a) also establishes filing fee levels for customer cases which, with minor modifications, have remained the same since the inception of the customer arbitration program. Please inform the Commission in the near future as to how these levels compare with the actual costs of administering the customer arbitration program (include an analysis of fees and costs on a per case basis for each level of the filing fee schedule). In addition, please provide an analysis concerning the extent to which the present filing fee levels are a barrier or disincentive to customers filing arbitration claims at NFA.

Sincerely,

Jean A. Webb
Secretary of the Commission



January 17, 1996

Ms. Jean A. Webb
Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Filing Fees under NFA's Customer Arbitration Program

Dear Ms. Webb:

This letter responds to the Commission's recent request for information concerning the filing fee structure under NFA's customer arbitration program. NFA's customer arbitration program is governed by the Code of Arbitration, and the fees for filing a claim under the Code are specified under Section 11(a). As noted by the Commission, those filing fees have remained virtually unchanged since the Commission approved NFA's original arbitration rules in 1981.¹ The reasons they have stayed the same are discussed below.

NFA's customer arbitration program is highly subsidized, with the filing fee covering only a small portion of the average total direct costs to NFA for administering the cases. Exhibit 1, which shows NFA's cost accounting breakdown by claim amount for fiscal years 1994 and 1995 (July 1 through June 30), indicates that the amount subsidized by NFA ranges from roughly 70 percent for the larger cases to over 95 percent for the smaller claims.

Furthermore, the arbitration fees for customer disputes at NFA are similar to the arbitration fees at the National Association of Securities Dealers (NASD) or the New York Stock Exchange (NYSE). While NFA's filing fees are higher than those at the NASD and NYSE, the comparison cannot be made simply by looking at those fees alone. The hearing fees charged by NFA, the NASD and NYSE should also be considered.

¹ The only change made to the filing fees was in response to concern voiced by the Commission in 1987 that NFA's escalating fee structure may inhibit persons with larger claims from using NFA arbitration. To avoid any potential chilling effect, NFA capped the amount of the filing fee for customer disputes at \$1,550 in 1989.



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The fundamental purpose of our hearing fee is to reimburse NFA for the fees we pay to the arbitrators, not to pay administrative costs. In contrast, a portion of the hearing fees charged by the NASD and NYSE is used to offset part of the administrative costs of their arbitration programs. Therefore, in comparing the fees customers pay to arbitrate at these forums, one should look at both the filing and hearing fees that are charged. A comparison of the arbitration fees at NFA, the NASD and NYSE is set forth in Exhibit 2.

In preparing this chart, we looked at the filing and hearing fee schedules for all three forums. In order to determine the hearing fees at the NASD and NYSE, we have also made an assumption about how long a hearing at a given claim amount will last based on our experience. For example, it is NFA's experience that a claim of \$250,000 requires two or three full hearing days (which would be four to six hearing sessions at the NASD and NYSE). This chart shows that the total fees to arbitrate at NFA are close to or less than those at the NASD and NYSE.

NFA arbitration is affordable in other ways as well. Since 1991, we have been offering a successful mediation program free of charge to customers and Members in close to 85 percent of the cases filed at NFA. In those cases where mediation is not free, we offer a \$1,000 partial subsidy to offset the parties' mediation expenses when they agree to mediate with one of our mediation services. In contrast, the NASD charges each party an administrative fee of \$150 and the mediators charge an additional \$150 per hour. The NYSE does not even offer mediation at this time.

Another way NFA tries to contain the costs of arbitration is by accommodating the site preferences of customers whenever an oral hearing is necessary. We have conducted hearings and summary proceedings in more than 80 cities in 46 states.

NFA also strives to offer a speedy and informal forum. At NFA, cases are processed from start to finish in an average of just 7.5 months, which is comparable or better than the processing times at other major forums. Furthermore, because of the informality of our arbitration process, nearly 60 percent of all parties, both customers and Members, are unrepresented in NFA arbitration, saving them a substantial amount in attorney's fees.

The high percentage of unrepresented parties at NFA may be attributable, in part, to the wide array of educational materials we provide about our arbitration program. These materials include a number of publications which are designed to



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January 17, 1996

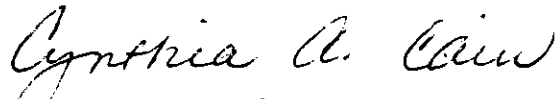
assist the parties and their attorneys and include a training video to help the parties better understand NFA's arbitration process and how it works. These materials are available free of charge and contain information that is practical, comprehensive and presented in plain language.

For all of these reasons, NFA does not believe that the filing fee structure impedes customers from bringing their arbitration claims to NFA. This is evidenced by the lack of complaints from customers about the fees NFA charges for arbitration. We would also note that the actions of the customers themselves support that our arbitration fees do not have a chilling effect. Although the total number of claims filed in NFA arbitration and CFTC reparations has declined over the last ten years, the portion of those claims filed at NFA has risen from roughly 33 percent in 1985 to 66 percent in 1995. Obviously, a substantial part of the increase is due to a greater awareness of NFA's arbitration program. However, that growth also shows that NFA arbitration is a viable, affordable and popular alternative for resolving futures-related disputes.

In closing, NFA believes its filing fee structure is appropriate. NFA arbitration continues to be a relatively inexpensive, efficient and speedy method for customers to resolve their futures-related disputes.

We hope this information addresses the Commission's questions concerning filing fees for customer arbitration cases. Please contact me if you have additional questions.

Respectfully submitted,


Cynthia A. Cain
Director, Arbitration

CAC:ci\cftc.fees
Attachments

**NFA COST ACCOUNTING BREAKDOWN
By Claim Amount and Fiscal Year**

<u>Claim Amount</u>	<u>Filing Fee</u>	<u>Average Total Direct Cost FY 1994 and FY 1995</u>	<u>Percent Subsidized by NFA¹</u>
\$0.00 - \$2,500.00	\$ 50.00	\$ 984.56	95%
\$2,500.01 - \$5,000.00	\$ 100.00	\$1,760.49	94%
\$5,000.01 - \$10,000.00	\$ 150.00	\$2,192.66	93%
\$10,000.01 - \$15,000.00	\$ 175.00	\$2,930.43	94%
\$15,000.01 - \$50,000.00	\$ 200.00 - \$ 550.00	\$3,789.60	90%
\$50,000.01 - \$100,000.00	\$ 550.00 - \$1,050.00	\$3,926.61	80%
\$100,000.01 - \$150,000.00	\$1,050.00 - \$1,550.00	\$4,204.00	69%
More than \$150,000.00	\$1,550.00	\$6,684.37	77%

¹ In determining the percent of the subsidy provided by NFA, we divided the filing fee (or the average of the filing fee range) by the average total direct costs for fiscal years 1994 and 1995, and then subtracted that amount from 100 percent.

**COMPARISON OF CUSTOMER ARBITRATION FEES
AT NFA, NASD AND NYSE**

		<u>Filing Fee</u>	<u>Hearing Fee</u>	<u>Total</u>
<u>\$2,000</u>				
No Oral Hearing	NFA	50	50	100
	NASD/NYSE	25	25	50
<u>\$10,000</u>				
½ Day Hearing	NFA	150	150	300
	NASD/NYSE	75	200	275
<u>\$50,000</u>				
1 Day Hearing	NFA	550	725	1,275
	NASD/NYSE	120	800	920
<u>\$100,000</u>				
1 Day Hearing	NFA	1,050	725	1,775
	NASD/NYSE	150	1,000	1,150
2 Day Hearing	NFA	1,050	1,450	2,500
	NASD/NYSE	150	2,000	2,150
<u>\$250,000</u>				
2 Day Hearing	NFA	1,550	1,450	3,000
	NASD/NYSE	200	3,000	3,200
3 Day Hearing	NFA	1,550	2,175	3,735
	NASD/NYSE	200	4,500	4,700
<u>\$1 Million</u>				
2 Day Hearing	NFA	1,550	1,450	3,000
	NASD/NYSE	250	4,000	4,250
3 Day Hearing	NFA	1,550	2,175	3,735
	NASD/NYSE	250	6,000	6,250
4 Day Hearing	NFA	1,550	2,900	4,450
	NASD/NYSE	250	8,000	8,250

U.S. COMMODITY FUTURES TRADING COMMISSION

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August 14, 1996

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

Re: The National Futures Association's Proposed
Amendments to Interpretive Notice to
Compliance Rule 2-9 -- Telemarketing
Supervision Requirements

Dear Mr. Roth:

By letters dated March 15, 1995, and May 30, 1995, 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 the Interpretive Notice to Compliance Rule 2-9 concerning telemarketing supervision requirements.

Please be advised that on this date the Commission has determined to approve, pursuant to Section 17(j) of the Act, the proposed amendments to the Interpretive Notice to Compliance Rule 2-9.

The Commission understands that NFA will continue to consider additional modifications to its Interpretive Notice to Compliance Rule 2-9. The Commission reminds NFA of the Division of Trading and Markets' ("Division") earlier request that NFA continue to vigorously monitor telemarketing practices in the industry as part of its program to review sales practices and that NFA apprise the Division if it finds problems related to telemarketing in the course of these reviews. At the same time, the Division further requested that NFA submit a report to the Commission by January 31, 1997, concerning any deceptive or abusive sales practices discovered during the course of any reviews conducted in 1996. See January 18, 1996, letter to Robert K. Wilmoth, NFA President and Chief Executive Officer, from Andrea M. Corcoran, Division Director.

Sincerely,

Catherine D. Dixon

Catherine D. Dixon
Assistant to the Secretary of
the Commission

