

May 31, 2016

**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 Technical Amendments to NFA Requirements – NFA Bylaw 1507 and NFA Interpretive Notice to NFA Compliance Rule 2-9: *Enhanced Supervisory Requirements\**

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 technical amendments to NFA Bylaw 1507 and to NFA Interpretive Notice to NFA Compliance Rule 2-9: *Enhanced Supervisory Requirements*. NFA's Board of Directors ("Board") approved the proposals on May 19, 2016.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make these proposals effective ten days after receipt of this submission by the Commission unless the Commission notifies NFA that the Commission has determined to review the proposals for approval.

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**PROPOSED AMENDMENTS**  
**(additions are underscored and deletions are ~~stricken through~~)**

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**BYLAWS OF NATIONAL FUTURES ASSOCIATION**

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**CHAPTER 15**  
**MISCELLANEOUS PROVISIONS**

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Mr. Christopher J. Kirkpatrick

May 31, 2016

**BYLAW 1507. DEFINITIONS.**

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(b) The term "forex" means:

- (1) foreign currency futures and options and any other agreement, contract, or transaction in foreign currency that is offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis;
- (2) offered to or entered into with persons that are not eligible contract participants as defined in Section 1a(18)(42) of the Act; and
- (3) not executed on or subject to the rules of a contract market, a derivatives transaction execution facility, a national securities exchange registered pursuant to Section 6(a) of the Securities Exchange Act of 1934, or a foreign board of trade.

Provided, however, that the term does not include any security that is not a security futures product, any contract of sale that results in actual delivery within two days, or any contract of sale that creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business, unless the transaction involves a futures contract or an option.

Such contracts are hereby declared to be proper subjects of NFA regulation and oversight (see Article XVIII, paragraph (k)).

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**INTERPRETIVE NOTICE**

**COMPLIANCE RULE 2-9: ENHANCED SUPERVISORY REQUIREMENTS**

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**III. QUALIFICATION FOR THE ENHANCED SUPERVISORY REQUIREMENTS**

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**B. Criteria that obligate a Member to adopt the enhanced supervisory requirements**

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1. Obligation based on employment histories of APs and principals

Firms that meet any of the following numerical criteria are required to adopt the enhanced supervisory requirements:

\* \* \*

- For firms with at least 20 APs, 20 percent or more of its APs have been employed by one or more current Disciplined Firms.<sup>1</sup>

\* \* \*

1. The Board notes that NFA Registration Rule ~~206(d)~~ 214(a) requires sponsors to file a Form 8-T with NFA reporting the termination of an AP within ~~20~~ 30 days of their termination. Members should be aware that, notwithstanding that Rule, a Member's obligation to adopt the enhanced supervisory requirements is conclusively established on any day on which its sales force meets one of the listed numerical criteria and that the obligation shall not be extinguished by the effect of the subsequent filing of a Form 8-T for a terminated AP even if the form is filed within ~~20~~ 30 days of an AP's termination.

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**EXPLANATION OF PROPOSED AMENDMENTS**

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**Proposed Technical Amendment to NFA Bylaw 1507**

The Dodd-Frank Act added a number of new terms to the definitions in Section 1(a) of the CEA, which resulted in the section defining the term "eligible contract participant" changing from Section 1a(12) to 1a(18). NFA Bylaw 1507(b) currently contains a reference to CEA Section 1a(12) to define "eligible contract participant." Therefore, NFA is amending Bylaw 1507(b) to correct the reference to Section 1a(18).

Mr. Christopher J. Kirkpatrick

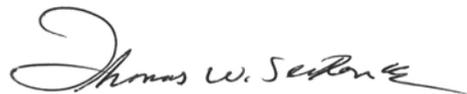
May 31, 2016

**Proposed Technical Amendment to Interpretive Notice – Compliance Rule 2-9:  
Enhanced Supervisory Requirements**

NFA's Interpretive Notice to NFA Compliance Rule 2-9 entitled *Enhanced Supervisory Requirements* addresses the circumstances under which certain Members must adopt enhanced supervisory requirements. Footnote 1 of the Interpretive Notice is outdated. Specifically, the reference in the footnote to NFA Registration Rule 206(d) and the time frame for filing a Form 8-T are no longer accurate. In 2008, an amendment to Registration Rule 214 changed the period for filing the Form 8-T from 20 to 30 days. In 2010, Registration Rule 206(d) was amended to remove a reference to the specific time for filing a Form 8-T and to simply refer to Registration Rule 214. However, the footnote in this Interpretive Notice to NFA Compliance Rule 2-9 entitled *Enhanced Supervisory Requirements* was never updated to reflect these changes. Therefore, NFA is amending the footnote to conform its language to the current Registration Rules.

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 Bylaw 1507 and the Interpretive Notice to NFA Compliance Rule 2-9: *Enhanced Supervisory Requirements* effective ten days after receipt of this submission by the Commission, unless the Commission notifies NFA that the Commission has determined to review the proposals for approval.

Respectfully submitted,



Thomas W. Sexton  
Senior Vice President and  
General Counsel

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\*The proposed technical amendments to NFA Bylaw 1507 and Interpretive Notice to NFA Compliance Rule 2-9 became effective June 13, 2016.