

September 4, 1990

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

Re: National Futures Association: Proposed Amendment to  
NFA Bylaw 1301

Dear Ms. Webb:

Pursuant to Section 17(j) of the Commodity Exchange Act ("Act"), as amended, National Futures Association ("NFA") hereby submits to the Commodity Futures Trading Commission ("Commission") a proposed amendment to NFA Bylaw 1301. The amendment was adopted by NFA's Board of Directors ("the Board") at its meeting on August 16, 1990. NFA respectfully requests review and approval of the proposed amendment.

I. THE PROPOSED AMENDMENT

- A. Amendment to NFA Bylaw 1301 to provide an exemption from the assessment fee for foreign futures and options (additions are underscored and deletions are [bracketed]):

**BYLAWS**

of

**NATIONAL FUTURES ASSOCIATION**

\* \* \*

**CHAPTER 13**

**DUES AND ASSESSMENTS**

**Bylaw 1301. Schedule of Dues and Assessments.**

Subject to the provisions of Article XII, dues and assessments of Members shall be as follows:



Ms. Jean A. Webb

September 4, 1990

\* \* \*

**(b) FCM Members.**

(i) Each FCM Member shall pay to NFA an assessment equal to:

(A) \$0.20 for each commodity futures contract traded on a contract market (other than an option contract) on a round-turn basis, and

(B) \$0.12 for each option contract traded on a contract market on a per trade basis,

carried by it for a customer other than (1) a person having privileges of membership on a contract market where such contract is entered or (2) a business affiliate of such FCM that directly or indirectly owns 100% of or is owned 100% by or has 100% ownership in common with such FCM provided such FCM has privileges of membership on the contract market where such contract is entered or (3) an omnibus account carried for another FCM Member for which assessments are payable to NFA by the other FCM;

(C) \$0.20 for each commodity futures contract traded on a foreign board of trade (other than an option contract) on a round turn basis, and

(D) \$0.12 for each option contract traded on a foreign board of trade on a per trade basis,

carried by it for a customer other than (1) the FCM's own account if the FCM has privileges of membership on the foreign board of trade where the contract is entered, (2) a business affiliate of such FCM that directly or indirectly owns 100% of or is owned 100% by or has 100% ownership in common with such FCM provided such FCM has privileges of membership on the foreign board of trade where the contract is entered, or (3) [on] an omnibus account [basis] carried for another FCM Member for which assessments are payable to NFA by the other FCM; and



Ms. Jean A. Webb

September 4, 1990

- (E) \$0.12 for each dealer option contract on a per trade basis carried by it for a customer other than a business affiliate of such FCM that directly or indirectly owns 100% of or is owned 100% by or has 100% ownership in common with such FCM Member:

Provided, however, such assessments shall be suspended or adjusted by the Board for a period not to exceed three months when in the judgment of the Board such action is appropriate in light of NFA's overall financial goals. The FCM Member shall invoice these assessments to its customer and shall remit the amount due to NFA; and

\* \* \*

## II. EXPLANATION OF THE PROPOSED AMENDMENT

NFA Bylaw 1301 currently provides that an FCM is exempt from paying assessment fees on domestic transactions carried by it in its own account if the FCM is a member of the contract market on which the trade is entered. Currently, however, there is no similar exemption for an FCM's own transactions on a foreign exchange.

The Board believes that there is no real basis for providing different treatment to an FCM's own trades based on the location of the exchange. Such transactions have only a minimal effect on the cost of regulation by NFA. Therefore, on August 16, 1990, the Board approved the proposed amendment to NFA Bylaw 1301 to provide an exemption from the assessment fee for foreign futures and options transactions for an FCM's own account, carried by that FCM, if the FCM is a member of the foreign exchange. As with transactions on domestic exchanges, the exemption has also been extended to firms with 100% common ownership with the FCM.



Ms. Jean A. Webb

September 4, 1990

NFA respectfully requests Commission approval of the proposed amendment to NFA Bylaw 1301. NFA further requests that the amendment be declared effective upon Commission approval.

Respectfully submitted,

A handwritten signature in cursive script, which appears to read 'Daniel J. Roth', is written over a horizontal line.

Daniel J. Roth  
General Counsel

cc: Chairman Wendy L. Gramm  
Commissioner Kalo A. Hineman  
Commissioner Fowler C. West  
Commissioner William P. Albrecht  
Andrea M. Corcoran, Esq.  
Dennis P. Klejna, Esq.  
Alan L. Seifert, Esq.  
Susan C. Ervin, Esq.  
John C. Lawton, Esq.  
Lawrence B. Patent, Esq.

/nam(LETTERS:Webb-1301.JJF)

March 4, 1991

**VIA FACSIMILE AND  
REGULAR MAIL**

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 Amendment to  
NFA Bylaw 1301

Dear Mr. Van Wagner:

By letter dated September 4, 1990, National Futures Association ("NFA") submitted a proposed amendment to NFA Bylaw 1301 to the Commodity Futures Trading Commission ("Commission") for review and approval pursuant to Section 17(j) of the Commodity Exchange Act, as amended. As we discussed over the telephone, NFA agrees to extend the time for Commission review and approval of the proposed amendment until ninety days after the Commission receives NFA's response to John C. Lawton's November 1, 1990 letter to Daniel J. Roth regarding the proposed amendments.

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

Very truly yours,



Kathryn Page Camp  
Assistant General Counsel

KPC:jac(Ltrs\VWagner2.KPC)



**COMMODITY FUTURES TRADING COMMISSION**

2033 K STREET, N.W., WASHINGTON, D.C. 20581  
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E G E I W E  
NOV - 5 1990  
GENERAL COUNSEL'S OFFICE

DIVISION OF  
TRADING AND MARKETS

November 1, 1990

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

Re: Proposed Amendment to the National Futures  
Association's Bylaw 1301(b)

Dear Mr. Roth:

By letter dated September 4, 1990, and received by the Commission on September 6, 1990, the National Futures Association ("NFA") submitted pursuant to Section 17(j) of the Commodity Exchange ("Act") a proposed amendment to its Bylaw 1301(b). The proposed amendment would revise certain of the criteria for exemption from NFA's futures commission merchant ("FCM") transaction fees. Specifically, Bylaw 1301(b) would be amended so that the criteria for exemptions from FCM fees for foreign exchange futures and option transactions would duplicate the criteria for domestic exchange futures and option transactions.

Under Section 17(j) of the Act, the Commission is charged with the responsibility of approving those NFA rule changes which the Commission has determined are consistent with the Act and the regulations thereunder. The subject NFA amendment proposal particularly implicates Section 17(b)(6) of the Act which requires that NFA rules provide for an equitable allocation of fees among its members to defray the reasonable expenses of NFA's administration. In this regard, please answer the following questions regarding the proposed amendment of Bylaw 1301(b) and provide any other information which may be helpful to the Commission in analyzing this proposal.

1. In its justification of the proposed amendment to Bylaw 1301(b), NFA indicates that it does not believe there is any real basis for having different approaches to exempting trades from fee requirements depending on whether a trade was done on a domestic or foreign exchange. Accordingly, the proposed amendment would establish identical exemption criteria for futures and option transactions done by an FCM on either a domestic or foreign exchange.


However, in explaining its current Bylaw 1301(b)(i)(1), NFA indicated that a transaction made on behalf of a member of a domestic contract market where the subject futures or option contract was executed should be exempt from fees because the member already is indirectly paying the NFA via Bylaw 1301(a)'s assessment of each contract market. Because there is no similar NFA assessment of foreign futures exchanges, the rationale for current Bylaw 1301(b)(i)(1)'s exemption for domestic exchange transactions would not seem to apply to the similar exemption which would be created for foreign exchange transactions by NFA's proposed amendment to Bylaw 1301(b).

In light of this difference, please provide a particular explanation of why trades executed on behalf of an exchange member on the member's exchange should be exempted from NFA's FCM assessment fee requirement regardless of whether the subject exchange is domestic or foreign.

2. NFA's September 4, 1990 submission states that "there is no real basis for providing different treatment to an FCM's own trades based on the location of the exchange" and that "[s]uch transactions have only a minimal effect on the cost of regulation by NFA." Please explain what, if any, NFA regulatory costs are associated with an FCM's proprietary trades on domestic exchanges. Similarly, what costs are associated with FCM proprietary trades on foreign exchanges?
3. Are the fees that NFA derives from its assessment of domestic exchanges pursuant to Bylaw 1301(a) intended to meet NFA regulatory costs associated with such exchanges? If so, please explain what those regulatory costs are. Are there any NFA regulatory costs associated with foreign futures exchanges?
4. How much revenue does NFA currently derive from assessments on foreign futures exchange transactions? What percentage of this revenue can be attributed to each of the categories of trades which would be exempted from assessment under NFA's proposed amendment to Bylaw 1301(b)? What percentage of NFA's overall transaction fee revenue does each one of the above-requested figures represent?

If you have any questions concerning the issues raised in this letter, please contact David P. Van Wagner at (202) 254-8955.

Very truly yours,



John C. Lawton  
Associate Director