

November 17, 2017

**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: Increase to NFA's Assessment Fee – NFA  
Bylaw 1301 Regarding Schedule of Dues and Assessments

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 amendments to [NFA Bylaw 1301](#) regarding the schedule of dues and assessments. NFA's Board of Directors ("Board") unanimously approved the proposal on November 16, 2017.

NFA is invoking the "ten-day" provision of Section 17(j) of the CEA and plans to make this proposal effective ten days after receipt of this submission by the Commission unless the Commission notifies NFA that the Commission has determined to review the proposal 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 13  
DUES AND ASSESSMENTS**

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**BYLAW 1301. SCHEDULE OF DUES AND ASSESSMENTS.**

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

\* \* \*

**(b) FCM Members.**

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

(A) ~~\$.02~~ \$.04 for each commodity futures contract traded on or entered into subject to the rules of a contract market (other than an option contract) on a round-turn basis;

(B) ~~\$.04~~ \$.02 for each option contract traded on or entered into subject to the rules of 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 (except that this exemption does not apply to transactions by commodity pools operated by NFA Member CPOs); (2) a business affiliate of such FCM that directly or indirectly owns 100 percent of or is owned 100 percent by or has 100 percent 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) ~~\$.02~~ \$.04 for each commodity futures contract traded on or entered into subject to the rules of a foreign board of trade (other than an option contract) on a round-turn basis;

(D) ~~\$.04~~ \$.02 for each option contract traded on or entered into subject to the rules of a foreign board of trade on a per trade basis

carried by it for a customer other than: (1) on an omnibus account basis for another FCM Member for which assessments are payable to NFA by the other FCM; or (2) for the proprietary trades of a person who has privileges of membership on any NFA Member contract market that has annual transaction volume of 1,000,000 calculated in conformance with Article VII, Section 2(a)(iii) or Section 2A(a)(iii), as applicable, of NFA's Articles provided, however, that this exemption shall not be afforded for the foreign proprietary trades of a person's parent, affiliate, or subsidiary unless these entities separately meet the requirements of this subsection;

(E) ~~\$.01~~ \$.02 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 percent of or is owned 100 percent by or has 100 percent 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

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### EXPLANATION OF PROPOSED AMENDMENTS

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NFA's Board seeks to maintain reserves equal to twelve months of operating expenses with acceptable fluctuations within a range of ten to fourteen months, and with each of NFA's Member Regulatory Programs (i.e., Futures Compliance, Swaps Compliance and Forex Compliance) maintaining twelve months of its own operating expenses. On October 1, 2014, NFA reduced the FCM assessment fee from \$0.02 cents per side to \$0.01 cent per side for two reasons. First, NFA's reserves were on a trajectory to exceed fourteen months of operating expenses due primarily to an increase in public trading volume. Second, since the Futures Compliance Program had been in place for over 30 years, that program had contributed the vast majority of NFA's overall reserves, while the Swaps Compliance Program, which was relatively new, had not contributed its relative share to NFA's reserves. By lowering the assessment fee, the Board's strategy was to intentionally operate the Futures Compliance Program at a deficit in order to reduce its overall contribution to NFA's reserves and reach reserve equilibrium among each of the three Regulatory Programs. NFA's Notice to Members announcing the fee reduction specifically noted that NFA's Board believed that the fee reduction may be sustainable for a few years.

After three consecutive fiscal years of operating the Futures Compliance Program at a deficit, NFA has reached reserve equilibrium with its Regulatory Programs. If NFA maintains the current assessment fee, projections indicate that NFA will end fiscal year 2018 below the acceptable range for the reserve target levels—NFA's overall reserves will be less than ten months of operating expenses and the Futures Compliance Program will be less than eight months of its operating expenses. In order to maintain the reserve target levels within the acceptable range for both NFA and the Futures Compliance Program, at its November 16, 2017 meeting, NFA's Board

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approved an amendment to Bylaw 1301 to increase the futures assessment fee from \$0.01 cent per side to \$0.02 cents per side, effective January 1, 2018.

NFA issued a Notice to Members on October 20, 2017 notifying Members that NFA's Executive Committee had voted to recommend the increase in NFA's assessment fee to the Board, and that pending approval by NFA's Board and the CFTC the increase would become effective on January 1, 2018. The January 1, 2018 effective date, along with NFA's advance notice of the pending change, will provide the industry with sufficient time to make any system changes necessary to implement the new fee.

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 1301, regarding the schedule of dues and assessments effective ten days after receipt of this submission by the Commission, unless the Commission notifies NFA that the Commission has determined to review the proposal for approval.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carol A. Wooding". The signature is written in black ink and is positioned above the printed name and title.

Carol A. Wooding  
Vice President and General Counsel