

November 30, 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: Proposed Technical Amendments to NFA
Registration Rule 802

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 Registration Rule 802](#). 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.

PROPOSED AMENDMENTS

(additions are underscored and deletions are ~~stricken through~~)

Registration Rules

**RULE 802. CERTIFICATIONS, ACKNOWLEDGEMENTS, AGREEMENTS
AND REPRESENTATIONS.**

(a) The electronic filing of a Form 7-R for registration as an FCM, RFED, SD, MSP, IB, CPO and CTA or for exemption from registration as an IB, CPO and CTA pursuant to CFTC Regulation 30.5 is deemed to constitute the applicant's: applicable certifications, representations, acknowledgements, authorizations and agreements contained in the Form 7-R;

~~(1) certification that the answers and the information provided in the Form 7-R are true, complete and accurate and that in light of the circumstances under which the applicant has given them, the answers and statements in the Form 7-R are not misleading in any material respect;~~

~~(2) certification that the person who electronically files the Form 7-R on behalf of the applicant is authorized by the applicant to file the Form 7-R and to make the certifications, representations, requests, acknowledgements, authorizations and agreements contained in this Rule;~~

~~(3) acknowledgement that the applicant is subject to the imposition of criminal penalties under Section 9(a) of the Act and 18 U.S.C. §1001 for any false statements or omissions made in the Form 7-R;~~

~~(4) acknowledgement that the applicant is responsible at all times for maintaining the information in the Form 7-R in a complete, accurate and current manner by electronically filing updates to the information contained therein;~~

~~(5) acknowledgement that the applicant may not act as an FCM, RFED, SD, MSP, IB, CPO or CTA until registration has been granted; in the case of an IB, until registration or a temporary license has been granted; in the case of an SD or MSP, until registration or provisional registration has been granted; or until confirmation of exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 is granted;~~

~~(6) authorization that NFA may conduct an investigation to determine the applicant's fitness for registration or for confirmation of exemption from registration as an IB, CPO and CTA pursuant to CFTC Regulation 30.5 and, if applicable, NFA membership and agreement to cooperate promptly and fully, consistent with applicable Federal law, in such investigation, which investigation may include contacting foreign regulatory and law enforcement authorities, including the submission of documents and information to NFA that NFA, in its discretion, may require in connection with the applicant's application for registration, confirmation of exemption from registration as an IB, CPO and CTA pursuant to CFTC Regulation 30.5 or NFA membership;~~

~~(7) authorization and request that any person, including but not limited to~~

~~contract markets, furnish upon request to NFA or any agent acting on behalf of NFA any information requested by NFA in connection with any investigation conducted by NFA to determine the applicant's fitness for registration or for confirmation of exemption from registration as an IB, CPO and CTA pursuant to CFTC Regulation 30.5;~~

~~(8) agreement that any person furnishing information to NFA or any agent acting on behalf of NFA in connection with the investigation so authorized is released from any and all liability of whatever nature by reason of furnishing such information to NFA or any agent acting on behalf of NFA;~~

~~(9) agreement that, if the applicant is a foreign applicant:~~

~~(i) the applicant's books and records will be available for inspection by the CFTC, the U.S. Department of Justice ("DOJ") and NFA for purposes of determining compliance with the Act, CFTC Regulations and NFA Requirements;~~

~~(ii) such books and records will be produced on 72 hours notice at the location in the United States stated in the Form 7-R or, in the case of an IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5, at the location specified by the CFTC or DOJ; provided, however, if the applicant is applying for registration as an FCM, SD, MSP or RFED, upon specific request, such books and records will be produced on 24 hours notice except for good cause shown;~~

~~(iii) the applicant will immediately notify NFA of any changes to the location in the United States where such books and records will be produced;~~

~~(iv) the applicant is not subject to any blocking, privacy or secrecy laws which would interfere with or create an obstacle to full inspection of the applicant's books and records by the CFTC, DOJ and NFA; and~~

~~(v) the failure to provide the CFTC, DOJ or NFA with access to its books and records in accordance with this agreement may be grounds for enforcement and disciplinary sanctions; denial, suspension or revocation of registration; withdrawal of confirmation~~

~~of exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5; and denial, suspension or termination of NFA membership;~~

~~(vi) the applicant for registration shall provide to NFA copies of any audit or disciplinary report related to the applicant for registration issued by any non-U.S. regulatory authority or non-U.S. self-regulatory organization and any required notice that the applicant for registration provides to any non-U.S. regulatory authority or non-U.S. self-regulatory organization. The applicant for registration shall provide these copies both as part of this application and thereafter immediately upon the applicant for registration's receipt of any such report or provision of any such notice; and~~

~~(10) representation that if the applicant is an applicant for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5:~~

~~(i) the applicant does not act as an IB, CPO or CTA, respectively, in connection with trading on or subject to the rules of a designated contract market in the United States by, for or on behalf of any U.S. customer, client or pool;~~

~~(ii) the applicant irrevocably agrees to the jurisdiction of the Commission and state and federal courts located in the U.S. with respect to activities and transactions subject to Part 30 of the CFTC's regulations; and~~

~~(iii) the applicant would not be statutorily disqualified from registration under §8a(2) or §8a(3) of the Act and is not disqualified from registration pursuant to the laws or regulations of its home country; and~~

~~(11) certification that, if the applicant is an applicant for registration as an SD or MSP, the applicant undertakes that, no later than ninety (90) days following the date this Form 7-R is filed, it will be and shall remain in compliance with the requirement of Section 4s(b)(6) of the Act that, except to the extent otherwise specifically provided by the rule, regulation or order, the applicant will not permit any person associated with it who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the applicant, if the applicant knows, or in the exercise of reasonable care should know, of the statutory disqualification. For the~~

~~purpose of this certification, "statutory disqualification" refers to the matters addressed in Section 8a(2) and 8a(3) of the Act and "person" means an "associated person of a swap dealer or major swap participant" as defined in Section 1a(4) of the Act and CFTC regulations thereunder.~~

(b) The electronic filing of a Form 8-R for registration as an FB or FT is deemed to constitute the applicant's applicable certifications, acknowledgements, authorizations and agreements contained in the Form 8-R;

~~(1) certification that the answers and statements in the Form 8-R are true and that in light of the circumstances under which the applicant has given them, the answers and statements in the Form 8-R are not misleading in any material respect;~~

~~(2) acknowledgement that the applicant is subject to the imposition of criminal penalties under Section 9(a) of the Act and 18 U.S.C. §1001 for any false statements or omissions made in the Form 8-R;~~

~~(3) acknowledgement that the applicant is responsible at all times for maintaining the information in the Form 8-R in a complete, accurate and current manner by electronically filing updates to the information contained therein;~~

~~(4) acknowledgement that the business address provided on the Form 8-R may be deemed to be the address for delivery to the applicant of any written communications from the Commission and NFA, including any notice of intent to deny, revoke or otherwise affect the applicant's registration, any summons, complaint, reparations claim, arbitration claim, order, subpoena, request for information, or any other written communication unless the applicant specifies another address for this purpose;~~

~~(5) acknowledgement that the applicant must keep current the business address provided on the Form 8-R while registered and for two years after termination of registration;~~

~~(6) authorization that NFA may conduct an investigation to determine the applicant's fitness for registration and agreement to cooperate promptly and fully, consistent with applicable Federal law, in such investigation, which investigation may include contacting foreign regulatory and law~~

~~enforcement authorities, including the submission of documents and information to NFA that NFA, in its discretion, may require in connection with the applicant's application for registration;~~

~~(7) authorization and request that any person, including but not limited to contract markets, furnish upon request to NFA or any agent acting on behalf of NFA any information requested by NFA in connection with any investigation conducted by NFA to determine the applicant's fitness for registration;~~

~~(8) agreement that any person furnishing information to NFA or any agent acting on behalf of NFA in connection with the investigation so authorized is released from any and all liability of whatever nature by reason of furnishing such information to NFA or any agent acting on behalf of NFA; and~~

~~(9) acknowledgement that the applicant is not registered and may not act as an FB or FT until a notice has been issued that registration or a temporary license has been granted.~~

~~(c) The electronic filing of a Form 8-R for an AP, Forex AP, Swap AP, or for an individual principal or FTOE is deemed to constitute the sponsor's: applicable certifications, acknowledgements and agreements contained in the Form 8-R;~~

~~(1) verification that the answers and statements in the application or Form 8-R are true, complete and accurate and that in light of the circumstances under which the applicant or principal has given them, the answers and statements in the Form 8-R are not misleading in any material respect;~~

~~(2) certification that the AP applicant or principal has authorized the sponsor to electronically file the Form 8-R on the AP applicant's behalf or the principal's behalf and that the sponsor has authorized the person who files the application to file the Form 8-R and to make the certifications, acknowledgements, authorizations, representations, requests and agreements contained in this Rule;~~

~~(3) acknowledgement that the sponsor is subject to the imposition of criminal penalties under Section 9(a) of the Act and 18 U.S.C. §1001 for any false statements or omissions it made in the Form 8-R;~~

~~(4) acknowledgement that while the individual is an AP sponsored by or a principal of the sponsor, the sponsor is responsible for maintaining the information in the Form 8-R in a complete, accurate and current manner by electronically filing updates to the information contained therein;~~

~~(5) certification that the sponsor has communicated or has attempted to communicate with all of the applicant's previous employers and educational institutions for the past three years and has documentation on file with the names of the persons contacted and the dates of contact or, if no contact was made, the reason therefor;~~

~~(6) certification that the applicant has been hired or is employed by the sponsor or that it is the intention of the sponsor to hire or otherwise employ the applicant as an AP within 30 days after receipt of notification that the applicant has received a TL or has been registered;~~

~~(7) certification that the applicant will not be permitted to act as an AP until the applicant has received a TL or has been registered as an AP;~~

~~(8) acknowledgement that it is the duty and obligation of the sponsor not to employ an individual with a statutory disqualification under Section 8a(2) of the Act; to notify the Commission when any individual associated with the sponsor is subject to a statutory disqualification under Section 8a(2) of the Act; and to supervise any individual for whom the sponsor files a Form 8-R, once the sponsor employs him, with a view toward preventing him or her from committing violations of the Act and the rules, regulations and orders thereunder;~~

~~(9) certification, if the sponsor is a new sponsor filing an application for registration of the applicant as an AP pursuant to the provisions of Rule 207(a), that the sponsor has verified that the applicant is not subject to a disqualification from registration under Section 8a(2) of the Act and that the sponsor meets the requirements set forth in Rule 509(b)(5);~~

~~(10) acknowledgement that information contained in the Form 8-R has been supplied to the sponsor for the sole purpose of allowing it to verify the information contained in the Form 8-R;~~

~~(11) representation that the sponsor has taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in the Form 8-R and the records and~~

~~documents retained in support of the Form 8-R;~~

~~(12) certification, if the applicant is applying for a TL pursuant to Rule 301(a)(2), that the sponsor has reviewed the information concerning the applicant in NFA's BASIC system and has received a copy of the notice of the institution of any proceeding in the BASIC system:~~

~~(A) that is pending and was brought against the applicant under:~~

- ~~(i) Sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act;~~
- ~~(ii) Commission Regulations 3.55 or 3.60; or~~
- ~~(iii) NFA or exchange rules and; or~~

~~(B) that was instituted in accordance with the procedures provided in CFTC Regulation 3.51 or Part 500 of these Rules and, within the prior 12 months, resulted in the Commission or NFA permitting the withdrawal of such person's application for registration in any capacity; and~~

~~(13) representation, if the applicant is subject to any current NFA or Commission order imposing conditions on the registration of the applicant, that it meets the requirements set forth in Rule 509(b)(5) to sponsor a conditioned registrant; that it has reviewed the conditions contained in any current NFA or Commission order imposing conditions on the registration of the applicant; and that it will supervise the applicant in accordance with the conditions contained in the order.~~

~~(d) The electronic verification by an individual of the information contained in the Form 8-R constitutes the applicant's, or principal's, or FTOE's applicable certifications, acknowledgements, authorizations and agreements contained in the Form 8-R; and~~

~~(1) verification that the answers and statements in the application or Form 8-R are true and that in light of the circumstances under which the applicant or principal has given them, the answers and statements in the Form 8-R are not misleading in any material respect;~~

~~(2) acknowledgement that the applicant or principal is subject to the imposition of criminal penalties under Section 9(b) of the Act and 18 U.S.C. §1001 for any false statements or omissions made in the Form 8-R;~~

~~(3) acknowledgement that the applicant or principal is responsible at all times for maintaining the information in the Form 8-R in a complete, accurate and current manner by promptly notifying the sponsor whenever any of the information on the Form 8-R is no longer complete, accurate or current and authorizing the sponsor to electronically file updates to correct the information;~~

~~(4) certification, if applying for a TL pursuant to the provisions of Rule 301(a)(2), that the applicant has advised the sponsor of and has provided the sponsor with a copy of the notice of the institution of:~~

~~(A) any pending adjudicatory proceeding that was brought against the applicant under:~~

- ~~(i) Sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act;~~
- ~~(ii) Commission Regulations 3.55 or 3.60; or~~
- ~~(iii) NFA or exchange rules; or~~

~~(B) any proceeding that was brought against the applicant under Regulation 3.51 or Part 500 of these Rules and, within the prior 12 months, resulted in the Commission or NFA permitting the withdrawal of such person's application for registration in any capacity;~~

~~(5) acknowledgement that the residential address provided on the Form 8-R may be deemed to be the address for delivery to the applicant or principal of any written communications from the Commission and NFA, including any notice of intent to deny, revoke or otherwise affect the applicant's registration or individual's status as principal, any summons, complaint, reparations claim, arbitration claim, order, subpoena, request for information, or any other written communication unless the applicant or principal specifies another address for this purpose;~~

~~(6) acknowledgement that the applicant or principal must keep current the residential address provided on the Form 8-R while registered as an AP or affiliated as a principal and for two years after termination of registration or affiliation;~~

~~(7) agreement that the applicant submits to the jurisdiction of any contract market, of which the applicant's sponsor or any current or future guarantor~~

~~(under CFTC Rule 1.10(j)) of the applicant's sponsor is or may become a member, which has or may adopt rules which apply to the applicant as an associated person, and that the applicant shall abide by all such rules and to comply with, be subject to, and abide by all requirements, rulings, orders, directives and decisions of and any penalties, prohibitions and limitations imposed by any such contract market;~~

~~(8) authorization that NFA, and any contract market of which the applicant's or principal's sponsor or any current or future guarantor (under CFTC Rule 1.10(j)) of the applicant's or principal's sponsor is or may become a member, may conduct an investigation to determine the applicant's or principal's fitness for registration, and if applicable, for Associate status, and agreement to cooperate promptly and fully, consistent with applicable Federal law, in such investigation, which may include contacting foreign regulatory and law enforcement authorities, including the submission of documents and information to NFA that NFA, in its discretion, may require in connection with the applicant's or principal's fitness for registration or Associate status;~~

~~(9) authorization and request that any person, including but not limited to contract markets, furnish upon request to NFA or any agent acting on behalf of NFA any information requested by NFA in connection with any investigation conducted by NFA to determine the applicant's fitness for registration or fitness of the principal;~~

~~(10) agreement that any person furnishing information to NFA or any agent acting on behalf of NFA in connection with the investigation so authorized is released from any and all liability of whatever nature by reason of furnishing such information to NFA or any agent acting on behalf of NFA; and~~

~~(11) acknowledgement that the applicant is not registered and may not act as an AP until a notice has been issued that registration or a TL has been granted.~~

(e) The electronic filing of a Form 3-R, 8-T, or 7-W or an update to the Form 7-R or 8-R is deemed to constitute the sponsor's, applicant's or registrant's: applicable certifications, and acknowledgements contained in the Form 8-T, 7-W or an update to the Form 7-R or 8-R.

~~(1) certification that the answers and the information provided in the Form~~

~~3-R, 8-T or 7-W are true, complete and accurate and that in light of the circumstances under which the sponsor, applicant or registrant has given them, the answers and statements in the Form 3-R, 8-T or 7-W are not misleading in any material respect;~~

~~(2) certification that the person who electronically files the Form 3-R, 8-T or 7-W on behalf of the sponsor, applicant or registrant is authorized by the sponsor, applicant or registrant to file the Form 3-R, 8-T or 7-W and to make the certifications and acknowledgements contained in this Rule; and~~

~~(3) acknowledgement that the sponsor, applicant or registrant is subject to the imposition of criminal penalties under Section 9(a) of the Act and 18 U.S.C. §1001 for any false statements or omissions made in the Form 3-R, 8-T or 7-W.~~

(f) Retention of Records. In accordance with Commission Regulation 1.31, FCM, RFED, SD, MSP, IB, CTA, CPO, LTM, FB and FT applicants and registrants and their sponsors, if applicable, applicants for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 and IBs, CPOs and CTAs confirmed as exempt from registration pursuant to CFTC Regulation 30.5 must retain such records as are necessary to support the certifications required by this Rule.

* * *

EXPLANATION OF PROPOSED AMENDMENTS

NFA's Board is amending NFA Registration Rule 802 to implement the Commission's approved changes to various registration forms. The proposed amendments to NFA Registration Rule 802 are necessary to ensure that this Rule's language is consistent with the forms' current language. Specifically, the proposed amendments reflect changes to the Form 7-R language made by the Commission when Swap Dealers and Major Swap Participants were required to become registered at the end of 2012; changes recently made to the Form 8-R resulting from NFA's revision of the individual application process in the Online Registration System; and the recent retirement of the Form 3-R.

The proposed amendments to NFA Registration Rule 802 amend the rule in a way that the specific agreements and certifications contained in the registration forms are not part of the rule. Instead, the amended rule provides that an applicant's filing of a particular registration form (e.g., the Form 7-R) will be deemed to constitute

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the applicant's applicable certifications, representations, acknowledgements, authorizations and agreements contained in the forms. This approach will avoid having to amend NFA Registration Rule 802 when changes to the certifications, representations, acknowledgements, authorizations and agreements in the forms are made in the future.

NFA's Board unanimously approved the proposed amendments on November 16, 2017. 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 Registration Rule 802 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,

A handwritten signature in black ink that reads "Carol A. Wooding". The signature is written in a cursive style with a large, looping initial 'C' and a long, sweeping tail on the 'g'.

Carol A. Wooding
Vice President and General Counsel