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Via Federal Express

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

COMMENT

Re: Temporary Licenses for Associated Persons, Floor Brokers, Floor Traders and
Guaranteed Introducing Brokers

Dear Ms. Webb:

On September 21, 1998, the Commodity Futures Trading Commission ("Commission") requested comments on amendments to Commission rules governing the granting of a temporary licenses ("TL"). National Futures Association ("NFA") welcomes this opportunity to comment on the Commission's proposed rules. As the Commission noted, the Commission is proposing these rules to enable it to approve changes that NFA submitted for Commission approval without creating any inconsistency between the Commission's rules and NFA Registration Rules. Because the Commission's proposed rules essentially mirror NFA's proposed TL rule changes, NFA's comments will not address the substance of the Commission's proposed rules. However, NFA has some limited comments on whether Commission rule making proceedings should be necessary whenever NFA proposes improvements to its registration processing rules.

In the release, the Commission states that it could not approve NFA's TL rule amendments pursuant to Section 17(j) of the Commodity Exchange Act because NFA's rules as amended would not be consistent with Commission rules regarding TLs. The statutory language that the Commission indicates as dictating this result is as follows:

"A registered futures association shall submit to the Commission any change in or addition to its rules.... The Commission shall approve such rules, if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations issued pursuant to this Act....

On its face, this provision prevents Commission approval if NFA's rules are inconsistent with the requirements of Section 17 of the Act or in violation of the Commission's rules.



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Commission Rule 3.2(a) codifies the Commission's interpretation of the statutory language in the context of registration processing rules. In pertinent part, that rule provides:

... the registration functions of the Commission... shall be performed by National Futures Association, in accordance with such rules, consistent with the provisions of the Act and this part... that the National Futures Association may adopt and are approved by the Commission pursuant to Section 17(j) of the Act.

NFA suggests three alternative approaches to avoid the necessity of a Commission rule making procedure every time NFA wishes to change its registration processing rules.

- Interpret the consistency provisions of the Act and Regulations to not require identical rules but rules that achieve the underlying regulatory purpose.
- Amend Commission Rule 3.2(a) to eliminate the consistency requirement.
- Repeal the Commission's registration processing rules.

While the first two proposals remove the necessity for rule making proceedings, they do not address a more fundamental issue. The primary issue, in NFA's view, is the underlying policy question of whether two sets of coextensive regulations governing the processing of registration applications are necessary and appropriate. To avoid the uncertainty and confusion that differences between NFA and Commission rules could cause, identity of the rules seems to be called for if both sets continue to exist. The end result of such a scheme, however, is the necessity to engage in what amounts to perfunctory rule making proceedings such as the instant proceeding even though the Commission apparently agrees with and is prepared to approve NFA's rules. NFA considers this to be an unnecessary waste of valuable resource both for the Commission and NFA.

Therefore, NFA respectfully suggests that the Commission and NFA explore ways to resolve this dilemma, particularly the possibility of the Commission eliminating its rules governing the processing of registration applications. NFA emphasizes that the rules



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that would be eliminated are only those concerning functions that the Commission has delegated completely to NFA and is not itself engaged in. The Commission's regulatory authority over the registration process would be maintained through the rule approval process to which any NFA proposed rule change would be subject. Eliminating the Commission's processing rules would not diminish the Commission's ability to institute statutory disqualification proceedings as the rules governing such matters would not be effected.

NFA looks forward to discussing these matters further with the Commission.

NFA appreciates this opportunity to comment on the Commission's approach to the approval of NFA's registration rule changes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel J. Roth', written in a cursive style.

Daniel J. Roth
General Counsel

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