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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71976; File No. SR-NFA-2014-01)

April 21, 2014

Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Interpretive Notice to NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for SFPs

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Exchange Act”),<sup>1</sup> and Rule 19b-7 under the Exchange Act,<sup>2</sup> notice is hereby given that on April 7, 2014, National Futures Association (“NFA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I and II below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also filed this proposed rule change on November 20, 2012 with the Commodity Futures Trading Commission (“CFTC”).

NFA, on November 20, 2012, requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary.<sup>3</sup> On February 14, 2013, the CFTC notified NFA that it had determined not to review the proposed rule change.<sup>4</sup>

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The amendments to the Interpretive Notice entitled "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products"

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<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> See Letter dated November 20, 2012 from Thomas W. Sexton, III, Senior Vice President/General Counsel, NFA to Sauntia Warfield, Assistant Secretary, Office of the Secretariat, CFTC.

<sup>4</sup> See Letter dated February 14, 2013 from Gary Barnett, Director, Division of Swap Dealer and Intermediary Oversight, to Thomas W. Sexton, III, Senior Vice President/General Counsel, NFA.

("Notice") extends the relief from having to take a proficiency exam to engage in security futures activities from December 31, 2012 to December 31, 2015.

The text of the Interpretive Notice is available on NFA's website at [www.nfa.futures.org](http://www.nfa.futures.org), the Commission's website at [www.sec.gov](http://www.sec.gov), the self-regulatory organization's office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NFA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NFA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 15A(k) of the Exchange Act<sup>5</sup> makes NFA a national securities association for the limited purpose of regulating the activities of NFA Members ("Members") who are registered as brokers or dealers under Section 15(b)(11) of the Exchange Act.<sup>6</sup> NFA's Notice entitled: "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" applies to all Members who meet the criteria in the Interpretive Notice and could apply to Members registered under Section 15(b)(11) of the Exchange Act.

The Commodity Futures Modernization Act of 2000 amended the Securities Exchange Act of 1934 to require NFA to "have rules that ensure that members and natural persons

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<sup>5</sup> 15 U.S.C. 78o-3(k).

<sup>6</sup> 15 U.S.C. 78o(b)(11).

associated with members meet such standards of training, experience and competence necessary to effect transactions in security futures products and are tested for their knowledge of securities and securities futures products."<sup>7</sup> In 2001 NFA and FINRA (then NASD) adopted temporary relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than by taking an exam, which NFA codified in the Notice. The relief was extended three times and was set to expire on December 31, 2012.

NFA and FINRA proposed the three prior extensions, and the CFTC and SEC agreed to them,<sup>8</sup> because of the low trading volume in SFPs and the relatively few registrants engaging in security futures activities. These characteristics continue to make the imposition of a qualifications exam an inefficient option, and the same reasons are equally compelling today. Accordingly, the proposal revises the Interpretive Notice to extend the relief from having to take an exam from December 31, 2012 to December 31, 2015.<sup>9</sup>

Amendments to the Interpretive Notice regarding NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products were previously filed with the SEC in SR-NFA-2002-04, Exchange Act Release No. 34-46502 (Sep. 16, 2002), 67 FR 59587 (Sep. 23, 2002); SR-NFA-2003-03, Exchange Act Release No. 34-47825 (May 9, 2003), 68 FR 27128 (Mar. 19, 2002); SR-NFA-2003-04, Exchange Act Release No. 34-49054 (Jan. 12, 2004), 69 FR 2806, (Jan. 20, 2004); SR-NFA-2007-07, Exchange Act

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<sup>7</sup> Section 15A(k)(2)(D) of the Exchange Act.

<sup>8</sup> The Commission notes that the filings referred to by NFA were filed with the Commission pursuant to Section 19(b)(7) of the Exchange Act and thus were effective on filing by the NFA.

<sup>9</sup> FINRA staff has informed NFA that FINRA will amend its rules to incorporate the same three-year extension.

Release 34-57142 (Jan. 14, 2008), 73 FR 3502 (Jan. 18, 2008) and SR-NFA-2009-02, Exchange Act Release 34-61284 (Jan. 4, 2010), 75 FR 1431 (Jan. 11, 2010).

## 2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k)(2)(D) of the Exchange Act.<sup>10</sup> That Section requires NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in SFPs and are tested for their knowledge of securities and securities futures products." Although the proposal extends relief from having to take an exam to engage in security futures activities, it still requires that training be completed before entering into such activities.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have little or no impact on competition. The proposed Interpretive Notice does not impose new requirements on Members, but rather extends the relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than by taking an exam until December 31, 2015.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

NFA filed the proposed rule change with the CFTC on November 20, 2012, and the proposed rule change became effective with the CFTC on February 21, 2013. NFA did not file

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<sup>10</sup> 15 U.S.C. 78o-3(k)(2)(D).

the proposed rule change concurrent with the SEC. Instead, NFA filed the proposed rule change with the SEC on April 7, 2014.<sup>11</sup>

At any time within 60 days of the date of effectiveness<sup>12</sup> of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>13</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NFA-2014-01 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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<sup>11</sup> Section 19(b)(7)(B) of the Act provides that a proposed rule change filed with the SEC pursuant to section 19(b)(7)(A) of the Act shall be filed concurrently with the CFTC.

<sup>12</sup> Section 19(b)(7)(C) of the Act provides, *inter alia*, that “[a]ny proposed rule change of a self-regulatory organization that has taken effect pursuant to [Section 19(b)(7)(B) of the Act] may be enforced by such self-regulatory organization to the extent such rule is not inconsistent with the provisions of this title, the rules and regulations thereunder, and applicable Federal law.”

<sup>13</sup> 15 U.S.C. 78s(b)(7)(C).

All submissions should refer to File Number SR-NFA-2014-01. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NFA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-NFA-2014-01, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).