

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54979; File No. SR-NFA-2006-05)

December 20, 2006

Self-Regulatory Organization; National Futures Association; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Interpretive Notice Regarding Automated Order-Routing Systems

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-7 under the Act,² notice is hereby given that on December 4, 2006, National Futures Association (“NFA”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by NFA. On December 14, 2006, NFA submitted an amendment to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission (“CFTC”).

NFA, on November 30, 2006, submitted the proposed rule change to the CFTC for approval and invoked the “ten-day” provision of Section 17(j) of the Commodity Exchange Act (“CEA”).⁴ By letter dated December 12, 2006, the CFTC notified NFA of its determination not to review the proposed rule change.⁵

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ See facsimile from Thomas W. Sexton, General Counsel, NFA, to Elizabeth King, Associate Director, Division of Market Regulation, Commission, dated December 14, 2006 (“Amendment No. 1”). In Amendment No. 1, NFA replaced Exhibit 4, which was incomplete in the original filing.

⁴ 7 U.S.C. 21(j).

⁵ See Letter from Lawrence B. Patent, Deputy Director, CFTC, to Thomas W. Sexton, General Counsel, NFA (December 12, 2006) (“Letter”).

I. Self-Regulatory Organization's Description of the Proposed Rule Change

Section 15A(k) of the Act⁶ 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 in security futures products under Section 15(b)(11) of the Act.⁷ NFA's interpretive notice entitled "Compliance Rule 2-9: Supervision of the Use of Automated Order-Routing Systems" ("Interpretive Notice") applies to all futures commission merchant and introducing broker Members, including those who are registered as security futures brokers or dealers under Section 15(b)(11).⁸

In 2002, NFA adopted the Interpretive Notice, which referred Members to an AICPA/CICA WebTrust^{SM/TM} Self-Assessment Questionnaire for Availability and stated that they could download the questionnaire from NFA's Web site. The questionnaire is not available on NFA's Web site. Therefore, the AORS Interpretive Notice is amended to delete the paragraph referencing the WebTrust^{SM/TM} Self-Assessment Questionnaire for Availability.

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 has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. 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.

⁶ 15 U.S.C. 78o-3(k).

⁷ 15 U.S.C. 78o(b)(11).

⁸ Id.

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

1. Purpose

In 2002, NFA adopted the Interpretative Notice, which referred Members to an AICPA/CICA WebTrust^{SM/TM} Self-Assessment Questionnaire for Availability and stated that they could download the questionnaire from NFA’s Web site. At the time the Interpretative Notice was adopted, NFA knew that the questionnaire was copyrighted but was in discussions with AICPA/CICA and believed that it would give NFA permission to use the material in this manner.

AICPA/CICA subsequently informed NFA that it had decided not to allow NFA to use the questionnaire as described in the Interpretive Notice. Although the questionnaire is not available on NFA’s Web site, NFA never removed the reference in the Interpretative Notice. Therefore, the Interpretive Notice is amended to delete the paragraph referencing the WebTrust^{SM/TM} Self-Assessment Questionnaire for Availability.

2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k) of the Act.⁹

B. Self-Regulatory Organization’s Statement on Burden on Competition

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the CEA.

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

⁹ 15 U.S.C. 78o-3(k).

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, on November 30, 2006, submitted the proposed rule change to the CFTC for approval and invoked the “ten-day” provision of Section 17(j) of the CEA.¹⁰ By letter dated December 12, 2006, the CFTC notified NFA of its determination not to review the proposed rule change.¹¹

Within 60 days of the date of effectiveness 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.¹²

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. Please include Filed No. SR-NFA-2006-05 on the subject line.

Paper Comments:

¹⁰ 7 U.S.C. 21(j).

¹¹ See Letter, *supra* note 5.

¹² 15 U.S.C. 78s(b)(1).

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

All submissions should refer to File No. SR-NFA-2006-05. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the 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 No. SR-NFA-2006-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(75).