

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84076; File No. SR-NFA-2018-04)

September 11, 2018

Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Change to the Interpretive Notice to National Futures Association Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (“Exchange Act”),¹ and Rule 19b-7 thereunder,² notice is hereby given that on August 31, 2018, National Futures Association (“NFA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III 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.

On August 21, 2018, NFA also filed this proposed rule change with the Commodity Futures Trading Commission (“CFTC”) and requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary.³ The CFTC has not yet made such determination.

I. Self-Regulatory Organization’s Description and Text of the Proposed Rule Change

NFA's Interpretive Notice 9050 entitled “NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts” (“Interpretive Notice 9050”) requires NFA Members and Associates (“Member”) who are registered as brokers or dealers under Section 15(b)(11) of the Exchange Act⁴ to provide a disclosure statement for security futures products

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ See Letter dated August 21, 2018 from Carol A. Wooding, NFA’s Vice President and General Counsel to Christopher J. Kirkpatrick, Office of the Secretariat, CFTC.

⁴ 15 U.S.C 78o(b)(11).

(“SFPs”) to a customer at or before the time the Member approves the account to trade SFPs. The risk disclosure statement contains, among other things, a section on Securities Investor Protection Corporation (“SIPC”) coverage for cash protection. NFA is amending Section 6.1 of Interpretive Notice 9050 to reflect that SIPC coverage for cash protection has increased from \$100,000 to \$250,000.

NFA is also amending Interpretive Notice 9050 to incorporate one other non-substantive change. The text of the proposed rule changes to Interpretive Notice 9050 is found in Exhibit 4.

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 Act⁵ makes NFA a national securities association for the limited purpose of regulating the activities of Members who are registered as brokers or dealers in SFPs under Section 15(b)(11) of the Exchange Act.⁶ NFA’s Interpretive Notice 9050 applies to all Members who meet the criteria outlined in Interpretive Notice 9050, including those that

⁵ 15 U.S.C. 78o-3(k).

⁶ 15 U.S.C. 78o(b)(11).

are registered as security futures brokers or dealers under Section 15(b)(11) of the Exchange Act.⁷

The risk disclosure statement for SFPs is a uniform statement that was jointly developed in 2002 by NFA, FINRA, and a number of securities and futures exchanges. SEC staff recently contacted NFA and requested a change to Section 6.1 of the Risk Disclosure Statement to reflect that SIPC coverage for cash protection has increased from \$100,000 to \$250,000. Accordingly, NFA's amendment to Section 6.1 of Interpretive Notice 9050 is a minor amendment to correct the limit of SIPC cash protection.

NFA is also amending Section 5.2 of Interpretive Notice 9050 to make a stylistic change to delete a set of quotation marks around the qualifying abbreviation for National Securities Clearing Corporation—NSCC. FINRA staff notified NFA that it also intends to make the same modifications to its risk disclosure statement to cover its members.

Amendments to NFA Interpretive Notice 9050 were previously filed with the SEC in SR-NFA-2002-05, Exchange Act Release No. 34-46613 (Oct. 7, 2002), 67 FR 64176 (Oct. 17, 2002); SR-NFA-2002-06, Exchange Act Release No. 34-47150 (Jan. 9, 2003), 68 FR 2381 (Jan. 16, 2003); SR-NFA-2007-07, Exchange Act Release No. 34-57142 (Jan. 14, 2008), 73 FR 3502 (Jan. 18, 2008); SR-NFA-2010-02, Exchange Act Release No. 34-62624 (Aug. 2, 2010), 75 FR 47666 (Aug. 6, 2010); SR-NFA-2010-03, Exchange Act Release No. 34-62651 (Aug. 4, 2010), 75 FR 48393 (Aug. 10, 2010); and [sic] SR-NFA-2014-02, Exchange Act Release No. 34-71980 (Apr. 21, 2014), 79 FR 23027 (Apr. 25, 2014); and SR-NFA-2018-03, Exchange Act Release No. 34-83589 (July 3, 2018), 83 FR 31804 (July 9, 2018).

⁷

Id.

2. Statutory Basis

The proposed rule change is authorized by, and consistent with, Section 15A(k)(2)(B) of the Exchange Act.⁸ That Section requires NFA to have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, in connection with SFPs. The proposed rule change accomplishes this by requiring Members to provide customers trading in SFPs with a risk disclosure statement which correctly reflects the SIPC coverage for cash protection. Accordingly, NFA is amending Interpretive Notice 9050 to update the risk disclosure statement to reflect that SIPC coverage for cash protection has increased from \$100,000 to \$250,000. Further, NFA is amending Interpretive Notice 9050 to reflect one other non-substantive stylistic change. This proposal is not designed to regulate, by virtue of any authority conferred by the Exchange Act, matters not related to the purposes of the Exchange Act or the administration of the association.

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

NFA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change would not impose any additional reporting requirements or costs on Members.

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.

⁸ 15 U.S.C. 78o-3(k)(2)(B).

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

On August 21, 2018, NFA requested that the CFTC make a determination that review of the proposed rule change of NFA is not necessary. The CFTC has not yet made such determination. At any time 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 Exchange Act.⁹

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 File Number SR-NFA-2018-04 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.

All submissions should refer to File Number SR-NFA-2018-04. 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

⁹ 15 U.S.C. 78s(b)(1).

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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NFA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NFA-2018-04 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.¹⁰

Eduardo A. Aleman
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(73).