

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83589; File No. SR-NFA-2018-03)

July 3, 2018

Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Change to the Interpretive Notice to NFA 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 under the Exchange Act² notice is hereby given that on June 19, 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 June 7, 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. By letter dated June 18, 2018, the CFTC notified NFA of its determination not to review the proposed rule change.³

The text of the proposed rule change is available at the self-regulatory organization’s office, on the NFA’s website at www.nfa.futures.org, and at the SEC’s Public Reference Room.

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

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ See letter from Matthew Kulkin, Director CFTC, to Carol A. Wooding, General Counsel, NFA (“Letter”).

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 (“SFPs”) to a customer at or before the time the Member approves the account to trade SFPs. This risk disclosure statement contains, among other things, a section on settlement by physical delivery, which indicates that the normal clearance and settlement cycle for securities transactions is three business days. NFA is amending Section 5.2 of Interpretive Notice 9050 to update the disclosure statement for SFPs to reflect the shortened settlement cycle from three business days to two business days.

NFA is also amending Section 6.1 of Interpretive Notice 9050 to reflect the current address for the Securities Investor Protection Corporation (“SIPC”). Further, NFA is amending Interpretive Notice 9050 to incorporate other non-substantive changes. 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.

⁴ 15 U.S.C 78o(b)(11).

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 NFA Members who are registered as brokers or dealers in security futures products under Section 15(b)(11) of the Exchange Act.⁶ NFA’s Interpretive Notice 9050 applies to all NFA Members who meet the criteria outlined in Interpretive Notice 9050, including those that 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. The statement discusses the characteristics and risk of standardized security futures contracts traded on regulated U.S. exchanges and indicates that the settlement by physical delivery is three business days.

On September 5, 2017, the securities industry moved from a T+3 settlement cycle to a T+2 settlement cycle for in-scope securities trades, including U.S. equity trades. Accordingly, NFA’s amendment to Section 5.2 of Interpretive Notice 9050 is nothing more than a technical amendment to update the disclosure statement for SFPs to reflect the shortened settlement cycle from three business days to two business days.

NFA is also amending Section 6.1 of Interpretive Notice 9050 to provide the current contact information for SIPC and to change the spelling of “broker/dealer” to “broker-dealer”.

⁵ 15 U.S.C. 78o-3(k).

⁶ 15 U.S.C. 78o(b)(11).

⁷ Id.

To incorporate other non-substantive changes, NFA is amending Interpretive Notice 9050 in Section 2.4 to correct a cross-reference and in Section 8.2 to remove an extraneous word.

FINRA has amended and submitted the proposed changes to the SEC for approval.

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 SR-NFA-2014-02, Exchange Act Release No. 34-71980 (Apr. 21, 2014), 79 FR 23027 (Apr. 25, 2014) .

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, including rules governing sales practices and advertising of security futures products. The proposed rule change accomplishes this by requiring Members to provide customers trading in SFPs with a risk disclosure statement which reflects the shortened settlement date of two days after the transaction. Accordingly, NFA is amending Interpretive Notice 9050 to update the disclosure statement for SFPs to reflect the shortened settlement cycle from T+3 to T+2. Further, NFA is amending Interpretive Notice 9050 to reflect the updated contact information for SIPC and other non-substantive stylistic

⁸ 15 U.S.C. 78o-3(k).

changes. 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.

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

On June 18, 2018, the CFTC notified NFA of its determination not to review the proposed rule change.⁹ The proposed rule change will become effective on July 18, 2018.

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.¹⁰

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 Exchange Act.

Comments may be submitted by any of the following methods:

⁹ See Letter, Supra note 3.

¹⁰ 15 U.S.C. 78s(b)(1).

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-2018-03 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-2018-03. 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, 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 such 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 publicly available.

All submissions should refer to File Number SR-NFA-2018-03 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.¹¹

Eduardo A. Aleman
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(73).